

COMMISSIONER'S BRIEFING PAPER

SUBJECT: Gel blasters in South Australia

BACKGROUND:

This paper is an update on the gel blaster briefing paper submitted on 15 April 2019 (included in this file), and details a change in position, due to the evolving nature of gel blasters, recent court judgements and a second assessment by a SAPOL ballisticsian. In previous papers the view was that gel blasters were a toy, and was explored as to whether a gel blaster could be categorised as a regulated imitation firearm. It was determined that a gel blaster did not meet the regulated imitation firearm criteria, as the gel blaster mechanism did not meet the threshold required to be easily converted to a firearm.

In the previous paper the author considered the status of a gel blaster to be a toy, and did not have evidence that a gel blaster was a firearm. There have now been two significant judgements in SA where gel blasters were found to be firearms. With further analysis of the gel blaster firing mechanism, especially those used in assault rifle type gel blasters, the mechanism was found to be similar to Airsoft. Airsoft is considered a firearm and is specifically identified in the Firearms Regulations.

A gel blaster fires a hydrated gel polymer, and the firing mechanism is similar to Airsoft (compresses air to fire a projectile). Possession of a gel blaster circumvents the regulations placed on Airsoft, BB guns and Paint Ball firearms, as they are claimed to fire a soft projectile and were viewed by some as a toy. A gel blaster can easily be mistaken for a real firearm, with potential to cause concern in the community and trigger a police response that could involve the use of police firearms, or other tactical options.

Due to an increasing number of incidences involving people possessing and using gel blasters in public or committing offences or using gel blasters in a threatening manner, Firearms Branch provided a media statement in 2019 highlighting issues surrounding public carriage of these items, and the risks involved. At that time it was stated the devices continue to be considered toys under the Firearms Act and Regulations.

Gel blasters have evolved since the initial assessment that SAPOL's position was founded on, as there have been overall improvements to the firing mechanism of gel blasters with the aim of increasing the velocity and rate of fire of the gel blaster. Some improvements can be made after market and these include replacing the plastic barrel with a metal barrel, replacing the internal workings (i.e. stronger springs) of the firing mechanism and replacing the battery with a higher voltage battery, by upgrading these parts improves the rate of fire, range and velocity.

The possession and use of gel blasters in public is a risk to public safety.

RELEVANT POINTS

Timeline of SAPOL's response to gel blasters

- Firearms Branch commenced a spreadsheet to record incidents involving gel blasters since **4 November 2018**, and as of 28 April 2020 there have been **155** incidents involving gel blasters requiring a police response. It should be noted that it is difficult to search SAPOL systems for gel blaster incidents, and this number may not represent the true number of incidents unless the information is entered with the key word "gel blaster".

- The prevailing view at Firearms Branch when this author commenced as the Officer in Charge was that a gel blaster was a toy, and may be considered a regulated imitation firearm. The reason a gel blaster was considered at that time to be a toy was because it fired a water based gel, and the gel blaster was made of plastic. It did not meet the threshold test of a regulated imitation firearm in that it can be easily adapted to function as a firearm, and is constructed of material of significant strength to function as a firearm and fire ammunition, paintball, or airgun pellets. Its appearance caused concern, however it was considered the firing mechanism did not meet the criteria of a firearm.
- **15 April 19** Officer in Charge Firearms Branch gave a press conference which detailed in SAPOL's view a gel blaster was a toy, and was not a firearm, and was not a regulated imitation firearm. However, as a gel blaster had the appearance of a firearm and was difficult to distinguish from a firearm, possession in public was causing fear and concern, and in some instances offences were being committed using gel blasters.
- During **April** and **May 19**, Firearms Branch drafted a Daily Intelligence Briefing and DL SAPOL e-mail relating to offences that should be considered when responding to incidents involving gel blasters. This information included offences under the CLCA as the CLCA includes a definition of an offensive weapon as a firearm or imitation firearm (i.e. an article intended to be taken for a firearm).
- **13 May 19** OC Firearms Branch requested a ballistic examination of a gel blaster purchased from an Adelaide gel blaster store. On **4 July 19** the Forensic Services Branch (FSB) provided a preliminary report (**appendix A**) concluding the mechanism was similar to Airsoft (which is a firearm), however the gel blaster could not fire Airsoft ammunition reliably. The gel blaster would not be able to be converted to fire ammunition and in the opinion of the ballisticians the gel blaster should be considered a toy pursuant to the firearm regulations. It was this report, with the reference to similar to Airsoft that created doubt that the position held by FAB that a gel blaster was a toy, was incorrect.
- Between **July 19 – November 19** Firearms Branch continued to monitor the use and evolution of gel blasters. It was concluded that the view that a gel blaster was a toy was not correct. Gel blasters are not marketed to attract children, they are marketed to those who engage in military simulation type role playing and skirmish type games. The mechanism used to fire a gel, in Firearms Branch view, was similar to Airsoft (compresses air to fire a projectile).
- In **November 19** Firearms Branch requested Forensic Services Branch for a ballisticians to conduct an examination of the gel blaster. Based on that gel blasters are not marketed towards children, that the gel blaster compresses air to fire a projectile and a gel blaster could be upgraded to increase the velocity of the projectile.
- **10 December 19** Forensic Services Branch provided a ballisticians report (**appendix B**) that concluded that the gel blaster firing mechanism is substantially similar to that of an Airsoft firearm. OC Firearms Branch suspended the processing of B709 import certificates relating to gel blasters, until a position was approved.
- **23 January 20** – OC Firearms Branch met with Compliance and Investigation, Product Safety officers from Consumer and Business Affairs (CBS) regarding the status of gel blasters, and whether CBS would review their previous position that a gel blaster was not a toy, and whether gel blasters could be banned as a dangerous toy. The advice provided confirmed that a gel blaster does not fit the definition of a toy (**appendix C** is copy of advice).

- **21 February 20** – R v Harrison discussed below, Adelaide District Court determines that a gel blaster is a firearm (**appendix D**).
- In addition to the above events, the use of gel blasters requiring a police response have been increasing. Searches of social media provided information on simple upgrades to gel blasters to increase the rate of fire, the velocity and robustness. All of the above evidence caused the author of this paper to re-evaluate his position that a gel blaster was a toy and concluded that this position was incorrect. The evidence indicated that in most cases a gel blaster was a firearm.

Evolution of gel blasters

- This evolution of gel blasters has resulted in court and ballistics findings that have found gel blasters to be firearms as defined by the Firearms Act, 2017. The majority of gel blasters compress air to fire a projectile.

Section 4 Firearms Act:

firearm means—

- (a) *a device designed to fire bullets, shot or other projectiles by means of burning propellant or by means of compressed air or other compressed gas;*
or
- (b) *a device of a kind declared by the regulations to be a firearm,*

- The previous determination of the Forensic Services Branch ballistics examiner was that gel blaster firearms should be regarded as Children's Toys (Regulation 5, Firearm Regulations 2017) was based on the following:

Certain devices excluded from definition of firearm

*(1) Pursuant to paragraph (d) of the definition of **firearm** in section 4(1) of the Act, a device designed for the purposes of children's play (a **children's toy**) that fires toy projectiles is declared not to be a firearm.*

(2) For the avoidance of doubt, a children's toy does not include—

- (a) a device known as, or that is similar to, a BB gun; or*
- (b) a device known as, or that is similar to, an Airsoft gun; or*
- (c) a device that is a regulated imitation firearm.*

- Firearms Branch purchased a gel blaster and requested a Forensic Services Branch ballistics expert to conduct an assessment as detailed in the above timeline (refer **appendix A & B**). The gel blaster was found to be like or similar to an Airsoft firearm, and due to its capability to fire automatically the gel blaster would meet the definition of a prescribed firearm.
- The second assessment also included reference to a medical article by Hayes R & Dai S (2019) *Ocular injuries from gel blasters: not just a harmless toy, case report BMJ* (**appendix E**), regarding eye injuries and treatment required for these injuries caused by gel blaster polymers (sodium acrylate). The BMJ authors recommend that eye protection must be worn and that gel blasters should be restricted or licensed in the same manner as paint ball firearms. It should be noted that the gel blaster purchased by FAB included safety glasses.
- Gel blasters generally use a spring powered piston, released by the trigger, to create the compressed air which propels the gel capsule. This is mechanically identical to a wide variety of single shot air rifles and air pistols on the market which are regulated as Category A firearms. While they have a similar internal mechanism to both airsoft and BB guns, they are designed to fire gel polymer capsules (projectiles) instead of hard plastic projectiles.

- Firearms Branch met with representatives from the Commissioner for Business Services, (January 2020) and discussed whether consideration had been given to prohibit the sale of gel blasters on the basis that it could be defined as a dangerous children's toy. CBS advised there is a national standard defining a children's projectile toy and gel blasters did not fit that definition, and as such they had no authority that could be exercised in this matter (**appendix C**).
- On 21 February 2020 the Adelaide District Criminal Court made determination on circumstances involving drug trafficking and the discovery of two airsoft pistols and a gel blaster. All items were found to be firearms by definition (following ballistics examination on 19 October 2018) with the gel blaster being a prescribed firearm due to its ability to fire automatically. The defendant was convicted of possessing a prescribed firearm (R v Harrison); of note the sentencing remarks include the following relating to the gel blaster: *"Counts 11 and 12 involved a JM gel pellet rifle. That was designed to fire 8 mm water gel pellets, which was also unregistered but it was classified as a prescribed firearm. That is to say, the most serious classification of firearms.....The most serious in your case is the prescribed firearm, the gel pellet firearm."* (**appendix D**)
- Since Firearms Branch has been monitoring gel blasters in 2018 they have evolved significantly. XForce Tactical (www.x-forcetactical.com accessed online 28 April 2020) is now selling a Kublai P1 Glock GBB Gel Blaster (**appendix F**). This Gel Blaster is advertised as the first gas powered gel blaster pistol. XForce provide an upgraded magazine, and are developing a gas which will increase velocity of the fired gel. While the slide of the pistol is red, it could easily be painted black. Higher velocity increases the risk of more serious injuries.
- M4A1 Gelblasters has two retail stores in Adelaide. M4A1 Gelblaster (www.M4A1gelblaster.com accessed online 28 April 2020), advertises an M4 Assault Rifle gel blaster made of metal, and advertises a full metal build, including metal gears, upgraded 11.1 volt battery, alloy barrel and iron sights (**appendix G**). This is a significant change as metal parts will make gel blasters more difficult to distinguish from a firearm (being an assault rifle). The M4 assault rifle gel blaster sells for \$499.00. There are three versions: Well M4 Metal MRT Blaster; M4A1 Mk18 Pro Gold Blaster and M4A1 Honey Badger Metal Blaster, and all have the appearance of the M4 Carbine which fires a 5.56×45mm rimless NATO ammunition, air-cooled, gas-operated, magazine-fed assault rifle.
- In addition the site promotes a range of upgrade parts, including: batteries, pistons, barrels, gears and firing mechanisms. These are not only replacement parts, but also upgrade parts (**appendix G**).
- It appears there is a gel blaster arms race to make the most realistic, reliable, accurate and hard hitting gel blaster on the market. As this evolution continues the risk of injury increases, and the more difficult it becomes to distinguish a gel blaster from the firearm they imitate.

