



Summary Offences and Other Legislation Amendment Bill 2019

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Legal Affairs and Community Safety Committee
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Legal Affairs and Community Safety Committee

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Abbreviations

ACF	Australian Conservation Foundation
Bill	Summary Offences and Other Legislation Amendment Bill 2019
Caxton Legal Centre	Caxton Legal Centre Inc
committee	Legal Affairs and Community Safety Committee
EDO NQ	Environmental Defenders Office of Northern Queensland
EDO Qld	Environmental Defenders Office Queensland
FLPs	fundamental legislative principles
Greenpeace	Greenpeace Australia Pacific
HRLC	Human Rights Law Centre
LSA	<i>Legislative Standards Act 1992</i>
POQA	<i>Parliament of Queensland Act 2001</i>
PPRA	<i>Police Powers and Responsibilities Act 2000</i>
QCU	Queensland Council of Unions
QLS	Queensland Law Society
QPS	Queensland Police Service
QRC	Queensland Resources Council
Summary Offences Act	<i>Summary Offences Act 2005</i>
SPER	State Penalties Enforcement Regulation 2014

Chair's foreword

This report presents a summary of the Legal Affairs and Community Safety Committee's examination of the Summary Offences and Other Legislation Amendment Bill 2019.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill, and those who gave evidence at the public hearing, including the Queensland Police Service. Thank you also to Parliamentary Service staff.

I commend this report to the House.



Peter Russo MP

Chair

Recommendation

Recommendation

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The committee recommends the Summary Offences and Other Legislation Amendment Bill 2019 be passed.

1 Introduction

1.1 Role of the committee

The Legal Affairs and Community Safety Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 under the *Parliament of Queensland Act 2001* (POQA) and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility are:

- Justice and Attorney-General
- Police and Corrective Services
- Fire and Emergency Services.

The POQA provides that a portfolio committee is responsible for examining each Bill in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles.²

The Summary Offences and Other Legislation Amendment Bill 2019 (Bill) was introduced into the Legislative Assembly by Hon Mark Ryan MP, Minister for Police and Minister for Corrective Services, on 19 September 2019. It was referred to the committee the same day.

1.2 Inquiry process

On 20 September 2019, the committee invited stakeholders and subscribers to make written submissions on the Bill. The inquiry received 212 submissions. See Appendix A for a list of submitters.

On 11 October 2019, the committee held a public hearing. See Appendix B for a list of the witnesses who attended the public hearing.

The submissions, the transcript of the hearing, the documents tabled at the hearing and the responses to questions taken on notice at the hearing are available on the committee's webpage.

1.3 Policy objectives of the Bill

The objectives of the Bill are to:

- introduce two new offences to address the use of a dangerous attachment device to disrupt lawful activities
- authorise police officers to search a person or vehicle without warrant in relation to dangerous attachment devices
- allow police officers to deactivate, disassemble, or seize and dispose of, dangerous attachment devices.³

1.4 Government consultation on the Bill

The explanatory notes provide that consultation was undertaken with the following external stakeholders:

- Queensland Council of Unions (QCU) and member Unions
- Queensland Council of Civil Liberties

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

² *Parliament of Queensland Act 2001*, s 93(1).

³ Explanatory notes, pp 3-4.

- Queensland Law Society (QLS)
- Queensland Bar Association
- Australian Conservation Foundation (ACF)
- Queensland Resources Council (QRC).⁴

However, no additional information was provided in the explanatory notes regarding the nature of this consultation.

A number of stakeholders raised concerns that they had not been consulted on the Bill as indicated. For example, the ACF submitted:

*No written correspondence has been received from the Queensland Government, by ACF regarding the Bill, nor has there been any formal opportunity to offer feedback.*⁵

The ACF further noted:

ACF submits that 'consultation' is a formal process where a draft of the proposed legislation is provided and written comment on it is sought and received. At the very least we would expect to see a written summary of proposed laws and be given the opportunity to present considered formal feedback. Ad hoc phone conversations are not, in our view, formal consultation and should not be represented as such in Explanatory Notes to the legislation.

*We request that reference to ACF be removed from the Explanatory Notes.*⁶

At the public hearing, the QRC also stated that it had not received any written materials in advance of the introduction of the Bill.⁷

In terms of consultation with the QLS, Mr Bill Potts, President of the QLS, noted:

*During the consultation process, we were spoken to by a series of senior police officers, one of whom—this is about a month ago—showed us various pictures of devices that have been utilised.*⁸

Mr Steven Jones from the Bar Association of Queensland noted during the public hearing that:

*... the Bar Association was only provided with the bill; it was not provided with any other documents. Nor did we have the benefit of viewing any photographs, as Mr Potts said during the Queensland Law Society presentation he had access to from the police.*⁹

Caxton Legal Centre Inc (Caxton Legal Centre) noted the consultation on the Bill discussed in the explanatory notes and queried the outcome of that process.¹⁰

1.5 Truncated timeframe for reporting

The committee received correspondence on 9 October 2019 from the Honourable Mark Ryan MP, Minister for Police and Minister for Corrective Services, advising that a resolution in the House was foreshadowed to be proposed during the sitting week commencing 14 October 2019 to bring forward

⁴ Explanatory notes, pp 6 – 7.

⁵ Submission 133, p 1.

⁶ Submission 133, p 3.

⁷ Public hearing transcript, Brisbane, 11 October 2019, p 8.

⁸ Public hearing transcript, Brisbane, 11 October 2019, p 30.

⁹ Public hearing transcript, Brisbane, 11 October 2019, p 37.

¹⁰ Submission 183, p 6.

the date for reporting on the Bill from 4 November 2019 to 21 October 2019.¹¹ The Minister provided the following rationale for the truncated timeframe:

As you would be aware, a number of protests have taken place this week, during which similar devices to those defined in the Bill have been used, with further protests planned in Brisbane and in regional Queensland.

*In the interests of safety, it would be desirable for the Bill to be brought forward and I respectfully ask the Committee to consider this matter.*¹²

In light of this correspondence, the committee held its public hearing on the Bill on 11 October 2019.

A number of concerns were raised by stakeholders regarding the revised truncated timeframe for the Bill inquiry process.

For example, the QCU commented in its submission:

The original date for Committee hearings on this Bill was 21 October. The hearing date has been brought forward to 11 October in an attempt to 'fast-track' the laws through Parliament. That does not inspire a great deal of faith in the integrity of the Committee process.

The Labor Government has previously made a virtue of its willingness to consult and should maintain its proud history in that regard. It was also quite rightly critical of the Newman Government's disregard for the Committee process. It did so because it recognised the importance of the Committee process to democratic principles, particularly in a unicameral parliamentary system. These are principles worth supporting.

*While the Government may hold concerns about the disruption caused by some current protests, this is hardly a state of emergency. These protests do not warrant a knee-jerk response and with laws that will impact on the rights of all Queenslanders, we should proceed with caution, care and due process.*¹³

During the public hearing some witnesses also commented on the truncated timeframe for the Bill inquiry process. For example, Mr Michael Clifford, Acting General Secretary, QCU, re-iterated the QCU's concerns during the public hearing:

*The other thing I would like to say is that we are concerned about fast-tracking laws like this. These are serious laws; they do deal with people's democratic rights. When we talk about things like search powers, they impact on all Queenslanders and we do not think these sorts of laws should be rushed through the parliament. We think that these sorts of laws should be dealt with in a thoughtful and considered way, allowing for all points of view to be properly aired and prosecuted. We are glad that we have this opportunity before the committee, but comments in the media about fast-tracking these laws and the fact that the committee process has been called on much earlier than it was otherwise scheduled does lead to some concern on our part about the integrity of this process.*¹⁴

Mr Scott McDougall, the Queensland Human Rights Commissioner, noted:

*However, it has to be said that this truncated process for considering this bill has not allowed for a careful analysis of whether the proposed restrictions on human rights have been demonstrably justified after applying the tests of necessity and proportionality in section 13 of the Act.*¹⁵

¹¹ Mr Mark Ryan MP, correspondence dated 9 October 2019, p 1.

