

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 5 - LEGAL AFFAIRS

**PROVISIONS OF THE FIREARMS AND WEAPONS LEGISLATION
AMENDMENT (CRIMINAL USE) BILL 2020**

UNCORRECTED

At Macquarie Room, Parliament House, Sydney on Thursday, 10 December 2020

The Committee met at 10:07 am

PRESENT

The Hon. Robert Borsak (Chair)

The Hon. Rose Jackson

The Hon. Trevor Khan

The Hon. Natasha Maclaren-Jones

The Hon. Taylor Martin

The Hon. Shaoquett Moselmane

Mr David Shoebridge (Deputy Chair)

The CHAIR: Welcome to the second hearing of the Portfolio Committee No. 5 inquiry into provisions of the Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I pay respects to the Elders past, present and emerging of the Eora nation, and extend that respect to other Aboriginal people present. Today is the second of two hearings we will hold for this inquiry. Today we will hear from representatives of the Law Society of NSW and the New South Wales branch of the Sporting Shooters' Association of Australia. We will also hear from a number of individual firearms lawyers and owners.

Before we commence, I will make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments they may make to the media or others after they have completed their evidence. Committee hearings are not intended to provide a forum to make adverse reflections on others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided by Monday 18 January 2021. If witnesses wish to hand up documents, they should do so through the Committee staff. To aid the audibility of the hearing, I remind both Committee members and witnesses to speak into the microphones. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. Finally, would everyone please turn off their mobile phones or set them to silent for the duration of the hearing. I now welcome our first witnesses.

JAI ROWELL, Chief Executive Officer, Sporting Shooters Association of Australia (NSW), sworn and examined

LANCE MILLER, President, Sporting Shooters Association of Australia (NSW), affirmed and examined

The CHAIR: We are starting five minutes late. We will finish five minutes late before the next witness. Welcome, Mr Miller and Mr Rowell. Would either of you like to make a short opening statement?

Mr ROWELL: Thank you very much, Mr Borsak and inquiry members. Thank you for having us here today. I will make an opening statement and then I will hand over to Mr Miller. Thank you for giving us the opportunity today to participate in this important inquiry. My name is Jai Rowell. I am the CEO of the Sporting Shooters Association of Australia (NSW) [SSAA NSW]. I am representing our 58,000 members here today with Lance Miller, our National President and State President of the Sporting Shooters Association of Australia (NSW), to raise the concerns of our association with the proposed Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020.

SSAA NSW has been overwhelmed with concerns from our members and other legal firearm owners who believe that this bill would unfairly convert law-abiding firearm owners into criminals. The bill will have a detrimental effect on our members participating in activities that contribute to sustainable wildlife management and a legitimate and recognised Olympic and international competitive sport. Before handing over to Mr Miller to discuss the concerning, unintended consequences of the bill in detail, I want to start by introducing our association and the vital work that we do across the State in promoting safe and legal firearm usage and conservation.

SSAA NSW is the peak body dedicated to promoting, protecting and preserving the shooting sports in New South Wales. With over 58,000 members and 136 branches and affiliated clubs across the State, the association represents the safe, fun, and all-inclusive range of sports shooting available today. SSAA NSW is an essential contributor to tailored educational programs and training for sport shooting, and legal and ethical hunting. SSAA NSW provides a statewide, cross-discipline membership coverage that enables members to participate in the sport across the State in various disciplines without the need to join multiple clubs. SSAA NSW manages over 18 shooting disciplines and represents clubs that actively participate in regular local, State and national competitions.

The association also facilitates and promotes responsible wildlife management, with a large proportion of members involved in recreational hunting and pest management activities. SSAA NSW works in conjunction with State and local government authorities to achieve sustainable outcomes for the people of New South Wales and support our regional and farming communities. Among others, we partner with the National Parks and Wildlife Service, the Department of Primary Industries and Local Land Services. SSAA NSW is also in the final stages of establishing a registered training organisation that focuses solely on providing approved vocational education and training courses relating to the use of firearms in different industries. All training programs provided by SSAA NSW meet the needs of the sport and industry. Our training programs are also regularly reviewed for legal compliance to ensure that our members are meeting all legal and ethical requirements.