Importation of gel blasters

- Australian Border Force advise that for the purposes of importation, gel blasters are currently controlled on importation as imitation firearms (Item 1A) under Schedule 6 of the Customs (Prohibited Imports) Regulations 1956 and that import permission – through the police certification test – is required for all gel blasters entering Australia, the approval form for SAPOL is a B709. As gel blasters are not classified as firearms (or an imitation firearm) in South Australia, then FAB is not in a position to refuse approval of the permit, as it is not unlawful to sell/possess a gel blaster in South Australia. Queensland is in a similar position,

making these two jurisdictions the only points of entry into Australia as all other jurisdictions have gel blaster prohibitions.

- In 2017 a matter was heard in the Brisbane Magistrates Court – Comptroller-General of Customs and Clark CFP Pty Ltd (**appendix H**), where Customs had attempted to prevent the import of over 400 gel blasters. The court concluded, as had the Queensland Police, that the gel blasters were projectile toys, and were not firearms. The gel blasters were ordered to be returned to the defendant. There is some conjecture that if this matter was heard in a federal court then the outcome may have been different.
- Firearms Branch has suspended the processing of B709s until a position on gel blasters has been finalised. This paper will recommend that as some gel blasters are firearms then SAPOL should no longer provide import permission through the police certification test. While a compromise position could be that if an importer obtains a ballistics report that the gel blasters are not firearms or similar to Airsoft then SAPOL could consider approval of the import. However, an option detailed below is for the Firearms Regulations to be amended to include gel blasters as firearms, which would make the compromise position above moot.

Appearance based legislation – if it looks like a firearm, it is a firearm

- SAPOL has previously (2008 and 2014) attempted to have appearance based legislation (in that if it looked like a firearm then it is classified as a firearm) introduced. The regulations covering appearance based controls was disallowed by the Legislative Council, after lobbying from firearm advocates, notwithstanding this was under the previous Labor government. Appearance based legislation causes many unintended consequences for collectors and those who possess toy guns. Requesting appearance based legislation is not the best way to restrict the possession of gel blasters.
- Queensland Police have an intention to declare gel blasters a regulated imitation firearm and not a toy and are currently undergoing a public consultation process inviting submissions on the matter. Such a declaration has been previously considered by SAPOL; however this is no longer an option in SA as gel blasters meet the criteria of a firearm pursuant to the Firearms Act.

Gel blaster sales and activities in South Australia

- There are multiple retail outlets in SA selling gel blasters either exclusively or as a component of their business. These businesses are not firearms dealers, and as such any change in status will significantly affect these businesses. M4A1 Gel Blaster Adelaide, located at Enfield sells only gel blasters and accessories. In 2019 they were averaging sales of about 300 gel blasters per week (cost around \$200 each). There are a large number of internet sites which sell gel blasters.
- The South Australian Gel Ball Skirmish Club (SAGBSC) is an on-line Facebook community that organises events where groups of people get together for gel blaster skirmish. The SAGBSC has over 1700 followers, and organise events at the Mega Courts Indoor Sports playground at Windsor Gardens.
- Classifying gel blasters as firearms would significantly affect retail outlets (some to the point of closure) and also the activities of the SAGBSC, which are all based on the use of gel blasters.
- In February 2020 there was media interest when it was proposed that Queensland would restrict the sale and use of gel blasters. This was after calls for restrictions on gel blasters after

the Queensland Wulguru State School was forced into lockdown after a gel blaster incident where two men were arrested.

Police response to gel blasters

- Since November 2018, Firearms Branch has recorded **155** incidents where police have responded to incidents involving gel blasters. This figure is expected to be an under-reported figure as systems do not record these incidents consistently to enable extraction, so FAB are reliant on manual discovery or being advised by other areas. The types of incidents include threatening behaviour and police responding and determining the lawfulness of possession of a gel blaster in public (mistakenly believing it was a real firearm).
- Firearms Branch as detailed above keeps a spreadsheet of incidents relating to gel blasters. The following examples relate to where people have been threatened or shot by gel blasters:

25/3/19	Police attended address at Woodville North re male in possession of firearm and firing it into premises across from his address. Police searched the house and located a black coloured plastic pistol which fired gel capsules. Arrested for carry offensive weapon.
7/4/19	Information received suspect was pictured on Facebook in possession of a firearm. Suspect has posted to a Facebook page " on the way to my local mosque to introduce these fucks to my lord and saviour Jesus Christ. Amen ". 2209hrs 7/04/2019: Suspect possibly seen near to Khalil Mosque Woodville North in motor vehicle. Vehicle found dumped near suspects address, interviewed and gel blaster seized.
19/4/19	Victim 10 year old girl , walking through the playground towards the main car park area. Victim saw two males (strangers). 1 male –was holding a black gun standing by a vehicle with the door open. Victim has heard three quick bursts and has then been struck to the top of her head once by a projectile fired from what is now believed to be a 'gel blaster'. The victim has then run to her family's caravan in a distraught state alerting her mother to the incident. Incident captured on CCTV at the playground. Mother of victim did not wish to proceed with charge of aggravated assault with offensive weapon due to the emotional wellbeing of daughter.
31/5/19	Police tasked to Kintore Ave Murray Bridge re a male shooting at people and passing cars. Suspect left in a vehicle, located at service station on Swanport Road, suspect in rear seat with a black gel blaster. Removed from vehicle and arrested. Gel blaster was seized.
11/6/19	Victim at her home address with her partner when he has returned home intoxicated and a verbal argument has occurred. Male confronted attending police stating he would shoot police , armed with gel blaster. Body Worn Video available of this incident. Gel blaster is assault rifle type.
21/6/19	At about 4:50pm a 15 year old girl was walking along Mortlock Tce Port Lincoln when she was shot at with a gel blaster from a passing vehicle. The vehicle was described only as a black Holden utility.
29/6/19	Narrative: Compl (QLD tourist) staying at caravan park saw 1 female and 2 males with guns at a house/property nearby - visible to the public. Police URD to scene and police searched with firearm out (cat C incident) 3 persons located, cooperative with police - had been playing with gel blasters on private property owned by the female subject's mother.
18/8/19	Patrol responded to calls from members of the public about a male with a firearm (toy) shooting people at St AGNES shopping Centre, Suspect entered Caltex North East Road, and shot console operator in neck with gel blaster then attended Aldi and shot a staff member in the shoulder . Suspect was located nearby in possession of the gel blaster and arrested. During investigation suspect made comments including, "/ was

	<i>gonna commit a robbery today", "Next time they won't be able to press charges.</i>
9/10/19	Adelaide - Male arrested after an attempt aggravated robbery . Located male with large hunting knife under his shirt. Also pulled a gel blaster pistol out of his pants pocket. Arrested. Suspect stated he wanted to shoot everyone and wants to hurt people and he wanted to die. Threatened to hurt and kill police multiple times during the interaction.
17/12/19	Seized as part of alleged domestic abuse incident where a female victim has been assaulted (hit with gel blaster pellets fired from gel blasters). Total of 6 gel blasters seized.
19/12/19	Police attended Paradise address in relation to a mental health incident where a male had stated to SA Health that he was going to attend their offices and shoot himself. Same male made threat to the Premier of SA . Police searched and seized 4 Gel Blasters. All examined by ballistics, three found to be firearms as defined by Act.
17/1/20	Children walking home along the footpath aged 7,9,11 when a male called ⁶⁽¹⁾ (possibly 9 years old) fired a gel blaster pistol at them . Pellets hit the 11 year old girl causing small red welts.
28/1/20	Murray Bridge - suspect wanted for serious offences (serious criminal trespass). Arrested. Located in his backpack was a gel blaster, 2 x balaclavas and wig.
3/2/20	Domestic abuse *HIGH RISK* adult male suspect threatening to kill adult female victim with firearm, sent victim photograph of himself holding a shotgun . Suspect was located hiding in a bedroom at Wudinna. Arrested. Premises searched for the weapon seen in the Facebook pictures. Associate male attended at the police station and presented a black gel blaster to police. Photos of the gel blaster were obtained.

- While the majority of gel blasters are used by those that engage in skirmish type activities and shooting them in their homes, there are also a group who use gel blasters to commit offences, or who are indifferent to the fear that gel blasters can cause in public places.
- It is important to note that whilst a gel blaster is not specifically currently regulated, there are options to police the behaviour involving the misuse of gel blasters depending on circumstances, with the following having potential application:
 - Carry offensive weapon (S21C Summary Offences Act - SOA) if carried in public.
 - Aggravated Assault (S 20 Criminal Law Consolidation Act - CLCA) as accosting another in a threatening manner with an offensive weapon is aggravating circumstances.
 - Possession of a firearm with intent to commit an offence (S32 CLCA) as the elements include imitation firearm.
 - Any other offences in the CLCA involving an offensive weapon as an element, as the CLCA definition for offensive weapon includes a 'firearm or imitation firearm (i.e. an article intended to be taken for a firearm)'.
 - This is not an exhaustive list.

Can gel blasters be registered?

- If gel blasters were determined to be a firearm by the Registrar then there would be some significant issues that would need to be addressed if gel blasters were to be registered and included on a firearms licence. There are some similarities between gel blasters and other non-lethal firearms i.e. Paintball and Airsoft. Consideration has been given to registering gel blasters as a Category A firearm; however the following problems have been identified with registering a gel blaster.
- Category A firearms (the most common category) currently includes airguns. A gel blaster is basically an airgun, as the majority of gel blasters compress air to fire the projectile. This would mean that if a person wanted to possess a gel blaster then they would require a firearms licence and register the firearm (gel blaster); however at this point there is no category for use

as described in the Regulations. A new category would have to be legislated to accommodate gel blasters, and would need to be a similar category to paintball.