¹² Mr Mark Ryan MP, correspondence dated 9 October 2019, p 1.

¹³ Submission 166, pp 1-2.

¹⁴ Public hearing transcript, Brisbane, 11 October 2019, p 1.

¹⁵ Public hearing transcript, Brisbane, 11 October 2019, p 42.

During the public hearing, Mr Bill Potts, President of the QLS, also noted that ‘there has been a very foreshortened and truncated process of consultation’.¹⁶

Ms Karagh-Mae Kelly, Queensland Committee Member of the Animal Justice Party, indicated concern that the Bill ‘has been fast-tracked to almost completely bypass the usual checks and balances’ and noted that she had had less than 24 hours notice of the public hearing.¹⁷

1.6 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

<p>Recommendation</p> <p>The committee recommends the Summary Offences and Other Legislation Amendment Bill 2019 be passed.</p>
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¹⁶ Public hearing transcript, Brisbane, 11 October 2019, p 30.

¹⁷ Public hearing transcript, Brisbane, 11 October 2019, p 25.

2 Examination of the Bill

The Bill seeks to introduce ‘a range of measures to deter people from using dangerous attachment devices that endanger themselves, emergency services workers and members of the public and to assist police officers in minimising the disruption caused to the community through the employment of these devices’.¹⁸

To achieve these objectives, the Bill proposes to amend the:

- *Summary Offences Act 2005* (Summary Offences Act)
- *Police Powers and Responsibilities Act 2000* (PPRA)
- State Penalties Enforcement Regulation 2014 (SPER).¹⁹

The proposed amendments to each piece of legislation are discussed below, as are submitters’ views on the Bill.

The committee has attempted to discuss stakeholders’ views as fully as possible within the truncated reporting period, but has been unable to discuss them in as much detail as usual. However, the committee can assure stakeholders that all submissions have been read and considered carefully.

The Bill generated substantial interest from the community, with the committee receiving over 200 submissions. Most submitters opposed the Bill, with key concerns being that:

- protesting is a fundamental part of a democracy and has played a part in achieving various reforms in the past
- the Bill proposes to give Queensland Police Service (QPS) excessive powers
- there is insufficient justification for the Bill.

A small number of submitters supported the Bill. One of the key reasons for supporting the Bill was the desire to prevent deaths and accidents near rail corridors. This concern was for the people who protest, as well as for emergency service workers and train drivers who risk being traumatised if an accident occurs.

2.1 Justification for the Bill

The Human Rights Law Centre (HRLC),²⁰ Caxton Legal Centre,²¹ the Environment Council of Central Queensland Inc,²² Professor Janet Ransley, Director at the Griffith Criminology Institute,²³ and many submitters who provided what could be called ‘form’ submissions, questioned the justification for the Bill. These submitters considered, among other things, that claims protestors had been using locking devices containing traps or dangerous substances had not been substantiated.

2.2 Proposed amendments to the *Summary Offences Act 2005 (Qld)*

The Bill proposes to amend the Summary Offences Act to introduce offences for the use of dangerous attachment devices. The Bill defines an attachment device as:

¹⁸ Explanatory notes, p 3.

¹⁹ Explanatory notes, pp 6 – 7.

²⁰ Submission 175, p 1.

²¹ Submission 183, p 4.

²² Submission 138, p 2.

²³ Submission 139, p 1.

*... a device that reasonably appears to be constructed or modified to anchor a person at a place or to a thing so that the person can resist being safely removed or safely separated from the place or thing.*²⁴

None of the items below are, by themselves, an attachment device:

- glue
- a bike lock²⁵
- a padlock
- a rope, or
- a chain.²⁶

The Bill provides a further definition of a dangerous attachment device to mean an attachment device that:

- reasonably appears to be constructed or modified to cause injury to a person who attempts to interfere with the device, or
- reasonably appears to be constructed or modified to cause injury to a person if another person interferes with the device, or
- incorporates a dangerous substance or thing (such as asbestos or poison²⁷).²⁸

A sleeping dragon, dragon’s den, monopole and tripod are each a dangerous attachment device.²⁹

A dangerous substance or thing means:

- any thing likely to explode, when struck or compressed, causing injury to a person
- any thing likely to cut a person’s skin, or
- any substance or thing that requires a person to wear protective clothing to safely handle, cut or break up the thing.³⁰

Table 1 defines the terms ‘sleeping dragon’, ‘dragon’s den’, ‘monopole’ and ‘tripod’.

Table 1 – Definitions of ‘sleeping dragon’, ‘dragon’s den’, ‘monopole’ and ‘tripod’

Term	Features each term must incorporate
Sleeping dragon	<ul style="list-style-type: none"> • an anchor point for a person to hold or to which a person’s hand can be bound or locked, and • a casing that shields the person’s hand, or the binding or lock, from being released by another person.

²⁴ Clause 11 – proposed new s 14A(1).

²⁵ A bike lock is defined as, ‘... a device manufactured and sold as a device for securing a bicycle while the device is locked.’

²⁶ Clause 11 – proposed new s 14A(2).

²⁷ Explanatory notes, p 10

²⁸ Clause 11 – proposed new s 14B(1).

²⁹ Clause 11 – proposed new s 14B(2).

³⁰ Clause 11 – proposed new s 14B(8).

	An example would be two large steel pipes welded together at an angle with a thick pin fixed in the centre. ³¹
Dragon's den	<ul style="list-style-type: none"> incorporates 1 or more sleeping dragons or tubes large enough to pass a person's hand through, and reinforces the casing of the sleeping dragon or tube by adding bulk and weight. <p>An example would be a 44-gallon drum incorporating a sleeping dragon and otherwise filled with concrete.³²</p>
Monopole	<ul style="list-style-type: none"> rely on a long pole and support riggings to suspend a person off the ground reasonably appear to be set up to fall if another person interferes with the support riggings, and a fall of the device would cause injury to the person suspended from it.³³
Tripod	<ul style="list-style-type: none"> the legs of the device form a tripod large enough to be used to suspend a person off the ground it reasonably appears to be set up to collapse if another person interferes with the legs of the device or any support riggings for the device, and a collapse of the device would cause injury to the person suspended from it.³⁴

The Bill proposes that a device is a dangerous attachment device regardless of whether:

- persons using the device can release themselves from it
- the device would automatically deactivate or release itself after a period of time, or
- protective clothing or other shielding would prevent injury to any person.³⁵

2.2.1 Submitter views

In its submission highlighting key concerns with the Bill, Greenpeace Australia Pacific (Greenpeace) considered that sleeping dragons, dragon's den, monopole and tripod devices should not be defined as dangerous attachment devices, considering that such items are often deployed as part of safe, peaceful protests.³⁶

In outlining its rejection of the Bill, Caxton Legal Centre queried why a sleeping dragon, in and of itself, should be considered a dangerous attachment device. Caxton Legal Centre noted that it is already a criminal offence for someone to place a device that is intended to kill or cause grievous bodily harm to others and that Section 327 of Schedule 1 of Queensland's *Criminal Code Act 1899* (Qld) specifically creates the offence of 'Setting Mantraps', attracting a potential penalty of 3 years jail.³⁷

Caxton Legal Centre also queried the classification of monopoles and tripods as dangerous attachment devices.³⁸

³¹ Clause 11 – proposed new s 14B(3).

³² Clause 11 – proposed new s 14B(4).

³³ Clause 11 – proposed new s 14B(5).

³⁴ Clause 11 – proposed new s 14B(6).

³⁵ Clause 11 – proposed new s 14B(7).

³⁶ Submission 145, p 2.

³⁷ Submission 183, p 11.

³⁸ Submission 183, pp 13 – 14.

