LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Members present:

Mr PS Russo MP (Chair)
Mr JP Lister MP
Mr SSJ Andrew MP, via teleconference
Mr JJ McDonald MP, via teleconference
Mrs MF McMahon MP
Ms CP McMillan MP

Member in attendance:

Mr MJ Berkman MP

Staff present:

Ms M Westcott (Acting Committee Secretary)
Ms K Longworth (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE SUMMARY OFFENCES AND OTHER LEGISLATION AMENDMENT BILL 2019

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 11 OCTOBER 2019

Brisbane

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The committee met at 10.03 am.

CHAIR: I declare open this public hearing of the committee's inquiry into the Summary Offences and Other Legislation Amendment Bill 2019. My name is Peter Russo; I am the member for Toohey and chair of the committee. With me here today are: James Lister, the deputy chair and member for Southern Downs; Melissa McMahon, the member for Macalister; Corrine McMillan, the member for Mansfield; and visiting member Michael Berkman, the member for Maiwar. Via teleconference we have Stephen Andrew, the member for Mirani and Jim McDonald, the member for Lockyer.

On 19 September 2019 the Hon. Mark Ryan, Minister for Police and Minister for Corrective Services, introduced the Summary Offences and Other Legislation Amendment Bill 2019 into parliament. The bill was referred to the Legal Affairs and Community Safety Committee for examination. The purpose of today's hearing is to hear evidence from stakeholders and the Queensland Police Service to assist the committee with its examination of the bill. Only the committee and invited witnesses may participate. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. These proceedings are similar to parliament and are subject to the standing rules and orders of the parliament. In this regard, I remind members of the public that under the standing orders the public may be excluded from the hearing at my discretion or by order of the committee.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note it is possible you may be filmed or photographed during the proceedings. These images may be posted on the parliament's website or social media sites. I ask everyone present to turn mobile phones off or to silent mode. The program for today has been published on the committee's web page and there are hard copies available from committee staff.

CLIFFORD, Mr Michael, Acting General Secretary, Queensland Council of Unions

MARTIN, Mr John, Research and Policy Officer, Queensland Council of Unions

CHAIR: Good morning. I invite you to make a brief opening statement, after which committee members will have some questions for you. One thing that has come up in the past is that people are reciting their submissions. Whilst I cannot tell you not to, can I encourage you to keep your opening statement to five minutes to allow a reasonable time for questions. If that is not doable, obviously we will manage as best we can. This is something I am going to tell everyone.

Mr Clifford: Thank you very much for the opportunity to provide a verbal submission and present here today. I understand that we are restricted with time, so we will try and keep it as brief as possible although there are some specific points we would like to go to. By way of a very quick preamble, the Queensland Council of Unions represents 26 affiliate unions. We have a very keen interest in this bill. I would say from the outset that we do not support this bill.

Affiliates of ours have particular concerns around laws which impinge on people's democratic and protest rights, and we believe that this bill does that in a number of ways I will go into. 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. We hope that the submissions of all parties who appear today and all of the people who have provided written submissions are carefully considered and heard.

Chair, we did provide an earlier submission that was quite rushed because of the rushed process. We have had an opportunity to provide more detail and amend that submission, which we forwarded last night. I believe that committee members have that submission, which is the submission we would like published on the website.

CHAIR: That has been done, Mr Clifford.

Mr Clifford: Thank you, Chair. Going to some of the specific concerns, I have touched on the search powers in the bill. This is a particular concern to the Queensland Council of Unions. This part of the bill impinges on the civil rights of all Queenslanders and we wonder how it will be managed. There are already extraordinary search powers in Queensland. We think that extending those even further is unnecessary and unwanted in this case. When we think about the devices we are talking about in this bill, the things that are called dangerous attachment devices, they are otherwise fairly mundane and routine things. For example, a 'sleeping dragon' is simply a rather cleverly designed piece of pipe. From the exterior it looks like a piece of pipe. These are things that people carry every day. Plumbers and tradespeople carry pieces of pipe around all the time. There are a couple of major projects going on in the Brisbane CBD; for example, the Queen's Wharf project and Cross River Rail, that will see a whole lot of tradespeople around the city in exactly the same precinct as the current protestors. We are concerned that we will see a whole lot of people who are going about their normal daily business being subject to searches for items that are otherwise fairly mundane.

If we think about things like dragon's dens, 44-gallon drums, yes, they are filled with cement and on close inspection you will see the difference, but outwardly they look like a 44-gallon drum. In regional areas there are plenty of vehicles that have 44-gallon drums in the back. There are plenty of vehicles that have tarps and covers under which there could be 44-gallon drums and other things. Again, these are things that are used in a fairly mundane way. If there is an inspection or a search and you find these things and people have a good reason to use them, then of course it will go no further. The problem is that people will be subject to searches. That is something that I think does, and should, concern many Queenslanders because it impacts potentially on all Queenslanders. We elaborate on that particular aspect of the laws in our submission.

The other issue would we would like to raise is the broadness of some of the definitions. We understand that the bill tries to focus on different devices which in themselves are not dangerous, but there are parts of the bill that potentially expand well beyond those devices. In particular, I want to draw the committee's attention to section 14B(1) (c), the definition of a dangerous attachment device; that is, it could be a thing that 'incorporates a dangerous substance or thing,' so you have to go to another part of the bill to see what that is. In section 14B(8) (b) we see the definition of 'dangerous substance or thing' and, amongst other things, it includes 'anything likely to cut a person's skin'. In this context that is an extremely broad definition. There are many things that may cut a person's skin. To give a perhaps ridiculous example, but to show how ridiculous it could become, a piece of paper used in a particular way is likely to cut a person's skin. Certainly things like box cutters, which are everyday items for workers traveling around the city and regional Queensland, are things that are likely to cut a person's skin. They need to be incorporated into a 'dangerous substance or thing', but our point here is that that particular definition is open to interpretation.

Whilst the QCU has been informed that this legislation is about going after four particular devices, it in fact extends it well beyond that to potentially capture everyday implements that people use. When you combine that with the search powers, again it is a huge problem because potentially we see searches of people and vehicles for otherwise innocuous and everyday implements that could be caught by that particular definition. We say that the definitions are too broad and go beyond the stated intentions of the bill. In terms of the exclusions that are provided in the bill, there are certain things that purportedly are not caught; for example, glue, bike locks, padlocks, ropes and chains. We have a few issues with that as well.

The first is that the exclusion in 14A(2) says, 'To remove any doubt, it is declared that none of the following things is, by itself, an attachment device'. The words 'by itself' are problematic in that two or more of those things may be an attachment device. In that sense, we think the words 'by itself' are problematic.

Secondly, there has been some debate on our side about whether those things are in fact excluded if other things are involved, such as the requirement to wear protective clothing or whether they may be considered a device which can cut a person's skin. We would ask the committee to look at that particular issue to make sure it is absolutely clear that those things are excluded completely as dangerous attachment devices. Again, there is a huge gap between those things and the things that the bill seeks to define. There are a lot of materials, implements, tools and devices in between those things. We think those things are better listed as examples of things that are not intended to be captured

by this bill rather than just standalone. Again, I think the committee needs to think about all of the issues, all of the implements, all of the tools, all of the devices that could be caught between those things and the four items that we are told this bill is intended to capture.

The other concern for the union movement is that these laws are a slippery slope. The union movement has a proud history of protest to defend its members' rights, to progress its members' rights. It does not take a lot of imagination to see how these sorts of laws can be simply amended to capture a whole lot of the activities that trade unions engage in simply to protect the conditions of their members and to advance the conditions of their members. In that respect, we think this bill opens the door to a much more dangerous set of arrangements for working people across the state. Again, that is dealt with in our submission.

Finally, I would like to acknowledge the legitimate health and safety concerns that have also been raised by affiliates of ours. The Queensland Police Union has raised concerns about the health and safety issues involved with some of these devices they have to deal with—for example, a dragon's den that they may have to cut off a particular protester, a 44-gallon drum full of cement and other things. There is specialist cutting equipment. That perhaps is not the issue, but there is no doubt that there can be injuries through that process and I understand there already has been.

The other issue with that is the safety of the protesters. I am not exactly sure how these things work, but if a protester has their arm in a dragon's sleeve inside a dragon's den—this is all new terminology to us—and you have to cut through that implement to release the protester, of course there is a risk that you are also cutting the protester. That is a concern. We think those things need to be looked at.

Our particular concern also is where things are used on railway tracks. If you have a dragon's den not easily moved on a railway track—particularly if the drivers of trains are unaware it is there—we understand that a fully laden goods train or coal train can take up to two kilometres to stop. If the driver does not know that protester is there, there is a strong possibility that the protester could be killed and that the driver lives with the trauma of that for the rest of their lives. That is a devastating set of circumstances. Again, it warrants discussion and investigation. What we would say, though, is that we do not believe search laws are the solution to those health and safety issues because for a start search laws impact on every Queenslander. It is a heavy-handed way to go about trying to address those legitimate health and safety concerns.

We also believe that rushing through legislation is no way to deal with those health and safety concerns. We do not think this bill is the adequate response to legitimate health and safety concerns, but we are keen to continue to engage in a conversation around those issues and look for real solutions to those issues. That also has to involve the very people who are protesting, and I will finish on this. In our industrial experience where we have protests, demonstrations and disputes in workplaces, we have always found that the best way to resolve them is actually to deal with the root cause of the problem. What is it that people are protesting about? The best way is to think about that, to deal with that, to engage in the root cause in a way that demonstrates you are serious about dealing with the issues. We think that simply dealing with the symptoms is not a way of making the issues go away. I will leave it at that and take questions.

CHAIR: We have very limited time for questions. With the deputy chair's indulgence, I will hand over to the member for Maiwar.

Mr LISTER: Yes.

Mr BERKMAN: Thank you. That is much appreciated. I apologise that I have not yet had the opportunity to read the more detailed submission you have referred to but I will work with what I have got. Firstly, you have talked about your concerns about the potential extension of the laws. Just addressing the laws as they are drafted, are you concerned that these laws—particularly the offences involving blocking off access to a place of business—could be used against workers on strike, maintaining a picket line against an abusive employer or poor working conditions?

Mr Clifford: Yes, we are. If you use one of these devices, certainly you are caught, but there is a whole lot of grey as I said before about what you could use in between the excluded devices and the named devices in blocking a business as well. Again, it is something that unions do regularly through protected action but occasionally through unprotected action to protect members' rights. It is a concern of ours, but it is particularly a concern of ours given that it opens the door to make small amendments to this legislation that would make that an even worse situation.

Mr BERKMAN: If I could ask one quick follow-up question. This is probably a brief question and answer. Do you believe that Queensland workers would enjoy the sorts of leave entitlements, five-day week and workplace health and safety protections we have without the disruptive and sometimes illegal protests in the past?

Mr Clifford: No, we would not. We would not have those conditions.

Mrs McMAHON: Chair, may I ask a question?

CHAIR: This will have to be the last question.

Mrs McMAHON: Just following on from that last question, are you aware of any union organised protests which have used devices like sleeping dragons, tripods or monopods?

Mr Clifford: No. I am not aware of union protests that have yet used things like sleeping dragons or dragon's dens. Certainly, we have used chains and other implements to lock people on to particular things but, no, not those particular devices.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and we also thank you for your written submissions.

ANDRAE, Ms Margo, Chief Executive Officer, Australian Pork Limited (via teleconference)

OULTON, Mr Alister, Policy Analyst, Australian Pork Limited (via teleconference)

CHAIR: I now welcome via teleconference representatives from Australian Pork Limited. I invite you to make a brief opening statement, after which committee members will have some questions for you. Earlier, I asked for witnesses to keep their opening statements to five minutes but it has been pointed out to me that it should be three minutes. Could you please keep your opening statements to three minutes to allow ample time for questioning.

Ms Andrae: Thank you for the opportunity to speak to you. As you would be aware, Australian Pork Limited is the representative body for all of the pork industry nationally. To keep it fairly brief, we have been under attack for over a decade in terms of activists and people entering our properties illegally. Our clear message today is that what you are trying to achieve has a significant impact on our industry in the fact that we have seen many examples of people entering our properties illegally, tethering themselves to farrowing crates or abattoir equipment, using chains, padlocks and all sorts of mechanisms.

Our key concern in terms of supporting additional consequences that you are trying to do today is that it is not only an animal welfare issue for us and a people welfare issue; there are also the economic impacts on our industry. Most importantly, these activists and people doing this are actually putting themselves at risk of injury. We see tightening up the police enforcement and the ability to deal with these issues as a very good step forward. In terms of where we are heading in the future, we think this is vital in what the committee is trying to achieve.

We apologise for not putting in a submission. The committee would be aware that our industry is under risk from African swine fever and we have dedicated pretty much all of our resources into making sure our industry stays productive with that on our doorstep. Thank you again.

CHAIR: Thank you.

Mr ANDREW: Thanks for appearing today. This obviously going forward is a real risk to you as a pork producer with this new swine flu and the fact that it could be carried in from anything or anywhere. The outcome of this has got to be real and tangible for you. What would you expect the government to do for you with regards to this swine flu and everything else that is putting all of Australia's pork now at risk of being infected?

Ms Andrae: Thank you very much for the question. We have been really conscious not to raise the fact that activists could carry the fever on to our properties. We tried to keep that fairly quiet so as not to plant the idea, but we are so vulnerable from a biosecurity perspective to someone carrying a disease—whether it is African swine fever or FMD—on to our properties, as are all livestock industries. We are at significant risk from these people.

Over the last few years, with the heightened concentration from government, the simple fact is the consequences for these people doing it have not been severe enough and people have not had the power to actually implement significant fines, jail time, whatever. The activists are taking all new measures to attack our industries because they actually want livestock industries gone from Australia. Not only is it an animal welfare issue for us; it just opens the door for them. There must be consequences for their actions. If one of my producers walked into any of these people's homes or did what they do to us—chained ourselves—we would be facing significant jail time. What we are calling for is that the consequences must match the significant impacts of what they are doing.

Mr ANDREW: I am concerned that we should have something right now, especially for the swine fever. If there is any outbreak, there should be a number to call immediately if people come in. That is what concerns me. That is all.

Ms Andrae: Yes, and this is what we need. We need empowerment of the authorities to deal with this really quickly because African swine fever will wipe out our entire industry.

Mr LISTER: Ms Andrae, thank you for your appearance. I note that one of the other submitters—the Queensland Resources Council—has recommended that this bill be considered in cognate with the other bill before the committee at the moment, the Criminal Code (Trespass Offences) Amendment Bill. I know that Australian Pork has made a submission on that bill as well. Do you see a commonality of purpose and a benefit in doing that?

Ms Andrae: Yes, absolutely. We think wherever we link all of this legislation together, it does give the government more power and the authorities more power to implement consequences for the actions.

Mr LISTER: Thank you.

Mr BERKMAN: Thank you for joining the committee, albeit remotely. Can I just clarify your understanding and mine that this bill does not apply to trespass on private roads or on properties as you have referred to. These are largely the sorts of actions that have affected your group. Is that right?

Ms Andrae: I am sorry, I cannot really hear the question, I am afraid.

Mr BERKMAN: I just want to confirm that my understanding and yours is the same. This bill does not address in any way trespassing on private roads or on properties as you have described that your members and farmers are generally affected by.

Ms Andrae: No, but what it does address is once they are on a property and they are putting not only our animals in harm and our staff, they are putting themselves in harm by chaining themselves or attaching themselves to a mechanism that cannot be easily released. It is just downright dangerous for everybody involved.

Mr BERKMAN: You are aware that chains themselves are not supposed to be covered. Are you aware of any incidents where these so-called sleeping dragons or dragon's dens have been used?

Ms Andrae: I might refer to Alister on that one, if I may. Alister, are you aware?

Mr Oulton: So far, no. We are not aware of instances so far where those particular dangerous devices such as the dragon's den and sleeping dragons have been used. However, it is the thin edge of the wedge from our perspective. These activists have become more and more emboldened over the years. It used to be simply a protest, then it was a walking onto a property, and then it became a chaining to a property. There was an issue a few years ago where not in our industry but in other industries—the sheep industry—had feed contaminated to prevent export markets.

Mr BERKMAN: I have one final question. Would you agree with me that the sorts of images of sow stalls and certain farming practices have, in fact, changed the information base and the expectations of Australian consumers?

Mr Oulton: No. There are a couple of issues you have raised there. Farming and pig production is legal and is being carried out in a legally responsible manner. I know that these amendments are supposed to address the fact that preventing activists and trespassers from stopping legally operating businesses—

Mr BERKMAN: Sorry, I will pull you up there. They do not address trespass. The question specifically is about Australian consumers and the information base and their expectations about production standards. If you choose not to answer that question directly, that is fine. In the interests of time, we can leave it there.

Ms Andrae: I think the fact is that we take consumers' perceptions very seriously in our industry. We have adjusted and we have taken animal welfare as a priority. Certainly, if there are images of people doing the wrong thing, we want those dealt with. In answer to your question, we take consumer insights very seriously and we will continue to adapt our industry based on what we have learned. If there are practices that we should be ruling out, we will certainly work with the industry and we have been doing that with the sow stalls over the last few years to improve not only animal welfare but also consumer perception of our industry. We will continue to work with people, but our key thing in this instance is that people have consequences for what they do when they break the law and our businesses are operating within the law.

CHAIR: Thank you. That brings to a conclusion this part of the hearing. We thank you for your attendance and the efforts that you went to to make sure that you are able to address the committee. We thank you for that.

BARGER, Mr Andrew, Policy Director Economics, Queensland Resources Council

HANSEN, Ms Emma, Policy Manager Resources, Queensland Resources Council (via teleconference)

CHAIR: I now welcome representatives from the Queensland Resources Council. I invite you to make a brief opening statement after which committee members will have some questions.

Mr Barger: Thank you, chair, and thank you for the invitation to appear today. I have a brief opening statement. I would like to start by acknowledging the traditional owners on whose land we meet today and offer my respects to their elders, past, present and emerging. The Queensland Resources Council supports the bill. You have already had some discussion about the parallel bill that has been introduced and the QRC's suggestion that they be debated in cognate. That is a recommendation that we would recommend to the committee—that you look at elements of both of those bills and perhaps suggest that to the parliament.

We have had some concerns expressed already by the Council of Unions about the bill being rushed. We have also heard from the pork producers about the need for some urgent action. Perhaps a way of addressing both of those issues is a cognate debate in parliament where the full House gets to consider aspects of both of those bills. The QRC's submission supports both of those bills. We see merits in both of the suggestions that are being made. Essentially, our argument is that the laws as they stand at the moment provide an insufficient deterrent for protesters undertaking dangerous or unsafe action and particularly in the case of orchestrated campaigns where you have organised campaigns designed to exploit those legal loopholes.

We think the bill seeks to call out when protesters are deliberately creating an unsafe situation, where they are amplifying risks to themselves, to the first responders, to emergency services and particularly to employees. We have heard the case of primary agriculture, the case of farms. Similarly, for resources, if protesters are entering a workplace they are deliberately creating an unsafe situation where they are making somebody else's workplace unsafe. We think that is completely different from a disruption in a public place and we think that the bill goes come way towards recognising that.

In our submission, we step through that we are not Robinson Crusoe on this. There are three or four examples in our submission where we quote magistrates calling out deficiencies in the existing legal framework. There is the case where a magistrate says that a train driver has a right to expect that they have a safe workplace. They do not have to turn up to work with the trauma that they may cause somebody serious injury or loss of life because that person is trespassing or is deliberately creating a dangerous situation. There is the case where a magistrate talks about the situation and they see it as complex. It is more than simple trespass; it is a deliberately engineered situation in a workplace.

A criticism of the legislation has been that it is particularly technical, convoluted and tortuous. That does not sound like a great state of affairs when the legal officer who is trying to administer the law is themselves finding it frustrating and difficult. Finally, in the case of the protesters who invaded the port, there is the statement that they relied only on the professionalism and the vigilance of the port workers who had no way of expecting that they would be there. The magistrate observed that he thought that was stupid.

Effectively, we support the bill. We also support the LNP's bill, because we think it calls out that safety risk. It calls out the heightened risks in a workplace, particularly an industrial workplace, and it differentiates between a protester who is seeking to disrupt in a public place and somebody who is deliberately going out of their way to amplify risks to themselves or to a first responder.

In summary, we recommend that the committee pass the bill. We think that it would be a great suggestion if the committee recommended a cognate debate on the two bills, because we see merits in both of them. As the member for Maiwar has already called out with his questions, there is some dovetailing between the two bills that the committee is considering. I am happy to take any questions.

CHAIR: Thank you.

Mr LISTER: Thanks very much for coming in. In regard to this bill and the LNP's bill, the QRC has focused on the safety and the workplace impacts of potentially dangerous protest methods. Could I ask you to speak about the QRC's view of the economic implications for the kinds of protests that we are talking about, particularly where devices are used that prolong a protest in terms of access to ports, mining operations—the sorts of things that your body covers?

Mr Barger: Safety is a core value. That is the main focus of our submission. There are examples in our submission where the use of an engineered device to amplify risk creates a delay and that delay has clearly been designed to create an economic loss. When you look at some of the activities that we

have seen on rail corridors, where trains have been blocked, where protesters have boarded trains, clearly, their actions are designed to inflict an economic loss. That economic loss is significant and material but secondary to that safety risk. When you have people who do not come from an industrial background invading a high-voltage industrial environment, it is a recipe for disaster. I think you have heard from both the previous speakers already about the risks that some of these protesters have deliberately created.

Mr BERKMAN: The QRC is on that rather short list of organisations that were apparently consulted on this bill along with others, including the Australian Conservation Foundation. The ACF's submission notes that it did not receive any written material from the government and did not see a copy of the bill. Did the QRC receive any written material, or an indication of what was in this bill—a copy of the bill perhaps—before it was introduced?

Mr Barger: Unfortunately, because the submissions are not public I have not seen the submission that you are referencing. Emma, did you want to comment on that?

Ms Hansen: To my knowledge, we did not receive any written materials, no.

Mr Barger: To clarify my understanding, there were a number of organisations like the QRC that have been describing the systematic escalation of risks that we have seen proceeding through this campaign. Certainly, we have been talking to the government and the opposition—anyone who will listen—and even trying to engage with some of the protesters about you really need to be cautious when you are invading a port or when you are chaining yourself to a train line. That is an industrial workplace. That is not the same as sitting down in the middle of George Street.