- The assault rifle type gel blasters usually have the ability to be fired on automatic. Automatic firearms are prescribed firearms and are banned. Gel blasters have automatic fire function and are therefore prescribed firearms and cannot be registered.
- In addition to a firearms licence, the owner of the gel blaster would be required to secure the firearm in accordance with the *Code of Practice for the Security, Storage and Transport of Firearms, Ammunition and Related Items as detailed in the Firearms Regulations 2017*. The requirements to store a Category A firearm (in this case a gel blaster) requires a level 1 safe, constructed of 2mm steel and attached to a building unless the safe weighs more than 150 kgs.
- Serial numbers cannot be applied to the majority of gel blasters and therefore cannot be traced. The outer casing of a gel blaster is constructed of plastic which makes it impossible to feature or inscribe a permanent identifying mark (serial number). A unique identifying mark as described in the Firearms Act is required for all firearms and the Act requires the identifying mark to include numbers and letters, stamped or engraved into a part of the metal structure of the firearm, be easily seen, and the characters must be at least 2 millimetres in height and engraved to a depth of 0.5 millimetres. As detailed earlier in this paper, with the evolution of gel blasters, some are now made of metal.
- The outer shell of the gel blaster is made of plastic (and in some cases metal) and can easily be changed and modified, as can the internal workings or mechanism of the gel blaster. To affix a metal plate to the outer casing of the gel blaster does not prevent the owner from removing the mechanism and purchasing a new casing (this is the part that looks like a firearm). The very nature of these firearms is that parts are readily interchangeable and would make them impossible to track and trace. Gel blasters are disposable and are not as robust as a firearm made of metal or alloy.
- The Act does however allow the Registrar to authorise an identifying mark on the firearm in some other way. For the Registrar to approve some other manner of identifying mark, would require the Registrar to inspect each gel blaster and the proposed mark. The permanent identifying mark would be used by the Registrar to identify the firearm and who owns it as it is linked to the firearms licence. If a person had possession of a gel blaster without an identifying mark then an offence is committed against the Firearms Act, being a \$5,000 fine or 1 year imprisonment for a Category A firearm, up to \$20,000 and 4 years imprisonment for a prescribed firearm.

Regulating gel blasters

- The majority of gel blasters are modelled on assault rifles. These models usually have the capability of automatic fire, and they are continually evolving. Pursuant to the Act a gel blaster (if recognised as a firearm) and has the capability to fire automatically would be classified as a prescribed firearm. Prescribed firearms are banned as they do not fit within any category of firearm. Penalties for possession of a prescribed firearm include \$50,000 or 10 years imprisonment. This aspect of the Act means that the majority of gel blasters cannot be categorised as a Category A firearm. In *R v Luke Alexander Harrison* who pleaded guilty to possession of a gel blaster before his Honour Judge Beazley, the gel blaster was found to be a prescribed firearm and Harrison was sentenced to a cumulative term of imprisonment along with other charges.
- The licensing, even with legislative change to enable the possession of a gel blaster with the capability of automatic fire, would contradict a decision to deny a local South Australian

business (Lightforce) the authorisation to manufacture prescribed firearms (for military contracts). The Minister for Police has previously been briefed that the Registrar does not have the authority to exempt a person or business to deal, manufacture or possess a prescribed firearm. The Firearms Act and Regulations prohibits the dealing in prescribed firearms, and while there are exemptions available relating to the possession of prescribed firearms these should not be exercised for gel blasters. Following this logic then gel blasters should be regulated, as they are not only firearms, but in most instances prescribed firearms.

- As gel blasters can meet the definition of a firearm then gel blasters should be regulated, and should no longer allow the importation of gel blasters into South Australia on the basis they are a firearm, and are likely to be prescribed firearms. SAPOL should no longer certify import certificates (B709), which means that Customs will not allow them to be imported into South Australia.
- If a ban is implemented then any person who is in possession of a gel blaster that should be surrendered can surrender pursuant to the Firearms Amnesty as detailed in the Firearms Act.
- To regulate gel blasters would require the following:
 - **Step 1** – Provide a briefing to the Minister for Police in both his capacity as the Minister and the responsible Minister for the Firearms Act where amendment would be sought to Section 5 (2) Firearms Regulations and insert (c) which would then include gel blasters within the definition of a firearm:

5—Certain devices excluded from definition of firearm

*(1) Pursuant to paragraph (d) of the definition of **firearm** in section 4(1) of the Act, a device designed for the purposes of children's play (a **children's toy**) that fires toy projectiles is declared not to be a firearm.*

(2) For the avoidance of doubt, a children's toy does not include—

(a) a device known as, or that is similar to, a BB gun; or

(b) a device known as, or that is similar to, an Airsoft gun; or

(c) a device known as, or that is similar to, a gel blaster gun; or

(d) a device that is a regulated imitation firearm.

- **Step 2** - Gel blasters are currently controlled on importation as imitation firearms (Item 1A) under Schedule 6 of the Customs (Prohibited Imports) Regulations 1956 (the Regulations) and that import permission – through the Police Certification test. SAPOL would no longer endorse the police certification. (This would then limit the availability of gel blasters and ultimately cease the local supply chain through retail outlets).
- **Step 3** - Identify an appropriate date to regulate the possession of gel blasters and surrender at police stations pursuant to the Firearms Amnesty.
- **Step 4** - Advise businesses of the impending regulation which should provide them with the opportunity to return stock or cancel pending orders.
- **Step 5** - Conduct media on why gel blasters have been regulated, and the consequences of continuing possession of a gel blaster.

Legal advice re compensation

- On 16 July 2019 Legal advice was provided (**appendix I**) by OGC regarding whether the Registrar can declare a gel blaster to be an imitation firearm ¹⁰⁽¹⁾

10(1)

•

- If the Registrar recognises that gel blasters are firearms, and they were banned the decision would be justified due to the dangers gel blasters pose to the community, and as a result any issue of liability becomes to some extent irrelevant. Especially when considered in the context of the principles of the Firearms Act relating to public safety. A comparison to this would be when legislation was introduced in regard to hydroponic equipment dealers licences and sales of prescribed equipment by wholesale only.

Option 1 – Retain status quo

- Continue to view gel blasters as toys, and fire non-lethal projectiles, with the understanding that if criminal acts are committed and the gel blaster is examined by a ballisticsian that the gel blaster is **likely** to be classified as a prescribed firearm (where it can fire automatically).
- SAPOL to only act on complaints from members of the public involving gel blasters.
- Investigate circumstances involved, including assessing the item's status as a firearm and consider offences as previously described.
- This approach is inconsistent with other jurisdictions in Australia.

This option is not recommended.

Option 2 – Treat all Gel Blasters as firearms

- Treat gel blasters as firearms, and where appropriate prescribed firearms (automatic fire).
- If legislative change is approved, then consideration given to seek feedback from the community prior to change.
- Implement steps 1- 5 as detailed above.

This is the preferred option.

RECOMMENDATIONS


It is recommended the Commissioner:

- Notes the assessment of gel blasters as a firearm
- Supports option two as the preferred option.

APPROVED / NOT APPROVED

Contact: Superintendent S. Howard, Officer in Charge Firearms Branch
Telephone: ⁶⁽¹⁾ [REDACTED]
Ref: PCO 2019/2338
Date: 30 April 2020

Supported:


.....
Scott Duval
Assistant Commissioner
Operations Support Service

1 May 2020

**OFFICER IN CHARGE
FORENSIC SERVICES BRANCH**

Via

**OFFICER IN CHARGE
FORENSIC RESPONSE SECTION**

SUBJECT: Gel blaster firearms.

REFERENCE:

1. SAPOL Firearms Branch have obtained an example of a gel-blaster firearm and submitted this to Forensic Response Section for assessment against the Firearms Act 2015 and Firearms Regulations 2017. The purpose of this assessment is to determine if the article falls within the definition of a toy firearm.
2. A full assessment of this article has not yet been made. The following should be considered to be preliminary findings only.
3. The article is designed to simulate the size and appearance of an M16 automatic rifle. It is substantially constructed from black plastic. A rechargeable battery is installed which operated an internal mechanism that is designed to feed gel pellets into the chamber and subsequently propel those pellets by means of an internal piston - the piston generates compressed air which is the propulsive force to discharge the pellets out of the barrel. The ammunition used for this firearm consists of 7mm diameter gel pellets, soft to touch and easily broken by weak pressure. The mechanism allows this to be fired in either self-loading or fully automatic modes.
4. Mechanistically, this is similar to other firearm mechanisms commonly known as airsoft firearms. However, airsoft pellets are smaller in diameter and, when tested, did not feed reliably into the mechanism, and were propelled with very minor force for a distance of only two metres.
5. During my initial examinations, I have not observed any feature which would enable the gel blaster firearm to be converted to fire live ammunition. As stated above, it is constructed substantially of weak plastic and would require more than a reasonable application of effort and skill to convert.
6. My preliminary opinion is that this article should be regarded as a toy firearm as defined by the Firearms Regulations, 2017.

Andrew Plummer
B/Sgt 57037
Forensic Response Section
04 July, 2019

**OFFICER IN CHARGE
FIREARMS BRANCH**

Via

**OFFICER IN CHARGE
FORENSIC RESPONSE SECTION**

SUBJECT: Gel blaster firearms.

REFERENCE:

1. SAPOL Firearms Branch have obtained an example of a gel-blaster firearm and submitted this to Forensic Response Section for assessment against the Firearms Act 2015 and Firearms Regulations 2017. The purpose of this assessment is to determine if the article falls within the definition of a toy firearm.
2. The article is designed to simulate the size and appearance of an M4 / M16 - style automatic rifle. An initial assessment of this matter was described in an earlier report (dated 04/07/2019) wherein a preliminary opinion was provided that the item was a toy firearm (Regulation 5, Firearms Regulations, 2017). The firearm was then returned to Firearms Branch for display to other interested parties, and was returned to FRS for a more detailed assessment in November, 2019.
3. At the time of my initial report the firearm had not been dismantled to allow inspection of the internal mechanism. This has now occurred and my findings are as follows:
4. The firearm is a battery powered firearm designed to discharge 7mm gel pellets. These pellets start as small plastic beads which are expanded to 7mm diameter by absorption of water – the expanded gel pellets weigh approximately 191 mg (2.94 grains). Pellets are loaded into a detachable magazine and are fed into the firearm mechanism by a battery powered feeding motor.
5. The firearm is fitted with a three-position fire selector, having positions marked as "Safe" "Semi" and "Auto." This selector enabled the shooter to discharge pellets in either self-loading (i.e. semi-automatic) or continuously in automatic mode – the mechanism was found to be effective and functional when examined.
6. A steel piston body was fitted which contained a spring-loaded piston. The front of the piston body was fitted with a spur which would reciprocate to feed a pellet from the feeding mechanism into the chamber. This spur was itself fitted with a rubber ring which would seal against the rear of the chamber – when the piston was released it would compress a quantity of air and force this through the spur into the chamber of the barrel – this compressed air is the propulsive force used to discharge a gel pellet out of the barrel.
7. The internal mechanism was driven by an electric motor contained within the pistol grip. This activated a three-gear mechanism inside a plastic housing

contained in the lower receiver. Pulling the trigger would cause the gear mechanism to retract the piston against spring pressure, reciprocate the loading mechanism, and then release the piston to propel the loaded pellet.

