



LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Members present:

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

Staff present:

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

PUBLIC HEARING—INQUIRY INTO THE WEAPONS AND OTHER LEGISLATION (FIREARMS OFFENCES) AMENDMENT BILL 2019

TRANSCRIPT OF PROCEEDINGS

MONDAY, 19 AUGUST 2019

Brisbane

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The committee met at 8.31 am.

CHAIR: Good morning. I declare open the public hearing for the committee's inquiry into the Weapons and Other Legislation (Firearms Offences) Amendment Bill 2019. My name is Peter Russo. I am the member for Toohey and the chair of the committee. With me here today are James Lister, the member for Southern Downs and deputy chair; Stephen Andrew, the member for Mirani; Jim McDonald, the member for Lockyer; Melissa McMahon, the member for Macalister; and Corrine McMillan, the member for Mansfield.

On 1 May 2019, Trevor Watts, the member for Toowoomba North, introduced the Weapons and Other Legislation (Firearms Offences) Amendment Bill 2019 into parliament. The parliament referred the bill to the committee for examination to report by 1 November 2019. The purpose of the hearing today is to hear evidence from stakeholders 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 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 the committee staff if required. All of those present today should note that it is possible you may be filmed or photographed during the proceedings and 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 the committee staff.

PARK, Mr Graham, President, Shooters Union Queensland Pty Ltd

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

Mr Park: Thank you very much for this opportunity. The Shooters Union Queensland fully supports the stated intent of this proposed legislation; however, we believe that, due to a lack of consultation with stakeholders with technical ability to give some clarity to certain areas, it misses the mark in certain areas and could well have been a vastly better bill in its writing, because we believe that it is open to unintended consequences. Also, some things are simply already offences.

The bill could have been handled more effectively largely by taking it through the police minister's advisory council, which is in place and has been in place under governments of all political persuasions in Queensland over the last decade or more. They would have been more than happy. There are the technical abilities on there and a wide variety of community groups who could have given input. That would have been appropriate. The bill also could have gone to stakeholders with the technical ability to make recommendations so that the bill could have maximum effect of its stated aims, which I do not believe it will. That is all from me.

Mr LISTER: Mr Park, you state in the Shooters Union submission that the proposed drive-by shooting offences are a nonsense. Can you explain what you mean by that?

Mr Park: Obviously no-one wants drive-by shootings, but it is already illegal. If you go and shoot at a house today, you have already committed a very serious crime. I do not see that it is doing anything other than, effectively, highlighting an issue. It is really not doing anything. Mr Russo is a long-term lawyer. I think you would be very aware that if I go by your house today and shoot at it I have committed a very serious offence. I cannot see that this is making it any more serious than it is; it is just restating something that is already in the law. This bill seems to do that in a number of areas. It is not that we are opposed to it conceptually; it seems to be restating something that is already existence as an offence and a very serious offence.

Mrs McMAHON: Your body represents a key stakeholder when it comes to firearms related issues in Queensland. Can you tell us when you were first made aware of the bill?

Mr Park: Yes, I was in Switzerland.

Mrs McMAHON: 'When', sorry—not 'where'.

Mr Park: It was about one o'clock in the morning there and I was called by Mr Trevor Watts. He said that he had this bill. He took about five minutes or so to give me an overview and said that perhaps I would like to have a look at it. I said, 'Yes, we would be glad to comment on it before it did anything,' and he said, 'No, I am taking it in to parliament now.' That was literally minutes before it went into parliament.

Mrs McMAHON: You had not had a chance to sight the bill?

Mr Park: I had not heard of it until that point.

Mrs McMAHON: You identified some concerns about ammunition being left on a range—that someone picking up or collecting the brass might find themselves caught up in this particular bit of legislation. I am used to only military ranges, where we do brass details quite extensively. Are you aware of any civilian shooting range owners who have been charged with stealing, or anyone else connected with ranges being charged with stealing, in relation to spent ammunition?

Mr Park: No, I do not believe that it has ever happened. It is purely a comment on the possibility of it happening when it is a serious offence. We have lobbied for a long time for more serious punishment for stealing a firearm. We just do not believe that ammunition should be included in that because of the potential for an inadvertent situation that could arise, which cannot with a firearm.

Mrs McMAHON: Just to be clear for people who are not familiar with firearms and ranges, after shooting at the range it is the spent shells—

Mr Park: There are the spent shells. Also occasionally at large public ranges—as opposed to a military range, where there are more staff—especially some community ranges where there is no paid staff, someone may have left a partially used box of ammunition that contains live ammunition. Therefore, a range officer, who is a volunteer, would be walking around and in a normal situation would put that up and secure it. They may well end up keeping it. They may use it for when they are training some kids a week later on a safety course or something. In theory, someone could possibly be prosecuted if someone complained: 'Hey, that was my ammunition.' That was the concern. It is a theoretical possibility.

Mr McDONALD: In your submission and in your opening address you mentioned that the LNP had a ministerial consultative group and Labor has the police minister's consultative group. What outcomes has that group produced over the past three years?

Mr Park: Under the current government I would say it has produced several things. One is a number of minor regulatory changes that have been made far more practical by the consideration of that committee—more realistic. I would say that it has also contributed enormously to improvements in efficiency by the weapons licensing branch of the QPS, because they are also on that committee. It has generated a working relationship which was there before, but you only asked me about the three years.

Mr McDONALD: If you want to expand, you can.

Mr Park: The previous LNP one also achieved a number of similar types of things. It is very much an ongoing thing, because it is a fluid area. Regulations need to be tweaked and things like that. If you do not have that cooperative or advisory ability with people with technical knowledge and stakeholders, be it from the industry such as firearms dealers or from users such as ourselves—the Shooters Union—be they agricultural users, be they security industry users, be they sporting users, you end up with regulation that is not achieving what it wants. I have found it valuable—sometimes frustrating—and we do not always agree. Nevertheless, it has been valuable when both sides of the political spectrum have had it.

Ms McMILLAN: Could you please elaborate on your concerns about the proposal to amend the prescribed circumstances for searching persons and vehicles without a warrant to include firearms prohibition orders?

Mr Park: There are two parts. One is that we have a philosophical view that warrantless searches should be limited to as few as possible. Society wise, this is not a firearms-specific issue; it is just a civil liberties issue. Obviously, there are occasions of urgency where you need those. This potentially increases that slightly.

It goes more to the prohibited persons side. We have some concerns in how that is being looked at. We do not believe that the Police Commissioner should be able to just declare someone a prohibited person. We believe that it should go before a magistrate, a tribunal or something where it is not just on the police side; it should be wider. Part of that is a review and we believe that it should be done annually, not every three years. That dovetails into that segment.