Mr BERKMAN: Sure.

Mr Barger: I think the reason for the way the consultation is described is that any stakeholder would have been aware that we were pushing for some changes, that we see the law as inadequate but, as far as I am aware, we did not see any of the legislation before it was tabled.

Mr BERKMAN: You have described that, prior to this bill's introduction, the QRC had previously proposed the government legislating to criminalise protest in the way that the bill proposes to.

Mr Barger: I do not think I said 'legislating to criminalise'. My explanation of what we were asking for is you have people invading a workplace. In many cases, there is an individual who is liable for any harm that occurs in that workplace—personally liable. If somebody comes into a mine site with a device that is deliberately risky and is injured, there is a site senior executive who is immediately criminally liable for that harm. What we have been trying to do is say that that is a very different situation from the situation that we heard earlier from the Council of Unions. That is very different from a march down the street where traffic is blocked, where there is a police escort. That is not a deliberate invasion of a workplace and a deliberate amplification of risk for the purposes of delay.

Mr BERKMAN: The point of the question is that there has been extensive engagement between the QRC and the government over some years, as you have described. Would that be a fair observation?

Mr Barger: Certainly, we have been seeking to highlight the manifest inadequacies in the existing legal framework.

Mr BERKMAN: You have described risks that relate to potential outcomes but also the materialisation of those outcomes. You have referred in your submission to this one bulletin article where a police officer's arm was cut. Do you have any concrete examples—

Mr Barger: No pun intended.

Mr BERKMAN:—absolutely not—of where an employee or a protester have been injured by the sorts of conduct that would be criminalised by this bill?

Mr Barger: Sorry, so you are asking, other than the example of the police officer who was injured, have I got an example of somebody who has been injured? I am not sure I understand the question.

Mr BERKMAN: That is precisely the question. A single example was referred to in your submission. Do you have any other examples of the risk actually materialising?

Mr Barger: Sorry, I think the reason for my confusion is there is risk and there is an outcome.

Mr BERKMAN: That is right, so the risk materialising, someone being harmed in the way that it is suggested it might happen?

Mr Barger: The way the industry sees risk is quite differently. If there is a chance of somebody being injured, if somebody is chained in front of a 10,000-tonne coal train and the driver of the train is not aware that they are there, we would see that as a risk. That is a material risk. Whereas I think your

question is actually about injury. To answer your question, the risk has been escalating. People have been deliberately amplifying that risk. So far, mainly through blind good luck, those risks have not generated an adverse outcome.

In our submission there is a really alarming example of the invasion of Abbot Point where protesters swum in illegally, cut a fence, chained themselves to a live conveyor belt, concealed themselves out of sight. The safety processes on that site should have seen them seriously injured. They were just lucky that the guy who was on duty that night went out to walk the conveyor belt, happened to see their boots sticking out and shut the whole site down. That is a risk. Was anyone injured? No, but do you really want to promote a situation where people are putting themselves in that situation of attaching themselves—

Mr BERKMAN: We ask the questions.

CHAIR: Hang on.

Mr BERKMAN: Time is short.

CHAIR: Do not interrupt the witness. Allow him to answer the question the best way he believes he can.

Mr Barger: Thank you. Sorry, I was probably getting carried away. I guess what I was saying is there is a difference between the risk and the outcome. In that example an appalling outcome was avoided just by pure blind luck. That is completely unacceptable to the industry. In an industry that aims for zero harm, eliminating all possible sources of risk, that is not a tolerable situation. Had something happened there could well have been criminal prosecutions for the person responsible for that site.

Mr BERKMAN: Contrary to—

CHAIR: That concludes—

Mr BERKMAN: Just one final question, Chair. Very briefly.

CHAIR: We are over time.

Mr BERKMAN: Contrary to the absence of any adverse outcome in that physical risk sense, the economic outcomes, those risks have materialised for your member bodies. That is correct?

Mr Barger: Yes. There is a direct cost when a port is shut down, when a train corridor cannot run, definitely.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for attending. We thank you for your written submissions. Thank you, Ms Hansen.

DRURY, Ms Alice, Lawyer, Human Rights Law Centre

CHAIR: I now welcome Alice Drury from the Human Rights Law Centre. I invite you to make a brief opening statement after which committee members will have some questions for you. I am sorry to keep repeating myself—you probably heard what I said earlier—but if you could possibly keep your opening statement to three minutes that would be helpful to allow the committee to ask questions.

Ms Drury: Certainly. Can I start by saying thank you very much to the committee for the opportunity to appear today. In our submission the Human Rights Law Centre has stated its concerns that just months after the Queensland parliament declared its strong support for human rights by passing the Human Rights Bill it is now seeking to limit Queenslanders' right to peaceful protest. This bill is fundamentally about stopping people from engaging in peaceful forms of process. It may be uncomfortable or temporarily disruptive, but peaceful protest is a hallmark of our democracy. So much of the progress that we take for granted in Australia, be it the vote for women, the vote for Aboriginal people or, crucially, the eight-hour work day, only came about after people took their concerns to the streets, made some noise and disrupted business as usual.

The protests we are seeing currently are a symptom of a much deeper cause. People are responding to legitimate concerns about their future in the face of a climate crisis. The government can expect that people will continue to come together and voice their concerns and protest peacefully even if this bill is passed. The main threat posed by this bill is to undermine democracy in Queensland and that could have implications across the country. Human rights law not only requires governments to allow the freedom to protest but it imposes a positive duty on governments to facilitate that freedom.

In times like this good government would allow individuals to protest, including in a manner that impedes traffic and pedestrians, in order that they can convey their political messages. We are concerned that rather than facilitating protest this bill before the committee seeks to criminalise people who use these devices to express their views. To put it as succinctly as possible, we find it extraordinary that the Queensland government's response to people's concerns about the climate crisis is to threaten them with prison sentences of up to two years for disrupting traffic. I welcome questions from the committee.

Mr LISTER: Thanks very much, Ms Drury, for coming in. I think fair-minded Queenslanders obviously accept the importance of dissent in our democracy, but so far this morning I have not heard any talk about the impacts on law-abiding citizens and their right to go about their lawful business, free from interruption. What would you say to Queenslanders who are concerned about the impacts that blocking traffic, blocking railway lines, invading people's workplaces has on them when they have no say in the initiative adopted by the protesters?

Ms Drury: I think the first thing I would say is that we understand that disruption can be frustrating, it can be frustrating to be held up on your way to work, but that is an essential part of living in a democracy and there are already criminal laws that deal with that situation, be it obstructing traffic, or other criminal offences that deal with that sort of situation. These laws will only impose harsher penalties where they already exist. I suppose two points: in a democratic country it is absolutely people's right to come together and voice their opinions, even if that causes disruption and, second, there are already laws in place to deal with that.

Mrs McMAHON: It was three weeks ago that we had the big climate strike protest here in Brisbane and around the country. Are you aware that this bill would have had any impact or resulted in any criminal sanctions for anyone who participated in that march three weeks ago?

Ms Drury: I could not speak specifically. I suppose it depends if anybody used a device that would be covered by this bill during that protest. The nature of that protest was obviously quite different. As far as I know the police were given notice and that sort of thing. If people used devices during that protest it would be covered by this bill. Despite the use of those protests being peaceful and passive, they could have seen prison time, absolutely.

Mrs McMAHON: Your submission states that the use of sleeping dragons, tripods and monopoles cause no harm to protestors or first responders. Is it your evidence to the committee that those devices are safe and no-one could be injured in the use of those devices?

Ms Drury: We are aware that these devices have been used for many years across Australia in many peaceful protests and they are fundamentally peaceful devices typically because they immobilise the protester. If there is evidence that they have been used in ways that are not peaceful that has not been made public by the government, and we would strongly encourage them to make that evidence

public so that it can be properly tested, in any case there are a multitude of laws that deal with instances referred to by the Premier such as booby trapping these devices and I can refer the committee to many provisions in the Queensland Criminal Code, including sections 245, 317, 327, 328—the list goes on.

Mrs McMAHON: It is your submission that these devices are safe for the users and the first responders?

Ms Drury: It is our submission that to our knowledge—let me rephrase. In the overwhelming number of cases where these devices are used, they are used peacefully and no harm comes to first responders or the protesters.

Mr BERKMAN: Thank you very much for being here. Your submission notes with concern the use of the term 'extremists' to describe the protesters that use these devices. Can you please elaborate for us why that is of particular concern?

Ms Drury: We are concerned that rhetoric like this is used to inflate situations. That actually goes to discrediting the protestors themselves in part probably because they are expressing views that are frustrating and awkward for the government to hear. I think dismissing and discrediting protestors, particularly in light of the climate crisis, by describing them as extremists is unhelpful and it is also worsening the culture clash that is currently taking place in Australia that is extremely dangerous to our country.

Mr BERKMAN: You have already touched briefly on the sorts of vitally important social changes and progress that has been made as a consequence of protest. My colleague referred to the climate strike that happened a couple of weeks ago, which was clearly a state sanctioned and effectively easy to ignore protest, which perhaps is one way to frame it. Do you have any comment on the efficacy of let us call it state sanctioned protest as compared to disruptive and sometimes unlawful protest over recent decades and centuries?

Ms Drury: I think again it is useful to put the current situation into historical context. I briefly mentioned things like the eight-hour workday and women's right to vote. We heard from unions this morning that we would not enjoy the work rights that we have right now if there were not the disruptive and illegal protests that have happened in our past. To put these laws in that context, it is really crucial that the government hears loud and clear that the appropriate way of responding to these protests is to facilitate communication between the police and protesters, to keep people safe, but not to impose increasingly harsh penalties that will have questionable impact on the protest.

Mr BERKMAN: I could keep going if you are happy to allow me to.

CHAIR: Yes.

Mr BERKMAN: We will hear later today from the recently appointed Queensland Human Rights Commissioner. Obviously with the bill being considered and likely debated before the Human Right Bill comes into effect, do you have any comment you can make on how that bill could or should apply to a law like this?

Ms Drury: We are concerned that this bill is being rushed through parliament, particularly so soon after parliament has passed the Human Rights Bill, and this bill could end up being the first law that is declared to be incompatible with human rights if it is passed.

CHAIR: Member for Macalister?

Mrs McMAHON: I have no further questions.

CHAIR: Member for Maiwar?

Mr BERKMAN: I will keep going all day.

CHAIR: I will not let you.

Mr BERKMAN: I think you have made this point but I want to reinforce it. You have referred to the use of these devices as being commonplace and you are not aware of any harm having ever eventuated to protesters or first responders. Could you clarify that there are no circumstances you are aware of where these have brought serious harm to protestors?

Ms Drury: I have to give a caveat that I am not a lawyer that is on the front lines. To my knowledge, no, we are not aware of any instances of serious harm having occurred. I would defer to my colleagues, my friends, who will be on this afternoon who have been more on front lines in Queensland. I would be more comfortable deferring that question to them, but certainly we are absolutely confident that these devices are overwhelmingly peaceful.

Mr BERKMAN: In that context, do you have any comment on the effectively pre-emptive nature of what the bill proposes?

Ms Drury: One of the additional issues with this bill is that it broadens police search powers. We are firmly of the opinion that it should not be a criminal offence to possess one of these devices, and it follows that it absolutely should not be permitted for the police to search people without a warrant for these devices. Protesters are concerned that these search powers could be used in quite an invasive manner.

Mrs McMAHON: To clarify, in the bill there is no offence for possession of these items.

Ms Drury: No, that is correct. Because our starting position is that it should not be unlawful to use these devices in the circumstances prescribed in the bill, it follows that there should not be search powers that allow police to search people for the devices without a warrant.

CHAIR: Member for Maiwar, we have two minutes. You can use the time if you wish. If not, we will move on.

Mr BERKMAN: I am happy to move on, unless you have anything further to add, Ms Drury?

Ms Drury: No, thank you very much.

CHAIR: That brings to a conclusion this part of the hearing. I thank you for coming along and for your written submission.

NEAL, Mr Chay, Executive Director, Animal Liberation Queensland

CHAIR: I now welcome Chay Neal. Good morning. I welcome you to make a brief opening statement. You have heard me say that we are keeping it to three minutes to allow the committee to ask questions. The committee will definitely have some questions for you.

Mr Neal: Thank you, Chair and committee. Firstly, I would like to express my concerns regarding the premise for this bill and the rushed process. It seems to be expedited. I strongly believe that Queenslanders should be given adequate opportunity to have a say on such important matters, such as the expansion of police powers and stopping peaceful protest, especially given our history and what many activists have been through in the past. To rush such important legislation is extremely undemocratic.

The statements from the Premier are also very concerning. Labelling dedicated activists peacefully advocating for action on climate change, for example, and a better world and future for our children as extremists and accusing them of using dangerous devices without basis is extremely disappointing. I have made inquiries about what these so-called 'dangerous devices' are and the accusations of booby trapped devices that make it dangerous for police to remove them. As I am sure we are aware, we have seen no actual evidence of these devices ever being used in Queensland. Therefore, as those claims appear to be the basis for these laws, I think Queenslanders are owed an explanation. If there is no evidence, these laws should be scrapped.

The only potential risk when using a lock-on device is if police do not use due care when removing a protester. If police attempt to forcibly move a person who is not using any kind of lock-on device, there is also a risk or a danger of injury. The only difference is that when some kind of lock or attachment device is used it may take slightly longer for the police to move that person on. I want to be clear that it is not about danger; it is just about the inconvenience and the timing.

I will skip through some of this. We believe laws already exist to charge activists who trespass, block roadways or cause disruptions. There is a range of offences available. I am also very concerned about the expansion of police powers for police to stop and search people whom they suspect of carrying a device. We know from experience that when police are granted extra powers, they will use them to harass and intimidate peaceful protesters and law-abiding activists and use those powers to prevent and disrupt peaceful protest.

Whether it is climate change, animal rights or any other important social issue, we call on the government to look at why those people are protesting. Increasing penalties to target peaceful activists and increasing the use of force by the state is rarely an effective way of resolving situations. Instead of demonising activists, the government needs to sit down and listen. We believe this bill is an attempt to silence members of the public who have grown frustrated by the government's perceived lack of action to address issues of strong public concern and, therefore, take part in peaceful protest. The only effective way, I believe, to deal with climate activists is to take meaningful action on climate change.

Mr LISTER: I will defer to the member for Maiwar.

Mr BERKMAN: I will ask a couple of quick questions. We had perhaps a less than direct answer from Australian Pork before. In essence, I was trying to ask about the efficacy of protesting in actually highlighting concerns. From the perspective of Animal Liberation Queensland, do you think you have seen a shift in consumer expectations and animal rights as a consequence of the information that has been brought to light through past protest?

Mr Neal: That is right. Bringing information to light through peaceful protest or through investigations, which can mean either a worker or an activist going onto private property, certainly has been very important in shaping public opinion and educating people on what really goes on behind closed doors. I think surveys have shown that most people—more than 90 per cent of Australians—are concerned about animal welfare and do not believe the current regulations are adequate. I think that really speaks for itself.

Mr BERKMAN: I was also interested in a point you made in your opening statement and I do not know that it is made terribly explicitly in many of the submissions. It is the reality that, whether these particular devices are used or not, protesters may face a risk if they are forcibly removed by police. Could you elaborate on that for us?

Mr Neal: That is right. Police already have powers once they give someone a move-on order, for example, to arrest them and take them away. That could be done forcibly by grabbing them if they refuse to cooperate or it could be more force used as the police deem necessary. Police could already endanger people if they act inappropriately and injure people when removing them if, for example, they are sitting down on a road or whatever it might be in a peaceful protest. It seems to be irrelevant

whether these devices are used. The only difference, as I said in my opening statement, is that if a device is used such as a chain, a sleeping dragon or whatever else, it would take police longer to physically remove them because they could not safely and easily remove them forcefully just by grabbing them, using pressure points or that sort of thing.

Ms McMILLAN: Mr Neal, can you elaborate on when you believe a protest becomes no longer peaceful?

Mr Neal: Whenever there is any violence or threat of violence would be my opinion. Certainly I think there is a long history, both in animal rights and the environment movements, as well as other social justice issues, of very strictly adhering to a policy of nonviolence. All protesters I am aware of would very careful consider making sure that they do things peacefully and that all safety is taken into consideration.

Ms McMILLAN: Would carrying to a protest items that we would normally consider a weapon be considered peaceful or not peaceful?

Mr Neal: What sort of device are you meaning?

Ms McMILLAN: The devices that we list.

Mr Neal: I do not believe there are weapons listed in the bill; not that I am aware of. I know the bill specifically mentions a tripod. I do not think there is anything dangerous or not peaceful about that. It is simply someone elevating themselves and immobilising themselves.

CHAIR: With the tripods, isn't the issue that it is where the protesters have been positioning themselves that has put them in imminent danger, for example, on a railway line with, I think it is fair to say, high-voltage overhead lines? In that position, they are exposing themselves to danger. Would you agree with that?

Mr Neal: I am not aware of specifics where someone has placed themselves near high-voltage power lines. There may be other people today who may be better able to answer that. In all of the situations that I am aware of, safety is taken very seriously. If someone was blocking a roadway, for example, there would be people up ahead to make sure approaching vehicles are aware that they are on that roadway.

CHAIR: How do we deal with the situation that has been described here today of someone who puts themselves in harm's way by placing themselves on a railway line in front of a coal train, with the knowledge that it takes anything up to one kilometre for that train to stop? What do you say about that situation?

Mr Neal: We would really need to look at the specifics to answer properly. As I said, I believe most protesters take safety very seriously and would take precautions to hopefully alleviate that sort of situation. Certainly in any situations where they are putting themselves at a high risk, or members of the public, they should be dealt with accordingly. I believe there are existing laws that handle those situations.

Ms McMILLAN: Mr Neal, are you aware that placing oneself on railway tracks causes psychological harm to those who may witness that?

Mr Neal: I am not an expert on railways. I do not know any railway drivers. I cannot really answer that.

Mr LISTER: Mr Neal, in a case where an employer endangers staff and that is discovered, there can be serious consequences for the person responsible for running the business. Why should protesters who deliberately put themselves in a situation that may not be compatible with proper workplace health and safety conditions be any different? Why should their punishment be any different from that of someone who is responsible for employees in a workplace?

Mr Neal: If someone is coming into a workplace, they likely already come under the trespass laws, for example. There are other offences that could come into play. I think there are already powers that exist to arrest, move on or charge activists who may enter a workplace.

Mr LISTER: Go to the Magistrates Court and get a slap on the wrist? No further questions, Mr Chair.

Mr BERKMAN: I do not have anything in particular to ask.

Mrs McMAHON: Today you have indicated that you feel there is no more danger or risk apparent when police attempt to remove protesters whose arms are interlocked—that is, the use of open and closed hand tactics that the police use to separate protesters who are sitting in—and those who use

chains or not even necessarily dangerous attachment devices but attachment devices nonetheless. Do you see no increase of risk in the use of cutting devices used by police in those circumstances as opposed to the interlocking of arms?

Mr Neal: No. The police are well trained in cutting a chain. I am not aware of any situation—protesters in that sort of situation are generally immobilised. They are generally going to sit very still. I do not see any issue with a protester being chained and the police cutting it before removing them. The only difference, as I mentioned, is that it takes slightly longer because the police would have to bring in the cutting equipment to remove them.

Mrs McMAHON: You see the use of angle grinders and all that kind of stuff as of no greater risk to people, as you referred to, as the tactics that police use when arms are interlocked?

Mr Neal: I believe the police are well trained and certainly angle grinders are used in workplaces all around the country on a regular basis.

Mrs McMAHON: Not on people, though.

Mr Neal: No, but they would not be cutting the people; they would be cutting the chain.

Mrs McMAHON: Have you ever had an angle grinder applied close to your person?

Mr Neal: No, I have not.

Mrs McMAHON: Is it something you would volunteer to do?

Mr Neal: If the situation called for it.

Ms McMILLAN: Do you believe it to be the police's job to use angle grinders to remove people from dangerous situations?

Mr Neal: I am not sure what you mean by 'dangerous situations'.

Ms McMILLAN: From the middle of railway tracks.

Mr Neal: Firstly, I think there have been a lot of examples about railroad tracks. This is part of the issue with the bill. It mentions booby-trap devices and railroad tracks, but then the scope is much wider than that. It increases search powers and targets peaceful activists who simply have a locking device.

Mrs McMAHON: Section 14C(1) specifically addresses railway infrastructure.

Mr Neal: But the bill goes a lot further than that, as well.

CHAIR: Before I bring this session to a conclusion, it would be remiss of me not to ask the members on the phone. Steve, do you have any questions?

Mr ANDREW: No, Mr Chair. I am fine with that, thank you.

CHAIR: Jim, do you have any questions? That brings to a conclusion this part of the hearing. We thank you for your attendance and we thank you for your written submission.

Mr Neal: Thank you.

KANE, Mr Michael, Organiser, Mackay Conservation Group (via teleconference)

CHAIR: Mr Kane, I have been asking people appearing to keep their opening statements to three minutes to allow ample time for questioning, if you could assist the committee by complying.

Mr Kane: I am happy to comply with that. My name is Michael Kane. I am an organiser with the Mackay Conservation Group. My main role is to community organise on environmental issues. The Mackay Conservation Group does not engage in protests that involve locking on. I want to make it clear that that is not our role, but we do engage in organising rallies, protests, sausage sizzles and community meetings and conduct a wide range of community engagement activities but not specifically locking on, stopping trains or any of those activities. That is not our role or our agenda.

However, we do strongly oppose these proposed new laws. We are concerned that these measures are not based on factual evidence. Part of the reasons given for these laws is that the lock-on devices are in some way booby trapped and expressly dangerous. In fact, lock-on devices are more described as weapons. There is no evidence to support this. Any beefing up of regulation, legislation or laws around protests that is based on information that cannot be proved, that there is no evidence of, suggests to me that these laws are not required. With no evidence to back up the bill, we are deeply concerned about its provisions.

We are also very concerned about the increase in police search powers. Police already have broad stop and search powers in Queensland under the Police Powers and Responsibilities Act 2000. Widening these laws will, I believe, result in excessive—or threaten members of the public in discriminatory ways.

Even though we are not involved in direct action such as locking on, we believe that people who attend our rallies and our events will have second thoughts and it will have a chilling effect on people expressing their right to publicly protest mines and environmental issues and to basically gather to exercise their freedom of speech. I am happy to make that my opening statement and I am happy to take questions.