8. The barrel of the firearm was made from a thin-walled metal tube (7.31 mm internal diameter). The firearm was substantially constructed from various plastic parts, except for assembly screws, springs, and the barrel.
9. No malfunction was identified when the firearm was discharged in either semi-automatic or automatic fire modes. The average velocity of a quantity of pellets discharged ($n=12$) from this firearm was found to be 131.5 ± 29.4 feet per second (40.0 ± 8.9 m/s) within a range of 108 to 160 fps (32.9 to 48.8 m/s). In 2019 a published medical report¹ detailed eye injuries sustained by people struck by gel-blaster firearms however this report did not detail the muzzle velocity of firearms used in those matters.
10. The spring powered piston communicating through a gas-sealed spur into the chamber is mechanistically very similar to other firearms commonly known as airsoft firearms. Such firearms have been examined by the undersigned and other examiners at FRS – while most of these are manually operated, electrically powered variants have also been examined (e.g. FR288708). It is unlikely that parts from different manufacturers are interchangeable between different makes of airsoft or gel-blaster firearms.
11. Whereas my preliminary findings were that this item should be regarded as a toy firearm (Regulation 5(1), Firearms Regulations 2017), this further examination has led me to form the opinion that the internal mechanism is substantially similar to that of an air-soft firearm, and that it should be therefore excluded from the definition of a toy firearm (see Reg 5(2)(b)).
12. On the basis that this firearm discharges a projectile (gel pellet) by means of compressed air it is a firearm as defined by the Firearms Act, 2015. The fact that it is an automatic firearm means that it is a Prescribed Firearm (Section 5(1)(f)(i), Firearms Act, 2015).
13. There is no industry or other standard definition of what constitutes an airsoft firearm known to me. As an airsoft firearm uses an internal piston to discharge a projectile by means of compressed air it meets the base definition of a firearm (airgun). Features which are common to airsoft firearms examined by me, which are not present on other airguns (e.g. air rifles commonly regulated as either Category A or H firearms) are:
 - a. The predominate use of plastic for functional components, including the receiver, piston, piston housing, gas seals and conduit channels.
 - b. The minimal use of metal components except for springs, assembly pins and screws.
 - c. Smooth bore barrels designed to discharge spherical non-metallic projectiles, but is not designed to discharge paintball or other marking projectiles.

¹ Hayes, R. and Dai, S., 2019, Occular injuries from gel blasters: not just a harmless toy, *BMJ Case Reports*, 2019, 12: e229629.

14. Irrespective of the appearance of the firearm, the operating mechanism of an airsoft firearm may be manual (the shooter pulls back on some feature to compress the internal spring piston, thereby cocking the firearm), or battery powered incorporating an electric motor and gearbox mechanism.
15. Whereas in the past gel blasters that have been examined at FRS may have been concluded to be toy firearms (i.e. by not being sufficiently similar to Airsoft firearms), this matter highlights that due to the variety of gel blaster technology on the market today each item needs to be considered on its own merits.



Andrew Plummer
B/Sgt 57037
Forensic Response Section
10 December, 2019



Government of South Australia
Attorney-General's Department

Reference 0133/19
Contact 6(1)
Phone [REDACTED]

Compliance and Enforcement

GPO Box 1750
Adelaide SA 5001
DX 225

Fax 08 8204 1217

www.cbs.sa.gov.au

14 February 2020

South Australia Police
Firearms Branch
Attn: Superintendent Stephen Howard

by email: Stephen.Howard@police.sa.gov.au
cc: John.Edwards@police.sa.gov.au

Dear Superintendent Howard

SUBJECT: ASSESSMENT OF GEL BLASTERS

The Commissioner for Consumer Affairs, through Consumer and Business Services (CBS), is responsible for the administration of both the *Australian Consumer Law (SA)* (ACL) and the *Fair Trading Act 1987*.

The ACL contains a number of measures aimed at protecting consumers, including regulating the safety of consumer goods and services supplied in South Australia.

In January 2019, CBS conducted an assessment of products known by various names, such as gel blasters, hydro blasters and gel guns (collectively referred to as gel blasters). The assessment was revisited in January 2020.

The purpose of the assessment was to determine whether the gel blasters are captured by a mandatory safety standard in force through the ACL and, if so, whether the gel blasters comply with the safety standard.

Safety standard

Consumer Protection Notice No. 16 of 2010 is the safety standard that regulates the supply of children's projectile toys. The safety standard sets out the mandatory requirements that projectile toys must meet in order to be supplied in Australia.


The safety standard applies to toys that are supplied new, designed or clearly intended for use in play by children up to the age of fourteen years, and which are capable of launching a projectile.

CBS assessment

In January 2019 and in response to a business' enquiry regarding whether gel blasters are able to be supplied in South Australia, CBS conducted an assessment of the gel blasters available for sale in South Australia and online. Through this assessment, CBS considered the packaging, marketing, appearance, and intended consumer.

It was CBS' view that gel blasters are not captured by the safety standard for projectile toys as the product has not been designed or clearly intended for use in play by children up to 14 years of age. This determination was provided to Senior Sergeant Daniel Cahill of the South Australia Police on 24 January 2019 and communicated to our government counterparts across Australia.

There is no change to the determination made by CBS in January 2019.

Should you have any queries in relation to this matter, please contact me on (08) ⁶⁽¹⁾ 

Yours sincerely

⁶⁽¹⁾ 

Compliance & Investigations Officer

- IN THE DISTRICT COURT

CRIMINAL JURISDICTION

ADELAIDE

FRIDAY, 21 FEBRUARY 2020 AT 9.40 A.M.

BEFORE HIS HONOUR JUDGE BEAZLEY

NO DCCRM-19-796

R V LUKE ALEXANDER HARRISON

HIS HONOUR IN SENTENCING SAID:

You pleaded guilty in the Magistrates Court to 12 offences committed by you between 15 May 2018 and 4 September 2018. They are, effectively, six trafficking counts and six firearms counts.

The offences and their respective maximum penalties are:

- six counts of trafficking in methamphetamine, in each case a fine of \$50,000 or imprisonment for 10 years or both;
- two counts of aggravated possession of a category H firearm without a licence, in each case a fine of \$50,000 or imprisonment for 10 years;
- two counts of possessing an unregistered class H firearm, in each case a fine of \$20,000 or imprisonment for four years;
- one count of aggravated possessing a prescribed firearm, a fine of \$75,000 or imprisonment for 15 years; and,
- one count of possessing that unregistered prescribed firearm, a fine of \$35,000 or imprisonment for seven years.

I need to detail those 12 counts to explain why there are so many of them. I turn first to the six counts of trafficking.

Between May and August 2018, a police investigation into drug trafficking by H, identified you, by telephone interceptions, as one of a number of persons selling methamphetamine to H, who was a street dealer. You did so on only three occasions; 15 May 2018, 17 May 2018 and 1 June 2018. They are respectively counts 1, 2 and 3. On each occasion it was a sale of one quarter of an ounce for \$1,200 to the one person only, H.

Counts 4, 5 and 6 all related to a police raid at your home on 4 September 2018.

Ordinarily, you would have been charged with one count only. You were charged with three solely because the drugs were found in three different locations at your home that

day. Count 4 involved 0.7 g of methamphetamine on a set of scales in the kitchen. Count 5 involved two plastic bags containing 54.5 g of methamphetamine, while count 6 involved a total of 12.58 g in the bedroom. They also found cash totalling \$5,897.

On that same occasion, the police located three firearms in the bedroom. These constitute the six firearms charges. They were each what are commonly referred to as BB guns. You weren't licensed to possess any of them. None of them were tered. Counts 7, 8, 9 and 10 involve two airsoft pistols designed to fire 6 mm plastic soft pellets. They were both classified as category H firearms. Counts 11 and 12 involved a JM gel pellet rifle. That was designed to fire 8 mm water gel pellets, which was also unregistered but it was classified as a prescribed firearm. That is to say, the most serious classification of firearms.

Each of the possession counts is in the aggravated form solely because of the drug offences on the premises. I will come back to that in a moment.

You were arrested on 4 September 2018. You were granted simple bail on 5 September 2018. You entered pleas of guilty in respect of all 12 offences on 2 July 2019. Unfortunately for you, your bail agreement was then revoked. You have spent all of that time, since 2 July 2019, in custody. In consequence of your pleas of guilty, you are entitled to a discount on sentence of up to 20%.

I turn to your personal circumstances.

I have been assisted by the psychological report of Ms Darmania dated 19 November 2019; the reference from Ms Martini and the detailed submissions of your counsel, Mr Woods.

You are aged 38. You effectively come before the court as a first offender. Your antecedent report discloses three minor and completely irrelevant offences, two of which occurred in the early 2000s. For all 3, no conviction was recorded.

You had a very difficult upbringing caused by the break-up of your parents' relationship when you were aged just eight. You were, in effect, raised by your sister and your paternal grandmother. You were exposed to drugs at a very young age. You ceased your education in year 8, at age 15. However, you still managed to find almost continuous employment since that time. By age 19, you had married and you have two children aged 11 and 15 respectively from that marriage.

You suffered a brain aneurysm when you were aged about 25. As I say, you have worked successfully as a welder, a car detailer, and as a landscaper before working full-time as a truck driver, in consequence of which, unfortunately, you resumed taking methamphetamine to keep awake over long distances. That led to the breakdown in your first marriage at age 33. You continued to share in the care of your two children.

In September 2017, you entered into a relationship with your current partner. Your daughter, the product of that relationship, was born shortly after you were placed in custody.

PRISONER: Two weeks.

HIS HONOUR: By the time of your arrest, you were using about one half to one full eight-ball of methamphetamine a day. Mr Woods explained that the large amount of

methamphetamine and the cash found at your home on 4 September 2018 was purely timing. To afford your addiction to enable you to drive you had to buy in bulk, generally about 28 g at a cost of \$3,200. The price for an 8 ball was about \$600 each. You would have had to sell five of them to repay your supplier, but it would still leave you \$200 short. You know that H bought two of them for \$1,200 on each occasion.

I accept that your offending was not profit driven and certainly not for the purpose of funding a comfortable lifestyle. You had a limited group as it turns out, mainly H who bought from you. You ceased using methamphetamine when you were first on bail.

Ms Darmenia diagnosed you as falling within the most severe range of those suffering from anxiety and stress. She ascribes that to your concern for your daughter from your present relationship but also your son. When assessed by her, you were found to be within the average range of intellectual ability for your age but you have poor verbal skills. She recommended you be referred for a neuropsychological assessment in the future. She was concerned about reports of suicidal ideation.

You are also worried about your current partner, who has mental health problems. She noted that you would benefit from a period of community supervision. Mr Woods explained that your son has intellectual disabilities and your absence in custody has caused stress for him. He submitted that despite your stresses and lack of education, you have always worked hard, attempting to find a home and support for your children. He submitted that your previous excellent antecedents and the way you have been able to wean yourself from drugs in your 20s point favourably to a successful rehabilitation. He referred to the offer of employment from the Martini family in their landscaping business.