Environmental Defenders Office Queensland Inc (EDO Qld) and Environmental Defenders Office of Northern Queensland (EDO NQ) noted that while the Bill proposes that certain items are not considered attachment devices by themselves, problems could be caused if people have more than one item on their person at a time:

*It is not common for cyclists to have a bike lock and a padlock and chain to assist in securing their bike, yet these items could be unreasonably removed from the holder under this broad provision.*³⁹

The Queensland Law Society (QLS) submitted:

*The definition of attachment device under section 14A(1) is a broad one, but it is sensibly clarified by the declaration in section 14A(2) that no single item listed is, by itself, an attachment device. Importantly, the proposed new offence provisions and powers of police apply only to dangerous attachment devices the definition of which is detailed and specific, with a clear focus on the prevention of injury to protestors and emergency services personnel.*⁴⁰

Aurizon supported the Bill but suggested changes, including that proposed section 14A(2)(d) be amended to refer to 'untied rope' (instead of 'rope'), or that proposed section 14A(2)(d) be deleted.⁴¹ Aurizon explained:

Section 14A(2)(d) expressly excludes rope by itself from the definition of 'attachment device'. A rope that is simply tied (e.g. to an over-track structure, and to which a protester is also attached by a simple knot) does not undergo modification or addition to its base object. As such, despite the inherently dangerous nature of this attachment to an over-track structure, it appears likely that it would be excluded from the definition of 'attachment device'.

*Consistent with our submission above that on enactment of the Bill, protesters may simply develop alternative methods of protest not expressly caught by Bill, we are concerned that this express exclusion of rope from the definition of 'attachment device' will lead to protesters using ropes in the manner described above in the commission of illegal protest action.*⁴²

In outlining its support for the Bill, the Queensland Resource Council (QRC) expressed concern about the prescriptiveness of the definition of 'dangerous attachment device'. While the definition covers most of the current methods used to disrupt transport infrastructure, protestor groups are adaptable and could use new methods which obfuscate the definition. It recommended the Bill contemplate a gazette power for Government to include new devices in the definition as appropriate.⁴³

2.2.2 Proposed new offences of using dangerous attachment devices to disrupt lawful activities

The Bill proposes to introduce two offences under the Summary Offences Act designed to address the use of a dangerous attachment device to disrupt lawful activities.

Section 14C(1) proposes to prohibit a person from using a dangerous attachment device to unreasonably interfere with the ordinary operation of transport infrastructure unless the person has a reasonable excuse. This offence provision is proposed to carry a maximum penalty of 50 penalty units (\$6,672.50)⁴⁴ or 2 years imprisonment.⁴⁵

³⁹ Submission 174, p 3.

⁴⁰ Submission 204, p 2.

⁴¹ Submission 205, p 5.

⁴² Submission 205, pp 4-5.

⁴³ Submission 172, p 13.

⁴⁴ *Penalties and Sentences Act 1992*, ss 5, 5A; *Penalties and Sentences Regulation 2015*, s 3. The value of a penalty unit is \$133.45.

⁴⁵ Clause 11.

Section 14C(2) proposes to prohibit a person from using a dangerous attachment device to do either of the following, unless they have a reasonable excuse:

- stop a person from entering or leaving a place of business, or
- cause a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.⁴⁶

The proposed maximum penalty for this offence is 20 penalty units (\$2,669.00) or 1 year imprisonment.⁴⁷ Proposed section 14C(2) would not apply to a 'monopole' or 'tripod' unless it incorporates a dangerous substance or thing.⁴⁸

2.2.3 Submitter views

In its submission opposing the Bill, the HRLC rejected the proposal to criminalise the use of sleeping dragons, tripods and monopoles as '... no harm is likely to eventuate to protesters, first responders or the public'.⁴⁹

Regarding the new offences in proposed section 14C, Caxton Legal Centre considered:

*... under section 52 of the PPRA, a police officer already has power to take the steps the police officer considers reasonably necessary to prevent the commission, continuation or repetition of an offence. In short, police already have powers to prevent an offence.*⁵⁰

The QLS considered the definition of 'dangerous attachment device' to be detailed and specific, '...with a clear focus on the prevention of injury to protestors and emergency services personnel.'⁵¹ The QLS noted that merely possessing a dangerous attachment device would not be a proposed breach of the Bill, nor would it trigger additional powers for search and seizure without warrant.⁵²

The QLS stated that to offend against proposed sections 14C(1) or (2), a person must use a dangerous attachment device in a way that it causes an unreasonable disruption of the operation of transport infrastructure or prevents the carrying on of ordinary business. The QLS concluded:

*... we anticipate that the practical effect of the Bill will be focused ... appropriately on limiting the kinds of devices that may be utilised by protestors to prevent injury to the protestors themselves as well as emergency services personnel.*⁵³

Aurizon suggested that items such as ropes or flags that are attached to, or used in conjunction with, dangerous devices such as tripods or locking devices should be captured under the legislation. It considered that if someone is found to be in possession of a locking device carried or stored together with rope and/or a flag, the rope and/or flag should be considered as part of, or an attachment to, a dangerous device and captured under the Bill.⁵⁴

Aurizon suggested proposed section 14B(1) amended:

*... from "An attachment device is a dangerous attachment device if it - [...]" to "An attachment device is a dangerous attachment device if it, **by itself of in combination with another item** – [...]" [emphasis added]. This would encapsulate the tree-sit protest actions that have been*

⁴⁶ Clause 11.

⁴⁷ Explanatory notes, p 4.

⁴⁸ Clause 11.

⁴⁹ Submission 175, p 1.

⁵⁰ Submission 183, p

⁵¹ Submission 204, p 2.

⁵² Submission 204, p 2.

⁵³ Submission 204, p 2.

⁵⁴ Submission 205, p 5.

*commonly used on the central Queensland coal network (CQCN), or as used by the protester on Brisbane's Story Bridge on 8 October 2019.*⁵⁵

The QRC considered that proposed section 14C(2) does not apply to a 'monopole' or 'tripod' device unless it incorporates a *dangerous substance or thing*. It queried why this offence was not proposed to apply to tripods or monopoles in isolation, particularly if all other factors are the same as the use of any other device.⁵⁶

Proposed penalties

Aurizon suggested consideration be given to whether on the spot fines provide a sufficient deterrent, commensurate with the major risk to safety, to cause individuals or groups to reconsider the use of dangerous devices as part of protests. Aurizon considered it may be necessary to specify that if an individual or group is suspected of having previously possessed or used a dangerous device for protest activity relating to transport infrastructure, the individual or group should be summoned to a court hearing rather than having an on the spot fine imposed.⁵⁷

Aurizon submitted that proposed sections 14A(1) and 14C(1) allow for a court to determine that an offender did not carry out an offence if the:

- attachment device does not reasonably appear to be constructed or modified to disable safe removal from a place or safe separation from a thing, or
- interference was reasonable.⁵⁸

Aurizon considered the above to be an objective test and may result in multiple submissions being made to the court concerning the reasonableness of activities and lead to delays in court processes. Aurizon suggested that to reduce the burden on court resources, the basis for having a defence to a charge should be whether an individual or group has proper authorisation to do the act that is the subject of the offence.⁵⁹

The QRC supported the inclusion of sections 14C(1) and (2), but considered the proposed penalties to be, 'relatively minor.'⁶⁰ It added that similar penalties already exist for trespass offences and that such penalties are not a deterrent. The QRC suggested making such offences indictable offences, rather than simple offences.⁶¹

2.3 Proposed changes to the *Police Powers and Responsibilities Act 2000* (Qld)

The Bill proposes to amend the PPRA to authorise a police officer to stop, detain and search a person and anything in the person's possession if the officer reasonably suspects that the person is in possession of a dangerous attachment device that has been used or is to be used to disrupt a relevant lawful activity.⁶²

The Bill also proposes to authorise a police officer to stop, detain and search a vehicle, and anything in it, if the officer reasonably suspects that there is a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity in the vehicle.

⁵⁵ Submission 205, p 5.

⁵⁶ Submission 172, p 13.

⁵⁷ Submission 205, p 5.

⁵⁸ Submission 205, p 5.