CHAIR: Thank you. If there is time and you wish to make a further comment, I will give you that opportunity.

Mr Kane: Thank you.

Mr BERKMAN: I very much appreciate the submission from the Mackay Conservation Group. I do not have any particular questions to ask beyond Mr Kane's opening statement.

Mrs McMAHON: Thank you very much for your submission and being on the phone for us this morning. The basis of your submission—or certainly the majority of it—is that to date you do not believe there has been any evidence put forward particularly in relation to the booby trapping of devices and such. Are you normally in a position where police would provide you information or evidence as to operational matters?

Mr Kane: I just would go on the court records. It is my understanding that there have been no charges ever laid in an instance where a lock-on device has been booby trapped or is any more dangerous than a metal pipe would be in any other circumstance. To say that protesters who are there peacefully and, from my understanding, are always mindful of nonviolent tactics would be purposefully making these items dangerous by including asbestos or whatever is just not my experience. It is not just not my experience as someone who has been in the movement for 20 years; there is no factual evidence anywhere that I have ever been able to ascertain that anybody has ever been charged with making these devices dangerous by booby trapping them.

Mrs McMAHON: It is your submission that protesters have never used a device like this with dangerous items in it?

Mr Kane: Yes, it is—and have ever been charged for it.

Mr LISTER: Mr Kane, what would you say to the people in my electorate of Southern Downs who by and large support measures to cut back on protesting which has an inconvenience or economic impact on law-abiding citizens as they go about their lives—getting to work, taking kids to school or taking someone in an ambulance to hospital? There is a lot of concern in the community about that. What would you say to those people who might be inclined to support this bill because of those concerns?

Mr Kane: Well, I do not think the people from the Southern Downs have any worry in that context because these protests are not—

Mr LISTER: I might stop you there. We certainly do. We have had a lot of protest activity in Southern Downs.

CHAIR: Member for Southern Downs, allow the witness to answer the question, please.

Mr Kane: There may be, but we are also talking about very serious issues in the Southern Downs with the incursion of coal seam gas: farmers losing their properties, people having to live with a really incredibly polluting and dangerous industry moving in fairly well unregulated. They deserve the right to stand up for those issues and their concerns. Beefing up laws and penalties in order to curb what I think is just basic civil liberties and freedom of speech is not going to address those fundamental issues that the people in the Southern Downs are concerned about. If you have farmers down there—I think you might—who are ready to lock on to stop coal seam gas extraction or new coalmines in the area, then I think they are doing that out of absolute frustration that such an injustice has been perpetrated on them. That is, I think, a fair response to regulation that has failed them.

Mr LISTER: I do not agree with some of the things you have said about my electorate. Aside from that, if I could be more specific, operators of agricultural businesses like feedlots and dairies and other businesses in my electorate that are operating legally are the type I am thinking of who have expressed concern about a lack of deterrent for the activities which have impacted their businesses, such as invasions and so forth. They argue that they have complied with every law and statute yet they are still subjected to expensive and distressing invasions. If someone in those circumstances were to say to you that they feel that the current array of punishments is not sufficient to deter the activity that has occurred to them, what would you say to them?

Mr Kane: I would say that they have my sympathy. I absolutely understand—I come from a rural background and a farming background myself. The last thing I want to see is farmers subjected to that. However, there is a large range of laws that already make that kind of activity illegal and chargeable. There are penalties and punishments already in place for those kinds of incursions. I do not believe that beefing up or supercharging trespass laws will make any difference to those groups that are intent on making those statements; they will do it no matter how serious the charges are. These beliefs are very deeply held by both sides and I believe that people will break the law, regardless of whatever the law is, if they fundamentally believe that they are doing the right thing. Luckily, these kinds of incursions are not common. They are quite rare. I believe that the laws we already have are sufficient.

Ms McMILLAN: Mr Kane, I am interested in a statement you make towards the end of your submission. You make the comment that the bill impedes society taking real action on climate change. Can you elaborate on how this bill might affect the investment in the hydrogen industry?

Mr Kane: I am not sure how to make that connection with the hydrogen industry. Could you elaborate just a little more, please?

Ms McMILLAN: How does this bill impact on society's ability to take real action on climate change?

Mr Kane: At the moment it is my sincere belief that society is not taking real action on climate change. In terms of proposed policies like beefing up the hydrogen industry in Australia, I highly commend that but it is not happening. It is not legislated. As far as action, it is not real. We are not acting as a society on climate change. Ninety-seven per cent of scientists are saying that climate change is real, man-made global warming is real and, not only that, it is happening now. Dangerous climate change is already with us—

Ms McMILLAN: Absolutely. Mr Kane, I am not disputing that climate change is real. I am just wondering how you come to the belief that this bill impedes our ability as a society to take real action on climate change.

Mr Kane: I understand. The point I am trying to make is that at the moment real action is not being taken. What we are seeing from groups like Extinction Rebellion is a stepping up and an intensifying of tactics to bring attention to the fact that as a society we are not acting on climate change. I can give you many examples of why we are obviously not acting on it in Queensland. I will use just one of them. We have just sanctioned possibly one of the largest coalmines in the world—the Adani Carmichael coalmine—through, I would say, a fairly loose regulatory process. No amount of pamphlets, placard holding or submissions has managed to change course on that project. What we are seeing is groups like Extinction Rebellion bringing attention to these major issues in the only way they think they can be heard. That is more likely to bring action on climate change than almost any other tactics the movement is using at the moment. I believe that that should not be criminalised, especially when it is done peacefully.

Ms McMILLAN: Thank you. Again, that is another broad statement made by you that the actions undertaken by these groups will bring about action on climate change. Is there any international research that supports that position?

Mr Kane: As one of the previous speakers said, I would refer to the success of the suffragette movement bringing votes for women in Australia around the 1900s. That is a very good example of how community civil disruption over a long period of time managed that result. There are several other examples of that; for example, the civil rights movement in America. The list goes on and on. I think there is comprehensive evidence that community civil disruption is an effective campaign tool and should not be illegal.

Mrs McMAHON: You have cited the suffragette movement and the civil rights movement in America. In many instances those movements did involve the loss of life in bringing about and highlighting those issues, sometimes intentionally. You are not in any way advocating that those types of campaigns are what we should be looking at?

Mr Kane: I think the suffragette movement and the civil rights movement in America were very good campaigns. I understand there was loss of life around that, but I do not think it was caused by the protesters. I think it was caused by the reaction to those protests from governments and other vested interests. I am not at all at any stage promoting any violent action. I am strictly endorsing nonviolent, peaceful action. I believe that this bill is an unnecessary knee-jerk reaction to a fundamental right and fundamental democratic strength of our nation as we know it now. To start taking this away or even putting any kind of pressure on it is not needed. We do not need these laws. I think this government needs to be very careful before it steps into this realm, this slippery slope. As Australians, we deserve the right to have freedom of speech and to oppose issues such as climate change, which is potentially deadly for us all.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and your written submission.

Proceedings suspended from 11.32 am to 11.47 am.

COLEMAN, Mr Patrick, Principal Adviser Policy and Stakeholder, Corporate Affairs, Aurizon

RICHES, Mr Michael, Group Executive, Aurizon

CHAIR: I do not know if you heard my earlier comments, but if you would be kind enough to keep your opening statement to within three minutes that would be helpful to the committee. It would give us time to ask questions. If we run out of questions and there is still time left in the session, I will invite to you make any other comments you feel need to be made as the questions unfolded, but that has not happened yet this morning. I invite you to make a brief opening statement, after which committee members will have questions for you.

Mr Riches: Thank you for the opportunity to represent Aurizon today and present our views on the Summary Offences and Other Legislation Amendment Bill. Aurizon's network business operates 2,700 kilometres of rail network infrastructure through the Central Queensland coal network. We link 40 operating coalmines to five coal export terminals, and we run approximately 500 trains across the network per week.

We strongly support the bill because we believe it will make an important contribution in deterring protesters from using dangerous devices and substances as part of protest activity on rail corridors and other transport infrastructure. In our written submission we have made suggested amendments to the bill that we believe will help what is already proposed in the bill further deter unsafe behaviour and meet the bill's objectives. Aurizon remains deeply concerned about the issue this bill seeks to address. We are concerned about the safety risk these substances and devices pose when they are used or intended for protest activity. They present a major safety risk to the protesters themselves, police and emergency services personnel, rail employees and the broader community.

Several dangerous protest activities have taken place on our network and on Aurizon's coal trains in South-East Queensland. These are further outlined in our submission. Aurizon supports the right to engage in safe, law-abiding and peaceful protest activities; however, it is important to note that it is illegal for unauthorised individuals to enter the rail corridor. There are many reasons for this, but safety is our primary concern. A combination of overhead lines on our electrified network—which represents 2,000 kilometres of the 2,700 kilometres—carries 25,000 volts of electricity, and it is not necessary to touch the overheads in order to be electrocuted.

Secondly, coal trains on our corridor can weigh up to 10,000 tonnes and take up to 2½ kilometres to stop after applying the emergency brake. You cannot stop them quickly or easily. It is not hard to imagine the impact this has on our train drivers, knowing that they cannot stop quickly or swerve. In their own words, they just have to do all they possibly can to stop the train and 'hope for the best'. It is important to note that it is not just the risk to the safety of the protesters but the mental health risk that comes every day for a train driver, knowing that there is the potential for a protester or other devices to be on the track that could harm him or her or somebody else.

Accidents and near misses have a long and lasting impact on train drivers, with trauma and mental health remaining one of the rail industry's biggest challenges. With the aim of educating people about the impacts that unsafe and illegal trespass on the rail corridor can have on our drivers, earlier this year we launched a public safety campaign called 'Don't Put Your Life on the Line'. This was an attempt to appeal to protesters to stop their illegal activity and recognise the dangers associated with entering the rail corridor. The campaign included quotes from one of our train drivers, who talked about the burden the protests were having on drivers' mental health.

Protest groups have wrongly claimed that their protests are safe. They make this claim because when they call in their location to our network control centre rail traffic will be suspended. Obviously, when we hear and receive those calls we suspend rail traffic for the safety of everyone involved; however, there have often been incorrect locations called as well as them not being specific enough. The reality is that you do not know whether a train is within close proximity to the particular location when the call is made. Given that devices are used that cannot be locked or removed quickly, these protesters pose a major risk to themselves, police and emergency services personnel, as well as train crew and other Aurizon employees. We have stated in our submission that we appreciate the expertise and commitment of the Queensland Police Service in responding to extremely dangerous protest activities over recent years on rail corridors and other public transport infrastructure. Given the dangers involved, we need to be working as hard as we can to stop these dangerous protest actions from taking place.

In closing, we believe that the proposed legislation would make a very important contribution to deter individuals and groups from the major risks associated with using dangerous substances and devices as part of their protest activity.

Mr LISTER: For WHS purposes, could you personally be considered the person conducting the business enterprise in your type of a company?

Mr Riches: Yes.

Mr LISTER: What types of sanctions of punishments might be available to you personally and the company as a whole if it were found that you had not taken reasonable steps to prevent people from endangering themselves on lines, be it as a protest or for some other purpose? You have skin in the game; is that the case?

Mr Riches: Yes. I probably could not answer that specifically as to liability, but certainly as an officer of Aurizon I have workplace health and safety responsibilities for employees and other members of the public who may be on the corridor. That includes level crossings and any other locations, whether illegally or legally, on the corridor. We obviously have a requirement to make the workplace safe as far as reasonably possible, so there would potentially be circumstances where action was not taken and we did not do things or we did things. There is always the potential for personal liability as well as liability for the company.

Mr LISTER: Is it the case that the liability you personally face and that the company faces is probably more severe than the sanction proposed under this bill for those who breach the bill using devices and so forth?

Mr Riches: Certainly WHS laws would pose potentially greater sanctions against myself for failure to make the rail corridor safe than even the sanctions—

Mr LISTER: Does that make sense to you?

Mr Riches: Not personally, no.

Mrs McMAHON: Earlier this morning existing legislation in relation to rail infrastructure was referred to. Can you tell us how the proposed bill would work in conjunction with current legislation in relation to prohibited activities or trespassing on rail infrastructure?

Mr Riches: I think the current legislation makes it very clear that trespass on rail infrastructure without appropriate permission is an activity that is obviously illegal for all of the safety reasons I have described. I think this bill properly addresses the consequences associated with that particular activity. One of the key things for us is to make sure that the consequences associated with activities are reflective of the risks that are involved as the appropriate deterrent mechanism. I think this bill aligns the risks associated with entering the rail corridor and the already recognised reason for making it illegal with the consequences that could follow.

Mr BERKMAN: Can you tell us the existing maximum penalties for actions taken by protesters that involve trespass on rail lines or interference with a train?

Mr Riches: I can certainly provide you with that information in detail. I do not know specifically, but predominantly the activities to date that have been prosecuted have generally involved small fines that have been payable by protesters.

Mr BERKMAN: You are unaware whether there might be maximum penalties that already exist that substantially exceed what is proposed under this legislation?

Mr Riches: My understanding is that the maximum penalties available at the moment are lower than the penalties proposed under this bill.

Mr BERKMAN: Is that a question you can take on notice? Can you come back to the committee with the maximum penalties for any kind of interference with trespass on the rail lines or interfering with trains?

Mr Riches: Yes, certainly.

Mr BERKMAN: I want to go to something in the explanatory notes. It has been claimed that Aurizon lost $1.3 million due to a delay of 14 hours for five trains. My back-of-the-envelope calculations suggest that that is more than it would cost to buy the entire freight on one of these trains outright. Can you provide us with the methodology that goes into supporting that claim of $1.3 million lost, either now or on notice?

Mr Riches: I will take that question on notice because I am not aware exactly of the methodology that was applied to come up with that number. What I will say is that as a commercial enterprise we are obviously concerned about the financial ramifications associated with any activity that is illegal which impacts our business. From Aurizon's perspective, our fundamental concern is the safety of our employees, the safety of the public, the safety of emergency services personnel and the safety of protesters. That is the fundamental reason we support this bill.

Mr BERKMAN: We heard before from QRC that obviously those economic risks have materialised. By that I mean that the outcome—not just the possibility or likelihood of it—has actually come to be. Do you have any examples of where people using devices have come to harm and the risk of physical harm has materialised?

Mr Riches: There has been no instance where a device has created physical harm as a result of the device. What I would say, as in my opening statement, is that train drivers are exposed to the potential of that. By virtue of the statements that are made by protesters and the actions that have already been taken, they are acutely conscious of the fact that they could at any point in time find themselves in a situation where they are faced with a protester or a device on a track that affects themselves, their colleagues and the protesters, and that creates a significant mental health issue for those particular drivers.

Mr BERKMAN: I appreciate that. You referred earlier to near misses. Can you describe for us just how near these misses have been? How close has any incident come to a physical harm risk materialising?

Mr Riches: In terms of physical harm risks, I take great pride in the fact that we have a very effective train control and emergency management system that ensures we have not had a circumstance where a train has come close to a protester.

Mr BERKMAN: So no near misses?

Mr Riches: No near misses at the moment, but the one thing I am acutely focused on from a safety perspective is that a near miss is only the precursor to an actual incident. If you look at workplace health and safety and all of those things for a long period of time, the things you try to control are the near misses because the near misses are the things that will ultimately result in harm to particular individuals. We do not look at near misses and say, 'It was a near miss and therefore we do not worry about it.' A near miss is only just pure luck in a lot of circumstances.

CHAIR: There were two questions taken on notice. The secretariat and the committee would appreciate if your responses to the questions on notice could be provided by close of business on Monday, 14 October so we can include them in our deliberations.

Mr Riches: That will be no problem.

CHAIR: If you need to check the wording of the questions, please refer to the archived broadcast and the transcript. That brings to a conclusion this part of the hearing. We thank you for your attendance and for your written submissions.

Mr Riches: Thank you very much.

DYHRBERG, Ms Karen, Co-founder, Lawyers for Climate Action Australia

CHAIR: I now welcome our next witness. I invite you to make a brief opening statement of three minutes, after which committee members will have some questions for you.

Ms Dyhrberg: Thank you for the opportunity to speak to this committee. I acknowledge that we meet on Aboriginal land and pay my respects to elders past and present. Lawyers for Climate Action Australia was formed just two weeks before the global school climate strikes which happened on 20 September, when schoolchildren asked adults to step up and walk with them. We were founded out of frustration that our laws are not being used for their key purpose, which is to keep our population safe, and in this case from the ever-increasing threat of climate change.

We submit in relation to these laws that, to the extent that any activities covered are dangerous or harmful, they are already unlawful and covered by our existing laws. To the extent that any activities regulated by this bill are not dangerous or harmful, this would be an unreasonable further regulation of peaceful protest, which is badly needed at this point in history.

Current predictions say that we might keep warming to livable levels within my children's lifetime, but we need to reduce emissions to net zero by 2050 and we need no new coalmines. As climate reaches tipping points where certain effects are accelerating others, the danger is escalating. You could say it is a little bit like an unstoppable train—the example we have heard a lot today.

Under section 319 of the Queensland Criminal Code, anyone who is likely to endanger the safe use of a vehicle, which includes a train, with intent to endanger the safety of any person in the vehicle commits a crime subject to life imprisonment. Under section 29(b) of the Work Health and Safety Act in Queensland, any person at a workplace has a duty to take reasonable care that their acts do not adversely affect the health and safety of any other person, with a penalty of up to 1,500 penalty units, which is currently just over $200,000.

Our remedy for the harm that could be caused to our children under 1.5, two or 2.5 degrees of warming is not clear. That is not covered by our laws, so our concern is that this bill is a distraction from the much larger issues. The timing is designed to create the appearance of parliament protecting our interests by being tough on protesters by avoiding the real issues, and it is impeding our ability to take climate action because it is distracting people and having a chilling effect on protests.

Mr BERKMAN: I would like to start with the point you made in your submission and briefly touched on in your opening statement about the existence of laws to effectively cover the fields of all the conduct that is proposed to be effectively further criminalised by this bill. Could you flesh that point out for us a bit?

Ms Dyhrberg: Sure. I will preface this by saying that I am not a criminal lawyer and we had a limited time to make submissions. It seems that everything is covered, as I said. There is endangering the safe use of a vehicle, and the Workplace Health and Safety Act has quite strong penalties. Under section 317 of the Criminal Code, as other colleagues have referred to, if any person intends to do some grievous bodily harm or even just resist arrest or resist a public officer from acting in accordance with lawful authority—if with any of those intents—if they wound or deliver any dangerous thing to any person or cause anything to be taken or received by any person, they are liable to imprisonment for life.

Under section 230 of the Criminal Code, common nuisance, anyone who does any act with respect to any property under the person's control—say, a device could be property—by which act danger is caused to the lives of the public is guilty of a misdemeanour of up to two years imprisonment. Under section 289, any person who has in their charge a thing, whether moving or stationary, that could cause danger and they do not take appropriate care for its management and it could cause injury to another person is again guilty of a crime. I just see this law as being designed to create the impression that the government is doing something to protect its people when it is not.

Mr BERKMAN: Thank you. Representing Lawyers for Climate Action, you are one of the few organisations that might speak directly to the climate concerns that are, I suppose, at the core of the protests that these laws seem to be in response to. I have heard commentary suggesting that the disruption we are seeing as a consequence of protests is nothing compared to what we might see under a business-as-usual climate scenario. Could you help the committee with any further information on that?

Ms Dyhrberg: The estimate is now that we have seen about one degree of warming. I live in a regional area near rainforest. When I bought there two years ago, we thought rainforests would never burn. We saw that west of Mackay last year rainforests burnt. It was early September when we started suddenly doing bushfire burning. That is just me in a very lucky position where I can do that, but that

is climate change even at one degree. At 1.5 degrees it will affect people, particularly already marginalised and disadvantaged people, severely. It can create food shortages; it can create dangerous weather events. Someone's house burnt down in Laidley two nights ago and 100 people spent the night in an evacuation centre. That is a disruption.

Mr BERKMAN: Finally, the question was put to a previous witness about how these laws prevent effective climate action. I wondered whether you had a response for that.

Ms Dyhrberg: Fortunately, we could still have effective climate action if the Queensland parliament decided to, but not while we are spending time on laws that seem to obfuscate what the government's real duty is—that is, to protect its people. It is long term. It is hard. It takes time to convince the people sometimes of all the complex changes that will be needed. We need to look after transitions for jobs. We need to look after people to ensure that they are safe and that the transition happens in a well-planned way and that the Queensland government is thinking about the future of its people, its workers and particularly disadvantaged people.

Ms McMILLAN: Thank you for coming in today, Karen. I note that you refer to the Queensland government and I appreciate your advice. The Queensland government does not deny that climate change is real. I am interested to know what your organisation is doing to convince the federal government that climate change is real.

Ms Dyhrberg: We are a new organisation, as I said, so we are currently lawyers gathering together to explore all the different ways that we can contribute. I notice that in the federal parliament they have just formed a bipartisan committee across the parties of Parliamentary Friends of Climate Action, so that is good news. I think in Queensland climate action is sitting on the buddy bench and it needs some more friends. We certainly will take submissions to federal parliament as well.

Currently, we have written to the Law Council of Australia and its constituent bodies, which involve state and territory peaks, like law societies and bar associations. The Law Council in turn has a role in informing government of good policy, so we are hoping in the future to work with the Law Council, the federal parliament, state and territory peak bodies and state governments as well to ensure that laws are being made on the best evidence and with the best effect for their people.

I think the Queensland government has a really important role to play, particularly with proposed new coalmines opening up here. It is something we could make a huge impact on because Australia is the world's second largest thermal coal exporter. We right here in this room have a huge potential to make an impact.

Ms McMILLAN: How does your organisation believe that this bill denies society's capacity to deal with climate change?

Ms Dyhrberg: It is not a direct link in that we can do both but we are not. While we take the time to demonise protesters—where the bill says that protesters could use asbestos or poison in these devices, and there has been zero evidence of that—that has a chilling effect because it is suggesting things about protest movements that have not been evidenced.

You asked earlier about the research that shows that protest movements might have any effect. There has been research done that protest movements are more likely to succeed if they are nonviolent, and I believe the majority of people want to participate in that kind of protest. Painting protesters as being intentionally dangerous could discourage other people from participating. The best evidence shows that nonviolence is more likely to succeed. On average, when 3.5 per cent of a population are mobilised to participate in that nonviolent, peaceful protest, they never fail to actually achieve that change and that is the change we need. I think the bill and the wording and some of the comments around this bill are discouraging people from participating in the peaceful, nonviolent actions that we need quite urgently as a society.