Ms McMILLAN: If you had the opportunity, what changes would you propose?

Mr Park: Simply, with the prohibited persons it would be to have two things mainly. One would be either a magistrate or whomever is appropriate—I am not the legal expert—outside of the police, so it is an objective view, just as we use the courts. A magistrate or some sort of tribunal would be the one who signs off on that prohibition order and gets rid of it if it is reviewed. There should be an ability for a review of the whole thing more often than the three years that this bill talks about. It should be annual. That was really the only two things. Even in other states where this has been done there have been challenges and appeals made around some of this. I think that going to either a magistrate or a tribunal would largely get rid of them. I understand why they want to have a prohibited persons segment—I do.

Mr McDONALD: Classification.

Mr Park: Classification, thank you. However, I am not sure in practical terms that it really does a lot more, because no-one who would fit that would have a firearms licence anyway and police right now have the ability to instantly suspend a firearms licence. If we had a situation right now, we could literally have QPS suspend a firearms licence in minutes and be out to someone's house—for any number of reasons, from domestic violence through to them just committing an assault or just robbing an Uber driver or whatever it is. That achieves much of what the prohibited classification does.

There are some other concerns in there. You could see a situation where a person would have to move out of a house they are already living in because the other person living in the house—be it husband, wife or partner—has a firearms licence. There are some things in there like that that are a bit messy.

Ms McMILLAN: Mr Park, am I right in suggesting that the current legislation is adequate?

Mr Park: I believe so.

Mr ANDREW: Good morning, Mr Park. Thank you for coming here and for putting in your submission and sticking up for the rights of licensed firearms owners. Does the bill give any credibility going forward to the law itself or is it like a pre-crime dystopia type situation where we are trying to pre-empt something? There are a few things that stood out to me too, like moving out from someone's place. In your view, and from a consultative point of view if you had an opportunity to do that, would you have spoken to Mr Watts about some of the areas?

Mr Park: We have spoken to Mr Watts since the introduction of this about some of our concerns. We also put in a submission to this committee. The concern we had was that some of the bill is about making things that are already illegal more illegal, so what are we achieving? By putting in a prohibited classification we are preventing things from happening by someone who has not really done anything yet. I understand that in the age of terrorism there are real concerns out there, but then I go back to what you and I talked about, which is whether I really think it will make a difference. No.

One big concern would be the 3D printing. That is classic. It makes it a crime to have a 3D printer and a digital blueprint of a firearm. A digital blueprint of a firearm is really just an exploded drawing. It would be very easy for someone very innocently to have both. That becomes a very serious offence, yet it is already an offence to make a firearm. As far as I understand it, there are two classifications of people who can make a firearm now—that is, armourers and the police. That is very clear. If you start to make a firearm and you are not a licensed armourer, you are committing a very serious offence right now. All this is doing is taking that exact same situation and saying, 'Well, if it happens that, instead of using a milling machine or a lathe with metal, you are using a 3D printer using droplets of plastic then essentially it is a separate offence.' Well, it is not. There is probably even less excuse under the existing law than there would be under that legislation because it actually gives a couple of outs, and the problem with the outs is that you have to prove your innocence. It is not innocent until proven guilty; it is guilty until proven innocent.

The whole thing about digital blueprints is that any firearms collector or hobbyist, I think you would find, on many, many computers—in fact, knowing you have a background in professional pest control, at times you have probably had digital blueprints for firearms on your computer because you have wanted to see how the internal mechanism worked so that you could either know how to repair something or clean it or otherwise. That would have been very innocent and anyone would accept, 'Okay, it is kind of like a car hobbyist having an exploded drawing of how a Ford V8 works.' The fact that you happen to have a 3D printer that your daughter uses to make plastic bowls or something puts you in a position of having to hire a lawyer and prove that you were not about to make a gun. That seems ridiculous.

Mr McDONALD: If you are prohibited.

Mr Park: Yes. It really does, especially when it would not if there was not a prohibition already, but we have in Queensland a prohibition against anyone except a licensed armourer manufacturing a firearm. It is very clear. It is very simple. It does not matter how they do it. It does not matter if they do it by a file on a piece of metal, it does not matter if they have a \$100,000 milling machine and it does not matter if they have a 3D printer.

CHAIR: That brings to a conclusion this part of the hearing. Mr Park, thank you for your attendance. Thank you for your detailed written submission, which was very helpful.

LYNCH, Ms Angela AM, Chief Executive Officer, Women’s Legal Service

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

Ms Lynch: Thank you, Chair. Thank you for inviting me to speak today on this important topic. As you are aware, the Women’s Legal Service Queensland provides Queensland-wide free specialist legal information, advice and representation to women in matters involving domestic violence, family law, child protection and some sexual violence matters. Fifty per cent of calls to our statewide legal advice helpline, domestic violence legal helpline, are from outside of Brisbane. We have been operating for 35 years and are active in law reform, advocating from the perspective of our clients who are, in the main, victims of domestic and sexual violence.

We support the introduction of firearms prohibition orders in Queensland as a means of enhancing the safety of victims of domestic violence. I will not be commenting on other aspects of the legislation. As we have set out in our submission, gunshot wounds are the third most common cause of death for Australian victims of domestic homicide. Access to a firearm is associated with more serious domestic violence. According to the 2017-18 annual report of the Domestic Violence Death Review and Advisory Board in Queensland, prior threats with a weapon and prior assault with a weapon are within the top five lethality domestic violence risk indicators of intimate partner homicide in Queensland.

Greater control and accountability of domestic violence perpetrators, including their access to weapons, will also lead to greater general community safety as there are increasing links, with perpetrators who engage in mass shootings having a shared history of violence against women. As you are aware, the making of a domestic violence protection order can have the effect of suspending or revoking an existing weapons licence and requires the surrender of weapons to police. However, there are many circumstances where domestic violence protection orders are not applied for or obtained in a domestic violence situation, and a firearms prohibition order could be an important safety measure. For example, in some extremely dangerous domestic violence situations the victim may be too afraid to take out an order, or in circumstances where the perpetrator has little regard for the law or for authority it may be considered too dangerous for the benefits that are gained by taking out a protection order—for example, if her partner is a bikie or has criminal underground links.

There is a large amount of pressure placed on women in rural communities to not take out domestic violence orders because it will mean taking his guns away. Another circumstance may be when a domestic violence order has lapsed. The victim experiences ongoing threat but there is not enough evidence to satisfy the court for a domestic violence order. Another example is in family law proceedings where the domestic violence order may have lapsed. An horrific example of this was the Edwards murder-suicide in 2018 in New South Wales. Jack, 15 years, and Jennifer, 13 years, were gunned down in their home by their father after the finalisation of custody proceedings in the Family Court. We understand from media reports that his domestic violence order had lapsed and he once again was able to acquire a weapons licence. The advantage of firearms prohibition orders in these circumstances is that it is the police that apply and take out the order rather than placing the responsibility on the victim. This concludes my opening remarks and I am happy to take questions.