⁵⁹ Submission 205, p 6.

⁶⁰ Submission 172, p 12.

⁶¹ Submission 172, p 12.

⁶² Clause 3.

In each of the above instances, a relevant lawful activity is disrupted by using a dangerous attachment device if the use:

- unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6⁶³
- stops a person from entering or leaving a place of business, or
- causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.⁶⁴

2.3.1 Submitter views

The QLS expressed concern at the proposal for:

*... Police officers to seize all or parts of the dangerous attachment device and the automatic forfeiture of these devices and parts to the State without further order or the right to appeal or compensation.*⁶⁵

Greenpeace considered that no changes should be made to the PPRA, stating:

*The Act already allows for people and vehicles to be searched without a warrant where the person has "something the person intends to use to cause harm to himself, herself or someone else" (section 30(d) and section 32(m)). The existing legislation is sufficient to allow searches for the purpose of maintaining public safety.*⁶⁶

Caxton Legal Centre considered there were already significant police search powers under the PPRA and under the Commonwealth *Crimes Act 1914*. With respect to the PPRA, Caxton Legal Centre stated:

*... the police already have power to search a person (and a vehicle they are in) where they are reasonably suspected of possessing something the person intends to use to cause harm to himself, herself or someone else.*⁶⁷

The adequacy of existing search powers under the PPRA was also highlighted by many other submitters such as Professor Janet Ransley,⁶⁸ the EDO Qld and EDO NQ⁶⁹ and the QCU.⁷⁰

2.3.2 Proposed seizure and disposal of dangerous attachment devices

The Bill proposes that if a police officer finds a dangerous attachment device and reasonably suspects the dangerous attachment device has been used, or is to be used, to disrupt a relevant lawful activity the police officer can do at least one of:

- deactivating⁷¹ or disassembling the dangerous attachment device to the extent the police officer considers reasonably necessary, and/or
- seizing all or parts of the dangerous attachment device.⁷²

⁶³ 'Transport infrastructure' includes air, busway, light rail, public marine, rail or road transport infrastructure as well as transport infrastructure relating to ports and active transport.

⁶⁴ Clause 4.

⁶⁵ Submission 204, pp 2 – 3.

⁶⁶ Submission 145, p 3.

⁶⁷ Submission 183, p 14.

⁶⁸ Submission 139, p 2.

⁶⁹ Submission 174, p 3.

⁷⁰ Submission 166, p 2.

⁷¹ To 'deactivate' a dangerous attachment device can include making it safe or unusable.

⁷² Clause 5 – proposed new s 53AA.

If the police officer seizes a dangerous attachment device or parts of a device, the device or part is taken to have been forfeited to the State immediately after the police officer seizes it.⁷³ A police officer may disassemble a dangerous attachment device and choose to seize only some of the disassembled parts.⁷⁴

A relevant lawful activity is disrupted by using a dangerous attachment device if the use:

- unreasonably interferes with the ordinary operation of transport infrastructure
- stops a person from entering or leaving a place of business, or
- causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.⁷⁵

2.3.3 Submitter views

Caxton Legal Centre submitted that QPS already has powers to seize items used in the commission of a criminal offence.⁷⁶

Greenpeace stated that allowing police officers to effect searches, seizures and destruction of dangerous attachment devices without a warrant will have a large impact on legitimate, safe protests and would not achieve the aim of the Bill, which is to address the use of *dangerous* attachment devices.⁷⁷

The QRC supported the introduction of increased search and seizure powers for police regarding dangerous attachment devices. It recommended that search powers be extended to include land, stating it was aware that several protest groups have set up camps where they build and store devices that would be caught by the definition of ‘dangerous attachment device’. The QRC considered that extending the police search and seizure powers to land would create a more effective preventative measure, further minimising the risk of harm to persons and disruption to the community, than under the currently proposed search and seizure powers.⁷⁸

2.4 Proposed changes to the *State Penalties Enforcement Regulation 2014*

The Bill proposes to allow penalty infringement notices to be issued for the new offences of using a dangerous attachment device. The fines payable for penalty infringement notices for offences under proposed sections 14C(1) and 14C(2) of the Summary Offences Act will be 5 penalty units (\$667.25) and 2 penalty units (\$266.90) respectively. This amendment will add the issuing of penalty infringement notices to the variety of measures that may be used by police when responding to protests.⁷⁹

2.4.1 Submitter views

The QRC supported the expansion of the variety of measures that may be used by police when responding to protests, but considered the proposed penalties to be ‘very minor’, adding that provision of a fine would curtail any court process to prosecute the offender. It considered the provision of on-the-spot fines would remove this deterrent.⁸⁰

⁷³ Clause 5 – proposed new s 53AA(4).

⁷⁴ Clause 5 – proposed new s 53AA(5).

⁷⁵ Clause 5 – proposed new s 53AA(2).

⁷⁶ Submission 183, p 17.

⁷⁷ Submission 145, p 2.

⁷⁸ Submission 172, p 13.

⁷⁹ Explanatory notes, p 4.

⁸⁰ Submission 172, p 13.

Caxton Legal Centre noted the proposed penalty infringement notices, but stated that the actual maximum penalties under these sections were 50 penalty units or 2 years imprisonment and 20 penalty units or 1 year imprisonment, which it considered to be a great increase in the maximum penalty. It stated that while allowing infringement notices to be given in minor cases was laudable, it had concerns about the increase in the upper penalty.⁸¹

2.5 Other issues raised in submissions

2.5.1 Consistency with the *Human Rights Act 2019* and the *Peaceful Assembly Act 1992*

The QLS highlighted that the soon to commence *Human Rights Act 2019* (HRA) and the *Peaceful Assembly Act 1992* protect people's right to peaceful assembly and freedom of association. It noted that the Bill was part of a number of pieces of legislation aimed at addressing protest activity and considered, '... that the cumulative effect of the legislation might inappropriately interfere with the right to peaceful assembly in certain circumstances'.⁸²

The HRLC also considered the Bill potentially conflicts with provisions in the HRA, in particular the right to freedom of expression and the right to peaceful assembly and freedom of association.⁸³ It advised the committee to consider the human rights implications of the Bill, stating:

*Neglecting to address these concerns now, could mean that, if passed, the laws will be more vulnerable to a finding of incompatibility with human rights by the Supreme Court of Queensland.*⁸⁴

Caxton Legal Centre considered the Bill was potentially inconsistent with the HRA, considering that the Bill undermines this very culture of change that is being promoted under the new HRA and that the justifications given by the government to override the HRA considerations, in its opinion, were not properly substantiated.⁸⁵

2.5.2 Whether the Bill applies to parties to an offence

Aurizon sought clarification on whether the Bill would apply to parties to an offence. Aurizon considered it would be helpful if the Bill also applied to individuals or groups that organise and arrange for individuals to take possession of or to use a dangerous device in connection with planned or actual protest activity. It considered that it appeared individuals often take possession and use dangerous devices at the instigation of other parties who, while they may not be present at the location of planned protest action, have been closely involved in organising the protest-related activities.

Aurizon considered if the Bill did apply to these individuals and organisations, it would help provide an effective deterrent to dangerous actions taken by those who are involved in organising protests, but who rely on others to carry out the activities. Aurizon stated that if the Bill does not apply to other parties involved in organising protest activities, such parties would be unlikely to be deterred from instigating extremely dangerous conduct.⁸⁶

The QRC suggested the Bill should incorporate an offence similar to the 'organised trespass offence' outlined in the Criminal Code (Trespass Offences) Bill 2019, stating the organised trespass offence was designed to counter the rise of coordinated trespass actions. The QRC explained that if a director, member or volunteer of an organisation has been found to have organised a deliberate and premeditated campaign against a project or business that involves individuals from that organisation being found guilty of committing offences of aggravated trespass or serious criminal trespass, that

⁸¹ Submission 183, p 20.

⁸² Submission 204, p 3.

⁸³ Submission 175, p 5.

⁸⁴ Submission 175, p 5.