Ms McMILLAN: So your organisation honestly believes that the Palaszczuk government is denying you the opportunity of protesting?

Ms Dyhrberg: No. I just think some of the wording in the bill might discourage people from participating and that the wording was not justified.

Mr LISTER: If climate change is an emergency that is facing us, why is it that lawful mechanisms for expressing dissent—protesting in other ways that do not interrupt traffic or the lawful business of others and traditional mechanisms of influencing government at the ballot box—are not sufficient in your case?

Ms Dyhrberg: What I am suggesting about this law is that any activities that you are seeking to regulate, if they are dangerous or violent, are already unlawful. There is a history within protest movements—and I do not seek to speak for them—that sometimes people take actions that are

nonviolent but are a small breach of the law in order to demonstrate how important that issue is to them. I think perhaps Queensland's most infamous example is women chaining themselves to the public bar in the Regatta. The law did not change until they did that. I am not sure why no-one changed the law before then.

I cannot say why the government has not engaged with 700,000 people across Australia walking to say they needed climate action. Perhaps it is because we are just about halfway to the 3.5 per cent in Australia and next time we will get there. I really hope that governments engage with peaceful protesters and that that is enough to have action.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and thank you for your submission.

KELLY, Ms Karagh-Mae, Queensland Committee Member, Animal Justice Party

CHAIR: Good afternoon. I invite to you make a brief opening statement.

Ms Kelly: Good afternoon. I am a member of the Queensland committee for the Animal Justice Party. I am here to represent our members and supporters who are deeply concerned about continued state and federal government inaction in the face of the climate and ecological disaster we are experiencing. I thank the committee for the opportunity to speak today on the Summary Offences and Other Legislation Amendment Bill 2019.

The Animal Justice Party's mission is to ensure a better world for animals and nature through our democratic institutions of government. While the AJP, a political party, does not organise any lock-ons like those targeted by the bill, we understand the motivations of the protesters who are desperate to save our planet and we recognise that Extinction Rebellion and similar groups have similar support within our membership.

The AJP views every aspect of this bill—that is, its reasons, its intention, its overreach and its fast-tracking—as dangerously antidemocratic and a clear example of shooting the messenger. In our submission we point out that the bill was introduced allegedly to catch extremists who use booby traps and other sinister tactics, yet we are not aware of any booby traps used by environmental activists to date. We ask the committee to consider the appropriateness of the bill when no evidence of booby traps, butane tanks or glass has been provided. We object to the rhetoric used that portrays everyday Queenslanders who are concerned about the planet as terrorists whom we should fear and suggest that that is antidemocratic.

The bill ignores the climate catastrophe and instead shoots the messenger—targeting those who dare to speak up. The actions inconveniencing the public are the actions of desperate citizens who are still not seeing any government action after multiple elections and years of lobbying through the formal channels. Ignoring the problem but targeting those who speak up is antidemocratic.

The bill gives police extraordinary powers to search citizens and their vehicles just for being in possession of items that officers deem could be used as an attachment device. This leads to an extreme level of police discretion. Common household items could grant officers absolute power to search those whom they consider undesirable. Regulating whose expressions are permitted and whose are not is antidemocratic.

The AJP is deeply concerned that the Resources Council is listed as a key consultation stakeholder for this bill. This industry input is even more concerning when the bill has been fast-tracked to almost completely bypass the usual checks and balances. For example, I am here with less than 24 hours notice, and I imagine other witnesses and organisations have had trouble attending and preparing for today.

We are standing on the edge of a cliff, yet we are discussing whether we should further punish those who dare to warn us about the dangers that lie ahead. The AJP asks the committee to please review the bill in the context of the recent trend of antidemocratic laws and also from the perspective of future generations who will look back and ask what we each were doing when the earth's ecosystem was collapsing. Bearing in mind that I have not had much time to prepare, I am happy to answer questions from the committee to further help you with your inquiry. Thank you.

Mr LISTER: In your presentation you said that it would be wrong to enable police to determine whose position, or the case they are arguing, is valid and whose is not. Of course, any fair-minded Queenslander would accept that proposition. Are there not still other mechanisms for expressing dissent than the things that would be prohibited under this bill? I am talking about peaceful assembly, street marches, assembly outside parliament, speakers' corner and so forth. Is it not disingenuous to say that this bill proposes to eliminate people's rights to free speech?

Ms Kelly: To answer your question, I think people are doing all of the above already. I do not think lock-ons have taken over from anything else. We have all just congregated in the city for the climate strike—peaceful protest, no lock-ons. I think everyone is doing those mechanisms already.

The issue that we have is that I think the inconvenience to the public has come into this bill too much and the way to get around that is to give police more powers to search for items that could be deemed to, once drawn together, make a lock-on device. I get that those items have been described in the bill separately—not be a lock-on device when they are not used in conjunction with other things. However, I think we can fairly say that in our history it is quite easy to make a story out of something. I think that is what is being done and I think it is purely based on the inconvenience that is being caused.

Mr LISTER: You are representing a political party, so can we talk politics for a moment? Would you concede that there are differing views on all sorts of subjects in a democracy and some may agree or disagree with you?

Ms Kelly: Of course.

Mr LISTER: The motivations for this bill could just be that there are those who disagree with you, despite you raising awareness of the cause, who wish not to be interrupted in their lawful business and that the government is responding to that legitimate political concern. As politicians, we try to respond to what we think the electorate wants. Would you concede that point?

Ms Kelly: I do not think there has been enough push from the public to want change in legislation as quickly as this has happened. This has been so fast-tracked, I think, even for people who may not agree with what is happening. Obviously, as a political party we do not condone breaking the law. However, I do not think with the process that has happened that it is coming from a majority of the public who just do not agree with what is happening. I think this has been a push from the government to quickly round up some things that do not make it look good and are an inconvenience to it.

Ms McMILLAN: As an individual or a political party, do you believe that you have the right to all of the information that the police may have about what is contained in devices?

Ms Kelly: There is no evidence to suggest that anything is in these devices.

Ms McMILLAN: You are not aware of any evidence, or there is no evidence?

Ms Kelly: I would say there is no evidence, because if there were and this bill has been put forward I would say that it is not overly transparent if you are putting forward a bill based on evidence that has never come to light.

Ms McMILLAN: It will be interesting to hear from the QPS.

Ms Kelly: Great. I think the public is looking forward to that.

Mr BERKMAN: I want to slightly reframe the question that the member for Mansfield has just asked. She referred to whether you think we have the right to all the evidence. Do you think it is good process, when a bill like this is proposed and rights are proposed to be curtailed, that all of the evidence should be made available to justify that step by the government?

Ms Kelly: Of course. That is democracy.

Mr BERKMAN: Perhaps even in a hearing like this, do you think it might be better process for those in possession of the evidence—for example, the Queensland Police Service—to make that available at a hearing before witnesses are here giving their evidence and being questioned in the absence of that evidence?

Ms Kelly: Yes, absolutely. I am not sure how we can be making a piece of legislation—a bill coming forward—so quickly without there being pieces of evidence being put forward, especially before you as a committee, before the rights of the individuals are going to be discussed and decided upon, absolutely.

Mr BERKMAN: Thank you.

Mrs McMAHON: Is there anywhere in the bill that you can point to that identifies where this legislation targets climate activists or environmentalists generally?

Ms Kelly: On the front of this document it says that this law cracks down on potential civil disobedience by climate change protesters.

Mrs McMAHON: I am referring to the bill.

Ms Kelly: I have had less than 24 hours to be here, so no. This has been taken from the bill and I believe our proposal has been put forward from the bill.

Mrs McMAHON: Thank you very much for that—

Ms Kelly: Sorry, I do not think it is about the climate change protesters themselves; it is about the law. This bill is about the law of being able to search people with apparently lock-on devices with booby traps. It does not matter what you are protesting; that completely gives police extensive rights on individual rights.

Mrs McMAHON: If the people protesting were, say, fascists or Neo-Nazis, you are happy with—

Ms Kelly: We live in a democracy of freedom of speech. If they had gone through everything that these climate change activists have gone through—years of lobbying, voting, peaceful protests in the street—and now we are at the stage of lock-on devices and now we are fast-tracking a bill to look at that as apparently an issue other than inconvenience, that it is a safety issue, which is what the bill is trying to say, I think we are in the same place for any group of people.

Mrs McMAHON: We have your submission here. I note that submissions opened on 20 September and closed on 8 October.

Ms Kelly: Yes.

Mrs McMAHON: Do you have any comment about why you believe that was an abrogation of the time line for submissions, given that that is the standard time line for submissions?

Ms Kelly: I believe that being called to be in front of a committee does not happen in less than 48 hours. I do not believe that that is the normal protocol.

Mrs McMAHON: Did you have the standard length of time to prepare your submission?

Ms Kelly: I am not talking about the submission; I am talking about being called in front of the committee with less than 24 hours notice. Just on that, the Premier actually talks about fast-tracking this committee—to have the law in place by the end of the month. I believe they are her words.

Mr BERKMAN: I draw your attention to parts of the explanatory memorandum to the bill that describe assemblies held about coalmining, the treatment of animals and climate change. Do you feel that it is a little disingenuous to suggest that this law is completely unrelated to recent protests to do with climate change?

Ms Kelly: No. I definitely think it is targeted towards issues that the government would like to go away and I feel definitely, as the Animal Justice Party and people who care about the animals of Australia and the climate and us being members of this community to attend climate change activities, it is just a bill because people and the government have felt an inconvenience to the truth and I think it definitely targets certain groups of people.

CHAIR: That brings to a conclusion this part of the hearing. I thank you for your attendance and your written submission.

Ms Kelly: Thank you. Thank you, committee.

DE SARAM, Ms Binny, Legal Policy Manager, Queensland Law Society

FOGERTY, Ms Rebecca, Chair, Criminal Law Committee, Queensland Law Society

POTTS, Mr Bill, President, Queensland Law Society

CHAIR: Good afternoon. I invite to you make a brief opening statement, after which committee members will have some questions for you. I am not sure if you have been watching the broadcast, but I have asked people to keep their opening statements to within three minutes so there is ample time for questions. If you go over the three minutes, obviously there will be fewer questions. It is up to you.

Mr Potts: Thank you for inviting the Queensland Law Society to appear at the public hearing of the Summary Offences and Other Legislation Amendment Bill. The society is the peak professional body for the state's legal practitioners, over 13,000 of whom we represent, educate and support. In carrying out our central ethos of advocating for good law and good lawyers, the society proffers views that are truly representative of its member practitioners. The society is an independent, apolitical representative body upon which government and parliament can rely to provide advice which promotes good, evidence based law and policy.

At the outset it is important that the society sets out its strong support for the right of peaceable assembly as set out in the Peaceful Assembly Act 1992 and the Human Rights Act 2019. This right is a cornerstone of a free and democratic society. We strongly oppose the inappropriate fettering of public dissent and support measures that are narrowly drawn, targeted, necessary and proportional. We also consider that public safety and the safety of first responders should be calmly and carefully considered and balanced in the discussion of this bill. That completes our opening statement.

Mr LISTER: Mr Potts, it is good to see you again. Welcome to your colleagues from the Law Society. In a democracy people have the right to dissent. I agree with you there. What is the society's view on striking a balance between the right of citizens to go about their lawful business unfettered by those who wish to make a political statement or draw attention to their cause?

Mr Potts: We have to understand, because I suspect that there is going to be some conflation inflation, if I could use such a term—

Mr LISTER: I would not do such a thing.

Mr Potts: I am sure you would not. The right to public dissent is fundamental in a free, democratic society, as you have quite rightly noticed and pointed out properly. Dissent is not disloyalty and should never be confused with that. A person can truly love and support their own country without necessarily having to agree with the government on a daily basis. The Queensland Council for Civil Liberties put out a press release which said—

> It is our view, that protesters should comply with the law and apply for permits to protest. Having said that, penalties for those who protest illegally should reflect the fact that there is a right to dissent in this country.

It is a balancing act. Public safety is an important thing and this bill, at least in its form, talks about devices which can cause harm to first responders as well as the person utilising them and then, secondly, when they talk about monopoles, devices which can cause harm to the person who is actually using it, not first responders. The balance, we say, must be struck. Courts, in our view, should not be fettered with respect to the use of a sentencing discretion, because we say that there is a complete difference, for example, between someone blocking a large coal train which might be derailed and perhaps some 18-year-old who is blocking an intersection and yelling out, 'Hell no! We won't go!' for 10 minutes.

We say that the balance can be struck by the courts in determining appropriate penalties, but the fundamental right is for people who are protesting to do so peaceably, that there be no stifling of freedom of speech and no attempts to cool or temper that, but at the same time we recognise strongly, as I am sure your constituents would be most interested in, people being able to peaceably go about their own business without fear, for example, of biosecurity issues being harmed and people generally to go effectively about their business.

The harm that can be done is twofold. Delay, I suspect, is just simply a matter of our society. I note yesterday the Attorney-General herself was held up and could not get to a court on time because of the protest. There is some irony in that. The point of all of this is: where the balance strikes is sometimes a moveable feast. It is not easy to define, but it is simply an issue here where devices which may be booby trapped, which may do harm to first responders who, let us not forget, are just doing their job, going about their business of keeping the peace, of protecting the public, of enforcing laws—they have a right not to be harmed when they do their job.

Mr LISTER: You referred to the material provided by the Queensland Council for Civil Liberties. Am I right in inferring from what you have said that it is important to make sure that the penalties fit the crime in order, ostensibly, to allow citizens the option of breaking the law without having to suffer too much by way of penalty?

Mr Potts: That is a carefully worded question.

Mr LISTER: I might have been a lawyer in a previous life. Who knows?

Mr Potts: You may well have been. We have a very firm and strong view about the sentencing discretion not being fettered. There will always be public debate as to what is a penalty that does a number of things. One is punish the offence appropriately to a level that shows the public and the court's denunciation of that type of behaviour. Secondly, we have to then have the issue of deterrence and whether the penalty is sufficiently high to deter that person specifically or the public generally. Why I say that here is that peaceable demonstration, we say, is a fundamental right. If people then decide not to peaceably demonstrate—if they cause a danger to, for example, emergency services and the like and the penalty is imposed—we are dealing with people who have a strong belief that they are standing up for a noble cause. I am not quibbling with the cause—I am not quibbling with the reason behind it—but where there is a noble cause there is going to always be a diminishing of the effect of deterrent penalties. Quite simply, they would regard it as, to use another phrase, the red badge of courage. It is one thing to be a human vuvuzela and stand up and say things, but we have to be practical and realistic. The very fact that we are sitting here talking about this, the very fact that legislation like this is deemed to be necessary, means that the protesters have made their point. I am not sure that answers your question.

Mr LISTER: I am always happy to hear what you have to say, Mr Potts.

Ms McMILLAN: Do you believe that within the bill there is still scope for protesters to go about their business in Queensland?

Mr Potts: I will ask Ms Fogerty to address that for you.

Ms Fogerty: The QLS has offered tentative support for the bill, contingent on the fact that section 14C, the offence provisions, are so narrowly defined and they relate to the use of dangerous attachment devices—by definition, devices that are designed in some way or intended to in some way cause injury. The laws do not impinge, in our view—contingent again, and I emphasise, on the narrow definition—on protest that is peaceful and protest that, therefore, is lawful.

Mr BERKMAN: I will put a question that extends that specific issue. Thank you all for being here, of course. You have just made an observation, Ms Fogerty, and the submission also says words to the effect that the definition of a 'dangerous attachment device' is detailed and specific. I do not want to spend too much time going through the train of definitions, but it includes an attachment device that 'incorporates a dangerous substance or thing'. We have had evidence from the QCU, expressing their concerns about the very broad definition of 'a dangerous substance or thing'. For example, anything likely to cut a person's skin is a dangerous substance or thing. The example provided this morning was that paper used in a certain way is likely to cut a person's skin. Do you have any concerns about the breadth of that definition?

Mr Potts: If I can take you up, Mr Berkman. Going to section 14B(1) (a) and (b), it is not just whether it is in fact constructed or modified to cause injury to a person who attempts to interfere with it. It includes whether it reasonably appears to do such a thing. My understanding is that the devices being talked about are sometimes lockdown devices. What we have seen, I believe, up to some 20 times in this state so far is the use of devices that are referred to as dragons' dens—that is, dragons' dens/hidden agendas. The point of it is that a first responder with an angle grinder is not to know whether this device contains, for example, canisters that can explode. They are not to know whether there are jagged pieces of metal in it that can break the angle grinder and harm the person utilising the device or, indeed, the first responder. To some degree, obviously, there is a degree of preciseness, and 'monopole' is clearly defined.

Mr BERKMAN: Indeed. I want to pull you up there, because specifically section 14B(1) (c), as a standalone, states—

An attachment device is a *dangerous attachment device* if it—

…

incorporates a dangerous substance or thing.

That is where we bypass any suggestion of intent, constructed or modified to cause, and we go straight to the definition of 'dangerous substance or thing'.

Mr Potts: Sure, and I know the point that you make. It deals with three things. They are, you will see in the alternative—

Mr BERKMAN: Indeed.

Mr Potts: At the end of 14B(1) (a) it says 'reasonably appears ... or'—

Mr BERKMAN: That is right, so the incorporation of a dangerous substance or thing—that is, a piece of paper used with intent—is completely separate from those previous subsections. That strikes me as a definition that is not terribly specific.

Mr Potts: To borrow a Latin phrase, de minimis non curat lex: the law will not concern itself with trivial things, such as a piece of paper. The point I am making is: yes, a piece of paper can cut you, but if I have a gun—and it does not matter whether or not the gun is real—if you think it is a gun and you think it can harm you, you have the apprehension of an imminent harm. If I set up a gun with a shell in it and a spring-loaded device that, if touched, will shoot you, it may on one argument be a passive device because it is not going to go off unless you touch it.

The point I am making is that, yes, you are quite right: we can extrapolate and make any number of points about what could be dangerous—a paper cut, a staple in the finger and all of those are dangerous things. However, the harm that is sought here is not from pieces of paper or anything else other than those jagged pieces of metal, those exploding canisters or any other thing that may cause harm or reasonably appear to cause harm to people going about their business trying to keep the peace. That is really where I suspect it is about. If someone came along and said, 'There is some paper in there,' I rather suspect a court would take the view that it was not dangerous, quite frankly.

Mr BERKMAN: There has been a lot of discussion around this bill about booby trapping, and I suspect this is what you have referred to, which necessarily implies an intention on the part of someone to harm another, if I can put that to you. At this point we have seen no evidence of any intention on the part of protesters to harm first responders—any exploding canisters or other designed devices that are intended to hurt first responders. Is that a statement you can agree with?

Mr Potts: It is true that you have not received it. It does not mean that it is true that it does not exist.

Mr BERKMAN: The question was that we have not seen. Is that also the case for you at the Queensland Law Society?

Mr Potts: No, it is not and I will explain that. There has been a significant amount of public debate, as you have rightly pointed out. Similarly, there has been a very foreshortened and truncated process of consultation. I am a criminal lawyer by trade, as a number of you may know. As a criminal lawyer, I have a questioning mind and a fundamental distrust. If a police officer tells me something is the law, I question it. I look for proof, just as this committee should do.

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. I have to say that it came as a shock to me. I had never seen such a device. I had never heard of such a device. It was clear from the photographs that we were shown that there were 44-gallon drums that had been cut open with angle grinders and contained jagged pieces of metal and contained devices such as aerosol cans that could explode. Call it a booby trap. Your point was that there has to be some intention.

What the police officer said to us was that, more often than not, the people who were locked down with these devices, with their arms in them, were freely telling the police that, in fact, these devices—the metal and the cans—were encased in the concrete. Their reason for doing so was to not harm anybody. The protesters had no intention of harming the police. The purpose of them saying that to them was to slow down the cutting time, meaning that the police would have to be far more careful, so that there could not be a harm.

Mr BERKMAN: The point here is that the devices are designed to delay rather than to harm.

Mr Potts: They may do, just as the gun example I was giving you may delay, but it can still do harm. If a police officer was not told by a protester with a social conscience that it was, in fact, booby trapped, to use the terms of 14B, it could reasonably appear to be constructed that way. My view is that protesters do so for noble reasons generally and they do so out of a commitment to a cause, a commitment to an idea, a commitment to a future. I do not think protesters go out there to harm. However, we still have to take an overarching view of the safety of first responders, whose duty it is to both protect them and protect themselves as they go about their own job. That is where the balance lies. It is difficult, I know.

Mr BERKMAN: Mr Potts, I heard you on the radio yesterday. Without intending to verbal you—

Mr Potts: I have been verballed by the best, Mr Berkman.

Mr BERKMAN:—you were describing the distinction between lawful and unlawful protest and, in effect, that the Law Society supports one but not the other. This bill in effect changes the bounds of what is lawful and what is not, as has happened in Queensland in a really significant way over the past 50 years. Would you expect that other member practitioners of QLS or yourself, for example, have taken part in unlawful protest over the past 50 years?

Mr Potts: Mr Berkman, I will put my hand up. I have protested, I have walked down the streets—I have been the human vuvuzela—in my time for causes that are perhaps now forgotten.

Mr BERKMAN: You referred in a hearing earlier this week, if I recall, to your ash-blond hair. Is it perhaps the case that your views or those of members of the QLS on the appropriateness of lawful protest in the circumstances are actually what have changed here?

Mr Potts: No, and can I say the reasons? We made a strong statement at the commencement of this: we believe in lawful protest. We look at the piece of legislation that this committee is concerned about and it is not about lawful protest; it is about dangerous, potentially booby trapped devices and the harm that they can do. That is the point I am trying to make. It is the point that this act is not the Peaceful Assemblies Act. With respect to Mr Lister, it has nothing to do with the issues surrounding the concerns of your constituents with trespassing. It does not touch those issues of lawful or peaceable assembly, the right to freedom of speech and all of those inherent duties, obligations and powers that we as citizens of a free country deserve and expect. What it has to do with is the use of devices that can harm people. That is why, in a very narrow form, we think this legislation will achieve that effect.

Mr BERKMAN: I am deeply troubled by the suggestion, as you have referred to, that the only example you have seen, as I understand it, are these 44-gallon drums, yet we have a much broader suite of so-called dangerous devices that are affected by this.