Mr ANDREW: Thank you for coming in today. Are you aware of the situation when DVOs are placed on people in Queensland and the prohibition on firearms usage after that term?

Ms Lynch: Yes. It is five years, I think. It is the same as the domestic violence order.

Mr ANDREW: I am trying to correlate that with the actual heat-of-the-moment situation after five years of not having your weapons.

Ms Lynch: In the case of a temporary order, there is a temporary suspension of the weapons licence and if a final domestic violence order is made then the weapons licence is then revoked for the period of that domestic violence order.

Ms McMILLAN: Given we have a situation in Australia and Queensland where a number of women lose their life every week, at what point were you consulted by the LNP in relation to this bill?

Ms Lynch: I was not consulted. It was only through the parliamentary process. I became aware of the bill and we did a submission in response to that. There was no prior consultation.

Mr McDONALD: The Women’s Legal Service talked about the service of a person in terms of the domestic violence orders. How do you think application of the legislation of service could be used along the lines of the firearms prohibition order?

Ms Lynch: In our submission we just talked about a wider range of service being included in the bill, or consideration could be given to a wider range of service included in the bill. The traditional method is that a bailiff turns up and serves the legal documents on you, but in circumstances under a Brisbane

domestic violence protection order they do allow service—it is just really taking into account our modern world—through SMS, social media, telephone et cetera. There are some provisions in legislation for a wider capacity to provide service. You could imagine that in certain circumstances if this was being taken out in a domestic violence situation there could be some urgency surrounding the taking out of the order and obviously then the service of that order.

Mrs McMAHON: You have provided some suggestions in relation to this bill as it stands. Do you have any thoughts, from a legal perspective, on the effectiveness of the bill as it stands in achieving its objectives, particularly if you look at the safety of women and victims of domestic and family violence?

Ms Lynch: I am only talking about the firearms prohibition orders. That is all I am speaking about. I have no real comment other than that we, at a policy level, believe that there is merit because of the range of circumstances, which obviously I just spoke to, where it could be useful. It looks like the legislation was drafted with a policy intent around, I would say, criminal organisations and bikies. I am not sure if domestic violence was necessarily taken into account a lot in how it is being presented, but we can see that the policy impact could have benefit for our clients.

In relation to the Police Commissioner being the person who is the most appropriate, there could be some questions about that, but in circumstances of urgency perhaps it is the Police Commissioner who can make those firearms prohibition orders but perhaps subject to some level of oversight by a judicial officer. Perhaps in urgent situations that may be appropriate.

Mrs McMAHON: One of the examples that you listed in your submission was in relation to circumstances where women may not apply for a domestic violence order because they are too frightened so therefore a firearms prohibition order might provide that level of security. At the moment, with the bill as it stands, police may seek a prohibition order. Why would they do that if domestic and family violence has not yet been reported? Obviously police have an obligation to take out a domestic and family violence order if they become aware of circumstances where someone's safety is at risk. I am just trying to get my head around that particular example.

Ms Lynch: Many women go to the police or the police might be aware of domestic violence but they do not necessarily take a domestic violence order out. They could say that she has a responsibility to do that or push it back on her. That happens all the time.

Mrs McMAHON: They would refer the domestic violence back to her but they themselves would then take out the firearms prohibition order?

Ms Lynch: I do not know. There is a variety of circumstances that can present. I understand what you are saying. You are saying that if there is domestic violence they should take the domestic violence order out and therefore the protection could ensue from that. Yes, possibly. There is a variety of circumstances where we can see that this may be of assistance. I cannot talk to every kind of circumstance. We just see that there can be some gaps in the current system and that it could be of assistance.

Mr ANDREW: There are two sides to this. I have had people who have had DVOs taken out on them and they have had their licence suspended and rifles taken off them when the situation is that they have not done anything wrong. I am concerned that if we start introducing laws—we have law books after law books. You said earlier that people do not care about the law and they do not really care about crime. How are we going to protect people in situations where they have not done anything wrong but someone has decided to take out a DVO on them because they wanted to leave and they have then had all of their weapons taken off them? I have seen both situations.

Ms Lynch: I did not say that people were not affected by crime. I say that some particular perpetrators of domestic violence may not be as affected or as impacted by a domestic violence order being taken out against them. For example, if you are already involved in a criminal element, a domestic violence order is not going to have that much impact on you because that is your lifestyle anyway. That is not all perpetrators of domestic violence and all people in society.

In relation to domestic violence orders, they are subject to legislation and they are made before a magistrate, so there are legal requirements and evidence that has to be presented for an order to be made. I am not saying that in all circumstances the magistrates et cetera always get it right. I am not saying that there are not mistakes made. What I am saying is that there are legal requirements to get a domestic violence order. The court has to be satisfied of those legal requirements before making an order.

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

CLEAVER, Mr Jade, President, Firearms Dealers Association of Queensland Inc.

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

Mr Cleaver: The Firearms Dealers Association was started in 1983. I am the current president of the Firearms Dealers Association. I have been actively involved in that association for the past three years at a ministerial level with Mr Park and the Labor government on the firearms advisory forum. The body that we represent is licensed firearms dealers, armourers and theatrical ordnance suppliers. We have regular meetings—quarterly meetings every year. We put out an industry newsletter to keep our members aware of current legislation and trends and different policies implemented by the Weapons Licensing Branch so that dealers can stay on the front foot, so to speak, as legislation and policy changes which it often does in the area that we deal in every day.

In relation to this bill, the Firearms Dealers Association was not consulted. Current vice-president and previous president Robert Nioa was called while overseas in the early hours of the morning and notified just prior to the bill being introduced into parliament, but he was not consulted. Under the current Labor government ministerial forum, we have had some fantastic achievements where we have been able to provide input to the drafting of legislation. As Mr Park stated before, sometimes we do not agree but we are able to thrash out regulation and legislation as it is implemented so that it is clear and concise and done right the first time. I think that is a really good achievement moving forward, especially for our industry.

Mr LISTER: You are generally supportive of the intent of the bill, but you have expressed concern about the ability of police to search a person without a warrant. Given that police will only have absolute discretion to search a person subject to an FPO who they believe is in possession of a firearm, could you give some context to your objection?