⁸⁵ Submission 183, p 4.

⁸⁶ Submission 205, pp 3 – 4.

organisation can be liable for a maximum penalty of 10 years imprisonment or a \$391,650 fine. The QRC considered such increased penalties and recognition of the organised nature of the activities would go some way towards addressing the ongoing issues with the current law.⁸⁷

⁸⁷ Submission 172, pp 12 – 13.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles (FLPs) to the Bill. The committee brings the following to the attention of the Legislative Assembly.

3.2 Compliance with the *Legislative Standards Act 1992*

In its examination of the Bill, the committee considered that clauses 3, 4, 5 and 11 raise potential issues relating to FLPs.

3.2.1 Clause 11

Summary of provisions

Clause 11 introduces new Division 2A (sections 14A-14C) into the Summary Offences Act.

New section 14B defines a ‘dangerous attachment device’ as an attachment device that:

- (a) reasonably appears to be constructed or modified to cause injury to a person who attempts to interfere with the device; or
- (b) reasonably appears to be constructed or modified to cause injury to a person if another person interferes with the device; or
- (c) incorporates a dangerous substance or thing.

The provision also names a sleeping dragon, dragon’s den, monopole and tripod as dangerous attachment devices.

New section 14C(1) makes it an offence if a person uses a dangerous attachment device to unreasonably interfere with the ordinary operation of transport infrastructure, unless the person has a reasonable excuse. The section provides an example of what constitutes ‘unreasonably interfering with transport infrastructure’ – ‘placing an obstacle, on a railway, that stops the passage of rolling stock’. The maximum penalty for breaching this section is 50 penalty units or 2 years imprisonment.

New section 14C(2) makes it an offence for a person to use a dangerous attachment device⁸⁸, without a reasonable excuse, to:

- (a) stop a person from entering or leaving a place of business; or
- (b) cause a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

The maximum penalty for breaching this provision is 20 penalty units or 1 year imprisonment.

Potential FLP issue – undue restriction of ordinary activities

Legislation should not, without sufficient justification, unduly restrict ordinary activities.⁸⁹

⁸⁸ Subsection (2) does not apply to a monopole or tripod unless it incorporates a dangerous substance or thing (s 14C(3)).

⁸⁹ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 118.

This prohibition impinges on a person's right to peaceful assembly, if they do so while using a device that is defined as a dangerous attachment device.

The explanatory notes provide the following justification:

*... these dangerous attachment devices may cause a real risk of injury or death to a person or persons using the device, emergency service workers and the public when attempts are made to disassemble these devices.*⁹⁰

The explanatory notes further provide:

*... the use of dangerous attachment devices may lead to significant disruptions to individuals and to the community generally. For example, roadways and railways may be closed to traffic to allow authorities to safely extricate a person from a dangerous attachment device. This may cause great financial cost to other individuals who are prevented from conducting their lawful business and many others may be curtailed from exercising their own individual rights such as the right to enjoy public spaces. Further, the ability for emergency services to provide services to the community may be hampered.*⁹¹

Potential FLP issue – proportion and relevance

Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation. The OQPC Notebook states 'the desirable attitude should be to maximise the reasonableness, appropriateness and proportionality of the legislative provisions devised to give effect to policy'.⁹²

The explanatory notes do not specifically address the issue of penalties in respect of FLPs, but the following passage is relevant:

*Any concerns about this offence provision is further mitigated as the offences only target the small cohort of person who use dangerous attachment devices when espousing their cause or ideology. It will not apply to a person or assembly that is otherwise engaging peacefully under the PAA [Peaceful Assembly Act 1992]. Also, these offence provisions do not impose strict liability. Persons charged with these offences may be excused from criminal liability if they satisfy a court that their actions when using a dangerous attachment device were reasonable in the circumstances.*⁹³

The committee also notes that the Bill amends Schedule 1 of the SPER to allow for the issuing of infringement notices for the two new Summary Offences Act offences, set at 10% of the maximum penalty in the corresponding provision (eg. for a s 14C(1) offence, the maximum under the Summary Offences Act is 50 penalty units; if the person is issued instead with a SPER infringement notice, the penalty is 5 penalty units).

3.2.2 Clauses 3, 4 and 5

Summary of provisions

Clause 3 amends section 30 of the PPRA to allow a police officer to, without a warrant, search a person that has something that may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.

⁹⁰ Explanatory notes, p 5.

⁹¹ Explanatory notes, p 5.

⁹² Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 120.

⁹³ Explanatory notes, p 5.

Section 31 of the PPRA currently allows a police officer, who reasonably suspects that any of the (s 32) prescribed circumstances for searching a vehicle without a warrant exist, to, without a warrant, stop a vehicle, detain a vehicle and its occupants, and search a vehicle and anything in it for anything relevant to the circumstances for which the vehicle and its occupants are detained. Subsection 31(5) allows the officer to seize all or part of a thing that may provide evidence of the commission of an offence.

Clause 4 amends section 32 of the PPRA to add an extra prescribed circumstance for searching a vehicle without a warrant, being that there is something in the vehicle that may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.

Clause 5 inserts new section 53AA into the PPRA to allow a police officer to:

- (a) deactivate or disassemble a dangerous attachment device to the extent the officer considers reasonably necessary; and/or
- (b) seize all or parts of the dangerous attachment device

when they reasonably suspect a dangerous attachment device has been used, or is to be used, to disrupt a relevant lawful activity.

For each of sections 30, 32 and 53AA, the threshold test for whether a relevant lawful activity is disrupted by using a dangerous attachment device is if the use –

- (a) unreasonably interferes with the ordinary operation of transport infrastructure; or
- (b) stops a person from entering or leaving a place of business; or
- (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

Dangerous attachment devices (or parts thereof) seized by police under section 53AA are forfeited to the State immediately upon seizure.⁹⁴

It should also be noted that existing section 33 of the PPRA already allows police to seize a thing found at a public place, or on a person found at the public place, that an officer reasonably suspects may be evidence of the commission of an offence.

Potential FLP issues – Power to search without warrant and seize property

Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.⁹⁵ The OQPC handbook provides that this principle supports a long established rule of common law that protects the property of citizens.

Previous committees have queried increased personal search powers but recognised the need to find an appropriate balance between the person being searched and the danger they may present to other persons if the search is not carried out.

Search of a person or vehicle

In relation to searching a person or vehicle, where a dangerous attachment device is involved, the explanatory notes provide the following justification:

While the new search powers may be considered to impinge on the rights and liberties of the person, the consequences of the deployment of a dangerous attachment device including the

⁹⁴ New section 53AA(4)

⁹⁵ *Legislative Standards Act 1992*, s 4(3)(e).

*potential harm it can cause to the health of a person and the disruption that may be caused to the community outweigh this concern.*⁹⁶

The explanatory notes also explain the safeguards applicable:

*Usual safeguards that relate to searches of a person or vehicle under the PPRA will apply ... This includes ensuring minimal embarrassment to the person, taking reasonable care to protect the dignity of the person and, unless urgent, the search being conducted by a police officer of the same sex as the person being searched.*⁹⁷

Seizure and automatic forfeiture of dangerous attachment devices

The explanatory notes provide the following justification for the breach of a person's property rights:

*... the Bill limits the seizure and forfeiture to dangerous attachment devices found on a person or in a vehicle by a police officer who reasonably suspects the dangerous attachment device has been used or may be used to disrupt a relevant lawful activity. The amendment provides options to police dealing with these items. Police may opt not to seize the device and instead deactivate or disassemble the device to ensure that it cannot be deployed. Alternatively, police may seize these items, and if so, the item is taken to be forfeited to the State.*⁹⁸

The explanatory notes provide the following justification for this amendment:

*The amendment is justifiable as the inherent characteristics of dangerous attachment devices represent a danger to persons using such a device, emergency workers and the public when attempts are made to extricate a person from the device.*⁹⁹

3.2.3 Clause 5

Summary of provisions

Clause 5 inserts new section 53AA into the PPRA to allow a police officer to deactivate or disassemble a dangerous attachment device to the extent considered reasonably necessary; and/or seize all or parts of the dangerous attachment device, when the officer reasonably suspects a dangerous attachment device has been used, or is to be used, to disrupt a relevant lawful activity.