Mr Potts: I accept what you are saying. Perhaps what I was talking about with the explosive devices—and you asked before if I had seen evidence of that and I constrained my evidence to that. I have also seen pictures of monopoles; I have seen pictures of lockdown devices around necks and the like—

Mr BERKMAN: Yes, indeed they exist. Again, the question is the intent—

CHAIR: Mr Berkman, please. Let Mr Potts answer the question.

Mr Potts: What I was addressing is this: obviously there will be cascading levels of seriousness. A device such as you will see contained in section 14A(2)—each of those things: a bike lock, a padlock, a rope, a chain—can also constrain people. That is why it says, to remove any doubt, that 'none of the following things is, by itself, an attachment device'. What we understood the act to do and its emphasis was to concentrate on the items that are booby trapped or appear to be booby trapped and that can harm the public, the first responders and, indeed, the very people who are protesting. It does not change it. Mr Berkman, sure there is a bit of snow on the roof, but do not think there is not fire in the hearth with me.

Mr BERKMAN: I would never do that, Mr Potts.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and for your written submissions.

Proceedings suspended from 1.02 pm to 1.46 pm.

FONTES, Ms Beverley, Member, Environment Council of Central Queensland

FONTES, Mr Tony, Member, Environment Council of Central Queensland

CHAIR: Good afternoon. I invite you to make a brief opening statement, after which committee members will have some questions for you. I am sure you heard my comments earlier about trying to keep your opening statement to three minutes to allow time for questioning. Obviously if we run out of questions and there is still some time left we can go back, if you feel there are other comments you would like to put on the record. So far today that has not happened. I invite you to make an opening statement.

Mr Fontes: I just need to answer a question Mr Lister asked before people arrived. He said that we had come a long way, and we have. We have come from the Whitsundays. We have travelled a long way because we feel that this is a very important issue. However, I have to be honest with you. We were sitting at the airport yesterday waiting for the aeroplane—this trip was planned to come visit our two kids in Brisbane—when we got a phone call from the environment council's president, who said, 'I heard you guys are going to Brisbane. Would you mind stepping in to the committee meeting?' We thought, 'Okay.' We are a couple of lame ducks, perhaps. We have done some preparation, as best we can. It is an important issue, but if we stumble a little bit please forgive us.

Ms Fontes: ECoCeQ was incorporated in 2014. Our principal purpose has been progressive conservation, protection and enhancement of the natural environment by raising public awareness of issues of environmental concern. As stated in our submission, we oppose the bill because we believe it is designed to restrict community obstructive opposition to taking steps required for effective and quick action on climate change—global warming caused by burning of fossil fuels. Man-made climate change is not a fringe issue and must be treated with the urgency called for by the 2018 IPCC report.

Our democracy depends upon core tenets of protected rights and freedoms. We have already heard about that from previous speakers. However, this bill not only increases penalties for protesting but, by labelling lock-on devices as dangerous, also widens alarmingly police powers to invade personal privacy by being able to accost and search individuals and vehicles without a search warrant based only upon a suspicion of someone being in possession of a so-called dangerous device.

Claims that the lock-on devices are filled with materials intended to inflict harm and therefore are dangerous we feel are unwarranted. To our knowledge, such a device has never been used in Queensland. Further, who stands to suffer significant injury and harm if these devices are used? The protester. I do not think they are that stupid. Police already have significant powers and laws to protect against any action that will endanger the public.

Further, police in large part are self-regulating. Mostly, the police investigate the police, and the police have been proven to abuse their powers. This bill takes us back to the excesses of police powers during the Bjelke-Petersen years. This would be a dangerous step backwards in relation to democratic freedoms. We do not want to live in a police state.

Throughout history, democratic changes which have liberated and enhanced the lives of oppressed people have most often required obstruction to commercial activity and civil disobedience. For example, the fight of women to obtain the vote and the apartheid movement both required devoted people to spend time in jail.

Therefore, we feel that in essence this bill is a political tool to protect vested interests—the fossil fuel industry—and to facilitate business as usual. It is actually business as usual that must change and what activists are protesting about. If activists are driven to use lock-on devices, the question would be: why have they been driven to use these devices? One answer could be that other non-obstructive civil protest is too easy to ignore and has been ignored by leaders of the government. Therefore, we see this bill as an effort to shut down protest against the fossil fuel industry, demonise protesters and sway public opinion against meaningful action on climate change.

Mr BERKMAN: Thank you both for being here. It is a long way from home but convenient that you are here and able to appear. I understand that you are both dive instructors by trade. The protests that these laws have been introduced in response to are increasing in their urgency and their frequency. I suppose that reflects the increasing urgency and the need for climate action because of those protesting. Can you from your experience describe what that looks like on the reef?

Mr Fontes: Yes, we are both dive instructors. We have lived in Airlie Beach since 1979, so 40 years of diving the Great Barrier Reef has made us very passionate about it. It is a dream job—let's be honest about it—but that dream is fast becoming a nightmare. We had coral-bleaching events, as you well know, in 2016 and 2017, well documented by the scientific community in Australia to have been

caused by global warming. Fifty per cent of the hard coral cover of the Great Barrier Reef was lost in those two years. Most of my prime dive sites disappeared in those two years. My business is not what it was. We are talking about tourism, supporting 64,000 jobs on the reef. It is not going to be able to sustain much business in the future if we lose much more of the reef.

I have been on many committees. I have made many submissions. I have walked many protest marches over the years. I have seen nothing change. I have to admit: I am not an Extinction Rebellion person. I attended one of their rallies but I moved on when the police said to move on. I can understand why the frustration levels have grown to what they have, because I have tried everything. I am not giving up, but nothing has changed. There are people braver than me now who are willing to push that envelope a little bit, and they should be respected and not put in jail. We should not have new laws created just to stifle them, because they are doing what needs to be done. I have seen the reef bleach. Perhaps many of you have not; you have read about it. Seeing it is a soul-destroying experience.

Mrs McMAHON: Thank you very much for being here. Your submission states in bold—

Devices designed to hurt themselves or others is not consistent with the principles of non-violent direct action.

With that in mind, what are your thoughts on people participating in what would otherwise be lawful, peaceful assemblies who go on to use devices that contain dangerous elements?

Ms Fontes: We would not support that. Any device that contains a dangerous element—

Mrs McMAHON: Either devices or materials that would be dangerous to either the user or the—

Ms Fontes: Personally, we would not support that. ECoCeQ would not support that.

Ms McMILLAN: In what way do you believe the bill precludes you from protesting about important issues?

Mr Fontes: One of the points that bothers me—I am not a lawyer—is the expanded powers police will have to search a vehicle without a warrant because of their suspicions. I can see that could be easily abused. I do not want to sound facetious, but what are they looking for? Why are they suspicious? Lock-on devices take many different forms. If I am riding down the street on my bicycle and I have one of those big U-locks that I use to lock my bicycle, I have a lock-on device and the police could stop me. If a plumber is going to work and his truck is full of pipes which are used primarily for lock-on devices, if you are not a plumber I suppose, it is easy pickings. That is ridiculous, of course, but such a law could be easily abused.

I am not sure why. Australia has been through years and years of civil disobedience and protests. The laws seem to have worked up until the past six months. I do not know what has changed in the past six months to warrant such an increase in penalties as well as an increase in police powers. From my perspective, it is business as usual when it comes to protesting—the same as they did in the sixties, seventies, eighties and nineties. The big difference is climate change and the fact that the state and federal governments are taking very little action to mitigate that, perhaps because they are in bed with the coal industry. That is the feeling of ECoCeQ and many of the people I work with.

Mr ANDREW: You are reef tourism operators?

Mr Fontes: Yes, we are.

Mr ANDREW: I want to ask a question about access to the reef and activism. We have been told one thing by some scientists saying that the reef is damaged; some scientists are saying that it is not. You dive at particular places on the reef. I do not know: I have seen dieback. I have fished on the reef all my life. Activism is not going to change that. Operating more tourists will not change it either. We need to have some laws to stop the unrest. We are just watering it down. What are your thoughts about how we can make it better for the reef?

Mr Fontes: I am not a scientist. I certainly read the science. More importantly, I believe what my eyes see. There is no doubt in any credible Australian scientist's mind that the Great Barrier Reef is under the greatest pressure ever, primarily due to climate change and the associated impacts such as coral bleaching, ocean acidification, rising sea level et cetera. There is no easy solution. It is a global problem—I understand that—but the only solution to a healthy future for the Great Barrier Reef is immediate action on climate change. It is simple.

There are a lot of local problems such as water quality, crown-of-thorns starfish, development dredging et cetera that can be resolved within Australia. That will make the reef more resilient but it will not save the reef for future generations. The only way to save the reef for future generations is to mitigate climate change. The only way to do that—and where Australia has an extremely important role—is to transition from fossil fuels to renewables as quickly as possible. That is not an easy thing to

do, but it is very possible. We have the technology. With regard to the healthy future of the reef, to answer the member, the activists are spot-on because that is what they are asking for. They are asking for a quick transition from fossil fuels to renewables, and that is the best thing we could do for the reef.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and your written submission.

PRITCHARD, Mr Iain, Frontline Action on Coal

WIXTED, Mr Nicholas, Frontline Action on Coal

CHAIR: I invite you to make a brief opening statement, after which committee members will have some questions for you. Iain, you were here and you heard my recital about the three minutes?

Mr Pritchard: Yes, I was. Thank you, Mr Chair, and good afternoon to the members of the committee. I would like to acknowledge the traditional custodians of the country that we meet on today, the Jagera and Turrbal people of the Yuggera nation and pay our respects to their elders past, present and emerging.

Locking on has a long and proud tradition in Australia. Back in 1965, the tactic of locking yourself to things was used by two women, Merle Thornton and Rosalie Bognor, who famously chained themselves to the 'members only' bar at Toowong's Regatta Hotel and demanded the right for women to be served. In 1989 the first tripod in the world was used to lock down the South East Forests National Park near Eden in New South Wales to preserve three areas of old-growth forest from destruction. These peaceful techniques and the use of nonviolent actions are at the core of Frontline Action on Coal's principles.

Safety is paramount. The safety of protesters, the safety of workers, the safety of our amazing emergency services, the safety of members of the Police Service and the safety of the public is at the forefront of any actions undertaken. This core belief in nonviolent direct action and peaceful action is passed on at every opportunity and also includes being nonviolent in verbal and body language, being nonviolent in personal conduct and safely using any equipment to lock on. There is a really good reason for this. Ultimately, we strive for a safe future, and violence in any shape or form is contrary to our motives. Mr Chairman, I would like to table three photos at this point if that is okay.

CHAIR: Can we see them first? Then I will ask for a resolution from the committee to adopt them. The photos are tabled.

Mr Pritchard: As you can see in these photos, protesters choose to put their own bodies in vulnerable positions. In doing so, they are appealing to the humanity of police and others to treat them with care and respect. The presence of the tools used to lock on actually helps maintain a peaceful atmosphere for police, workers and protesters alike. The arrestees are passive and the police can act lawfully. As a tool of nonviolent civil disobedience, using tools to lock onto something avoids risky group standoffs, which can be avoided with the one-on-one interaction that these tools provide.

Frontline Action on Coal opposes the rationale and content of this bill. Central to the premise of this bill is the notion that lock-on tools are dangerous. This appears to be a constructed fiction, a lie sold to justify the bill. I will quote from the explanatory notes to the bill, which state—

> It has been reported some people have claimed that they have placed glass or aerosol cannisters inside devices such as 'sleeping dragons' and metal fragments have been used to lace the concrete found in 'dragon's dens'.

The Premier herself has specifically declined to make the basis for these claims public. The premise of these claims is that these lock-on tools are used for the purpose of causing harm. I have been a part of Frontline Action on Coal for quite a few years, and I have never seen or heard of this tactic being used. It would completely go against the principles of nonviolent direct action that are shared and upheld on all occasions. These new laws seem to be more about demonising everyday people who are standing up for their future, the future of their children and all generations following them rather than being about public safety. While the tools used to lock onto something are inconvenient, it is quite hard to imagine how a person with one or both hands locked into equipment could be anything but nonviolent. Laws like this endanger the health of our democracy, our environment and climate and all of our futures.

Mr LISTER: In my electorate of Southern Downs I have spoken with landholders who have had protest invasions on their properties and at abattoirs and so forth. One of the common things they have said to me is that the idea that a protest is peaceful can have different meanings depending on who you are talking to. Whilst there may be no violence, there can be psychological impacts on the owners of properties, the families who live there and very extensive financial losses occasioned. Allowing that the definition of peaceful protest as you understand it is correct, how do you account for the rights of those who are inconvenienced or have substantial costs occasioned as a result of the political protests of others in which they have had no say or initiative?

Mr Pritchard: It is a really good question. We have to take into account people's feelings. This is why safety is always paramount, and not just physical safety—mental safety, as we heard earlier this morning with regard to the safety of train drivers. That really figures into nonviolent direct action as

to how we mitigate those mental health issues that may come up from anybody witnessing a peaceful, nonviolent direct action. It is something we think about all the time. It is not something we can totally control all the time. As you said yourself, perception is totally different to so many different people, but it is something that we factor in. We really look at all areas of safety before an action is undertaken.

Mr LISTER: What about other impacts such as economic impacts, for example? What would you say to the family of a business that was impacted, be it someone trying to get to a job, milk their cows or do their morning kill at the abattoir, who have been prevented from doing that with no say in the matter by those who wish to make a political statement?

Mr Pritchard: I do not think they are always political statements; I will just answer that. I totally understand people who are inconvenienced. If people lose money because of protest action, I guess that is why we have laws in place that can order restitution. I cannot help inconveniencing people. With the movement to protect this place we call home we cannot help inconveniencing people, as long as it is done peacefully and nonviolently to create lasting change.

Mr Wixted: I would just like to add that if you want to use inconvenience as a measure of whether protest should be allowed or not, that is very subjective. That is not relevant to these devices. If we start using inconvenience as a rationale for shutting down one type of protest, what is the difference between that and saying we are not going to allow street marches during peak traffic hours? That would also be an inconvenience. I think the justification for any new laws has to be about people's safety, not just mere inconvenience.

Mrs McMAHON: Mr Pritchard, in your opening statement you made reference to historical instances of civil disobedience that resulted in changes to laws, such as the 1965 Regatta Hotel incident where ladies famously chained themselves to the bar of the Regatta Hotel. Is there anywhere in section 14C of this bill in which that particular action at the Regatta Hotel would invoke an offence under this bill?

Mr Pritchard: I have had a very, very short time to have a look at any of this.

Mrs McMAHON: I will caveat my question by saying that section 14C of the Summary Offences Act prohibits the use of dangerous attachment devices.

Mr Pritchard: As was said earlier, perception is a big thing and, yes, a chain could be perceived as dangerous but—

Mrs McMAHON: But it is not included in the definition of dangerous attachment device.

Mr Pritchard: It was more bringing to the point that locking onto devices, which these devices are used for, is at the heart of this and that locking onto things using tools that enable you to do that has a rich, proud history in Australia.

Mrs McMAHON: Going on to dangerous attachment devices, certainly as an organisation that supports the principles of nonviolent direct action, I note that your submission, much like many others, has raised concern about the lack of evidence provided for that. If presented with evidence that people have been using devices that are laden with other dangerous items, whether that be metal shards, aerosol canisters or glass, what would be your organisation's position on the use of those types of devices as part of nonviolent direct action?

Mr Pritchard: Our position would not change. Everything that we do is about safety for protesters, workers and the general public. As I said, in my years with Frontline Action on Coal I have never seen or heard about a tool used to lock on being booby trapped to harm anybody.

Mr BERKMAN: To be honest, I feel like most of the questions I might have asked have been directly answered. We have had questions about what is and is not peaceful in the context of nonviolent direct action or peaceful protest. On the point of nonviolence, I am interested in the way you distinguish between disruption and violence. Disruption and harm appear to be ideas that are central to the motivation for this bill. Do you have any further comments?

Mr Pritchard: I feel there is a huge difference between violence and disruption. Yes, protest actions can be planned to create disruptions. They can be used to create delays. They can be used to create attention. There are lots of different reasons for escalating to direct action. In all of those escalations, yes, there very well could be disruptions—disruptions to trainlines, commuters, businesses—but all of those are done peacefully. A very peaceful march can create major disruptions. There is a massive difference between disruption and violence.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and we thank you for your written submission.

Mr Pritchard: Thank you.

JONES, Mr Steven, Member, Bar Association of Queensland

CHAIR: Good afternoon. I invite you to make a brief opening statement. As you have been here for most of the morning, you would have heard me say to contain it to three minutes. We are at somewhat of a disadvantage in the fact that we have not received a written submission from the Bar Association which is, in these circumstances, unusual.

Mr Jones: Perhaps. Thank you for the welcome, Chair. By way of introduction, I am a barrister and a member of the Bar Association's Criminal Law Committee. To answer your question, it is not unusual. It was a situation where the bill was provided to the association for comment. It was viewed as being essentially an enhancement of pre-existing police powers to deal with perceived risks that were being developed by protesters, both here and overseas. We viewed it as being that the enhancement to the police powers was still limited by the court. As Mr Potts rightly pointed out, the courts have an unfettered opportunity to interpret the legislation if this bill becomes an act. No response was provided, but we thank you sincerely for your invitation to participate in this public hearing.

CHAIR: Is that your opening statement?

Mr Jones: That could be regarded as such, thank you.

Mr LISTER: Thank you very much, Mr Jones. As you are a barrister, I feel that you are a good person to answer this question. In the early nineties the Electoral and Administrative Review Commission did a study into what shape we should see our right to protest in Queensland. There was a report on it. One of the committee's recommendations was that 'peaceful' not be defined and that that be left in the province of the courts. What is the typical interpretation of the term 'peaceful' in this context by the courts, as you have seen it?

Mr Jones: Perhaps it might be best to take that question on notice. As I prefaced, I am a member of a committee so I think it would be best if the committee responded rather than me giving you a personal view.

Mr LISTER: Thank you.

Mr Jones: More to the point, you are referring to the 1990s and I was not practising in Queensland at the time. My practice is criminal law. The definition of whether a demonstration is peaceful or not peaceful is not a subject that regularly comes up in case law. I apologise for not being able to respond to you, but I think the most efficient way of dealing with that is to take that on notice.

Mr LISTER: Yes, particularly in the context of civil disobedience, dissent and so forth. Thank you.

Mr BERKMAN: Thanks very much for being here, Mr Jones. I want to start with one point in the explanatory notes. A short passage states—

Alarmingly, some people have made use of attachment devices that have also been constructed or designed in such a way as to endanger themselves, emergency service workers and potentially members of the public.

The next passage is the part I am most interested in. It says—

It has been reported some people have claimed that they have placed glass or aerosol cannisters inside devices such as 'sleeping dragons' ...

It goes on. You are a professional advocate. You deal with evidence routinely. How does the idea that 'it has been reported some people have claimed' stack up in terms of actually supporting claims about construction and design intended to harm people?

Mr Jones: I would agree with the content of your question. It does not provide what one would describe as evidence to support that statement, from a reading of that documentation. I also indicate 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. I really cannot advance where that statement may be based on facts or where those facts were contained.

Mr BERKMAN: Yes. It is perhaps worth putting on the record that, having sought a briefing from the Police Commissioner in terms of trying to get my hands on the evidence to substantiate the claims made by the Premier and the police minister, I was denied such a briefing yet apparently QLS was given one. I will move to the contents of the bill very quickly. I believe you were here earlier when there was some discussion about the definition of 'a dangerous attachment device' and, within that, that one of those subcategories of 'dangerous attachment device' is an 'attachment device that incorporates a dangerous substance or thing'. Do you remember that discussion?

Mr Jones: Yes, I do.

Mr BERKMAN: The QLS position that this definition is detailed and specific is what I am concerned with. The explanatory notes state—

… a 'dangerous substance or thing' is defined to mean:

- anything likely to explode when struck or compressed causing injury to a person;
- anything 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.

That strikes me as a very broad definition. For example, we have seen the paper cut example. In most workplaces you have to wear safety equipment to safely handle soil, for example, to avoid the risk of bacterial infection. Do you have a view on whether that is in fact a detailed and specific definition?

Mr Jones: I would suggest that the definition would await clarification from the courts. It is a situation where that is a broad definition, but I would imagine that the drafter who took their time to carefully prepare that definition was looking in the broadest possible terms—in other words, to cover the field of the likely threats or risks that might be encountered in those circumstances. That is not unusual in the drafting of a bill where a definition will appear to be quite ambiguous because of the necessity to cover the field of conduct.

Mr BERKMAN: In that attempt to cover the field, though, if I understand your answer correctly, we are left with a circumstance where the definition of 'dangerous attachment device' is inherently broad until the court clarifies for us what that is.

Mr Jones: In that regard. The example that has been offered is a paper cut. It could be argued that a piece of paper, given circumstances, could sever or part the top layers of skin. Whether that is sufficient to be regarded as cutting skin, you would have to look at a medical opinion in regard to that evidence. We have to accept that the skin has many layers. When we have a paper cut, it is not going down and perforating all the layers of the skin. There is cutting of superficial layers and nerve damage being occasioned, but, again, it is a situation where the definition says 'perforating the skin'. The skin has many layers.

Mr BERKMAN: Yes. It seems apparent from your answer that there is in fact quite a lot of surrounding evidence and uncertainty around how that definition might play out. If we look at that following subsection—'any substance or thing that requires a person to wear protective clothing to safely handle, cut or break up the thing'—again, it might seem a trite example, but, as I said, virtually any workplace will now require you to wear safety equipment when handling soil. That would, on a straight reading of the section, fall within the definition of a 'dangerous substance or thing'.

Mr Jones: I take your point. However, when the same type of question was put to Mr Potts the response was that the courts would be able to determine the scale or range of actions. We can discuss this—

Mr BERKMAN: Indeed. I do not intend to waste your time. I am sorry.

Mr Jones:—as a good dinner starter, but, when it comes down to it, it remains that the actions of police, if they take action, have to be supported and have to be justified because they are going to be examined by a lot of oversight, particularly in these high-profile types of situations. Not only is it going to be the court that examines; the integrity authorities for the police would also be examining.

Mr BERKMAN: Indeed.

Mr Jones: There is also the often referred to *Courier-Mail* test. It is certainly not a situation where these things are going to be operating in isolation.