I turn then to sentence. There are, as I hope I can explain, a number of difficulties in sentencing you because of the nature of the charges to which you have pleaded guilty. In many ways, the legislation has tied my hands as to what I can do. Firstly, you must be sentenced as a serious firearms offender despite the nature of those BB firearms. Further, you are a serious firearms offender only because of your possession of the firearms in the course of the drug offences. In other words, because the drugs were there at your home, that's what makes you a serious firearms offender.

In addition, each firearms possession offence is in the aggravated form, the more serious form, for the very same reason. That is because they were in your possession in the course of those drug offences. That is why the offences of the drugs and the firearms are inextricably linked and give rise to a more onerous penalty. That more onerous penalty regime runs the risk of double punishment.

In the case of *R v Simpson* [2016] 125 SASR 352, not unlike yours, the Court of Criminal Appeal avoided that risk by making the penalties either concurrent or by a reduction in the sentences. A serious firearms offender must receive a sentence of imprisonment and that sentence of imprisonment can't be suspended because, unfortunately, your circumstances are not exceptional.

That last matter is not of great significance here because there is no doubt, and you understand, you will receive a sentence of immediate imprisonment anyway for the drug offences.

As to the drug offences, counts 4, 5 and 6 occurred on the one occasion, I am however bound to find that at least counts 1, 3 and the three on 4 September constitute three separate occasions. Accordingly, the drug offences themselves result in you being determined to be a serious repeat offender even though you hadn't been arrested in the mean-

time. The consequence of that is that any non-parole period that I fix must be at least four-fifths of the length of the head sentence. You cannot satisfy the court that your personal circumstances are again so exceptional as to outweigh the paramount consideration of the protection of the community. That is the law.

I will sentence you on the basis submitted by Mr Woods, that is that you are a low-level street dealer principally engaged in selling to very few persons to fund your own habit. You fall within the group described in the case of *R v Saleh* [2017] SASCFC 75, as being at the lower end of the scale, not motivated by profit, not motivated by a luxury lifestyle, but to feed your addiction. Like Saleh, you have a dependent partner and two children dependent upon you, and you have no previous convictions.

Under s 44 of the *Controlled Substances Act* the court is required to take into account the nature of the substance. You know very well because it has affected you; methamphetamine is an insidious drug. I must take into account your personal circumstances, which I have referred to, and the minor financial gain to you. But I must also allow for your mental health issues which have dominated your life. I have regard to a number of decisions of the Court of Criminal Appeal.

A question which has arisen in submissions is whether the court should separately sentence you for the drug offences, as they alone constitute the serious repeat offender charges and require the non-parole period. In the case of *R v Harradine* [2019] SASCFC 144 the Court of Criminal Appeal considered that question. While it wasn't necessary to resolve it, the dicta of the court, is that there must be one non-parole period only and that it be four-fifths of the total sentence.

Before I employ s.26 to impose one sentence for all of the offences, I will fix a notional single sentence for the six drug offences. I repeat that all six offences were, in reality, one course of conduct. You were unaware that the police had identified you prior to their attendance at your home on 4 September 2018. You are a serious repeat offender because of the 3 separate occasions. I fix a notional starting point for the drug offences of imprisonment for four years.

You are entitled to a discount of 20%. That results in a nominal sentence of three years, two months and 12 days imprisonment.

I turn to the firearms offences for which I must sentence you, as I say, as a serious firearms offender. I will fix one notional sentence pursuant to the Act for all six firearms offences, as they occurred on the same occasion. Counsel for the DPP addressed the need for general and personal deterrence because of the dangers associated with firearms, not being registered and you not being licensed. I accept that you didn't think it was necessary for BB guns to be registered, nor need a licence. That of course is no excuse but it does explain your conduct. Despite the best endeavours of authorities, I suspect that most of the population would think that BB guns and paintball guns are not firearms requiring a licence. However, all of us in the community cannot be complacent about the danger of any firearm.

Little guidance can be obtained from other cases. The high-water mark referred to by counsel for the DPP of the case of *R v Daniele* which resulted in a sentence of five years imprisonment. He was in possession of a prescribed loaded shotgun. That prisoner's record was appalling and justified that sentence. It has no relevance to sentencing you for these three firearms.

In the case of *R v Simpson* to which I have already referred, there were two serious firearm offences one of which involved the possession of a shotgun and a handgun, together with some ammunition. In respect of those, the starting point was 15 months imprisonment. But the second involved a paintball marker firearm. The starting point there was imprisonment for six weeks.

The most serious in your case is the prescribed firearm, the gel pellet firearm. Guided by the *Simpson* case, I fix a notional starting point for all six offences under s 26 of the Act of imprisonment for three months. I reduce that by 20% to a notional sentence of two months and 12 days. In my opinion, the notional sentence for the serious firearms offences must be cumulative upon the notional sentence for the drug offences. That results in a notional head sentence for all offences under s 26 of three years, four months and 24 days. From that I deduct the one day in custody on 4 September.

I, therefore, fix under s 26 of the Act a single head sentence of imprisonment for three years, four months and 23 days for all of the offending. Because, as I say, you are a serious repeat offender at law, I am obliged to fix a non-parole period of four-fifths of that. The non-parole period accordingly is two years, eight months and 23 days.

You have been in custody otherwise since 2 July 2019. The head sentence and the non-parole period I have imposed will be backdated to commence from that date; 2 July 2019. You will appreciate you have already spent eight months in custody already.

I turn to the forfeiture orders. New sections in the *Criminal Assets Confiscation Act* apply. I intimate that I will make forfeiture orders in respect of the firearms, the pellets and the taser seized by the police; and the drugs and paraphernalia including two mobile phones; and the cash so seized. I would also declare that the CCTV, hard drive, cameras and TV screen fall within your protected property pursuant to the *Criminal Assets Confiscation Act*.

I have now been provided with the necessary forms of the Orders for Forfeiture.

By consent I make the following orders:

- That the firearms, the pellets and the taser seized by the police be forfeited to the Crown pursuant to s 66(1)(a) of the *Firearms Act*.
- That the drugs and paraphernalia including the two mobile phones seized by the police be forfeited to the Crown under s 52E(7) of the *Controlled Substances Act*.
- I make a declaration pursuant to s 56B of the *Criminal Assets Confiscation Act 2005* (the Act) that the \$5,897 cash seized by the police was forfeited to the Crown pursuant to s 56A of the Act on 17 December 2019.

Pursuant to s 59B of the Act I make a further order, an exclusion order, that all property to which the deemed forfeiture order in this matter would apply, other than the \$5,897 cash in the declaration just made by me, is excluded from forfeiture under Subdivision 1A of the Act.

I direct that a copy of the report of Ms Darmania be provided to the relevant officers of the Department of Correctional Services. You will need to be supervised by them particularly as to your mental state.

I hope I have explained all of this to you. It is very difficult for anyone to understand. My hands are tied to a large extent, by the legislation.

Is there anything I have overlooked?

MR NOTTLE: No, your Honour.

MR WOODS: No, Sir.

HIS HONOUR: That completes that sentencing, Mr Harrison.

ADJOURNED 10 A.M.

CASE REPORT

Ocular injuries from gel blasters: not just a harmless toy

Rylan Hayes,^{1,2} Shuan Dai¹¹Ophthalmology, Children's Health Queensland Hospital and Health Service, South Brisbane, Queensland, Australia²School of Medicine, The University of Queensland, Brisbane, Queensland, AustraliaCorrespondence to
Dr Rylan Hayes,
rylan.hayes@health.qld.gov.au

Accepted 21 May 2019

SUMMARY

Gel blasters fire a hydrated gel polymer and are developed to circumvent the restrictions placed on paintball and airsoft guns. Because there are no reported cases of injury caused by gel blasters in the literature, some Australian jurisdictions have categorised them as a toy. Presented here are two cases of potentially blinding blunt ocular trauma which question the misguided notion they are a harmless toy. Two children each with a macrohyphaema were managed at a tertiary ophthalmology centre within 2 weeks of each other after being struck by a gel blaster projectile. Their vision ultimately returned to normal, but both face lifelong risks of ocular complications. These cases highlight the need for vigilance, and the appropriate restriction of powerful weapons, with the inherent need for eye protection when operating any such projectiles reiterated. It is recommended their licensing is made congruous with paintball guns to prevent false reassurance of their safety.

BACKGROUND

The popularity of simulated warfare games and tournaments has grown in recent years, with two main forms of weapon available for use.^{1–2} Paintball guns discharge a resin ball filled with paint which explodes on impact, whereas airsoft rifles fire a solid spherical projectile. They are powered by either a spring or compressed air, and have both been responsible for a range of injuries—especially blunt ocular trauma.^{1–5} Owing to this, protective equipment is recommended during activity, and their purchase and use is restricted in many countries where they are considered a weapon.

To overcome these shortcomings, less powerful alternatives have been developed and are gaining popularity. One such alternative is the gel blaster (among other names, also known as a water ball gun or hydro-blaster gun)—a gun which can be constructed to externally replicate any form of firearm. It uses a spring to fire a small hydrated polymer sphere commonly known as a gel ball (figure 1). On bare skin, they may leave a small temporary welt but to date no injuries caused by a gel blaster have been reported in the literature—though ingestion of similar hydrating gel polymers has resulted in bowel obstruction.⁶ Furthermore, in some Australian jurisdictions these products have been deemed a toy—rather than a weapon—based on the belief they are unable to cause injury. Here two cases—managed in a tertiary children's

ophthalmology department within 2 weeks of each other—are described to demonstrate their underappreciated injurious potential.

CASE PRESENTATION

Case 1

A 14-year-old boy was struck in the left eye by a gel ball (figure 1), discharged from a blaster by a friend from approximately 10 m distance. He was complaining of markedly decreased visual acuity, severe pain and vomiting. Initially he had best corrected visual acuity (BCVA) in the left eye of hand movements only (BCVA in the unaffected eye was 6/6). Intraocular pressure (IOP) in the right eye was 16 mm Hg whereas the left eye was 45 mm Hg. He had a left traumatic mydriasis, 3 mm corneal abrasion, 2.5 mm macrohyphaema (figure 2) and an area of commotio retinae temporally.

Throughout the first 2 weeks, he was maintained on strict bed rest with head elevation and to manage IOP required oral acetazolamide as well as topical timolol, apraclonidine, latanoprost and brinzolamide. He also received topical atropine for cycloplegia, dexamethasone for inflammation and chloramphenicol for antibacterial prophylaxis. After 3 weeks his hyphaema had resolved, and vision improved to 6/6 bilaterally. The commotio retinae had also resolved; however, he had started to develop a small traumatic cataract.