Mr Cleaver: This document was drafted from different members' submissions and it was drafted by Jan Linsley, the author, so I am not across every fine detail of it. The extent of my contribution was the content in the industry-specific sections. From the research I have done on Jan's original draft paper, we are looking more at what tests the FPO will have on implementation. In the research that the Firearms Dealers Association has done in the past four weeks online with other states where FPOs are implemented, we have looked at what tests on implementation there are in relation to a firearms prohibition order being given to someone and, as was raised at the Labor government ministerial forum, the spider web that comes from that FPO to associated parties who are with a person with an FPO.

When this was first mentioned at the Labor government ministerial forum, because I live in Queensland I had no idea what an FPO was. Samara from the university explained it to all forum members to make us aware of what exactly an FPO was. I thought it was very similar to a DVO. Everybody was made aware of the problems that they had had in other states with them, so we have done research on that.

I believe that our objection to that area is about what tests are applied when the FPO is handed out and that there must be a high test on implementation of an FPO. Comments were made at the ministerial forum that they were for terrorist bikies and the minister quoted 'real bad buggers' who are on the 24-hour watch list anyway. If that is the test then that is the test, but it appears in this paper that that is not the test.

It could be put forward that FPOs are for DVO recipients, drug addicts and other people who should not have firearms, but there is already legislation in place to stop them from having firearms. This bill does not say what tests there are on implementation and what criteria there has to be to hand out an FPO.

Mrs McMAHON: Could you please tell us about your organisation's position with respect to the proposal to increase the penalty for stealing firearms and ammunition?

Mr Cleaver: Yes. It is very similar to what Mr Park said before. The Firearms Dealers Association of Queensland has lobbied for some time to increase the penalty on stealing firearms. We have asked for it to be categorised specifically in the bill. We do not represent ranges like the Shooters Union, but a lot of our members are associated with ranges and a lot of the people we sell to are range operators. Part of the process that I have seen, having been actively involved in the industry, is what we call a range clean-up at the end of each day—firearms are made safe and there is a range lockdown. A lot of those processes are written in policies and procedures for those ranges. Part of that is making the line secure. The line is the firing line where all shooters engage all day. There could be dud ammunition left there that is not fired. There could be ammunition left behind by a client—half a box or three rounds on a bench. That is normally collected and either they try to find the recipient or it is handed in to Mines and Energy.

Our concern with including ammunition in that section of stealing firearms is that the range operators could be considered to be stealing ammunition from the firing line because they are taking possession of somebody else's ammunition that they left behind. If we had been consulted on this bill, we would have raised that and maybe suggested that a separate clause be included to state that ranges are exempt from this or that common industry practice is exempt from this to ensure that range operators are not charged or fall under this legislation.

Mr McDONALD: One of the things that I am very interested in is separating people who are doing the wrong thing from the good people of our community who are licensed firearms owners who do the right thing. The intent of this bill is to provide a greater separation of that. I know people in my community who are firearms collectors who when a terrible offence occurs are aghast at what changes might occur in legislation. The efforts in this bill are to try to provide a clearer distinction between those doing the wrong thing and those doing the right thing.

Mr Park mentioned, and you mentioned also, the frustration of not being able to get all things through the ministerial consultative process. It is my belief that the community's expectation of that separation of the bad from the good firearms people is actually not there yet. This bill tries to achieve that by using the firearms prohibition classification. Can you comment on that in terms of the intent of the bill?

Mr Cleaver: I would not label the ministerial forum as frustrating. Everybody is entitled to their own opinion and sometimes opinions clash. I do not see it as frustrating; I see it as the industry working with police and ministers and actively working to get legislation right the first time. Through my involvement with it I can say that the Weapons Act is not the cleanest act. It is often commented that it has sections in it from 1990 that do not mean anything anymore. Through the last three years of my engagement with the firearms advisory forum we have been able to make clean legislation. Sometimes we do not agree on legislative points but the legislation going forward is clean, so I would not really call it frustrating.

In terms of separating the criminals from the law-abiding shooters, yes, I do agree with that, but there are six points in our submission that overlap with the shooting community because there has been no consultation. The big one is blueprints. We retrieved a collection from a deceased estate the other day. Our company, Cleaver Holdings, was named in the will to deal with the firearms in the estate. That gentleman was a manager of Harvey Norman. Harvey Norman sell 3D printers. He was a collector. In his collection he had books and blueprints. Under the current draft of this legislation, with no intent to manufacture firearms he would be a criminal.

Mr McDONALD: If he was a prohibited person.

Mr Cleaver: Possibly, but our submission is that there must be some intent to commit a crime in that section, and we feel that through consultation we would have been able to damage mitigate that. If the true intention of the bill is to separate that, then there has to be some form of consultation so we can pick up on these little things and work together to ensure there is no overlap.

Mr McDONALD: Do you think the current legislation meets the community's expectation?

Mr Cleaver: I am not a police officer, and that is a very good question. From a firearms dealer's standpoint, I would say yes. From a firearms dealer's standpoint, we are all working actively to real-time registration of firearms. I believe that it is a very high community standard. I think Queensland, as opposed to all other states when measured up, is doing an exceptional job of that. The ministerial advisory forum under the Labor government has played a big part in that. Weapons Licensing released their figures the other day at that forum and I believe—and I am no expert in that area or a police officer—that they were very good. From a dealer's standpoint, yes, the legislation does meet those expectations.

There are other concerns in there too that it will affect industry. What mechanisms are going to be in place if this legislation is brought in to check FPOs? FPOs have been mentioned at the ministerial forum—only very briefly—but Minister Mark Ryan did state that on implementation there would have to be some dealer online check system. It is fine to pass this legislation through the House, but how does a dealer check if his electrician, who is behind the counter wiring up his new lights, has a firearms prohibition order?

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your attendance. The committee thanks you for the written submission that was sent in. It was very comprehensive and helpful.

Mr Cleaver: Thank you.

BENDLE, Mr Stephen, Advocacy Manager, Alannah & Madeline Foundation

CHAIR: I welcome Stephen Bendle from the Alannah & Madeline Foundation. Good morning. I invite you to make a brief opening statement, after which committee members will have some questions for you.

Mr Bendle: Thank you. Good morning, Chair and members of the committee. Thanks for the opportunity to address you this morning. I am sure the committee is aware of the foundation, which was established after the Port Arthur tragedy in 1996 where 35 people were killed by a man with a semiautomatic rifle. As well as the foundation, a lasting legacy of that day was one of the country's most significant public health initiatives which, within days, saw bipartisan support for the introduction of significant gun reform. Central to this is the National Firearms Agreement, which outlines a national approach to the regulation of firearms. The preamble states—

The Agreement affirms that firearms possession and use is a privilege that is conditional on the overriding need to ensure public safety ...