Dangerous attachment devices (or parts thereof) seized by police under section 53AA are forfeited to the State immediately upon seizure¹⁰⁰ and, as a forfeited item, may be dealt with by the police commissioner as the commissioner sees fit, including by destroying or disposing of the device (see section 721 PPRA).

Compensation is not payable for the lawful seizure of a thing under the PPRA (see s 804(4) PPRA).

Potential FLP issues Compulsory acquisition of property - Legislation should provide for the compulsory acquisition of property only with fair compensation.¹⁰¹ The OQPC states, "A legislatively authorised act of interference with a person's property must be accompanied by a right of compensation, unless there is a good reason."¹⁰²

⁹⁶ Explanatory notes, p 6.

⁹⁷ Explanatory notes, p 6.

⁹⁸ Explanatory notes, p 6.

⁹⁹ Explanatory notes, p 6.

¹⁰⁰ New section 53AA(4)

¹⁰¹ *Legislative Standards Act 1992*, s 4(3)(i).

¹⁰² Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 73.

The former Scrutiny of Legislation Committee noted that it is generally acknowledged that compulsory acquisition of property must only be made with compensation.¹⁰³

Administrative power - Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review. The OQPC Notebook states:

*Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review.*¹⁰⁴

It is noted that upon seizure of a dangerous attachment device under section 53AA, the device is immediately forfeited to the State. There is no provision for a person to seek a review of that seizure and forfeiture decision and compensation is not payable for the lawful seizure of a thing under the PPRA.

The committee is satisfied that public policy considerations justify the seizure and/or destruction of dangerous attachment devices without a right of review of that decision.

3.3 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

¹⁰³ Alert Digest 1996/7, pp 27-28, para 7.13.

¹⁰⁴ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 18.

Appendix A – Submitters

Sub #	Submitter
001	Robert Heron
002	J Fitz-Walter
003	Pamela Pensini
004	Lily Podger
005	Miranda Chilver
006	Kathryn Kelly
007	Michael Daley
008	Tom Cotter
009	Imogen Romot-Smith
010	Steven Arnold
011	Elizabeth Sutherland
012	Rachael Brennan
013	Clancy Morrison-Van Velsen
014	Arnold Hollyman
015	Anaie Devietti
016	Lesley Margaret Keegan
017	Nadia Razzhigaeva
018	Sasha Hunt
019	Paul Jukes
020	Len Thompson
021	Dr Moira Williams
022	Graeme Batterbury
023	Nichola Borellini
024	Jonathan Peter
025	Prof. Winnifred Louis
026	Melita Collins
027	John Brinnand
028	Melinda Marshall
029	Yvonne Salarimatin
030	Mark Taylor
031	Eric Oliver
032	Rani Morris
033	Carolyn Bussey

034	Hayley Troupe
035	Peter Heaphy
036	Andrew Winton-Brown
037	Maxine Godley
038	Jessica Gardiner
039	Jo-Ann Lancaster
040	Action Ready
041	Coolum District Coast Care Group
042	Heather Simpson
043	Dean O'Callaghan
044	Max Fedoseev
045	Wendy Tubman
046	Dereka Ogden
047	Colleen James
048	Jennifer Horsburgh
049	Bron Watkins
050	Jennifer Thorn
051	Brett Thorn
052	Deb PhelanDevon
053	Peter Neuhaus
054	Donald Nordblom
055	Natalie MacLean
056	Oscar Delaney
057	Emily Dickson
058	Justin Ellis
059	Remy Weir-Sapir
060	Joanne Vlismas
061	Jacinta Walsh
062	T Wilson-Brown
063	Patricia Wilkins
064	Bill Tait
065	Paul Rees
066	Kyia Bourne
067	Erin O'Brien
068	Robert Hart

069	Christine Carlisle
070	Patricia Balderstone
071	Kate Christianson
072	Linda Selvey
073	Arwen Birch
074	Michael Powell
075	Penelope Lilford
076	Laura Portaro
077	Dagmar Roth
078	Ian Curr
079	Teodora Dale
080	Marci Webster-Mannison
081	Sally Moore
082	Lesley Agar
083	James Lambert
084	Coral Serisier
085	Lawrence Agar
086	Mark Delaney
087	Lisa Fitzgerald
088	Georgina Coghlan
089	Janine Guice
090	Dante Michielin
091	Alister Ferguson
092	Animal Justice Party
093	David Russell
094	Jason Lindley
095	Belinda Ward
096	Paul Gabbert
097	Inge Arnold
098	Peter Shepherd
099	Richard Nielsen
100	Anna Sri
101	Genevieve Staines
102	Mitchell Bright
103	Mark Delaney

104	Carmen Garratt
105	Toni Russo
106	James Buchanan
107	Desnee McCosker
108	Heather Laurie
109	Peter Jones
110	Wendy Ivey
111	Dr Angela Wills
112	Leigh McLeod
113	Sean Hatchett
114	Rosie Quinn
115	Lawyers for Climate Action Australia (L4CA)
116	Jason Wu
117	Dr Mike Rubenach
118	Frontline Action On Coal
119	Luke Reade
120	Malgorzata Weglarz
121	Patricia Saunders
122	Gabrielle Miles
123	Aukje Jansen-Olthuis
124	Peter Reay
125	Karen Dyhrberg
126	Rose Gordon
127	John Lazarus
128	Zoë Buckley Lennox
129	Amelia Cromb
130	Zoe McGrath
131	Queensland Conservation Council
132	Sadie Jones
133	Australian Conservation Foundation
134	Jonathan Hirst
135	Bob Russell
136	Community Legal Centres Queensland
137	Conall Crowley
138	Environment Council of Central Queensland

139	Janet Ransley, Director of the Griffith Criminology Institute
140	Esther Redmond
141	Dr Judith Bourne
142	David Sheridan
143	Greg George
144	Abhijeet Swami
145	Greenpeace Australia Pacific
146	Katya Henry
147	Matt Ross
148	Tess Malcolm
149	Emily Starr
150	Karina Donkers
151	Mitchell Houghton
152	Mackay Conservation Group
153	Kelsie Phillips
154	David White
155	Katharine Coxall
156	Penelope Sheridan
157	Merridee Rohrlach
158	Andrew Paine
159	David Lowe
160	Pat Coleman
161	Animal Liberation Qld
162	Emma Capp
163	William Holbrook
164	Tom Henderson
165	Will Parker
166	Queensland Council of Unions
167	Scott Laxton, SL Power Services
168	Chris Corbett
169	Olga Tresz
170	Kathy Mcdonald
171	Beverley Fontes
172	Queensland Resources Council
173	Susan Skyvington

174	Environmental Defenders Office (QLD and NQ)
175	Human Rights Law Centre
176	Trish Hammond
177	Joy Duncan
178	Grant Webster
179	Harry Audus
180	Matthew Godfrey
181	Isabella Pearson
182	Queensland Human Rights Commission
183	Caxton Legal Centre
184	Rupert Russell
185	David Arthur
186	Daniel Mulder
187	Angus Macqueen
188	Jenny Brown
189	Keith Armstrong
190	Doris Scholten
191	Paula Schultz
192	Larah Seivl
193	Brooke McReynolds
194	Ross Ellis
195	Robyn Becket
196	Yoshka Dean Tamas
197	Cheryl Tonkin
198	Julanne Sweeney
199	Ana Young
200	Joanne Wicks
201	Janelle Fawkes
202	Rita and John Squire
203	John Roberts
204	Queensland Law Society
205	Aurizon
206	Kimberley Galceran
207	Barbara Bell
208	Tim Winton-Brown