Case 2

A 4-year-old boy presented to the emergency department having been struck in the left eye by a gel ball munition (figure 1) from a gel blaster (figure 3) discharged in the hands of his brother at close range. He had visual acuity of 6/9 in the affected eye (BCVA in the unaffected eye was 6/6), IOP of 15 mm Hg in each eye, corneal abrasions and traumatic dyscoria with a 2 mm macrohyphaema. Posterior segment was unremarkable. He was managed with strict bed rest with head elevation and topical therapy—atropine for cycloplegia, dexamethasone for traumatic iritis and chloramphenicol for antibacterial prophylaxis. His hyphaema had resolved 3 weeks after the injury, and vision returned to 6/6 bilaterally with normal IOP.

OUTCOME AND FOLLOW-UP

Both patients have received 2 months of follow-up to date during which time their acute condition has resolved, and each has obtained return of normal



© BMJ Publishing Group Limited 2019. No commercial re-use. See rights and permissions. Published by BMJ.

To cite: Hayes R, Dai S. *BMJ Case Rep* 2019;12:e229629. doi:10.1136/bcr-2019-229629

Reminder of important clinical lesson

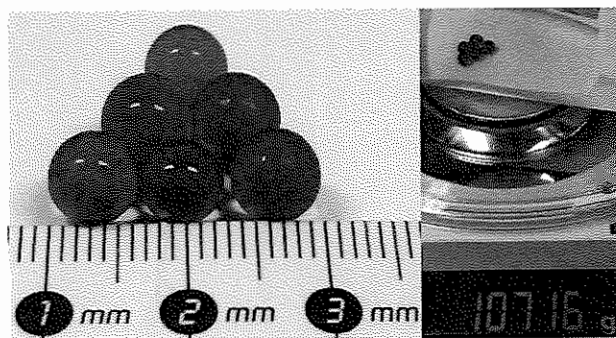


Figure 1 Gel ball projectiles which, after being discharged from a gel blaster, caused the significant blunt ocular trauma seen in both cases. Pictured here after rehydration, they measure 6–7 mm in diameter and weigh approximately 214 mg.

visual acuity. Both patients will, however, require ongoing long-term follow-up to monitor for the chronic sequelae of blunt ocular trauma—notably glaucomatous and lenticular changes.

DISCUSSION

Blunt ocular trauma has the potential for permanent sequelae may necessitate surgical intervention, and, depending on the injuries sustained, vision loss may be irreversible.^{3 7 8} Acutely, hyphaema with raised IOP is an ophthalmological emergency, with rapid and permanent vision loss possible if not managed appropriately. Even once resolved, patients have an increased risk of developing glaucoma secondary to anterior chamber angle recession and will require lifelong observation for monitoring of IOP.^{3 5 8} Other potential injuries from blunt trauma which may have adverse visual outcomes can include infections, corneal scars, crystalline lens injury, globe rupture, macula/retinal injuries and optic neuropathies.^{3 5 8}

The potential for blinding consequences from these 'gel blasters' cannot be ignored, and categorising them as a toy may



Figure 2 Macrohyphaema in case 1 caused by a hydrated spherical polymer fired from a gel blaster gun. A 14-year-old boy pictured 36 hours after presentation, the patient initially had an intraocular pressure of 45 mm Hg and a visual acuity of hand movements only in the affected eye.



Figure 3 Image of the gel blaster responsible for the hyphaema sustained in case 2. This one is designed in the appearance of a handgun, though they are also available in the form of a rifle. Classified as a 'toy' and saleable to children, it had sufficient force to cause significant blunt ocular trauma. Branding of the weapon has been censored.

falsely reassure consumers. A projectile—regardless of perceived power—should never be aimed at a person's eyes, and appropriate eye protection should be worn whenever such items are in use. Furthermore, these two cases involving children highlight that the product is inappropriate to be used by minors and—regardless of their categorisation—purchase and use should be appropriately age restricted. The authors also recommend that Australian authorities responsible for licensing firearms categorise these products as a weapon with the same restrictions as paintball and airsoft guns.

Learning points

- ▶ Blunt ocular trauma is an ophthalmological emergency with potentially blinding consequences and lifelong sequelae.
- ▶ Projectiles should never be directed towards a person's eyes, and eye protection worn whenever using such products.
- ▶ Gel blasters are capable of inflicting significant injury and should not be considered a toy suitable for children.

Contributors RH was chiefly responsible for concept, literature review and writing of the cases described within the article. SD was responsible for planning, contributed to the discussion section and assisted final reviewing of the article.

Funding The authors have not declared a specific grant for this research from any funding agency in the public, commercial or not-for-profit sectors.

Competing interests None declared.

Patient consent for publication Obtained.

Provenance and peer review Not commissioned; externally peer reviewed.

REFERENCES

- 1 Haavisto AK, Saharavand A, Puska P, et al. Toy gun eye injuries - eye protection needed Helsinki ocular trauma study. *Acta Ophthalmol* 2019;97.
- 2 Al-Amry M, Al-Ghadeer H. Paintball related ocular injuries: First case report in Saudi patients. *Saudi J Ophthalmol* 2017;31:55–7.
- 3 Saunte JP, Saunte ME. 33 cases of airsoft gun pellet ocular injuries in Copenhagen, Denmark, 1998–2002. *Acta Ophthalmol Scand* 2006;84:755–8.
- 4 Kratz A, Levy J, Cheles D, et al. Airsoft gun-related ocular injuries: novel findings, ballistics investigation, and histopathologic study. *Am J Ophthalmol* 2010;149:37–44.
- 5 Khalaily S, Tsumi E, Lifshitz T, et al. Airsoft gun-related ocular injuries: long-term follow-up. *J Aapos* 2018;22:107–9.
- 6 Fuger M, Desmoulin C, Khen Dunlop N, et al. Bowel obstruction due to ingestion of a water-absorbing bead. *Arch Pediatr* 2018;25:136–8.
- 7 Peñaranda AC, Montoya A, Arciniegas AP, et al. Secuelas oftalmológicas por traumatismo con paintball: estudio de casos. *Archivos de la Sociedad Española de Oftalmología* 2018;93:375–80.
- 8 Jan S, Khan S, Mohammad S. Hyphaema due to blunt trauma. *J Coll Physicians Surg Pak* 2003;13:398–401.

Copyright 2019 BMJ Publishing Group. All rights reserved. For permission to reuse any of this content visit <https://www.bmj.com/company/products-services/rights-and-licensing/permissions/>
BMJ Case Report Fellows may re-use this article for personal use and teaching without any further permission.

Become a Fellow of BMJ Case Reports today and you can:

- ▶ Submit as many cases as you like
- ▶ Enjoy fast sympathetic peer review and rapid publication of accepted articles
- ▶ Access all the published articles
- ▶ Re-use any of the published material for personal use and teaching without further permission

Customer Service


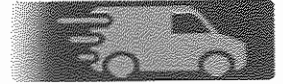
If you have any further queries about your subscription, please contact our customer services team on +44 (0) 207111 1105 or via email at support@bmj.com.

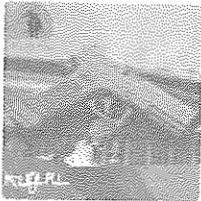
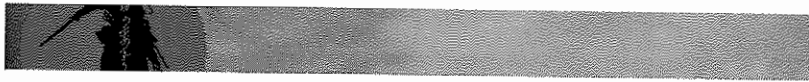
Visit casereports.bmj.com for more articles like this and to become a Fellow



Menu

FREE SHIPPING On Orders Over \$100 Australia Wide!

 Search products...[Home](#) > [Gel Blasters](#) > [Pistols](#) > Kublai P1 Glock GBB Gel Blaster – with Upgraded mag



\$329.95

Get it now with



for \$115.48 + 3 payments of \$71.49 ?

The first gas powered gel blaster pistol is here and since news of it's release it has made some serious waves throughout the gel blaster community. X-Force Tactical bring you the Australian numbered P1 Gel blaster with the new upgraded mag. These run well on duster gas or propane, we will also have our own gas which should increase the FPS slightly.

Features:

- Mag feed



- Shoots 7-8 mm gel ammo
- First gas powered gel blaster

NOTE: These pistols require a higher level of maintenance to the standard blasters, so please be advised that if not looked after it can affect your warranty.

Please check with your states laws to make sure this blaster is legal, we take no responsibility on orders and no refunds are done on change of mind.

With each P1 purchase we will be sending out an email to ask for confirmation of your purchase please reply asap so we can process the order.

Please note this product is a Toy.

☹ Out of stock


Your Email Address


Subscribe Now

SKU: KublaiP1

Categories: [Gel Blasters](#), [Pistols](#)

Tags: [#gel ammo](#), [#Gel Blaster](#), [#gelammo](#), [#GGB](#), [#kublaip1](#), [#mag](#), [#P1](#), [#waterbullet](#), [#XForcertactical](#), [#XFT](#), [7-8 mmwaterbullets](#), [Gas powered pistol](#), [gel balls](#), [gelballblaster](#), [gelballs](#), [gelblaster](#), [glock](#), [Kublai](#), [Kublai P1](#), [Kublai P1 Glock](#), [magfeed](#), [P1 Glock](#), [P1 Kublai](#), [pimpyourblaster](#), [Toys](#), [X-Force](#), [XFTgels](#)

 Share on Twitter

 Share on Facebook

 Pin this product

 Share via Email



Description



Additional information

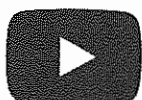
Reviews (0)

Type: Toy Gel Blaster Pistol

Material: Nylon and Metal

FPS: over 200

Kublai P1 Chrono Test by X-...




Doc 8
[Home](#) > Well M4 Metal MRT Blaster

SIDEBAR

 Sale **Well M4 Metal MRT Blaster**

 Brand: [Well](#)
 Product Code: 11222
 Availability: In stock

~~\$599.00~~ **\$499.00**

Quantity:

Subtotal: \$499.00

ADD TO CART

BUY IT NOW

125 customers are viewing this product

Share


M4A1
 m4a1gelblaster.com

GRANGE TIPS FOR TOY PURPOSES THIS TOY MAY NOT COME WITH AN GRANGE TIP


DESCRIPTION **CUSTOMER REVIEWS** **SHIPPING & RETURNS**

A classic M4 shape with some style to it the Mid Range Tactical (MRT) continues the Well M4 evolution along a full metal build including metal gears, 11.1-volt mini Tamiya battery, long alloy barrel flip up and down metal "iron sights" crowned with a sleek Midwest Industries Inc inspired forend rail finishing off with a metal flash hider.

The Well MRT has been made in all metal to give a sturdier feel and with a strong metal gearbox and metal gears is set to hit the fields. The fore end alloy guard is M-Lok so to attach grips you will need to use M-Lok attachments or pictinny rails with M-Lok points so you can use more common pictinny style attachments.