In the context of public safety, the foundation supports the amendments being considered by the committee as we believe they strengthen the Queensland legislative framework on firearms. It seems clear to the foundation that the amendments are aimed at those not fit to have possession of a firearm. The increased penalties would meet the community's expectations, and the threat of 3D printed firearms is certainly real. We know that blueprints are available on the internet or by file exchange. None of the explanatory notes of the bill or any of the commentary to date targets law-abiding firearm owners. If legitimate firearm owners must take additional care, then that is the cost of the privilege of owning a gun.

We do not believe that it should ever be easy to get a gun or to get more guns. However, Queenslanders who demonstrate a genuine reason to use or own a firearm are still free to do so. The Alannah & Madeline Foundation is a founding member of the Australian Gun Safety Alliance, which is a coalition of concerned individuals and like-minded organisations within a wide range of sectors that are advocating for all governments to be compliant with the National Firearms Agreement. I hope the committee has noted in our submission and in other submissions the number of inconsistencies and noncompliant clauses in the Queensland legislation in relation to the NFA. This is disappointing given that just as recently as 2017 the Queensland government reaffirmed their support of the National Firearms Agreement.

Thank you again for the opportunity to address you today. It is rare that public health advocates are engaged in firearm policy. We wish you well in your deliberations and I hope that our contribution is helpful. Thank you.

Mr LISTER: Mr Bendle, thank you for your submission and for coming in. Could you speak directly to the many law-abiding firearms owners in an electorate like mine of Southern Downs, who use them for sporting purposes or as a tool for work, about your views on this bill and if they have anything to fear by it?

Mr Bendle: Firstly, the Alannah & Madeline Foundation understands that the vast majority of law-abiding firearm owners and users are good people. They abide by the law and are able to continue their pursuit as a primary producer, a sporting organisation or a collector. That is fine. We ask only for governments to be compliant with their undertakings to the Firearms Agreement. We do not see anything in this amendment bill that aims or focuses on law-abiding firearm owners. It seems clearly aimed at those not fit for purpose to own a firearm or who are, as I think the wording is, part of organisations that are rightfully of concern for the community. I understand that there may be some technicalities and some wording which may have some implication, but it would seem that the overriding interest is that of public safety and that is why we support it.

Mrs McMAHON: Mr Bendle, you indicated in your opening statement that the foundation is part of a number of alliances or coalitions. Could you state what those were again, please?

Mr Bendle: The Australian Gun Safety Alliance is a new group of organisations from a wide range of sectors, including the health sector, medical, public health, education and emergency services—a wide range—that are equally concerned about public safety. We are advocating to all governments in all jurisdictions about the National Firearms Agreement.

Mrs McMAHON: Would you be able to advise us whether that organisation or body that the foundation is part of was consulted in any way on this bill?

Mr Bendle: I have not asked all of the 30 members, but I am not aware that any have been. The Alannah & Madeline Foundation certainly was not. As I noted at the end of my opening comments, it is rare that public health advocates—health or medical—are part of firearm policy in most jurisdictions.

Mrs McMAHON: Given that obviously we try to make good firearms policy in relation to public safety being the key thing, one would think that your group of organisations is involved more often.

Mr Bendle: One would think.

Ms McMILLAN: Am I right in suggesting that you are familiar with the current bill around managing this situation in this context?

Mr Bendle: The amendment bill or the current bill?

Ms McMILLAN: No, the current law or legislation.

Mr Bendle: Yes, as best I can.

Ms McMILLAN: Is there anything that this bill provides that the current legislation does not?

Mr Bendle: My understanding is that the proposed legislation does take that, in a sense, pre-emptive prohibition order in that in most of the circumstances that have been discussed this morning the people concerned would not have a firearms licence or it has been taken away for a number of reasons. My understanding of the intent of this is also about who they associate with if part of an organised criminal group or other activities of which the Police Commissioner would have concerns, hence the need for the firearms prohibition order. I am a little bit more familiar with the Victorian legislation, which I do not believe is used for drug addicts or for others who are not part of a wider organised crime group or other concerns that the police have.

Ms McMILLAN: What are your concerns with this legislation or this draft bill?

Mr Bendle: We do not have great concerns. We support it.

Ms McMILLAN: So you do not have any concerns?

Mr Bendle: I am not the legal one who may have a concern about some of the wording. We support the intent of it. We are happy if there continues to be some technical changes, but the intent about the firearms prohibition order and the intent to increase the penalties we support. I think everybody agrees that stealing a firearm is an issue where the public would expect as great a penalty as possible. We also have concerns over 3D printing. We think it is an imminent threat and anything that can be put in place to reduce the likelihood we would support. As I say, there may be some technical changes which we are happy for the committee to consider, but the intent of the legislation we support.

Ms McMILLAN: You did say that the current legislation provides the restrictions necessary?

Mr Bendle: Sure. The current legislation provides the protection necessary to remove firearms licences.

Ms McMILLAN: Yes.

Mr Bendle: Our understanding is that this adds an additional level of monitoring and prohibition for those who associate with others with firearms such as those involved in organised criminal activity.

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

Mr Bendle: Thank you.

YATRAS, Mr Kirk, Vice-President, Firearm Owners United

CHAIR: I welcome Kirk Yatras from Firearm Owners United. Good morning. I invite you to make a brief opening statement, after which committee members will have some questions for you.

Mr Yatras: I want to thank the committee for the opportunity to present today on behalf of Firearm Owners United, of which I am the vice-president. Our organisation operates nationwide to advocate for the shooting community. We are a purely volunteer-driven not-for-profit with a diverse membership ranging from sporting shooters to hunters, primary producers, professional pest controllers, armourers, security guards and dealers.

The primary matter we addressed in our submission on the bill related to the proposed criminalisation of what were termed digital blueprints. These sorts of drawings are more common than may have been envisaged when the bill was drafted. If interpreted in a loose sense, the legislation would seem to capture very common firearm breakdown and disassembly documentation, which is available in manufacturers' manuals for essentially all firearms that are produced to this day. They are available on their websites freely for download to the public and are commonly used by people who want to disassemble firearms that they lawfully own. Furthermore, it would capture scanned copies of historical documents. It would capture technical drawings used for understanding the working mechanisms of firearms that are used that are possessed innocently within the community and used by people to ensure their firearms are in a safe, usable condition. These drawings can be used to assess tolerances and measure various things to make sure that the guns are safe to use. In our submission we suggested that this aspect of the legislation is unnecessary, as the illicit manufacture of firearms is already captured under the Weapons Act.

Our other point is that if it is deemed to be necessary to push forward with this sort of legislation then we would suggest that a change to the term 'digital blueprint' would resolve a lot of the issues at hand. Instead, the definition could be changed to capture computer code—commonly referred to as G-code—that is used to program the relevantly possessed CNC machine to produce a given object. This code needs to be created with the specific manufacturing technology and machine in mind and would go some distance in distinguishing between those who possess digital firearms for nefarious purposes and those who are innocuous.