SSAA NSW always welcomes the opportunity to work with the New South Wales Government, and we certainly have a long history of supporting tougher laws on criminal activities and the illegal use of firearms. We appreciate the opportunity to be here today to share our members' concerns. We do, however, wish to express disappointment that the bill was introduced without any industry consultation. We would like to discuss a consultation pathway going forward with regards to amending the bill to avoid all the unintended consequences through the establishment of a ministerial advisory committee.

SSAA NSW supports the intended purpose: that the bill is not intended to "criminalise legitimate firearms owners." However, as it is currently written, the proposed bill does just that. The bill effectively makes it illegal to undertake many simple tasks that are essential for the safe usage of firearms, as Mr Miller will detail. Committee members, obtaining a firearms licence is a thorough and challenging process. Police initiate background checks for all licence applications, while peak associations conduct a compulsory competency training program to ascertain the eligibility of applicants. SSAA NSW supports this process by way of additional training for licensees to promote safety and engagement in our sport.

We provide facilities and ranges to contribute to the ongoing training competency of all members, as well as providing safe and controlled ranges for legal firearms owners to participate in the sport. SSAA NSW actively improves upon the safety, training and firearms ethics of the person accepted by the NSW Police Force

as legal firearm owners in New South Wales. On behalf of our 58,000 members and legal firearms owners in New South Wales, I once again thank you, Mr Chairman, and all Committee members here today, for the opportunity to speak and for undertaking this important inquiry to ensure that legal firearms owners are not unfairly disadvantaged by the law. Thank you for your time to read our detailed submission and hearing from us today.

We stand by all of our written recommendations and, in particular, today highlight some additional ones: First, ensuring that legal firearm owners are written into the bill so that they are specifically recognised as law-abiding and not covered by the bill; second, that the ministerial advisory committee be set up to ensure greater dialogue on important matters and to avoid unintended consequences or malevolent legislation; third, that legal firearm owners are afforded the same rights as everyone else in the community; and, fourth, that consideration be given to the establishment of a firearms commissioner with certain powers and responsibilities to support legal firearms owners. It is our contention that it is much easier to rectify the unintended consequences at this stage than it is after it becomes legislation. As our president, Mr Miller, will highlight, at least one other jurisdiction already has the protection for legal firearms owners already operating at law. In conclusion, SSAA NSW is willing to work with the New South Wales Government and this inquiry in good faith to ensure that the final draft of the bill achieves the intended objective without unintentionally criminalising legal firearm owners.

The CHAIR: Thank you. Mr Miller?

Mr MILLER: Mr Chairman and honorary inquiry members, my name is Lance Miller and, as stated, I am the National President of the Sporting Shooters Association of Australia and the SSAA NSW President. We have over 200,000 paid-up members nationally and over 58,000 of those are members in New South Wales. Our membership represents 24 per cent of the 240,000 legal firearms owners in New South Wales. Firearms owners represent only about 3 per cent of the population of New South Wales, which is a minority. However, that 3 per cent are legally required to be 100 per cent engaged in their sport. This is by way of annual mandatory attendances and this prerequisite ensures that our membership remain committed participants in their sport and that they are reactive to any legislative change that impacts their involvement. The current draft of the bill threatens to not only criminalise our sport but also remove basic civil liberties contained in the New South Wales legal system.

To identify the ways in which the bill criminalises legal firearms owners, it is first necessary to distinguish between a legal firearm owner and a criminal. Within Australia, firearms are not to be used in self-defence, protection or to attack. Under Australian law, aggression with a firearm is a crime, making the use of a firearm as a weapon a criminal act. Legal firearms owners in Australia use firearms for shooting sports or, in the case of farmers and ethical hunters, a tool. A legal firearms owner is not a criminal and is not a criminal in waiting. In their hands, a firearm is not a weapon. SSAA NSW also supports the intended purpose of this bill, "to be responsive to illegal firearms and those who make the buying, selling and making of illegal firearms a main focus of their criminal business", as stated by the Minister for Police and Emergency Services, the Hon. David Elliott, MP, in his second reading speech on the bill.