Metal V2 style gearbox
18:1 metal gears
Silver wire
Alloy barrel
Metal Barrel and flash hider
Metal Iron sight

This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) [ACCEPT](#)



Home > BATTERIES M4


BATTERIES M4


REFINE BY


VIEW AS


ITEMS PER PAGE 24

SORT BY Featured









ADD TO CART

UNAVAILABLE

STD
STD 11.1V Battery
\$30.00

STD
STD 7.4V Battery Long M4
\$18.00

ADD TO CART

M4A1
BATTERY TESTER
\$15.00

RECENTLY VIEWED PRODUCTS

Sale



ADD TO CART

JinMing
J-10 ACR SANDY
\$245.00 AUD- \$199.00 AUD

Sale



ADD TO CART

Well
Well M4 Metal MRT Blaster
\$599.00 AUD- \$499.00 AUD

Sale



ADD TO CART

M4A1
MK18 Pro Gold Blaster
\$599.00 AUD- \$499.00 AUD

Sale



ADD TO CART

M4A1
Honey Badger Metal Blaster
\$599.00 AUD- \$499.00 AUD

MENU

This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) [ACCEPT](#)

INFORMATION

[Info](#)
[Shipping Policy](#)
[Returns & Refunds Policy](#)
[Contact Us](#)

CONTACT

[Phone Number: 1800 024 606](#)

4/28/2020

[TACTICAL GEAR](#)

[ACCESSORIES](#)

[CONTACT US](#)

[PROMO!!](#)

[Videos](#)

BATTERIES M4A1 GELBLASTER

Emails:

[SALES AND PRODUCTS - SALES@M4A1GELBLASTER.COM](mailto:SALES@M4A1GELBLASTER.COM)

[TECH, MODS AND REPAIRS -](mailto:TECH@M4A1GELBLASTER.COM)

TECH@M4A1GELBLASTER.COM

[CUSTOMER SUPPORT - ADMIN@M4A1GELBLASTER.COM](mailto:CUSTOMER_SUPPORT - ADMIN@M4A1GELBLASTER.COM)

STAY CONNECTED



LIKE US ON FACEBOOK

Like

Share

9.2K people like this. Sign Up to see what your friends like.

SIGN UP TO GET THE LATEST DEALS AND ITEMS

enter your email address

SUBMIT

© 2020 M4A1 Gel Blaster. All Rights Reserved. Website Built By InfoMoson Marketing



This website use's cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) [ACCEPT](#) ✓



Home > SPRINGS WELL

SPRINGS WELL

REFINE BY

VIEW AS

ITEMS PER PAGE 24

SORT BY Featured



Sold Out



Sold Out Blaster Supplies & Accessories
M4A1 Gel Blasters

Sold Out



UNAVAILABLE

SHS

SHS M90 UPGRADE SPRING

\$10.00

UNAVAILABLE

SHS

SHS M100 UPGRADE SPRING

SHS

SHS M110 SPRING

Sold Out

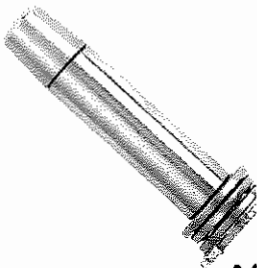
Sold Out

Sold Out

SHS

SHS V2 Spring Retainer

\$25.00



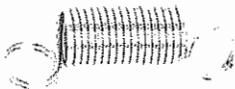
M4A1

UNAVAILABLE

M4A1

V2 spring retainer

\$25.00



UNAVAILABLE

M4A1

WELL M4 Stainless Return Spring

\$5.00



UNAVAILABLE

Well

Wells Return Spring

\$4.00

M4A1

RECENTLY VIEWED PRODUCTS

Sold Out

Sale

Sale



TO CART

ADD TO CART

ADD TO CART

This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

PRIVACY POLICY ACCEPT

SHS
Stainless Cylinder

1.00 AUD

JinMing
J-10 ACR SANDY
\$245.00-AUD- \$199.00 AUD

Well
Well M4 Metal MRT Blaster
\$599.00-AUD- \$499.00 AUD

CONTACT

Phone Number: 1800 024 606

Emails:

SALES AND PRODUCTS - SALES@M4AIGELBLASTER.COM

TECH, MODS AND REPAIRS -

TECH@M4A1GELBLASTER.COM

CUSTOMER SUPPORT - ADMIN@M4AIGELBLASTER.COM

LIKE US ON FACEBOOK



សិក្សា

9.2K people like this. Sign Up to see what your friends like.

SIGN UP TO GET THE LATEST DEALS AND ITEMS

enter your email address

QUESTIONS

© 2019 M4AI Gel Blaster. All Rights Reserved. Website Built By Infomason Marketing



This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

PRIVACY POLICY ACCEPT ☒



Home > [CYLINDER SYSTEMS VECTOR](#) > Gen 8/9/10/Vector Double O Ring Alloy Nozzle



SIDEBAR

Sold Out

Gen 8/9/10/Vector Double O Ring Alloy Nozzle

Brand: [M4A1](#)
Product Code: 10507
Availability: Out of stock

\$15.00

UNAVAILABLE

11 customers are viewing this product

Share



DESCRIPTION

CUSTOMER REVIEWS

SHIPPING & RETURNS

Upgraded alloy nozzle for Gen8/9/10 gelblasters with double o rings for a superior seal

HAVE QUESTIONS? [ASK AN EXPERT](#)

RELATED PRODUCTS

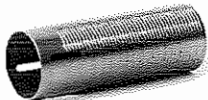
Sold Out



ADD TO CART

SHS

[100% Volume Stainless Cylinder](#)



UNAVAILABLE

SHS

[80% Volume Stainless Cylinder](#)

15.00

This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) [ACCEPT](#)

Sale			
			
ADD TO CART	ADD TO CART	ADD TO CART	ADD TO CART
SHS	JinMing	Well	M4A1
<u>100% Volume Stainless Cylinder</u>	<u>J-10 ACR SANDY</u>	<u>Well M4 Metal MRT Blaster</u>	<u>MK18 Pro Gold Blaster</u>
\$25.00 AUD	\$245.00 AUD- \$199.00 AUD	\$599.00 AUD- \$499.00 AUD	\$599.00 AUD- \$499.00 AUD

MENU

[HOME](#)[BLASTERS](#)[MODIFICATIONS](#)[PACKS](#)[GELBALLS](#)[TACTICAL GEAR](#)[ACCESSORIES](#)[CONTACT US](#)[PROMO!!](#)[Videos](#)

INFORMATION

[Search](#)[Shipping Policy](#)[Returns & Refunds Policy](#)[Contact Us](#)

CONTACT

[Phone Number: 1800 024 606](#)[Emails:](#)[SALES AND PRODUCTS - SALES@M4A1GELBLASTER.COM](#)[TECH,MODS AND REPAIRS -](#)[TECH@M4A1GELBLASTER.COM](#)[CUSTOMER SUPPORT - ADMIN@M4A1GELBLASTER.COM](#)

STAY CONNECTED



LIKE US ON FACEBOOK

Like

Share

9.2K people like this. Sign Up to see what your friends like.

SIGN UP TO GET THE LATEST DEALS AND ITEMS

© 2019 M4A1 Gel Blaster. All Rights Reserved. Website Built By Information Marketing



This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) ☒ ACCEPT

[Home](#) > [GEARBOX J9](#)

GEARBOX J9



REFINE BY

VIEW AS



ITEMS PER PAGE

24

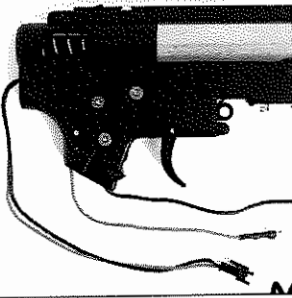


SORT BY

Featured



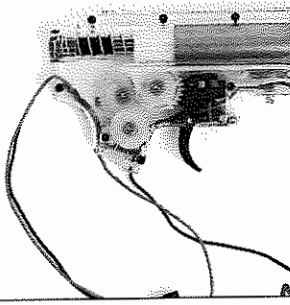
Sold Out



ADD TO CART

JinMingGen 9 J9 Nylon Gearbox

\$50.00



ADD TO CART

JinMingGen 9 Poly Carb Gearbox

\$30.00



UNAVAILABLE

M4A1SLR Receiver and Gearbox

\$185.00

RECENTLY VIEWED PRODUCTS

Sold Out



UNAVAILABLE

M4A1Gen 8/9/10/Vector Double O RingAlloy Nozzle

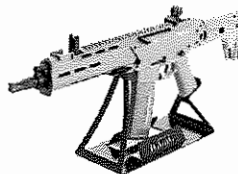
\$15.00 AUD



ADD TO CART

SHS100% Volume Stainless Cylinder

\$25.00 AUD



ADD TO CART

JinMingJ-10 ACR SANDY~~\$245.00 AUD~~ \$199.00 AUD

ADD TO CART

WellM4 Metal MRT Blaster~~\$599.00 AUD~~ \$499.00 AUD

NOTICE

This website use's cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#)

ACCEPT

INFORMATION

[Arch](#)[Shipping Policy](#)[Returns & Refunds Policy](#)[Contact Us](#)

CONTACT

Phone Number: 1800 024 606

4/28/2020

[GELBALLS](#)

[TACTICAL GEAR](#)

[ACCESSORIES](#)

[CONTACT US](#)

[PROMO!!](#)

[Videos](#)

GEARBOX IS M4A1 GELBLASTER

Emails:

[SALES AND PRODUCTS - SALES@M4A1GELBLASTER.COM](mailto:SALES@M4A1GELBLASTER.COM)

[TECH, MODS AND REPAIRS -](mailto:TECH@M4A1GELBLASTER.COM)

TECH@M4A1GELBLASTER.COM

[CUSTOMER SUPPORT - ADMIN@M4A1GELBLASTER.COM](mailto:CUSTOMER_SUPPORT - ADMIN@M4A1GELBLASTER.COM)

STAY CONNECTED



LIKE US ON FACEBOOK

Like

Share

9.2K people like this. Sign Up to see what your friends like.

SIGN UP TO GET THE LATEST DEALS AND ITEMS

enter your email address

SUBMIT

© 2019 M4A1 Gel Blaster. All Rights Reserved. Website Built By infoMason Marketing



This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) [ACCEPT](#) ✓



Home > PISTONS / HEADS

PISTONS / HEADS



REFINE BY

VIEW AS

ITEMS PER PAGE 24

SORT BY Featured

Sold Out

Sold Out

Sold Out



UNAVAILABLE

UNAVAILABLE

UNAVAILABLE

CNC

CNC Super Pressure Piston Head

\$30.00

SHS

SHS 14 tooth piston

\$25.00

SHS

SHS 15 tooth piston

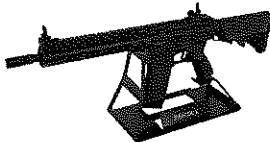
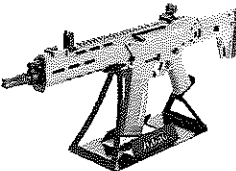
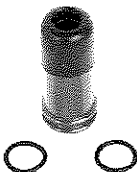
\$25.00

RECENTLY VIEWED PRODUCTS

Sold Out

Sale

Sale



UNAVAILABLE

ADD TO CART

ADD TO CART

ADD TO CART

M4A1

Gen 8/9/10/Vector Double O Ring

Alloy Nozzle

\$15.00 AUD

SHS

100% Volume Stainless Cylinder

\$25.00 AUD

JinMing

J-10 ACR SANDY

\$245.00 AUD- \$199.00 AUD

Well

Well M4 Metal MRT Blaster

\$599.00 AUD- \$499.00 AUD

NOTICE

This website use's cookies to help customers with a better user experience. Please accept to get the best performance.