Mr BERKMAN: No, but if I can summarise broadly, if I understand your responses properly, the breadth of the drafting here, while we cannot assume it will take such trivial examples as I have given into that definition, takes the final meaning of that almost entirely out of the legislature's hands and puts it in the hands of the courts and police?

Mr Jones: To some extent—and that perhaps is not ideal in a codified state.

Mr LISTER: In the course of the hearing today and in a great deal of the written material that has been submitted to the committee this bill has been portrayed as an attack on free speech and a criminalisation of legitimate dissent tactics in a democracy. Would the Bar Association concur with that characterisation?

Mr Jones: No.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance.

AUSTEN-BROWN, Ms Faye, Senior Lawyer, Caxton Legal Centre

BURTON, Ms Bridget, Director, Human Rights and Civil Law Practice, Caxton Legal Centre

CHAIR: I welcome representatives from the Caxton Legal Centre. I invite you to make a brief opening statement of no more than three minutes and then we will have time for questions.

Ms Burton: The Caxton Legal Centre has a long history of supporting peaceful protest and freedom of political communication in Queensland, and thank you for inviting us to give evidence today. The right to peacefully assemble for political protest is a fundamental human right. This bill limits that. In justifying the limitation, we have been told that the lock-on and other devices being targeted are dangerous. As many people have mentioned, that has not been supported by evidence. In fact, the dragon's den and sleeping dragon devices in particular are extraordinarily passive and nonviolent. They place protesters in a state of great vulnerability. What they really are is inconvenient and disruptive. Disruption and nuisance are legitimate purposes for regulation but they demand a different response compared with dangerous behaviours. The response must be particularly careful when disruption on the one hand is being balanced against human rights on the other.

Importantly, there are many less restrictive and reasonably available ways to respond proportionately to disruption and inconvenience. Our new Human Rights Act reminds us this is important. Specifically, there are existing laws that deal with all these matters in Queensland. Our public nuisance laws are among the most used public order laws in Australia. We also have abundant strong laws to deal with any actual violence or dangerous conduct.

Attaching higher penalties, specifically imprisonment, to the physical things associated with protest related disruption, compared with the disruption itself, functions to separate and overregulate political protests compared with similarly disruptive but apolitical acts. For example, the new proposed 14C(1) has a maximum penalty of 50 penalty units, or two years in prison. This section gives an example of placing an obstacle on a railway, but this is already an offence under section 255 of the Transport Infrastructure Act. However, the penalty is a fine only—200 penalty units. This is a proportionate penalty. A term of imprisonment is in our view excessive.

The rush on the bill has also cultivated a sense of emergency, risking an 'us and them' binary, pitting protesters against the state. This, combined with the proposed laws and the associated perception of a crackdown, creates a danger in itself, making it more likely that clashes involving police will occur. A human rights response demands calm and careful consideration. It remembers our history and honours the difficult progress we have made in Queensland towards good relations between community and police, including protesters.

The impact is also not fully thought through. Many of those currently locking on see arrest as a political act in itself and will innovate. The hundreds of thousands who believe in the cause but who are not locking on are already deterred by the existing law. Appearing to crack down on protesting may have a chilling effect on protests, which would be disturbing, but what is more likely is more protest, less communication and dialogue, and dragging in the whole justice system to what could just be handled by a thoughtful policing response. Democracy needs protest. Nonviolent does not mean nil impact. Managing this situation needs maturity and proportionality. We will take any questions you have.

Mr LISTER: Thank you very much to representatives of the Caxton Legal Centre for coming today. I want to be very careful not to put words in your mouth. I go back to the beginning of your statement to us. Am I to infer that you see it necessary to balance the rights of people to go about their lawful business with the rights of people to break the law?

Ms Burton: It is not a right to break the law. What I am saying is that a human rights response balances different rights, but it also reminds us that human rights are quite different from interests. When you are weighing on the one hand someone's human right to protest against disruption and inconvenience, you have to give greater weight to the right to protest than you do disruption and inconvenience. Just to be clear, we do think the breaches of the law that have been seen through this week are appropriate matters for legal regulation. There have been a number of arrests made. I am not suggesting that that is not a problem. I am saying the response needs to be proportionate.

Mrs McMAHON: I have read through your submission. In the section where you speak about possession and use of dangerous locking devices, you raise the potential for an alternative use of section 327 of the Criminal Code, which is setting mantraps. It is not a piece of legislation in the Criminal Code that I have had a lot of dealing with. I imagine it is not an often used charge. In fact, your submission almost says that it does appear to be somewhat outdated but nonetheless is still there.

I note that 327 really talks about a threshold of intending to kill people or otherwise cause grievous bodily harm. You do mention in your submission that perhaps a massaging of 327 could make it more appropriate to the justification for this particular bill. Do you have any thoughts on that level of threshold where 327 could not be used unless you could prove there was an intent to cause grievous bodily harm, which through the court system is a fairly high threshold to be able to prove? Could you elaborate on your suggestion?

Ms Burton: I am not sure we have suggested massaging that provision. Our point is that there are ample provisions within the existing law that cover actual situations of violence. We have also put 317 in our submission. That would appear to cover potentially the scenario that Bill Potts was mentioning this morning and the anecdote he was telling. I would be curious to know what charge has been laid in that case, and I imagine it is potentially one of these. We could not see, looking through the existing provisions, that that particular behaviour they were talking about could not be subject to existing charges. One thing that has been a feature of the protests that have been going on is that criminal charges have been laid as a result. That is a continual feature. We have seen a lot of that.

Mrs McMAHON: Your submission specifically states—

Given that the section still exists in the Code, it is arguable that its use could possibly be extended to cover the type of item …

I did not mean to use the word 'massaging' and put it in your mouth. That was the intent that I picked up from your submission.

Mr BERKMAN: Thank you both for being here. Before I get to the questions I had planned, I want to touch on part of the discussion I had a moment ago with Mr Jones about the uncertainty in that definition of 'dangerous substance or thing'. The uncertainty that exists is inherent, as he said, in that definition. The courts and the police are more or less, as it is drafted now, going to be left to determine what that means. As a community legal centre, I guess you are in the best position to assist the committee with what sort of legal resources are likely to be available to any protester or activist who is going to have to try to establish a case within that sort of very unclear definition. Do activists generally have lots of really good, hard-hitting legal representation to try to wend their way through an uncertain definition like that?

Ms Burton: If imprisonment is likely, they would potentially be eligible for legal aid—that is, a lawyer provided in order to deal with that particularly serious impact. For some of these, imprisonment is a possibility and they might be eligible for legal aid assistance. Otherwise, they would pay for a lawyer or they might be able to find somebody who would do that pro bono.

Ms Austen-Brown: But it will have a massive impact on the criminal justice system down the track in terms of adjourning matters, for creative legal arguments to be heard.

Ms Burton: One of the big problems we see with this is that what is currently a protest on the streets will be moved into the criminal justice system and it will pull in a whole range of criminal justice system actors who currently would not have to deal with this. I believe the intent is that it will include the prison system, which is an extraordinarily expensive way of dealing with this sort of behaviour.

Ms Austen-Brown: Particularly when there is overcrowding in all the prisons in Queensland as it is.

Mr BERKMAN: I did want to touch on the points that have been made in your submission about the lack of evidence to support the laws and flesh that out a bit. I am interested if you have anything more to say about the distinction that the committee should consider between evidence of things that may cause harm and evidence of an intent to cause harm on the part of the protesters.

Ms Burton: One of the features of the day is this idea of there being a risk. We heard earlier that there have been no close calls in the trains and we have heard that the intention is to get the risk down to nil. The suggestion is to eliminate all manner of risk. If there is a risk, we need to know exactly what that risk is and be able to interrogate that. Sometimes if the risk is to business or if the risk is to convenience or if the risk is to people being able to get to work on time, then that is not a risk for which a heavy-handed legal response is demanded. The fact that there has been no evidence produced to establish the precise risk—there have been reports of claims—is concerning to us.

I am also very concerned about the fact that it seems as though we have been told that that evidence may be provided by the police at the end of today. I do not know whether that is the case, but that is a very strange way for us to come out and say, 'What would you say if there was evidence? We may provide it later.' I do not think the foundation for designating sleeping dragon and dragon's den devices in particular as dangerous has been made at all.

Mr BERKMAN: I was going to ask that question too. My experience on committees has been that the public briefing would happen ahead of a hearing. Indeed, that was the plan for the committee's proceedings on this bill until it was fast-tracked a day or two ago. Have you any experience before committees where the public briefing has been withheld until after you have been given the opportunity to give evidence?

Ms Burton: I have not, no.

Mr BERKMAN: Thank you. I suppose this is something that you have addressed in some detail as well. You have talked about there being offences that already exist for actual situations of violence—offences in relation to the Potts example we are yet to see evidence of, where there may be some intent or the potential of harm coming about. It strikes me that there are offences that exist already for effectively all of the conduct we have seen in these disruptive protests over the last week. Could you comment further on that?

Ms Burton: As far as I am aware, that is the case. What we are looking at here is redesignating peaceful protest as dangerous protest and treating it accordingly, but it is really just a label. It is not going to make that particular thing less peaceful and less nonviolent by labelling it dangerous.

Mr BERKMAN: Is it fair for me to summarise what you are saying effectively that we are making these activities dangerous by definition and not necessarily in any other sense?

Ms Burton: It is possible that increasing that culture of 'us and them' between protesters and the state potentially can lead to an increase in conflict. The other thing is that one of the great safety features, one of the very protective factors, is great communication. The more that you crack down or even appear to crack down, the less communication there is. In our experience, one of the reasons there have not been more injuries as a result of some things that have the potential to be dangerous is that there has been great communication—communication from the protesters, communication from the police. During G20, the Caxton Legal Centre led the independent legal observers and we observed that great communication is the key to preventing these small risks from materialising. That is where we think the government's focus should be. That is the dialogue model that the Human Rights Act asks us to engage in. Cracking down is only going to make that less likely to occur.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance and your written submissions.

BALL, Ms Julie, Principal Lawyer, Queensland Human Rights Commission

McDOUGALL, Mr Scott, Commissioner, Queensland Human Rights Commission

CHAIR: Good afternoon. I invite you to make a brief opening statement, after which committee members will have some questions for you.

Mr McDougall: Thank you for the opportunity. I want to make three points. Firstly, whilst the key operative provisions of the Human Rights Act have not yet commenced, nonetheless we believe that the committee should properly assess this bill for its compatibility with human rights. I acknowledge that to some extent the explanatory notes have identified some of the human rights that have been engaged. 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.

Secondly, the rights to peaceful assembly and freedom of political expression go to the very heart of the democratic process. It is recognised in international law, therefore, that governments have an obligation to accommodate and protect those rights. I want to refer to paragraph 53 of the Human Rights Committee's general comment No. 37, which says—

> It is in the nature of assemblies that they sometime disrupt the daily exercise of rights such as freedom of movement. This has to be tolerated, unless it imposes a disproportionate burden, in which case detailed grounds for limitations must be provided. Claims that an assembly will result in the undue disruption of traffic and the movement of pedestrians must be substantiated to allow a full assessment.

The last point that I would like to make—and this in my view is very important—is that the explanatory notes have not yet fully addressed the issue of the inadequacy of existing laws in responding to the potential risks of these devices and, in particular, the public safety risks.

Mr LISTER: Could I put something to you and get a response? Today a lot of people have come before us and we have had a lot of submissions. They have been overwhelmingly critical or cautious about the bill before us. You talked about the need to accept that there will be inconvenience and disruption to freedom of movement and that that must be allowed unless it is—I think your word was—disproportionate in its impact. Given that the devices that are proposed to be prohibited under the bill are specifically intended to prolong a protest event and maximise that inconvenience and impact, can we really say that outlawing them is this flagrant encroachment on the civil rights, the human rights, the freedom and political expression of Queenslanders? Are we going a bit too far in accepting that?

Mr McDougall: In accepting lock-on devices as a form of tool that is used in public—

Mr LISTER: In contending that what is proposed in this bill amounts to a genuine attack on people's right to express themselves politically, to dissent from the government, to bring community attention to their cause. None of us would disagree with the fundamental principle that the right to dissent and draw attention to your cause is an underpinning, essential part of our democracy, but is it really a bit much to say that our human rights are being encroached upon because of the outlawing of devices that are talked about in this bill? Really?

Mr McDougall: I think part of the difficulty with this truncated process is that there needs to be a testing of the claims about those devices. Inherently, the devices are not dangerous. The circumstances in which they may be deployed could be dangerous. When the minister tabled the bill he referred to reports and claims. Unfortunately, I have not had the opportunity to observe today's hearings so I do not know what evidence is before the committee, but those claims have not been substantiated. It is not possible to assess—

Mr LISTER: I am talking about what you referred to in the sense of the necessity of accepting an interruption to the right of free movement in order to enable this freedom to operate. Given that these devices, aside from any conjecture about being booby traps and so forth, are explicitly designed to prolong a protest and frustrate attempts to move a protest on and, therefore, have a greater chance of having a disproportionate impact—tens of thousands people on the road trying to get home, ambulances, people operating businesses and things like that—in that context, is it really on to say that this is an encroachment on the human rights of Queenslanders?

Mr McDougall: I think it is potentially. It is always a question of degree. From what I understand of the protests that have occurred in the CBD this week, the existing laws that police have have managed those situations and the disruptions have been reasonably minimal and I think well within what is considered proportionate in international law.

Yesterday I was listening to the radio in the morning and heard that a catamaran was on the corner of George and Elizabeth and that a number of protesters were attached to it. The impression I got was that that was dealt with fairly quickly and professionally by police. Interestingly, on the radio

they went straight to the traffic report and Brad said, 'The traffic is moving on and there has been a fairly minimal disruption.' To me, that demonstrates that the nature of those particular protests was well within the range of disruption that a society that values human rights and values the role of protest in a democratic state would be prepared to tolerate. I think it is the role of our leadership to educate the community about the value of those human rights and it is something that we should be proud of as a community.

Mrs McMAHON: This is probably a very broadbrush question. When we consider the inherent right for peaceful assembly and freedom of expression, those are not the be-all and end-all, particularly when you have to balance it, as the member for Southern Downs was talking about. I would refer to it as not necessarily an inconvenience but actions that may pose a risk or a danger to other people. Where does that line go between the freedom of assembly, the freedom of expression and those particular uses that then present or pose a risk to others?

Mr McDougall: Again, this would be the value of having an extended consideration of this bill, because you could then fully explore the scope of the right. The right protects only peaceful protest, and I think that is a really important point for the protesters to bear in mind.

When you are talking about the dangers, obviously I would have a lot of concern about police officers who are forced into a position where they are having to use power tools to dismantle some of these devices. However, they are expected to be professionally trained and we have a very professional police force that have managed these protests to date. Again, if there were evidence produced about the so-called booby trapping of devices and the nature of the devices, that they did cross over into the realm of bringing in a violent element necessarily into the protest, that is something that could be looked at.

Julie Ball would be in a much better position to talk about the specific scope of the right as recognised in international law, but it is fairly clear that the right of protesters extends to any of their behaviour that falls short of them perpetuating violence. If there is a violent response against them, they are still protected.

Mrs McMAHON: About three weeks ago we had the climate strike march in Brisbane and around Australia. It was quite extensive in terms of its scope, the number of participants and also the length of the march and the routes that were taken on both the north and south side of the river. Certainly, I would imagine that there was a vast amount of disruption that occurred with that and a significant policing presence that was required to ensure that that particular activity went off without any arrests. Putting aside the efficacy of that type of action in effecting the change that is desired, is there anything in this bill that you see that would jeopardise those types of actions in the future?

Mr McDougall: Only if participants of that protest decided that they were going to use devices that are deemed by the act to be dangerous. It is interesting that the act prohibits only the unreasonable use of these devices. That is one of the difficulties that I had with the concept of giving the police powers to search for these items that are not prohibited as such. There is no problem possessing these items. The only problem is using them in a protest in an unreasonable way, yet the police will be given the power to search, confiscate and destroy an item that is otherwise lawful to possess. That just does not sit very well with me.

CHAIR: This will be the last question.

Mr BERKMAN: I would like to ask first of all, given that this session was not due to finish until 3.15, if the chair is minded, are you available to stay and answer questions until 3.15?

CHAIR: I am the chair.

Mr BERKMAN: Obviously, if the chair is minded—

CHAIR: No.

Mr BERKMAN: It is just a question I put—

CHAIR: No, it is an inappropriate question. The 15 minutes allocated for the commissioner to come along is exactly what has been done. The program moved forward because people did not turn up. That is all that has happened. I have not truncated the presentation.

Mr BERKMAN: No, I did not suggest as much. I was simply suggesting that in the additional time available we might use that time to ask questions of the commissioner and principal lawyer, given that they are available.

CHAIR: If you want to move a resolution we will go out and have a private meeting and you can move that resolution and it will go to the committee. That is the process.

Mr BERKMAN: That is fine. I will use the minute and a half that you have left me with. Thank you kindly. Mr McDougall, thank you for being here. Is it possible for you, in the time remaining before this bill gets back to the House, to prepare what would be the equivalent of a statement of compatibility and share that with the committee and the House for our consideration?

Mr McDougall: I do not know what the time frame is, sorry. Can you elaborate?

Mr BERKMAN: I understand at this point that we are expecting the bill to come back before the House in the second sitting week in October, which gives us about two weeks at best.

Mr McDougall: To be honest, that would be quite difficult given the current capacity of the commission. We have lawyers coming on board in the next few weeks. If we were given the opportunity and requested to, we could certainly have an attempt at doing that.

Mr BERKMAN: Whether or not the committee is interested in it, could I perhaps, as a member of the Legislative Assembly, ask for your assistance in assessing this bill against the yet not in effect Human Rights Act?

Mr McDougall: To some extent we have already done that.

Mr BERKMAN: I appreciate your submission very much.

Mr McDougall: And we certainly can, if requested. I would have to take that on board and consider it.

Mr BERKMAN: I would like to put on the record that I am terribly disappointed that the chair is choosing not to make the most of the opportunity we have to ask questions of you here, given the very important human rights ramifications of this bill, the fact that you are available and the fact that the program allows time. I think it is yet another indictment on this government's approach to the importance of our rights.

CHAIR: I thank the commissioner for coming along. I note that you said you will take on board the suggestion from the member for Maiwar.

Mr McDougall: It would not be a statement of compatibility; it would be a further submission, in effect.

CHAIR: My understanding is that the act is not in effect.

Mr McDougall: That is right, so it could not be a statement of compatibility as such.

Mr BERKMAN: An analogue was really what I was asking for.

CHAIR: Do not interrupt me. I thank you for your attendance, but I take on board that the act is not in effect and therefore I do not believe the committee can be asking you to do that.

Mr McDougall: Just to be clear, it is not the role of the commission to produce statements of compatibility. It is the role of the minister. Chair, if requested we would be happy to have an attempt, within the bounds of time, to give a further submission if that was thought helpful.

CHAIR: We can communicate between the secretariat and the commission in relation to that. Thank you. Thank you for your attendance.

Mr BERKMAN: So we will be adjourning now?

CHAIR: We will now adjourn for a short break and recommence at 3.15.

Proceedings suspended from 3.02 pm to 3.15 pm.

BROWN, Mr Anthony, Acting Director, Legislation Branch, Queensland Police Service

CODD, Mr Brian, Acting Deputy Commissioner (Regional Operations), Queensland Police Service

CRAWFORD, Mr Peter, Assistant Commissioner, Brisbane Region, Queensland Police Service

HENDERSON, Senior Sergeant John, Legislation Branch, Queensland Police Service

REEVES, Senior Sergeant Andrea, Legislation Branch, Queensland Police Service

WILLIAMS, Inspector Shane, Major Events Planning, Queensland Police Service

CHAIR: Welcome back to the committee's public hearing on the Summary Offences and Other Legislation Amendment Bill 2019. I now welcome representatives from the Queensland Police Service. Good afternoon and welcome. If you would kindly make an opening statement. You have 10 minutes within the time frame to make your opening statement. If it goes shorter there is no problem. If it goes over a little bit I do not think it is going to be an issue either.

Deputy Commissioner Codd: Thank you, Chair. Could I say good afternoon to you and all the committee members and thank you for the opportunity to brief you in relation to the Summary Offences and Other Legislation Amendment Bill 2019. I usually talk slower but I am mindful of the time. Before proceeding I would like to acknowledge the traditional owners of the place upon which we gather here today and pay my respects to elders past, present and emerging. I note the desire of the committee for introductory comments to be brief in order to allow specific questions by members of the committee so it is my intent to assist the committee by providing an overview of the proposed legislation from a QPS perspective.

This afternoon I am accompanied by my colleague Assistant Commissioner Peter Crawford from Brisbane police region. Through his experiences with the recent Commonwealth Games and his role as the assistant commissioner for Brisbane region, he is very well positioned to provide the committee with more specific information about recent protest activities, particularly here in Brisbane, and the police response to them if I am unable to assist you with that granularity. We are also joined here today by another colleague in Inspector Shane Williams, who we regard as an expert in terms of the training and provision of protest response and other mass gatherings as he was during the Commonwealth Games. He is also responsible for directing a lot of the training of our officers so should be able to help in that degree of granularity as well. I am also accompanied by QPS colleagues Acting Director Tony Brown, Senior Sergeant Andrea Reeves and Senior Sergeant John Henderson from our legislation branch, and these members are also available to assist the committee during today's briefing as you might require.

I think it is important to commence by clarifying the purpose and the functions of the Queensland Police Service. This might seem unnecessarily obvious, but from my perspective it appears that there is a level of misunderstanding and perhaps some inaccurate assumptions around this that are particularly pertinent to what we are discussing here today. The function of the QPS is articulated in section 2.3 of the Police Service Administration Act 1990. While I do not intend to take up your valuable time with a full recital of the entire section and its seven functions articulated in the subsections, I think it is important to highlight particular relevant functions that we perform on behalf of the Queensland community and according to law. In addition to the oft spoken about function of the detection of offenders and bringing of offenders to justice, your Police Service is tasked to serve our community through—and, I might add, ahead of bringing offenders to justice—the preservation of peace and good order, the protection of all communities in the state and all members thereof from the unlawful disruption of peace and good order, the prevention of crime and the upholding of the law generally. These are not things that we necessarily can choose to do or not; they are our functions and we are tasked to do them.