209	Josh Grant
210	Emma Briggs
211	Alex Mateer
212	Tonia Binsiar

Appendix B – Witnesses at public hearing

<p>Queensland Council of Unions</p> <ul style="list-style-type: none"> • Michael Clifford, Acting General Secretary • John Martin, Research and Policy Officer
<p>Australian Pork</p> <ul style="list-style-type: none"> • Margo Andrae, Chief Executive Officer • Alister Oulton, Policy Analyst
<p>Queensland Resources Council</p> <ul style="list-style-type: none"> • Mr Andrew Barger, Policy Director Economics • Ms Emma Hansen, Policy Manager Resources
<p>Human Rights Law Centre</p> <ul style="list-style-type: none"> • Alice Drury, Lawyer
<p>Animal Liberation Queensland</p> <ul style="list-style-type: none"> • Chay Neal, Executive Director
<p>Mackay Conservation Group by teleconference</p> <ul style="list-style-type: none"> • Michael Kane, Organiser
<p>Aurizon</p> <ul style="list-style-type: none"> • Mr Michael Riches, Group Executive Aurizon Network • Mr Patrick Coleman, Principal Advisor Policy and Stakeholder, Corporate Affairs
<p>Lawyers for Climate Action Australia</p> <ul style="list-style-type: none"> • Ms Karen Dyhrberg, Co-Founder
<p>Animal Justice Party</p> <ul style="list-style-type: none"> • Karagh-Mae Kelly, Queensland Committee Member
<p>Queensland Law Society</p> <ul style="list-style-type: none"> • Bill Potts, President • Binny De Saram, Legal Policy Manager • Rebecca Fogerty, Chair of Criminal Law Committee
<p>Environment Council of Central Queensland</p> <ul style="list-style-type: none"> • Beverley Fontes, Member • Tony Fontes, Member
<p>Frontline Action on Coal</p> <ul style="list-style-type: none"> • Iain Pritchard
<p>Bar Association of Queensland</p> <ul style="list-style-type: none"> • Steven Jones
<p>Caxton Legal Centre</p> <ul style="list-style-type: none"> • Bridget Burton, Director, Human Rights and Civil Law Practice • Faye Austen-Brown, Senior Lawyer

Queensland Human Rights Commission

- Scott McDougall, Commissioner
- Julie Ball, Principal Lawyer

Queensland Police Service

- Acting Deputy Commissioner (Regional Operations), Brian Codd
- Assistant Commissioner, Brisbane Region, Peter Crawford
- Acting Director, Legislation Branch, Anthony Brown
- Senior Sergeant, Legislation Branch, Andrea Reeves
- Senior Sergeant, Legislation Branch, John Henderson

Appendix C – Photographs and descriptions of attachment devices provided by Queensland Police Service



Silicon
retainer

steel eraser mat

glass sleeve

Exhibit A

Response to the request for information from the Public Hearing, Summary Offences and Other Legislation Amendment Bill 2019:

Information prepared by Inspector Shane Williams

Note: This information is provided from the review of the Photographs. I was not in attendance at the scene. The details of what I believe the devices contain is my opinion as to what I see and the descriptions are based not on what I can feel or touch (if I had been there) but only what I can see.

Photograph Exhibit B

Exhibit B is a part of a series of photographs (exhibits I,J and H)



Exhibit B is a part of a series of photographs (exhibits H, I and the top Picture in J)

Exhibit B shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents

- The drum's outer casing consisting of a metal
- Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
- A section of thick steel/iron. The section includes a weld which would increase the strength of the steel/iron section. The section includes something that is attached and be able to possibly break free as it is contained by a split pin
- Section of steel/iron. I am unable to comment as to it being angle or flat section from the photograph
- 4 strand twisted wire rope. The rope appears to be of a length that is through the device

- Depicts random pieces of steel / rock of varying lengths and thicknesses

Photograph Exhibit C

Exhibit C is a part of a series of photographs (exhibits D,E,F,G and K)



Exhibit C shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents. It appears that the top / bottom of the drum has been removed the first of the contents been exposed through excavation of the sand and gravel

- The drum's outer casing consisting of a metal
- Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
- Section of steel/iron. I am unable to comment as to it being angle or flat section from the photograph
- Strands of wire (multiple), unable to determine if connected

- Varying section of steel rod, iron bar and metal (some is encased in a metal outer steel, a number have bolts attached)

Photograph Exhibit D

Exhibit D is a part of a series of photographs (exhibits C,E,F,G and K)



Exhibit D shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents. It appears that the top / bottom of the drum and a section of the side has been removed the first of the contents been exposed through excavation of the sand and gravel

- The drum's outer casing consisting of a metal
- Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
- Section of steel/iron. I am unable to comment as to it being angle or flat section from the photograph
- Strands of wire (multiple), appears to be a section of diamond mesh fencing inserted into the drum
- Varying section of steel rod, iron bar and metal (some is encased in a metal outer steel, a number have bolts attached)
- Section of heavy duty steel rope (appears to be 4 strand)
- Section of PVC (appears to run the length of the drum and I am assuming it is the sleeve to which the arm would be inserted and attached).

Photograph Exhibit E

Exhibit E is a part of a series of photographs (exhibits C,D,F,G and K)



Exhibit E shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents. It appears that the top / bottom of the drum and a section of the side has been removed the first of the contents been exposed through excavation of the sand and gravel

- The drum's outer casing consisting of a metal
- Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
- Section of steel/iron. I am unable to comment as to it being angle or flat section from the photograph
- Strands of wire (multiple), appears to be a section of diamond mesh fencing inserted into the drum
- Varying section of steel rod, iron bar and metal (some is encased in a metal outer steel, a number have bolts attached (I note the spring assembly which could mean that some of the steel is spring loaded and may or may not be under pressure from the spring assembly
- Section of heavy duty steel rope (appears to be 4 strand) some of the rope is wrapped around a section of threaded rod. The rope appears to be through the drum

- Section of PVC (appears to run the length of the drum and I am assuming it is the sleeve to which the arm would be inserted and attached).





Photograph Exhibit F

Exhibit F is a part of a series of photographs (exhibits C,D,E,G and K)



Exhibit F shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents. It appears that the top / bottom of the drum and a section of the side has been removed the first of the contents been exposed through excavation of the sand and gravel

- The drum's outer casing consisting of a metal
- Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
- Section of steel/iron. I am unable to comment as to it being angle or flat section from the photograph
- Strands of wire (multiple), appears to be a section of diamond mesh fencing inserted into the drum

-  Varying section of steel rod, iron bar and metal (some is encased in a metal outer steel, a number have bolts attached (I note the spring assembly which could mean that some of the steel is spring loaded and may or may not be under pressure from the spring assembly
-  Section of heavy duty steel rope (appears to be 4 strand) some of the rope is wrapped around a section of threaded rod. The rope appears to be through the drum
-  Section of PVC (appears to run the length of the drum and I am assuming it is the sleeve to which the arm would be inserted and attached.
-  The area within the square is the bottom of a bicycle including that appears to be the front sprocket, hub, pedal arms and assembly, kick stand and possibly front fork assembly.