PRIVACY POLICY ACCEPT

INFORMATION

Arch

Shipping Policy

Returns & Refunds Policy

Contact Us

CONTACT

Phone Number: 1800 024 606

4/28/2020

[GELBALLS](#)

[TACTICAL GEAR](#)

[ACCESSORIES](#)

[CONTACT US](#)

[PROMO!!](#)

[Videos](#)

PISTONS HEADS - M4A1 GELBLASTER

Emails:

[SALES AND PRODUCTS - SALES@M4A1GELBLASTER.COM](mailto:SALES@M4A1GELBLASTER.COM)

[TECH, MODS AND REPAIRS -](mailto:TECH@M4A1GELBLASTER.COM)

TECH@M4A1GELBLASTER.COM

CUSTOMER SUPPORT - ADMIN@M4A1GELBLASTER.COM

STAY CONNECTED



LIKE US ON FACEBOOK

Like

Share

9.2K people like this. Sign Up to see what your friends like.

SIGN UP TO GET THE LATEST DEALS AND ITEMS

enter your email address

SUBMIT

© 2019 M4A1 Gel Blaster. All Rights Reserved. Website Built By InfoMason Marketing

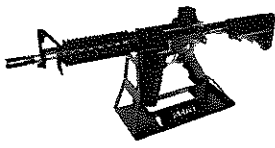


This website use's cookies to help customers with a better user experience. Please accept to get the best performance

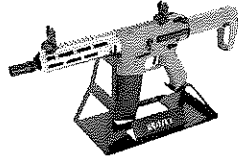
[PRIVACY POLICY](#) ☒ ACCEPT

Sale

Sale



ADD TO CART

M4A1MK18 Pro Gold Blaster~~\$599.00 AUD~~ \$499.00 AUD

ADD TO CART

M4A1Honey Badger Metal Blaster~~\$599.00 AUD~~ \$499.00 AUD

MENU

[HOME](#)[BLASTERS](#)[MODIFICATIONS](#)[PACKS](#)[GELBALLS](#)[TACTICAL GEAR](#)[ACCESSORIES](#)[CONTACT US](#)[PROMO!!](#)[Videos](#)

INFORMATION

[Search](#)[Shipping Policy](#)[Returns & Refunds Policy](#)[Contact Us](#)

CONTACT

[Phone Number: 1800 024 606](#)[Emails:](#)[SALES AND PRODUCTS - SALES@M4A1GELBLASTER.COM](mailto:SALES@M4A1GELBLASTER.COM)[TECH, MODS AND REPAIRS -](mailto:TECH@M4A1GELBLASTER.COM)TECH@M4A1GELBLASTER.COM[CUSTOMER SUPPORT - ADMIN@M4A1GELBLASTER.COM](mailto:CUSTOMER_SUPPORT@M4A1GELBLASTER.COM)

STAY CONNECTED



LIKE US ON FACEBOOK

Like

Share

9.2K people like this. Sign Up to see what your friends like.

SIGN UP TO GET THE LATEST DEALS AND ITEMS

enter your email address

SUBMIT

© 2019 M4A1 Gel Blaster. All Rights Reserved. Website Built By Infomason Marketing



This website uses cookies to help customers with a better user experience. Please accept to get the best performance.

[PRIVACY POLICY](#) [ACCEPT](#) /

AUSCRIPT AUSTRALASIA PTY LIMITED

ACN 110 028 825

T: 1800 AUSCRIPT (1800 287 274)

W: www.auscript.com.au

E: clientservices@auscript.com.au



Ordered by: Peter Kuskie

For: Kuskie Legal

Email: peter@kuskielegal.com.au

TRANSCRIPT OF PROCEEDINGS

Copyright in this transcript is vested in the State of Queensland (Department of Justice & Attorney-General). Copies thereof must not be made or sold without the written authority of the Executive Manager, Support Services, Queensland Courts.

MAGISTRATES COURT

SHEARER, Magistrate

MAG-00181736/17(8)

COMPTROLLER-GENERAL OF CUSTOMS

Plaintiff

and

CLARK CFP PTY LTD

Defendant

BRISBANE

8.48 AM, THURSDAY, 14 DECEMBER 2017

DECISION

Any Rulings that may be included in this transcript, may be extracted and subject to revision by the Presiding Judge.

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

BENCH: Right. This is an action for a declaration and order under the Customs Act for the condemnation of goods, namely, what the complainant says are 492 soft air rifles and soft air handguns. The complaint was further amended on the day of the hearing to delete the claim for forfeiture of gel pellets also seized from the respondent. The factual matters as averred by the complainant are generally not in dispute, apart from the central averment, that being that the seized items are what is described as either “soft air firearms” or, again, “firearms” throughout the complaint.

The issue for determination is very narrow. The position of the parties is that should the goods be found to be firearms within the meaning of that term as defined in regulation 4F of the Customs (Prohibited Imports) Regulation 1956, then the goods will also fall into one or other of further subcategories provided for in the regulations that have the effect of providing that the goods will be special forfeited goods within the meaning of the Customs Act and require to be forfeited to the Crown. Should the goods be found not to be firearms within the meaning of regulation 4F, the complaint will fail. I am told by the complainant that the standard of proof is the reasonable satisfaction of the Court. The issue for determination is, therefore, a narrow one, as I said and are the seized items firearms or not.

“Firearm” is defined in regulation 4F as, relevantly, “a device designed or adapted to discharge shot bullets or other projectiles by means of an explosive charge or a compressed gas, whether that device is fitted with a magazine or other fitting device designed to be used with it or not”. It is conceded by the respondent that the seized items are devices designed to discharge projectiles by means of a compressed gas. The issue is further narrowed on the respondent’s case to whether or not the gel pellets fired by these items are “other projectiles” within the meaning of regulation 4F, the seized items being incapable of firing shot or bullets.

The purpose of regulation 4F was discussed by Justice Kiefel in the CEO of Customs v Granite Arms Proprietary Limited [2004] 136 FCR 515. Neither party disputes the correctness of her Honour’s statements in that case. I agree with the respondent’s submission that regulation 4F is directed to the prohibition of firearms that fire bullets, shot or similar types of physically dangerous ammunition, and that the regulation is not directed to the prohibition of toys despite their appearance.

The respondent submits that the purposive approach to statutory interpretation, consistent with the principles stated by the High Court in Prospect Blue Sky Incorporated v The Australian Broadcasting Authority, must be applied by the Court to determine what the Parliament by the term “other projectiles” in regulation 4F. The respondent submits that the other projectiles referred to in regulation 4F must be interpreted to be ejusdem generis with the preceding words, “bullets and shot”. “Other projectiles” ought, therefore, the respondent submits, be construed as being limited to the same kind of projectiles as the particular words. The words “other projectiles” are so wide that they could, arguably, capture anything capable of being discharged by a device, which if it operates by means of compressed gas would therefore fall within the definition of a firearm.

Evidence was given by both Mr Jackson and Mr Tolley that some nerf guns fire nerf darts by means of compressed gas and that the relevant authorities, State and Federal, do not regard nerf darts as being a projectile falling within the meaning of regulation 4F. In the case of the seized items here, it is common ground that they all fire gel balls, which when hydrated are largely made of water and that at least two of the types of seized items also fire nerf darts. The evidence of both Mr Jackson and Mr Tolley was the effect that the hydrated gel balls after firing disintegrate on impact with the target or, if not with the target, whatever they happen to hit.

I agree with the respondent that the general words "other projectiles" ought to be construed in the context of the particular words that precede them, namely, "shot and bullets". It would be absurd to imagine that in the circumstances in which regulation 4F was enacted, as outlined by Justice Kiefel in the case I have already referred to, that Parliament also intended to capture toys. The attitude taken by the authorities to guns firing nerf darts supports that conclusion. I accept the submission that the Parliament intended by the use of the words "other projectiles" to capture metal or other hard ammunition capable of causing injury or death. I do not accept that the general words were intended to capture objects that are ultimately harmless or relatively harmless when impacting with a person.

In those circumstances, I am not satisfied that gel balls are captured by the term "other projectiles" as used in regulation 4F. As the seized items are not capable of discharging shot, bullets or other projectiles, they do not, in my view, fall within the definition of "firearm" within regulation 4F. Having said that, whilst I accept the expertise of Mr Jackson and appreciate the assistance given by his report, his naming each of the seized items as a "soft air firearm" has the tendency to obscure the real character of the seized items. Mr Jackson conceded that no official definition exists as to what is a "soft air firearm" and that it appears to merely refer to the mechanism by which the gel balls are expelled. Use of the term "soft air firearm" in Mr Jackson's report, which is exhibit 1, does not bring the items within the definition of "firearm" in regulation 4F, as the test is, as discussed, more extensive than merely the mechanism of firing the item.

I have been assisted by exhibit 10, a confirmation issued to the respondent by the Queensland Police Service that the seized items are legal to be possessed in Queensland without licence or authority and that the Queensland Police Service in the attachment to exhibit 10, having inspected them, appears to classify these items as "projectile toys". Despite the appearance of many of the seized items closely resembling real types of firearms, I am not persuaded by the complainant's submission that the mere appearance of an item may cause "harm" of the type referred to by Justice Kiefel. The use of an item closely resembling a real weapon for some nefarious purpose will, no doubt, constitute a criminal offence of one type or another, but is not relevant, in my view, to the question of whether or not such an item meets the definition of a firearm in regulation 4F.

In this case, despite their appearance, the items are on the evidence only capable of firing a water-based pellet and, in my view, are properly classified, as the

5 Queensland Police Service has concluded, as “projectile toys”. In all of the
circumstances and having regard to the evidence, I am not satisfied to the required
standard that the complainant has discharged its evidential onus in relation to the
seized items. I am satisfied, however, that the seized items are not “firearms” within
the meaning of regulation 4F and they are, therefore, not special forfeited goods
within the meaning of the Customs Act. The complaint will be dismissed and I order
the seized goods – or I will order the seized goods to be returned to the respondent.
Are there any submissions on costs?

10

...

15 BENCH: All right. The complaint is dismissed and the complainant is to pay the
respondent’s costs fixed at \$2000 and I order that the seized items the subject of the
complaint be returned to the respondent. All right. Thank you.

UNIDENTIFIED SPEAKER: Thank you, your Honour.

20 BENCH: You’re excused.