With respect to the protest activity that we have seen in Brisbane and across regional Queensland this year, I would like to acknowledge, if you would allow me, and highlight what I believe is the high degree of professionalism that has been demonstrated by QPS officers—your officers—in responding to these challenging circumstances. We contend that the processes for conducting lawful assemblies under the Peaceful Assembly Act 1992 have proven successful in providing a safe environment for members of our community to peacefully raise matters of concern and to bring these to public and government attention. The QPS recognises and remains absolutely committed to the

objects of that act, which includes recognising the right of peaceful assembly, and to ensure that the exercise of the right to participate in public assemblies is subject only to such restrictions as are necessary and reasonable in a democratic society in the interests of public safety or public order or the protections of the rights and freedoms of other persons, including the rights of members of the public to enjoy the natural environment and the rights of persons to carry on business. That is a legislative requirement placed on us and one that we are deeply committed to for our community.

I believe it is also important to acknowledge the patience, tolerance and perhaps sympathies of members of our community in situations where their lawful daily activities may have been unlawfully interrupted or inconvenienced. As frustrations may build about the continued unlawful activity of some individuals and groups, I would like to encourage all members of our community to continue to avoid taking matters into their own hands and allow their police to continue to preserve peace and good order and protect all members of the community, regardless of what their position is on the issue at hand, that we serve according to law.

In relation to the bill, I would like to highlight that it does not prevent any person from engaging in peaceful assembly as articulated in the Peaceful Assembly Act. The right to peaceful assembly is a defining characteristic, as I said, of our democracy and it is recognised in international human rights through article 21 of International Covenant on Civil and Political Rights, it has been enshrined in Queensland through the Peaceful Assembly Act 1992 and the Human Rights Act 2019. The bill will not impact on those rights from our perspective. What this bill is intended to do is prevent the possession and use—and I emphasise 'use'—of dangerous attachment devices that have the potential and capacity, through their intended application, to create dangerous situations for protesters, emergency services workers such as police, fire officers and paramedics and the general community.

An attachment device is defined in clause 11 of the bill as 'a device that reasonably appears to be constructed or modified to enable a person using the device to resist being safely removed from a place or safely separated from a thing'. It is not an offence proposed in this legislation to possess or use an attachment device. I would like to clarify that a bike lock of itself, for example, is not a dangerous attachment device; nor is glue, a padlock, a chain or a rope. In addition to an attachment device, clause 11 of the bill then goes on to define a dangerous attachment device as an attachment device that reasonably appears to be constructed or modified to cause injury to any person if attempts are made to release, deactivate or interfere with the device or incorporates a dangerous substance or thing, which means anything likely to explode when struck or compressed or anything likely to cut a person's skin or requires a person to wear protective clothing to safely handle, cut or break up that thing—for example, a glass sleeve placed inside a device or perhaps a device that has an asbestos pipe or other elements in it.

In addition to that, devices described as sleeping dragons, dragons dens, tripods and monopoles are also dangerous attachment devices for the purposes of this legislation because of the inherent risk posed by their use to protesters, police, emergency services workers and the general community. Those risks become apparent when police officers and other emergency services workers are required to use equipment such as angle grinders, other power tools et cetera to remove the device. The use of power tools in the close vicinity of a protester's arm or leg and perhaps head presents a very real risk to the protester. Inspector Williams would be able to give a detailed account of that should you require it.

These risks are exacerbated if there are foreign objects in the device such as glass, wire or metal fragments. Glass can shatter, cutting or slicing the protester, police or emergency services workers and wire can fragment and become a projectile. These are the things that we want to prevent from happening. Additionally, the presence of these types of objects may lead to the power equipment failing. Cold cut saws can kick back, presenting significant risk of injury to a protester or an emergency services worker. Alternatively, a grinding disk rotating at thousands of revolutions per minute could fragment, causing injury to anybody in the vicinity. You might say, 'Well then, don't do it,' but, as I articulated from the start, we have a role, a function and a legislative requirement to fulfil our function under our act and that is to prevent offences and to allow people to go about their lawful daily activities. We would not be fulfilling our duty if we did not do what we had to do to prevent this from happening.

Other risks are present when dangerous attachment devices such as dragons dens are placed on railway lines in remote areas. Unless transport infrastructure is stopped, a train could potentially collide with a 44-gallon drum full of concrete that has one or more protesters attached to it. This represents a great risk not only to the protesters but also to the employees and anyone else using transport services, can I suggest both physically and perhaps psychologically and emotionally. I understand that protesters have in the past contacted Queensland Rail and other transport operators to advise them where they have deployed these devices; however, I have been informed on at least

two occasions the protesters have inadvertently, one might think, provided an incorrect location to Queensland Rail. Thankfully, safety measures were implemented on those occasions by Queensland Rail across a greater area than that which was reported and on that occasion avoided a potential catastrophic or tragic outcome.

The legislation is directed at those specific people who use or plan to use dangerous attachment devices to disrupt lawful activities by interfering with transport infrastructure, preventing a person entering or leaving a place of business or causing a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person. Those are the specific things it covers, not other things including today's activities on the William Jolly Bridge, which involved a number of persons gluing themselves to the road and closing that bridge for some considerable time. This legislation has no impact in that event. It is when specifically we are talking about the use of dangerous attachment devices.

In this regard, the bill inserts two summary offences in the Summary Offences Act so as not to criminalise unnecessarily. The first offence under new section 14C applies where a dangerous attachment device is used without reasonable excuse to interfere with the ordinary operation of transport infrastructure. An example of this might be erecting a tripod or monopole over a roadway or placing a dragons den on a railway line. For reference, and I think it may assist, I have a series of photographs that I am able to table, if you would consider it, articulating and describing some of those devices.

CHAIR: We need to have a look at those photos and then move a motion to table them. Is leave granted to table the collection of photographs? Leave is granted.

Deputy Commissioner Codd: Chair, if there are further questions specifically about what the photographs depict, Inspector Williams will be able to address those for you.

CHAIR: Do you have a copy of these photographs or is this the only copy?

Deputy Commissioner Codd: It is the only copy that I brought with us.

CHAIR: Are there multiple copies in the folder or are they all different?

Deputy Commissioner Codd: Of some there are multiple copies, but we could move to provide further copies if that would assist the committee.

CHAIR: It was for the purpose of questions and if you had the photographs in front of you, but that is alright. We will work it out.

Deputy Commissioner Codd: As previously stated, these devices present, in our contention, a real risk for the safety of protesters, road and rail users, as well as police and emergency services workers who are required to remove protesters from these dangerous situations. The nature of this risk is reflected in the maximum penalty of 50 penalty units, or two years imprisonment, as a maximum.

The second offence applies if a person again uses a dangerous attachment device, other than a tripod or monopole, without reasonable excuse to stop a person entering or leaving a place of business or to cause to halt the ordinary operation of plant or equipment because of concerns about the safety of any person. This offence provision will carry a maximum penalty of 20 penalty units and/or one year imprisonment as a maximum. This offence addresses circumstances where a person or a group of people use a dangerous attachment device such as a sleeping dragon to attach themselves to the front gates of a business for the purpose of preventing people or vehicles entering or leaving the place.

The use of a dangerous attachment device is often accompanied by other unlawful behaviour such as blocking roadways, trespassing on private premises and unlawfully entering private lands. In some circumstances the unlawful behaviour of protesters will warrant consideration of offence provisions that are more serious than the offences under the Summary Offences Act. For example, protesters who used sleeping dragon devices at the Abbot Point coal loaders were charged under section 292 offences of the Transport Infrastructure Act 1994. The initial fine was $8,000 each, but it was reduced to $2,000 and $3,000 respectively on appeal.

It is not the intention of the bill to replicate already established processes that address unlawful activity within the community. Rather, the bill complements existing legislation—and I think this is a key point that I would like to convey—by providing police with a range of options and flexibility to disrupt and prevent the continuation of offending behaviour before it starts. Our intent is to prevent offences from occurring with some of the provisions of this bill. That includes the power to search, seize and dispose of dangerous devices—dangerous attachment devices, I should point out. The bill also

provides for the issue of penalty infringement notices, which again is another important aspect, we would contend, that is about trying to give us alternatives to disrupt, discourage and disincentivise the use of these specific devices, not to stop participation in the lawful right to protest.

New search, seizure and forfeiture powers are included in part 2 of the bill, which amends the Police Powers and Responsibilities Act. Sections 30 and 32 will allow a police officer to search a person or a vehicle where there is a reasonable suspicion existing about the possession of a dangerous attachment device—not a bike lock and not glue but a dangerous attachment device. While it is not an offence to simply possess a dangerous attachment device, under new section 53AA of the Police Powers and Responsibilities Act police will have the power to seize a dangerous attachment device that is found in the possession of a person. It is not an offence to possess one, but police will be empowered to seize one. Where there is a reasonable suspicion that the dangerous attachment device has been used or is to be used to disrupt a relevant lawful activity, any dangerous attachment device that is found because a person or vehicle was searched or because it was used to disrupt a relevant lawful activity will be seized by police and immediately forfeited to the state and disposed of. Section 9 of our responsibilities code will apply, and this requires the issuing of a property receipt for any dangerous attachment device seized and an entry relating to any of the searches or forfeiture transparently to be included in an enforcement register.

The bill also amends another significant part, schedule 1 of the State Penalties Enforcement Regulation 2014, to include new offence provisions in clause 11 as infringement notice offences. We will be provided in this case, therefore, with the option of issuing an infringement notice rather than taking other action, including arrest. The penalty for the use of the dangerous attachment device to disrupt the ordinary operation of transport infrastructure will be five penalty units, and the use of a dangerous attachment device other than a monopole or tripod to prevent entering or leaving a place or causing the halting of the ordinary operation of a plant will be two penalty units. Of course, they can be contested in court. While a penalty infringement notice provides an alternative to arrest, it should be noted that police will retain the capacity to commence proceedings against a person rather than issue a penalty infringement notice where it is appropriate to do so and provided for in our act.

The provisions of the bill allow police to tailor appropriate responses to the possession and use of dangerous attachment devices, particularly in a prevention focus. This may range from simply deactivating the dangerous attachment device to issuing a penalty infringement notice for the use of the device or the arrest of a person.

The bill is not unlike legislation in some other Australian jurisdictions. For example, sections 45A, 45B and 45C of the Law Enforcement (Powers and Responsibility) Act 2002 in New South Wales establishes a regime to legislate for the use of lock-on devices, including additional powers to search and seize devices, which are forfeited to the Crown. Furthermore, section 4B of the New South Wales Inclosed Lands Act 1991 has an aggravated offence for unlawful entry on enclosed lands. This section includes interfering or intending to interfere with the conduct of business or undertaking, or to do anything that gives rise to a serious risk to the safety of a person or any other person on those lands. The maximum penalty is 50 penalty units, which is consistent with the proposed penalty under section 14C of the bill. Chair, I have a jurisdictional comparison that I am in a position to table for your consideration. It would allow the committee to see the legislative arrangements in other states.

CHAIR: Is leave granted? Leave is granted.

Deputy Commissioner Codd: I am almost done. At the beginning of the week, when I started preparing these notes, I was able to tell to you that more than 100 people had been arrested for unlawful acts committed during protest activities. Here we are on Friday and it is now over 200. In 2018, by comparison, there were only three arrests for a similar number of protests—over 600 protests in the Brisbane region alone. Things are changing, things are evolving and protesters are participating in activities specifically to engage in unlawful activity resulting in arrest. We too need to evolve in our ability and our suite of powers to be able to deal with that and whatever may evolve coming into the future. Some protest groups have publicly stated their clear intent to continue to break the law and elevate their cause. The Queensland Police Service has a responsibility to ensure the safety and security of all Queenslanders. This bill, we contend, assists us to achieve that responsibility. Thank you, Chair. We are in a position to assist with any questions that you might have.

Mr LISTER: Deputy Commissioner Codd, officers and staff, thank you very much for the briefing. At the outset you mentioned that you wanted to send a message to the Queensland community not to take matters into their own hands but to allow Queensland police officers to do that job. Is it the case that your officers have reported incidents where ordinary citizens have taken the law into their own hands? If so, in what sorts of circumstances? Is there dismay out there?

Deputy Commissioner Codd: I will certainly defer to my colleague Assistant Commissioner Crawford. I am personally aware of occasions where members of the public involved in being prevented from going about their lawful duties have attempted to involve themselves in conflict with protesters. I have physically seen it by way of camera devices.

Assistant Commissioner Crawford: There have been a couple of instances where assaults have occurred or police have intervened to prevent assaults having occurred in the Brisbane city area. We generally get to most protest events relatively quickly in the city, so we are in a good situation to ensure safety and security for all persons. Recently there have been a couple of instances that we are aware of, and at least one assault that I am aware of has occurred as a result of a person intervening with a protester.

Mr LISTER: Aside from any discussion about whether the devices that we are speaking about here are booby trapped or designed to cause harm to anyone, their very nature in protracting someone's connection to a site or inability to be moved in itself is a potential danger to the protester and to those whose duty it is to police them and assist them. Is that the case?

Deputy Commissioner Codd: That is the case. Inspector Williams will be in a position to provide you with more specifics about the nature of that danger.

Insp. Williams: Some of the dangers that are faced by the people who attach themselves, in my experience, are that they are attaching themselves to conveyor belts that have exposed hydraulics and electrical cables, in which case, if they are not familiar with it, the sharp edges can pierce the electric cables and they can be electrocuted as a result. They attach themselves to hydraulic rams. If they are not isolated in the correct way, if you shut down a hydraulic ram it can still close. It has to be isolated in such a way that it does not close on top of a person. On roadways, suspended off bridges—there are a number of places where, through either inexperience or not considering the environment to which they are attaching themselves, they place themselves at significant risk and emergency services who respond.

CHAIR: I am going to approach you, Inspector Williams, and show you a photo that we have marked 'Exhibit A'. For the committee, could you describe what that photo depicts?

Insp. Williams: The photo depicts what is commonly called a sleeping dragon, which is two sections of steel joined at an angle, traditionally welded in the centre. There is a pin located at the very joint point of it. The person or persons insert their arms. Around their wrists is a set of either carabiners or dog clips connected to a chain or a restraint. Sometimes it is webbing, belts or otherwise. They reach down it, clip onto it and pull their arm back. It locks them into the device itself. Further depicted in this is a glass sleeve that has then been sealed with silicone. The two pieces of metal you see at the top are the inspection ports that have been cut by the police cutter to try and identify the location of the pin so that we then can safely release them at the pin point without having to do a longitudinal cut, which is more dangerous.

CHAIR: Inspector, can I ask you to mark the photo to depict the glass sleeve?

Insp. Williams: The glass sleeve is the inner circle. The discoloured—

CHAIR: Could you just help us understand what we are looking at or what is in the photo?

Deputy Commissioner Codd: If it will assist, we can commit to getting a copy of this so we can mark those out and we can provide that to you.

CHAIR: This is one example of what we call the lock-on device?

Insp. Williams: You are right. There are significant variations to that. That is simply one that depicts a glass sleeve. They can be made of steel. We have seen them with PVC. We have seen them made of a number of other substances as well.

CHAIR: Some of the photos that we have within the folder would depict the variations?

Insp. Williams: That is correct, Sir, yes.

CHAIR: In relation to the glass sleeve, is that part of how the sleeve is constructed? You may not know the answer to that.

Insp. Williams: I would suggest, Sir, that in my experience I have only come across two, and I have seen hundreds. It is not traditional. It poses different risks because glass and steel heat at different levels. They fracture at different levels. The glass sits against the forearm. We are unable to pack the forearm to protect it from the heat. If the glass shatters, we have arteries and veins within the wrist that have certain bleed-out times. That in itself—the glass sleeve—makes it more dangerous for us and for

them. I have only seen two in my experience, but I am only one of a number of cutters. It is not common in their construct. Their common construct is a steel sleeve. It is sometimes lined with fabric to protect them from the heat, but it is a steel sleeve.

Mrs McMAHON: My question was largely answered. There are a couple of photos of the metal construction of the sleeping dragon we have seen there. We have seen other photos showing the use of PVC piping where people, I imagine, lock their hands together by some means in the PVC pipe. In terms of this device without the glass or the PVC piping that we have seen in various photos today, how would police normally respond to freeing people from those devices—both the PVC piping and the standard steel constructed sleeping dragon—and how does the response differ when you become aware of, or suspect, there may be additional items included in the construction of any of those devices?

Deputy Commissioner Codd: Again, I think Inspector Williams would be the expert to provide you with that information. Could I add that at the start often we do not know until we have started to look. We have to assume, in the interests of safety, that these devices may well contain the things that we have found and we operate accordingly. We are not interested in putting anybody at risk. In terms of the practicalities, Inspector Williams will be able to explain the process.

Insp. Williams: The first thing we do is a risk assessment. We have a look at the sleeve, what its construct is. We try to gain information from the person who has attached themselves as to how long they have been there. We look at the environmental conditions. Do they need access to water, shelter or food? We have to sustain them during the period of time. Depending on the nature of the risk assessment, as long as they are cooperative it allows to us do an inspection externally and internally of the sleeve. Most times that can only be done visually. Because it compresses quite tightly, we have to pull it away.

We would then go away on the risk assessment, work out the procedure for best remedying that particular device and select the tools. We would then go back and explain to the person what our intent is and give them the opportunity to self-release. We would then go away, work back through the plan again and have a negotiator—if they are available—engage the person for self-release. The best outcome for all of us is the self-release. Then it depends on the result. If they consent to self-release, they release, we seize the device and we move on. If they do not self-release, we then pack, as much as we can, the inside of the device to afford as much protection as possible. We will then cut an inspection port to see if we can get to the pin. If the pin is away from the fingers, we try to resolve it by dealing with the pin and dealing with the attachments. If we cannot do that, we may do the weld—separate the device to get to the pin, grind the pin away and knock the pin out, which then frees the two attachment devices still on the wrist. There are some in the photos there. Depending on the nature of it, we will do a lineal cut, which is the full length of the device, and try and essentially split it in two.

Mrs McMAHON: You made a reference to self-release. Can you explain the concept of self-release and whether it is applicable in all circumstances of sleeping dragons?

Insp. Williams: It is my experience that it is applicable in all circumstances of the sleeping dragon. They either use a press-release carabiner or a press-release dog clip at the end of either a wire chain or a webbing wrist attachment. They lean forward, depress it and pull back. The issue we have is that sometimes their arms swell and they are not aware of it, in which case they cannot compress forward far enough to undo it. Over time, dexterity in the fingers fails because they have been in there for a considerable period of time. Particularly with the angles and because the blood drains away from the hands, sometimes they cannot manually manipulate it, but on every occasion we afford them more than one opportunity to self-release.

Mrs McMAHON: From your experience and your dealing with the cutting, what percentage of people involved do opt to self-release versus going through the whole process?

Insp. Williams: It would depend on the situation. Those who self-release just because we ask I would say is rare. Others will self-release when they see other people being cut free. In other words, the gain is not worth the effort and will then self-release because it is over, per se. Then there will be those who we are just about to cut through who will then self-release. There have been those who self-release because of fear. I will use that term, if that is okay. Using grinders, drop saws and other equipment can in itself be quite frightening. We are extremely safe. We cover them. We afford them ear protection. Some people freak out, for want of a better term, and they will self-release.

Mrs McMAHON: In this particular instance, how long did it take to free this individual—from the time police arrived at the scene to the protesters being removed?

Insp. Williams: I extend my apologies, but that is not mine. I was not present and I do not have that information.

CHAIR: Do you have another set of these photos? Now that they have been tabled, I have been told it is unusual to hand them back. Are the drums also called sleeping dragons?

Insp. Williams: Dragons den, Sir.

CHAIR: I have marked a heap of what appear to be dragons dens. I cannot decipher what I am looking at. Do you have a copy of these?

Insp. Williams: I do electronically.

Deputy Commissioner Codd: We can provide those.

CHAIR: If you can take that on notice and provide what we are looking at?

Deputy Commissioner Codd: My apologies, Chair, but we became aware just before the hearing of these colour ones that we thought would assist. We had other black and white ones that I do not think assist.

CHAIR: I have marked more than that, but when you look at the dragons den that has been deconstructed or partially deconstructed you can obviously identify items in there. Are you able to use your copies back at the office to put on them what is there? I know that may be difficult because you are looking at a photo that maybe someone else has taken.

Insp. Williams: I can respond to those questions based on looking at this as if I was the cutter. I was not there; you are correct, Sir. I was not at the scene for this particular drum, but I can comment as a cutter as to what I am seeing.

CHAIR: If you could take that on notice.

Insp. Williams: I have just noted that it is the red ALP drum so I can reproduce the photos.

Mr BERKMAN: Thank you all so much for being here. I appreciate the opportunity to address these issues with you. Before I get to the questions I prepared, can I inquire of you: if the committee is minded, are you available to remain through until the preplanned finish time of 4.30 so we have the maximum opportunity to broach the issues?

CHAIR: If you want an extension we have to move outside and go into a private meeting.

Mr BERKMAN: Certainly. I just thought it might be useful information first to establish, if the committee is minded to, whether these folks are available until 4.30.

CHAIR: No, that is something that the secretariat and the chair can ask. It is not something for you to ask. We will have to go into private session to discuss the motion that the member for Maiwar wishes—

Mr BERKMAN: I have not moved a motion, Chair. If we are going to lose time discussing a motion that has not been moved, I will just carry on. I thought it would have been rather a simple issue to proceed to the predesignated finish time.

CHAIR: Then carry on.

Mr BERKMAN: Before moving to my prepared questions, on notice is it possible to get time, date and location details in relation to each of the photos that have been tabled?

Deputy Commissioner Codd: We will take that on notice and do our very best to get that for you. I do not see that as being an issue. It might take us a little time perhaps. Is there is a specific time, Chair, that you require that by?

CHAIR: Yes, there is. We are asking for any responses to questions that are taken on notice to be provided by close of business on Monday, 14 October.

Deputy Commissioner Codd: We will commit to assisting by having it provided in that time.

Mr BERKMAN: We have heard some very detailed evidence about the process of removal of these devices, and it sounds like you and other officers are very skilled at removing them. Can you advise us even in general terms what percentage of protesters sustain an injury during that removal process?

Deputy Commissioner Codd: Again I defer to Inspector Williams. He will be able to give you the detail.

Insp. Williams: In my experience, Sir, none.

Mr BERKMAN: Going back to the very beginning, the Premier referred to a briefing by the Police Commissioner which has apparently prompted the minister's introduction of this bill. Can you advise whether QPS instigated that briefing or whether it was a briefing instigated by the minister or other government officers?