Finally, as pointed out in submissions from the Shooters Union and the Firearm Dealers Association, much of the proposed bill is redundant and does cover conduct already criminalised. We support the suggestion of the Queensland Law Society that the power to issue firearms prohibition orders is not vested with the Police Commissioner but instead a judicial officer.

Mr LISTER: I listened closely to your views on having information on how to construct a firearm. You talked about the possession of G-code—computer code—alongside possession of the means to use that code to potentially create a firearm. Are you aware that the intent of the bill is to make sure that only prescribed persons over whom there is doubt about the suitability to possess a firearm would be criminalised by the possession of both?

Mr Yatras: No, we did not read that in the bill. That did not seem overly apparent to us. If it is prohibited persons who are affected then that would not be a concern. Our understanding is that this would apply to anyone who essentially is not an armourer or a police officer.

Mr LISTER: No, it applies to prohibited persons under the bill. Would your group object on those grounds?

Mr Yatras: We would still possess the same objections. We would be less concerned if it strictly applied to people who are prohibited persons because essentially they are not included in our membership and we are not that worried about them. I still think the legislation could be improved in the way we suggested. A technical drawing of a firearm is a very all-encompassing sort of item. The specific G-code that is used to program a given machine really targets the digital file that would be used to produce a firearm rather than a broader, vague thing that is not that useful in producing a firearm.

Mrs McMAHON: Outside of what the kids do at school, I am not overly familiar with 3D digital printing. From a commercial firearms perspective, how many firearms are being produced or are capable of being produced using 3D printers and would they be considered usable firearms?

Mr Yatras: It depends what you mean by 'produced'. There are some 3D printed firearms that exist—some have been seized by police in Queensland and they have definitely been made elsewhere in the world—that are purely constructed on a 3D printer with no other firearm parts retrofitted to them. They are pretty terrible—

Mrs McMAHON: I would imagine a plastic firing pin would not be overly—

Mr Yatras: Often they have a metal firing pin. Everything else is made on a 3D printer and the firing pin will just be a nail or something. They are very bad. No-one would try to use them seriously, I think, because you are talking about something that can only fire a .22 LR, which is what the demonstrated capacity has been, before you start running into significant issues. That is not a very lethal cartridge at all. Maybe there would be some intimidation factor there, but they do not even look that scary. They are pretty ungainly things.

There are some 3D printed firearms that retrofit existing firearm parts, and there are variations of those. Some will use a barrel and then a metal bolt assembly. Those can fire pistol cartridges like what has been termed a Gluty in the community. I have never seen one of these produced in Australia; however, they are made in the US and I have seen the documentation on those. They are a bit more capable but still pretty ungainly. Then there are 3D printed firearms that only produce what is termed the lower receiver or the receiver of the firearm, which in Australia and the US is the registered component of the firearm. By doing that you essentially evade the requirement for registration or background checks in the US on that firearm. Once again, those still suffer from significant structural weaknesses—at least in a plastic version, which is all that is presently available to consumers. There are some metal 3D printers that are used commercially. They are capable of producing basically whatever you want apart from probably barrels.

Mrs McMAHON: Is it common for people to hold digital copies of firearms that they own but also ones that they do not own?

Mr Yatras: Yes, I would say that is reasonably common, especially as we move more into the digital age. People have reference books on firearms, so they will have technical schematics on all sorts of things. If you are interested in SMLEs, which are short magazine Lee-Enfields—which was the Australian firearm used throughout World War I and World War II as our main rifle—you can get huge reference books on those. If you scan those books, all of a sudden you have digital copies of them. Those books include technical schematics, and those are used quite commonly within the community for collectors especially but also people who want to take down their firearms and, as I said earlier, check tolerances and so forth, especially with older guns.

Mr McDONALD: Given your understanding of 3D printed rifles, guns and handguns, would you consider they are more of a danger to the user than the person they are going to be used on?

Mr Yatras: For the ones that are strictly 3D printed or fairly improvised, absolutely. It might only be a .22, but it is still going to blow your finger off if it goes wrong.

Mr McDONALD: I was interested in your comment about firearms prohibition orders being made by a court rather than the commissioner. All of the states have delegated that to the commissioner, given timeliness and the cumbersome process of going to court. Given that this is targeted at the worst of the worst and time can be of the essence, can you explain why you think it is suitable that it just go to the court?

Mr Yatras: A firearms prohibition order can have fairly severe penalties attached to it. We believe that in the interests of the separation of powers and so forth it would be best to have those issued by a judicial officer, similar to the process to obtain a warrant or something like that.

Mr McDONALD: Why should Queensland be different to other states?

Mr Yatras: I do not think following other states' mistakes is a great idea. I think the other states should change.

Mr McDONALD: Are you aware of any mistakes the other states have made?

Mr Yatras: Yes.

Mr McDONALD: Can you outline them?

Mr Yatras: No. I am aware of a case. One of the members of our organisation was not involved personally, but he knew a person who had an FPO served on him in New South Wales and I believe they did get that withdrawn after some fairly hefty legal bills. I do not have any more specific details than that.

Mr McDONALD: Could you obtain them?

Mr Yatras: Maybe. I am not sure whether they want to be on the record, because obviously it does not look good for anybody's character.

CHAIR: You do not have to.

Mr Yatras: No.

CHAIR: Correct me if I am wrong, but my understanding is that under the current Weapons Act if the police have a concern about someone they can cancel their licence relatively quickly.

Mr Yatras: Yes, they definitely can. We have had people contact our organisation looking for help after that has happened to them. We generally do not provide them with much, because it is fairly justified most of the time. The experience most people have is that the police will show up at their front door with the revocation notice, and they come into their house and take all of their firearms into storage at the station. Then that person will arrange for a dealer to collect them and onsell them because they are probably not going to get their licence back.

CHAIR: The prohibition orders that this legislation is proposing to implement are to prevent people from getting licences in the first instance.

Mr Yatras: Right. I am sure that Weapons Licensing is very capable of rejecting applications for licences when the person is not a fit and proper person. I imagine the criteria being used to assess someone for a firearms prohibition order would very much rule them out of being assessed as a fit and proper person in the application for a licence. My understanding of how this legislation has been used interstate is that it is less about stopping people from acquiring firearms in the first place and more about the police then being able to search those people, their premises and so forth and preventing them from entering certain places of business. The police can just search these guys continuously and eventually quite often they turn something up.

Ms McMILLAN: That was the point I made to the previous speaker. The current legislation as it stands allows police to revoke firearms.