Photograph Exhibit G

Exhibit G is a part of a series of photographs (exhibits C,D,E,F and K)

Note Exhibit E and G are the same photograph. Refer to the visual findings in Exhibit E



Photograph Exhibit K

Exhibit K is a part of a series of photographs (exhibits C,D,E,F and G)

Note Exhibit K represent expanded pictures of Exhibits D and E respectively. Refer to the visual findings in Exhibit D and E



Photograph Exhibit I

Exhibit I is a part of a series of photographs (exhibits B,J and H)

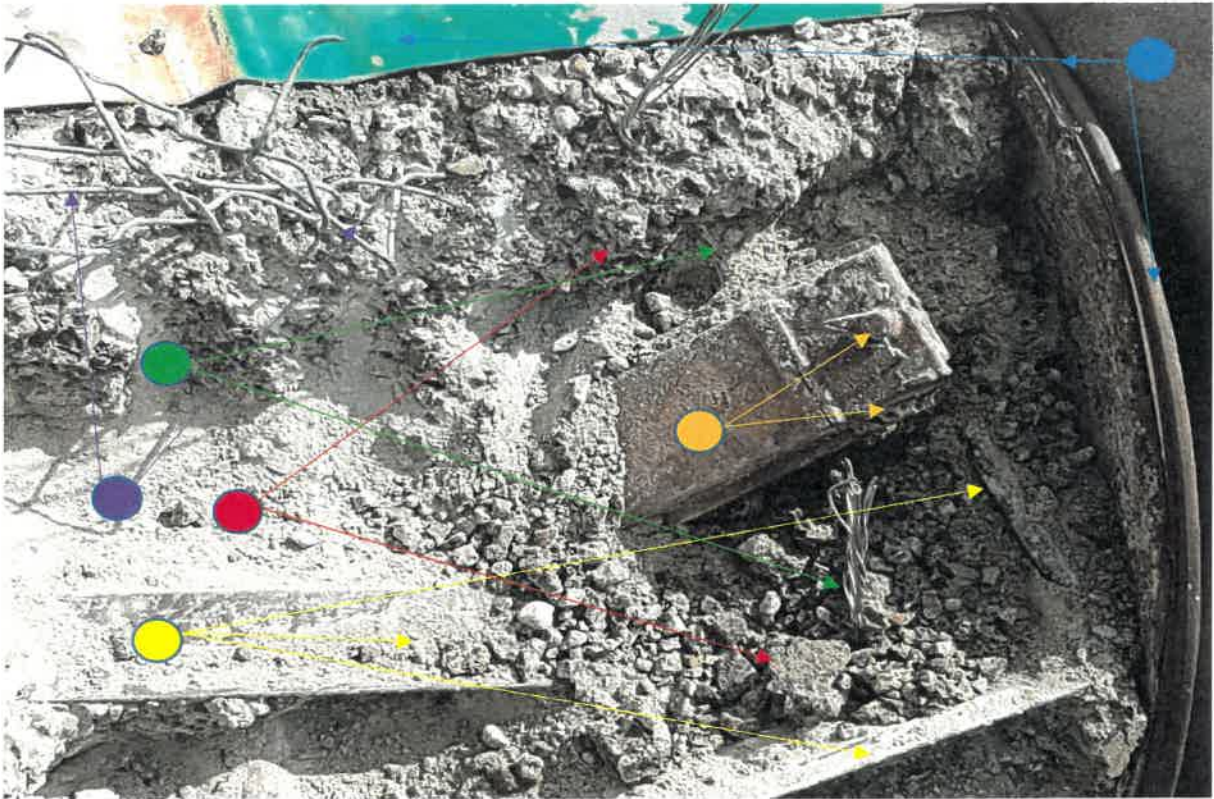








Exhibit I is a part of a series of photographs (exhibits B,H, and the top Picture in J)

Exhibit I shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents








-  The drum's outer casing consisting of a metal
-  Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
-  A section of thick steel/iron. The section includes a weld which would increase the strength of the steel/iron section. The section includes something that is attached and be able to possibly break free as it is contained by a split pin
-  Section of steel/iron. I am unable to comment as to it being angle or flat section from the photograph
-  4 strand twisted wire rope. The rope appears to be of a length that is through the device
-  Depicts diamond mesh fencing wire, possibly 4 gauge

Photograph Exhibit J (Top Picture)

Exhibit J is a part of a series of photographs (exhibits B,I and H)

Exhibit I shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents



-  The drum's outer casing consisting of a metal
-  Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
-  Section of thick steel/iron. There appears to be a number of motor vehicle parts within the drum
-  This appears to be a clutch or pressure plate assembly
-  Section of PVC pipe
-  4 strand twisted wire rope. The rope appears to be of a length that is through the device
-  Depicts diamond mesh fencing wire, possibly 4 gauge

Photograph Exhibit H

Exhibit H is a part of a series of photographs (exhibits B,I and J)

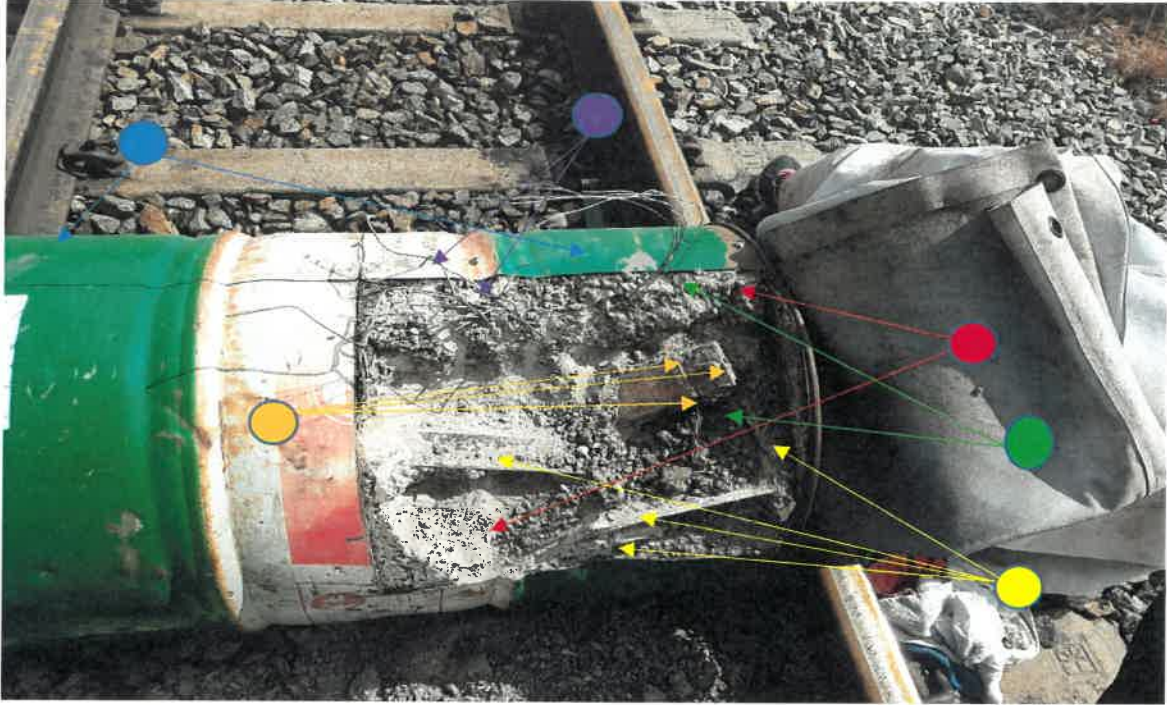








Exhibit H shows the exposed contents of a 'Dragons Den' being a 44 Gallon drum. Visible from the photograph as a part of the contents

-  The drum's outer casing consisting of a metal
-  Gravel and sand which is a part of the ballast and concrete blend used to fill the drum
-  Section of thick steel/iron.
-  Sections of steel of varying size and shape
-  4 strand twisted wire rope. The rope appears to be of a length that is through the device
-  Depicts diamond mesh fencing wire, possibly 4 gauge

Statement of Reservation

Protestors have a right to free speech, but no one has a right to break the law.

Anyone who breaks the law, particularly on more than one occasion deserve some consequence to their actions.

Civil disobedience for any cause is not a justification to cause mass public disorder.

These so-called lock-on device laws are very specific and will have minimal impact on serial protestors that have been causing anarchy on the streets of Brisbane and across the nation. Specifically, we are concerned about the limited breadth of application this Bill will have to extremist protestors who commonly rely on methods such as gluing themselves to the road to cause as much disruption as possible.

We have concerns that the Premier has overplayed the impact of these laws and how they will be applied.

We do not condone protestors using any device that could cause injury to innocent Queenslanders or emergency services workers and police.

A handwritten signature in black ink, appearing to read 'James Lister', with a long horizontal stroke extending to the right.

James Lister MP
Deputy Chair
Member for Southern Downs