Deputy Commissioner Codd: I am unable to assist you with that, Sir, as I am not a party to—

CHAIR: That is not an appropriate question to ask.

Deputy Commissioner Codd: That may well be subject to cabinet protocols that prevent us, in any event, from discussing it. I am not aware of them. I am not trying to shirk. I was not a party to those so I am not able to comment.

Mr BERKMAN: Did the QPS request or suggest these laws to the Premier or the minister or were they proposed by the government?

Deputy Commissioner Codd: Again, I am not in a position to answer that. From the outset, I was not involved in any of those. That relates to cabinet processes.

CHAIR: It is a question on policy.

Mr BERKMAN: With respect, Chair, I would put that it is—

CHAIR: Do you want to go outside to debate it?

Mr BERKMAN: No, Chair.

CHAIR: I have made a ruling.

Mr BERKMAN: Indeed. I will move on. I myself requested a briefing from the commissioner along those lines and I was declined. I received an email from Mr Mark Wheeler which said—

I can confirm it is not appropriate for the commissioner to brief Mr Berkman on the issues raised. The commissioner will not be commenting on operational briefings to government.

I have learned today that apparently the Queensland Law Society did receive a briefing from what the president described as very senior officers. Can you provide details of that briefing—for example, when it took place, at whose instigation and on what basis this was considered to be appropriate?

Deputy Commissioner Codd: Thank you for your question and I understand it. The purpose of our preparation today was to discuss the bill. I am not privy or party to any discussions that predated or led to its development. I am simply not able to assist you with that.

Mr BERKMAN: I am talking about a briefing that the QLS received after the introduction of the bill and before their appearance at the hearing today. If it is a question that has to be taken on notice, I am more than happy for that to be done.

Deputy Commissioner Codd: I am certainly willing to take it on notice if I am permitted to speak about that. I do not do it to divert. I am not aware of whether that has occurred.

Mr BERKMAN: I am sorry. I am referring to evidence that came out earlier today. Bill Potts, the president of the QLS, indicated that he had received briefings from, I think he described, very senior police officers. If you are able to take it on notice, the question is: when was the briefing, at whose instigation and on what basis that was considered appropriate, as compared with a member of parliament?

CHAIR: Can we just have a moment, please? My understanding is that if the question falls within schedule 8 the commissioner may or may not be able to provide that.

Deputy Commissioner Codd: That being the case, Chair, I am happy to take the nature of the question on notice. I can make inquiries to see if it is possible to provide that information, if we are actually in a position to do that. If we are in a position to do that, we could certainly respond as requested.

Mr BERKMAN: Thank you very much. The explanatory notes for the bill claim that disruptions have been hampering ambulance services, fire services and police. They state—

Disruptions to transport infrastructure also hampers the ability of emergency services to provide support to the community. For example, the Queensland Ambulance Service may be delayed from transporting a person in need of urgent medical attention if a person uses a dangerous attachment device to block major roads.

I will not continue reading. Can you confirm for me that the Ambulance Service and other emergency services have very sophisticated systems to avoid delays that might be caused by everyday disruptions like roadworks or road accidents?

Deputy Commissioner Codd: I have some knowledge through my professional experience about the systems about tracking traffic et cetera. I do not have specific ones for you. They are not quite what the movies show in terms of how clear, how effective and how quick that can be, but there are systems in place that do allow, if given enough time and circumstances, alternatives in terms of routes.

Mr BERKMAN: Can you point to any actual instances of ambulances or other emergency services being held up by someone using a dangerous attachment device?

Deputy Commissioner Codd: I do not have data to be able to assist you with that. Assistant Commissioner Crawford may be able to assist.

Assistant Commissioner Crawford: Thanks for the question. We would not be able to give you those specific pieces of information because it is not something that we would normally collect. What I can comment on is the way Brisbane is structured. With the bridges located as they are around the central city area and with the freeway layout that we use, any significant traffic disruption that occurs has flow-on consequential effects that then push back out from the centre of the city. As you know, some of our hospitals are situated quite close to the city. Without being able to give direct information, what I can say is that, in relation to some of the traffic disruption that we have seen in relation to protest, there has been significant backup of traffic occurring, emanating from the city outwards. That would be an issue for any person, whether it is an emergency services person or any person, to be able to make their way through some of that congestion.

Deputy Commissioner Codd: If I could add, Sir, where applications are made under the assemblies act, where detail is provided of where those events and protests might be, an effective part of that is that it enables emergency services and others to mitigate and avoid being impacted by those routes. Of course, in most of the cases we are talking about particularly this year, where there has been no application and they are spontaneous—and I understand that that is part of the tactical approach to be able to protest—that is the flow-on effect of not knowing.

Mr BERKMAN: I want to move to another point in the explanatory notes, which state—

Alarmingly, some people have made use of attachment devices that have also been constructed or designed in such a way as to endanger themselves, emergency service workers and potentially members of the public.

Do you agree that the terminology 'constructed or designed' and the use of the term 'booby trap' quite clearly implies an intention on the part of the protester to harm?

Deputy Commissioner Codd: That would be a matter for legal interpretation. As most new legislation comes out, there is a period of learning from its intent and learning from the interpretation of courts and what they place on it. Sometimes statutory interpretation is much broader than, as you would probably be aware, the specific words. Intent can be by way of some sort of negligent act or a reckless act that is foreseeable, whereas some people might consider intent being far more deliberate than that. That is about as far as I could take that. That is a matter for statutory interpretation.

Mr BERKMAN: Thank you. I accept that. This is a question that I assume will have to be taken on notice, but can you provide the dates, locations and any relevant police reports for each incident in which you believe an attachment device has been constructed or designed in such a way as to endanger the protesters, emergency services workers or members of the public?

Deputy Commissioner Codd: I would ask Assistant Commissioner Crawford to attend to that.

Assistant Commissioner Crawford: Thank you. Part of the challenge for us is that, because the use of these devices is not presently an offence, within our systems the ability to extract that information accurately or to be able to put our hand on our heart and say with completeness that we have caught them all is a little bit challenged. However, what we would propose is that the dangerousness that we are talking about here is probably best identified in three ways. There is a dangerousness in those devices, the pictures of which you have been viewing in that book. It comes in a number of ways. One is the tools we have to use in order to remove any of those types of devices. They are dangerous pieces of equipment. Whilst there has been no injury to persons, I would contend that that is due to the care and training used by police in doing that. In addition to that, the content of the various devices varies very significantly. It evolves and over time it has changed. Over the many decades that these have been used it has changed.

To summarise, the tools needed to remove these are of themselves dangerous. In terms of the various contents—I have seen some photographs containing a clutch inside concrete, a steel reinforcement bar and glass, as you saw in that device—there is a wide range. We have seen this week a change in process again. Some of the devices used this week in Brisbane are different again to devices that we have seen before. Finally, there is a danger in where they are used—when used on a railway line, when used on a roadway and other places of infrastructure. The danger we are talking about can be focused on all of those elements. The reality is that the risk of injury or death to a protester, a member of the public, emergency services or train drivers is a real risk because of the dangerousness that I have described.

In terms of numbers, what I could give you, without it being complete, is: between 2017 and 2019 around the state we would have details of probably about 29 to 30 devices that were used that we would describe as dangerous devices. In Brisbane here in the last week, the use of devices that would meet the definition as outlined in the proposed legislation are probably five dragons dens and 21 sleeping dragons, and a catamaran had another six devices attached as well. There has been in the vicinity of 30 devices, as outlined here, used in Brisbane in the past few days.

Mr ANDREW: Assistant Commissioner, would I be a little bit presumptuous to think that activist protests is escalating? I see from the news reports that this is becoming a bigger and bigger problem for inner-city Brisbane at this point in time.

Assistant Commissioner Crawford: Yes. As you can see, there has been the use of 30 devices in the last week. While over periods of time we have had similar numbers, there does certainly appear to be an escalation in the use of what we would consider to be dangerous attachment devices in recent history.

Mr ANDREW: Considering what has been going on in different countries, is what we are proposing in the bill really covering off on what could happen or what has actually happened in other countries? Should there be stronger or different penalties included within the bill to cover acts like using drones near airports and the like? Things seem to be starting to change and become out of hand. It is going to be difficult for you. As you say, it is really taking its toll on frontline services.

Deputy Commissioner Codd: Thank you for the question. We have to constantly look for the balance between protecting the rights for lawful protest of members of our community against the disruptive and unlawful elements we are trying to prevent. That requires us to continue to look over the horizon at what may well be befall us into the future. It is a balancing act because we are also mindful that the community of Queensland may be quite different. In fact, many of the people participating in protests are from different groups with different ideologies and different thresholds for how far they might want to pursue unlawful conduct. We are continuing to research and look ahead. Yes, we will be, where necessary, advocating where we think there might be a legislative reform required. That is a normal process for us. Of course, we have to balance that with the reality of what we are dealing with in Queensland and not go over the top, for instance, in what might happen in other countries that is not part of our culture and arrangements.

Mr BERKMAN: In a standard sort of workplace health and safety fashion, where police are put in dangerous situations I assume there is a process for that to be reported—for an incident report or some such to be prepared. Is that right?

Deputy Commissioner Codd: Where there has been a breach or an identified incident that involves a breach of workplace health and safety or something along those lines, yes, there is a method for recording it. Our working environment is a fairly unique one. Our working environment is the entire place of Queensland, inside and outside. It is also a more difficult exercise to capture near misses or potential risk that we have mitigated by our actions. With use of force elements, there is data that is kept. Use of our instruments in that world, where there is somebody injured or who may well be ill, yes, there are legislative impacts. Where there has been a critical incident that has occurred and there is a specific definition for that, there is, but I could not advise you that every single option is captured.

Mr BERKMAN: No, of course. Given that these are not offences yet so they are not recorded and captured accurately in the data, as you have said, I am just trying to get as good a handle as I can on that. The evidence so far includes that the tools that are used to remove the devices are themselves dangerous. Is that danger posed to officers recorded in any kind of workplace incident report?

Deputy Commissioner Codd: Not unless it actually manifests itself in an injury or an illness. It is something that is evolving for us as well. Again, could I pick up a theme that I know was discussed earlier? The stresses placed on our officers who are having to operate this equipment in close proximity to members of our community who are going about a protest have an impact. I do not think our systems have evolved yet to properly capture that unless the officer themselves highlights it and reports it. These are things where we are going to have to learn and evolve in our processes as we are increasingly exposed to this. No-one gets any satisfaction from seeing anyone at risk.

CHAIR: This will be your last question.

Mr BERKMAN: Very well. Coming to a specific incident, the QRC has pointed in its submission to a specific incident on 1 October this year, I understand, in which an officer was injured. Has there been an investigation into that incident? Has the investigation reached a conclusion about the cause of the injury? Is that something you can share with the committee?

Deputy Commissioner Codd: There would be privacy issues around that, but I would be very happy to take that on notice. I am aware of the incident you speak about. I have seen the photos. I have personally been involved with the assistant commissioner of that area. There would be a process for reporting and recording that. I would be happy to confirm and give you that data. We are talking about a laceration. Fortunately, it was a relatively minor laceration to an arm which I understand emanated from debris—metal or concrete—through the cutting through of what we call a dragons den in North Queensland.

Mr BERKMAN: Chair, I do have further questions, and you noted earlier that there would be procedural requirements if I wanted to—

CHAIR: Just hang on. The member for Macalister has a question.

Mrs McMAHON: My question is brief. It has been spoken about today by a number of groups about how they felt they were unaware of incidents you have provided evidence in relation to today, particularly about dangerous items being included in the construction of these devices. Can you comment on the Police Service's policy on commenting on this type of operational information and why the Police Service chooses to share or not share such information with general members of the public?

Deputy Commissioner Codd: Thanks for the question. We are committed as much as we can to transparency with the community that we serve and that we are part of. We are also mindful of copycatting—providing information that would enable others to perhaps replicate. It is always a balancing act for us. Sometimes we are limited by court processes. Sometimes we are limited by privacy arrangements. In all cases where we believe that those impediments are not there, we look to be transparent and open. There are legislative arrangements for that data to be asked for and applied for in the event that someone is seeking it as well.

I guess it is every case on its merits. Sometimes we are prevented. We look wherever we can to be open and transparent. I guess you could use an example—and I know it is a weird example—of the strawberry contamination issue. We know that the vast majority of the impact there came from copycatting. It is a slightly different context here, but we are always mindful of that. That is about as much as I can provide for you at this stage.

Mr BERKMAN: Chair, if I might.

CHAIR: I am just conscious of time.

Mr BERKMAN: Noting the point you made before, Chair, I am not sure in a procedural sense whether I as a visiting member have standing to move a motion that we continue.

CHAIR: No, you do not.

Mr BERKMAN: I am aware that committees routinely run over time. I have sat on some incredibly long hearings past the scheduled deadline. If the witnesses here are minded, I have plenty more questions that I could ask.

CHAIR: No, you cannot move a motion. You cannot attend the private hearing, but I am happy to go out and talk with members of the committee to see how they feel about extending.

Mr BERKMAN: I am not asking for a long extension, Chair.

CHAIR: I have told you what I am doing. If we can be excused for a moment, we will be back.

Proceedings suspended from 4.20 pm to 4.31 pm.

CHAIR: The resolution of the committee is that we will continue the hearing until 4.40.

Mr BERKMAN: Thank you, Chair. Thank you for your continued attendance. Just returning to that 1 October incident, presumably if there were other similar incidents where officers had been harmed there would be reports for those as well?

Deputy Commissioner Codd: Yes, I suspect. That is a requirement in our process, yes.

Mr BERKMAN: Can you take on notice to provide to the committee in a similar fashion any other similar reports where harm has actually come to an officer dealing with a dangerous attachment device?

Deputy Commissioner Codd: That may be difficult for us to do. I do not know if our system captures it in that way. It may be so manually intensive. I do not mean to deflect off it. It is not as if we record on an incident where somebody is injured necessarily the data of it relating to an attachment device. I am only aware through the organisation's communications of the one incident involving a physical injury. I am not aware of any other type of maybe psychological injury or anything like that. I

do not want to try to get away from this. I just do not think we would be capturing it in that regard. I am happy to see what we can find for you and take it on notice, but it may well be that the answer is that we are not in a position to collect the data in that way.

Mr BERKMAN: I understand. So we cannot necessarily know whether there are any other instances of officers being harmed in the process of removing a dangerous attachment device?

Deputy Commissioner Codd: No. If it assists you, I am only aware of one. I doubt there are very many at all because of the quite significant lengths we go to and our obligations under workplace health and safety to manage it with safety equipment, time and energy.

Mr BERKMAN: Thank you. The explanatory notes refer to the possibility that someone could incorporate asbestos into an attachment device. Has that ever actually happened?

Deputy Commissioner Codd: I am not aware of asbestos personally. Assistant Commissioner Crawford or Inspector Williams may have some insight.

Insp. Williams: There has been cloth within devices before. As to whether it is asbestos, we have not had it tested. It has frayed during the cut process, as have fibreglass items. They have become dust and frayed particles during the cutting process. We do not have them tested. Obviously, visually we know what fibreglass looks like and its responses, but the cloth that we have engaged we cannot say whether it is asbestos or otherwise.

Mr BERKMAN: Are you saying that officers may have been exposed to asbestos dust but the force has not investigated whether that is in fact the case?

Insp. Williams: It has not been reported to us that it has been asbestos, which would then start a health and safety investigation. I would suggest that they may have not been aware or they may have and not reported it.

Mr BERKMAN: I am curious as to why it is included in the explanatory notes as an example.

Deputy Commissioner Codd: I am not in a position, having not been involved in that, other than maybe I could add just from a common-sense point of view planning for eventualities. We did not envisage necessarily that people would go to the lengths of putting glass and other metal materials in. We have to stay one jump ahead in the protection of the community and ourselves and envisage what could happen, but I am not aware of any data that specifically goes to your question.

Mr BERKMAN: Are you aware of any other dangerous substances or things other than those referred to in the explanatory notes—glass, metal, butane canisters? Are there other dangerous substances or things that the committee should be aware of?

Deputy Commissioner Codd: I will defer to my colleagues who will know specifics. I am aware, having seen myself, of metal bolts, reinforcing rods, different types of materials—mesh, wire that is mixed up with the concrete et cetera. Inspector Williams in particular might be able to give you some insight as to the type of materials that we have seen.

Insp. Williams: It is those items plus the concrete itself. It is fragments. The stone, the gravel that is used, depending on the nature of the concrete and the build mix that is used—there have been rocks embedded in it. Some of the drums themselves are tin, some are iron and some have steel within them. The bolts are of different tensiles. Other fragments of whether it is iron, steel or metal in some form are of different constructs. It is a variety of those things.

Mr BERKMAN: I want to return to the question of intent. I am not using that as a legal term; I am using it in the very general sense. Do you have any samples or any experience of circumstances where peaceful protesters have used what will now be called a dangerous attachment device with the intent to harm emergency services personnel or first responders?

Deputy Commissioner Codd: Again, I do not mean to be problematic and deflect, but we are talking hypothetically about what is in somebody's mind and I am not in a position, and nor is any officer, to do that. We can determine intent in a legal perspective by way of circumstances by what is said to us, the circumstances surrounding and the past that has occurred. Those are things that allow us to determine whether there is an intent for legal purposes. It is very difficult for us to use terms about what is in their mind at the time.

Mr BERKMAN: Yes, I understand. I ask only because of the use of terms like 'sinister tactics', 'booby trapping' and the like. I understand the limitations in your response.

Deputy Commissioner Codd: Yes.

Mr BERKMAN: Do you recall an occasion like this in which you have appeared to brief a committee on a bill after the witnesses have given their evidence and have not had the opportunity then to reflect on your briefing to the committee?

Deputy Commissioner Codd: Sorry, I have appeared before committees, I think, on two occasions. I cannot comment on where that sat in the briefings for you. Sorry, I cannot assist you.

Mr BERKMAN: I understand. As the agency that is responsible and sits behind this legislation, presumably you are intimately involved in the preparation of material to support the minister in making the case for parliament but also in the public domain and, for example, the explanatory notes. You have mentioned a few incidents. You have tabled these photos and the extra information. Is there a reason that evidence was not incorporated upfront in the explanatory notes and in public material that we could have considered in the public debate and in advance of this briefing and hearing?

Deputy Commissioner Codd: Again, I apologise: I am just unable to assist you. I have not been involved in that. I can say in general terms that on occasions on legislation that the QPS or the minister has responsibility for our input is sought in general terms, but I cannot specifically provide you with any advice on that process on this occasion.

Mr Brown: Anything that is prepared as part of the cabinet process is cabinet-in-confidence. Unless we have specific permission from the Premier, the minister or cabinet itself to consult with people or to provide that advice, we are prevented from doing so. It is cabinet-in-confidence.

Mr BERKMAN: Has authorisation been given for the material that you brought to the briefing today to provide to the committee?

Mr Brown: Yes, it has.

Mr BERKMAN: Can you tell us precisely where the terminology 'sleeping dragon' or 'dragons den' has come from? If you cannot, can you take that on notice? It is not terminology that anyone I have spoken to was familiar with before this process.

Deputy Commissioner Codd: Unless Shane is aware, we might have to take it on notice.

Insp. Williams: Take it on notice. It is in common use, but if we take it on notice—

Deputy Commissioner Codd: We will do our best to find the origin.

Mr BERKMAN: Thank you. Another passage in the explanatory notes says, 'It has been reported some people have claimed that they have placed'. It is awkward wording. In terms of justifying this legislation we had a barrister, a member of the Bar Association, in front of the committee to say that, essentially, it is not evidence of the claims that are made. Can you table or take it on notice and provide later any additional evidence that the government has relied on in making that statement?

Mr Brown: Would you mind repeating the section that you are referring to?

Mr BERKMAN: The explanatory notes say—

It has been reported some people have claimed that they have placed glass or aerosol cannisters inside devices such as 'sleeping dragons'.

Mr Brown: That would be where police have attended an incident and the protester has divulged to police that there is something inside the device. Perhaps Shane could talk to that.

Insp. Williams: I know of one instance in 2005 where, on asking the person attached to the device whether there was anything that may harm police—it is a standard question that we ask—or harm them they said there were aerosol cans within the device that, if we cut, may ignite.

Mr BERKMAN: Was it the case that there were aerosol cans or butane cans in there, and are there other examples that you can give where butane has been used in that way?

Insp. Williams: That is the only example that I can give you. It was from 2005. I do not recall. We did not seize the device because we broke it up. I know that when we wrote the training package we included aerosol cans in it as one of the items that officers were to be aware of during the cutting process because of the risk of ignition.

Mr BERKMAN: It was reported on 9 October 2019 in the *Courier-Mail* that in a more recent briefing with the Premier the Police Commissioner said that individual police officers were frustrated that peaceful protesters were not being incarcerated. Can you help us out with how it is that the *Courier-Mail* learned of what was said at that briefing which was presumably highly confidential?

Deputy Commissioner Codd: No idea is the answer. I do not take everything that is in the media as being gospel. What I can tell you is that the responses from our officers to date in dealing with these matters have been highly professional. They know the job they have to do and they keep their personal circumstances away from their task.

Mr BERKMAN: Proportionality is a core principle of human rights law. We heard from Commissioner McDougall of the Queensland Human Rights Commission and the Caxton Legal Centre that restrictions on the right to protest or other rights must be balanced against the rights and interests

of other persons. Can you share with the committee the details of how, in drafting this legislation, you undertook that balancing process? What were the considerations involved and how did the drafters, the QPS, the minister's office or whoever was involved, or whoever can speak to it, arrive at the conclusion that this was the appropriate balance?

Mr Brown: I think that is a policy question. It is outside the scope of our appearance here but some of that does go to the explanatory notes.

CHAIR: I will rule the question out of order. Thank you for your attendance. There were a number of questions taken on notice. We would appreciate it if your response to the questions on notice are provided by close of business on Monday, 14 October so that we can include them in our deliberations. If you need to check the wording of the questions, we ask you to refer to the archival broadcast and eventually the transcript. I will now close the hearing. I would like to thank the Queensland Police Service and all the witnesses who appeared today. I thank the secretariat staff and also Hansard. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare this public hearing for the committee's inquiry into the Summary Offences and Other Legislation Amendment Bill 2019 closed.

The committee adjourned at 4.44 pm.