Mr Yatras: Yes, absolutely. I do not think it happens that often, but it definitely does happen. It generally seems to be done quickly when it needs to be.

CHAIR: There are no further questions. Thank you, Kirk, for your written submission and for attending today to give evidence to the committee. It has been very helpful.

MACKENZIE, Mr Ken, Deputy Chair, Criminal Law Committee, Queensland Law Society

POTTS, Mr Bill, President, Queensland Law Society

STUBBINGS, Ms Hayley, Policy Solicitor, Queensland Law Society

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

Mr Potts: Thank you very much for inviting the Queensland Law Society to appear at this public hearing with respect to the Weapons and Other Legislation (Firearms Offences) Amendment Bill 2019. As many of you would be aware, the Queensland Law Society is the peak professional body for the state's legal practitioners, over 13,000 of whom we represent, educate and support. We carry out our central ethos of advocating for good law and good lawyers. The society proffers views which we believe are truly representative of its member practitioners. The society is an independent, apolitical representative body upon which government and parliament can rely—and we know they do rely—to provide advice which promotes good, evidence based law and policy.

With respect to the bill we have raised the following three key issues. Firstly, we submit that many of the new offences and increased penalties contained in the bill are not justified by sufficient evidence that the current law is not meeting the needs of the community. Secondly, the broad power being conferred on the Police Commissioner to impose firearms prohibition orders is not appropriate. I note that we are attempting to follow what is happening in other states, but that does not mean that Queensland cannot be independent. Nor should it preclude this committee from considering the effect of these prohibition orders. If FPOs are to be imposed, we submit that the police should be required to make a request for an FPO, accompanied by appropriate evidence, to a judicial officer.

The bill contains inconsistencies, we submit, with respect to fundamental legislative principles in that it fails to have regard to individuals' rights and liberties by (1) reversing the onus of proof, (2) imposing potentially disproportionate punishments, (3) not being sufficiently clear and precise, (4) creating unnecessary offences, (5) inadequate rights of review and (6) potential acquisition of property which we submit would be without fair compensation as the bill currently stands. We bring the committee's attention to an area in our submission. When discussing clause 13 reference is made to section 68 of the Weapons Act 1990. It should, in fact, refer to section 69 of the act.

We have made a very detailed submission, which we commend. I do not intend to repeat it. Much of the thrust of our submissions is not about not protecting the public nor individuals who may find themselves with concerns; it is more to ensure that the proposed bill does its job fairly, that it meets the fundamental legislative principles that this parliament first promulgated in 1992 and that it proportionately meets the concerns that have been raised no doubt to the minister and to the parliamentary draftspeople in placing important legislation before this parliament. We open ourselves up to questions.

Mr LISTER: Good morning. Thank you for your submission and for coming to see us. You made the point, Mr Potts, that Queensland should go its own way when it is appropriate, and I can understand that. We are independent in that sense. However, if we turn things around and, say, look at the other states and their granting of the power for these types of things to the Police Commissioner, can you highlight any examples that you are aware of where injustices have been perpetuated because of that as a reason for why we should not do the same thing?

Mr Potts: My understanding is this: particularly in New South Wales the FPOs have been utilised for search purposes and less than two per cent have turned up a result. It is a significantly small number so, in relation to the introduction of such an order where there is no oversight by a judicial officer, you have to ask yourself whether that is an effective use of it. The last speaker spoke of its use to effectively continue searching. We say that that continues to have real issues relating to it. The third thing is that you will see that there are no time limits approached or placed upon FPOs. That is, once the Police Commissioner has made such an order the weapons, if they exist, must be surrendered immediately; it does not matter where the person is, and it is often an impossibility. More importantly, there is no time limit. The FPO can effectively last forever.

The Women's Legal Service in their submission talk about things that could be considered for impact. I understand domestic violence to be a scourge upon this community and I understand seriously the concerns particularly women face with respect to these things. However, what they are promulgating is effectively a person who has been the subject of a domestic violence order—pausing here to intersperse that such orders now last for five years—and then when a person may have concerns—and it does not put it any higher than that in their submission—the former spouse or the

former partner who may have contact with the children constitutes a risk and there may not be sufficient evidence to place it before a court for a domestic violence order. Effectively, it is a feeling and there is no evidence whatsoever. After a long order, such a person—for example, if they are a primary producer or farmer—can find themselves having the tools that they need to keep wild dogs down on their property removed from them effectively with only a very expensive redress through QCAT.

Whilst we understand fear and whilst we understand often the pressure upon a parliament to do something, we say that any change in the legislation has to be firstly evidence based, cautious and have appropriate and proper means of either dealing with the compensation of people who may lose weapons which they have been perfectly lawfully able to be in possession of, but also to appropriately have time limits placed upon those things so there can be some certainty. We simply say that the legislation in its current form may have those unintended consequences and may cause unnecessary expense and harm to people who are in fact, using that example before, where there is simply not even sufficient evidence on the balance of probabilities—fifty-fifty, which is the test for a domestic violence order—to reach even that fairly low bar.

Mr McDONALD: You mentioned only two per cent of searches were successful upon the New South Wales police using a prohibition order as an effective means of conducting a search. Could you expand on that, please?

Mr Potts: Ms Stubbings, who is the policy solicitor, may be able to assist you with the exact figures and where that information comes from.

Ms Stubbings: That has come from a New South Wales Ombudsman's report into the first two years of those search powers being attached to FPOs in New South Wales. It is also discussed in an article from the *Current Issues in Criminal Justice* journal in 2017. It states—

... in the first 22 months of the Ombudsman's review period, police used FPO search powers to conduct 2571 searches of 634 people, 227 of whom were not subject to a FPO.

The powers were used mistakenly. It goes on—

These searches could be grouped into 1343 separate interactions, which were termed 'search events' by the ... Ombudsman.

...

Despite conducting more than 2500 searches using their FPO search powers in the two-year review period, police seized 35 firearms, nine firearm parts, and 26 lots of ammunition—meaning that police found a firearm, part of a firearm or ammunition in just two per cent of all FPO searches.

There is a slightly different threshold for the searches in New South Wales, but I think this is relevant to what the president has said and what the previous witness was saying about the FPOs being used to trigger search powers.

Mr Potts: If the chair wishes or the committee requires, we can provide you with a copy of that particular report.

Mr McDONALD: That would be great, and also the difference between the New South Wales powers that you just mentioned.

Mr Potts: Do you want me to attend to that now? It is marked up, unfortunately—

CHAIR: No, it is all good. I think taking it on notice would be the simplest way to deal with it, unless someone has a better suggestion.

Mr McDONALD: Good idea.

CHAIR: Under the current legislation, under the police powers act, if the police have a reasonable suspicion that a person is of bad character or hanging around the wrong crowd, if they can satisfy a judge of the grounds for a search they can search for weapons now?

Mr Potts: Absolutely, the powers exist. They are, quite frankly, necessary and appropriate. If they believe a crime is being committed or is likely to be committed they can seize the weapons immediately. Perhaps I would ask Mr Mackenzie to comment on this issue as well.

CHAIR: Before you start, if the police—it is a double-barrelled question, but I know you can handle it—for example, have a reasonable suspicion but do not have a warrant, they can still act on that and then get a warrant retrospectively, post search?

Mr Mackenzie: There are two aspects to that. There are some searches that the police can now do without any warrant. Certainly in relation to stopping people in public and stopping and searching vehicles, all the police officer requires is a reasonable ground to suspect that the person is in unlawful possession of a weapon. Then there is no requirement to obtain a warrant or a post-search approval. Then there are other circumstances of emergency or contingency where the police would fear the loss

or destruction of evidence. In those circumstances they can exercise their search warrant powers to search, for example, a vehicle which is unattended or a person's house. In those circumstances they can exercise all of the powers they would have with a search warrant even if they do not have one and then apply to a justice afterwards for a post-search approval order. The firearms prohibition order seems to us to add nothing to the current powers that the Queensland police have to search for suspected unlawful weapons.

Mr Potts: In essence, you are adding consistency effectively blindly to cover powers which this parliament has already given to itself. 'What is the point?' we ask rhetorically.

Mr McDONALD: The intent of the bill is to focus on bad behaviour in the community. I have many firearms owners, dealers and collectors in my rural community. The intent of this is to separate those good people from those who are doing unlawful and criminal activities. One of the things that many in my community have expressed to me regarding this bill is that every time a bad thing happens in the community with a firearm they feel aghast at what other changes are going to occur to legislation and what loss there will be of their entitlements. Do you think the intent of this bill is in line with that expectation of the community?

Mr Potts: I think the chair will appreciate me sharing with you an old criminal law truism, being an old criminal lawyer myself, and that is that bad cases often make for bad laws. With no disrespect to this committee or to this parliament, too often we see issues which become public where there is a real need perceived that something be done either where there is simply no evidence that the current law is not working or where the increasing of penalties is something which is perceived to be being tough on crime whereas it is simply, quite frankly, often very unnecessary.

There is a noble balance to be struck here, and that is between the lawful interests of individuals who use weapons as a tool as part of their farming pursuits, or even lawful sporting shooters in limited circumstances, and the safety of the community and the recognition that there should be appropriate and proper controls on the safe storage of weapons, the safe storage of ammunition and the limiting of the capacity of people to manufacture weapons, which this act also addresses—we think badly, but it addresses it. I think it does attempt to do that, but you will see that many of our objections are in fact entirely technical. They are aimed to improve the way in which the legislation works to ensure there is consistency of terminology within the actual drafting. We do not want to see a situation such as, for example, in America where the second amendment rights mean that the weapons in the community are overwhelming. Similarly, we do not want to see that people who are lawfully, appropriately and properly utilising weapons for whatever purpose are limited. It is a balancing of the public's safety with the individual's necessities.

Mrs McMAHON: Mr Potts, in your submission you made reference to a number of concerns regarding the inconsistency in the bill with fundamental legislative principles. I was wondering if there were one or two egregious inconsistencies that you could highlight to the committee.

Mr Potts: Could I ask Mr Mackenzie to take up his cudgels?

Mr Mackenzie: I was just looking at the proposed section 141D, 'Effect of firearms prohibition order', which puts all sorts of onuses on a person to do things that they may simply have no power to do. For example, it seems to be intended to put an onus on a person who is subject to the order to make sure that there are no firearms or ammunition in the place in which they reside. That, of course, may involve people and places within the place over which they have no control or power. If somebody is simply renting a room in a boarding house or in a hotel or is living on a farm where they work, they are not going to have the power to, for example, ask questions of the other people in that place about whether that person has firearms or ammunition. They certainly have no power to compel those people to answer the questions. Yet the proposal in paragraph (10) would make it an offence for them not to have asked each of the people who were going to reside in their residence whether or not they have or propose to have a firearm.

Similarly, paragraph (6) makes it an offence for a person who is subject to the order if there is ammunition or a firearm found or kept in premises at which the person is residing and then a reverse onus on an accused person charged with that offence to try to prove that they did not know and could not reasonably have been expected to know that the firearm or prohibited thing was on the premises. For example, if you were a jackaroo on a cattle station and you had an order like this made against you, that would mean you could not work on the station if other people on the station lawfully had access to firearms. The reverse onus also requires you to take reasonable steps to prevent the firearm from being on the premises. Again, how is an employee or a person who resides in a place with a security guard out the front supposed to comply with a condition like that? The bill has been drafted, it seems, very much with one object in mind but without perhaps considering how it is going to affect people who will be caught up with it in ways that the drafters did not intend.

Mr Potts: Without seeking to effectively resubmit the same things, essentially the main thrust of our argument is: reverse onus of proof under the 1992 legislation is said to be a fundamental legislative principle. That should not be done. Secondly, we say that the fines are disproportionate and are effectively legislative overreach because the fines themselves impose significant penalties which do not effectively meet the nature of the offending. Thirdly, we say that—and you have seen as part of our submission that we say that—the wording is not consistent. Of course, the legislation has to be sufficiently clear and precise. We say also that it creates unnecessary offences because the current legislation is strong enough and why repeat the same thing?

There are inadequate rights of review, particularly relating to FPOs and the cost of doing that and the fact that effectively it can be a decision of the Commissioner of Police rather than a decision of a judicial officer, perhaps through QCAT. We say finally that the potential acquisition of property can simply be that the order is made, the weapons have to be seized immediately and there is nothing within the legislation that says that they should be compensated for that. People who have these types of weapons on a farm may have a large number of these things. They may be effectively family heirlooms handed down. They may be very expensive things and they can be taken away.

Mr Mackenzie: That provision could apply to a firearms dealer, and I think there have been submissions made by industry bodies about that. Somebody might have 7,000 weapons in their dealership which are immediately required to be surrendered.

Mr Potts: They are the main things which we suggest are egregious.

CHAIR: The responses to questions that were taken on notice are required by Monday, 26 August so that they can be included in our deliberations to the secretariat. That brings to a conclusion this part of the hearing. We thank you for your attendance and your written submission. The time has expired. I would like to thank all witnesses who appeared today. I thank our 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 Weapons and Other Legislation (Firearms Offences) Amendment Bill 2019 closed.

The committee adjourned at 10.05 am.