We agree with the Minister that the bill is not and should not be to "criminalise legitimate firearms owners". The current draft of the bill, however, does not provide for the legitimate activities of legal firearms owners; instead, it unintentionally places criminals and legal firearms owners within the same classification. We are here today to ensure that the bill achieves its intended purpose of specifically targeting criminals, rather than law-abiding firearms owners, sports shooters, farmers and conservationists. Our first concern of the current bill is its potential to deny basic civil liberties. This bill removes the fundamental principles of the criminal justice system by encroaching on the right of the presumption of innocence. The bill does not require the police to provide evidence that a functioning firearm could result from the manufacturing process. Instead, it reads that the person accused would have to prove that it was not. The right to the presumption of innocence is a common law principle that is entrenched in the English legal system and contained in article 14.2 of the International Covenant on Civil and Political Rights, to which Australia is a signatory.

The bill also requires firearms owners to provide assistance or information, removing the right to silence, as further contained in that international covenant. No citizen should be coerced or threatened by a penalty to relinquish their right to silence, nor be compelled to self-incriminate. This is a fundamental right for all citizens and should not be removed. We note The Law Society of New South Wales' position on the bill and agree that it is wrong that you could be sentenced to a maximum of five years imprisonment for actual firearms parts possession, but up to 20 years for possession of a picture of how to make one—and I draw your attention to an example of an exploded parts diagram, for parts that are compulsory for repair. Equally, we share the same concerns as the New South Wales Bar Association regarding the broad operation of the new offences and the

adoption of a strict liability or "negligence" fault element, which concerns us when it is coupled with the unintended consequences of the bill. We believe it would have devastating consequences to law-abiding citizens. Sighting in is a required safety practice that needs to be regularly checked by a firearms owner. This is also true of the cleaning and maintenance of a firearm.

The New South Wales Firearms Registry has a memorandum dealing with the expectation of sighting in a firearm as well as a memorandum dealing with the expectation of cleaning a firearm. They are essential safety acts for all responsible, legal firearms users. Under the bill, sighting in and cleaning becomes a criminal activity—it is not the sighting in and cleaning but because we use modifications, precursors and tools to disassemble and reassemble a firearm for cleaning and modifying the sights, et cetera. These items have now become precursors and not acceptable within the bill. Competition shooting, especially Benchrest and long-range precision shooting, require the utmost accuracy from a competitor's rifle. To achieve this, the legal firearms owner and competitor will often own multiple barrels and their own cartridge chamber reamer, the purpose being to ensure consistency from barrel to barrel to match their hand-prepared ammunition. The barrels are chambered by a gunsmith and are registered. This is all legal. If the competitor wants their own specific tolerance chamber reamer, rather than using the gunsmith's unknown tolerance and worn reamer, the competitor is considered to own a precursor.

That is black and white in this bill. Under that proposed amendment, it is illegal. This automatically criminalises the legal firearms owner and competitor under the proposed bill. Further, this would criminalise our sports shooters competing at local, State, national and international competitions such as the Olympics. SSAA NSW has significant concerns regarding the bill's impact on legal firearms owners, especially farmers and those in rural and remote communities. The machining equipment and materials used to create or repair a functional firearm are not unique; most are readily available for many other legitimate uses. Tool shops, different types of businesses, volunteer organisations like men's sheds and training organisations all have legitimate need to have what the bill considers firearms precursors. In conclusion, SSAA NSW supports the intention of the bill to target criminal activity, but the bill requires significant revision to avoid the overextension of police powers and the erosion of the civil liberties, as currently proposed against legal firearms owners.

We know that legal firearms owners are law-abiding because they have been vetted by the police, they complete regular safety training and they comply legally with all required participation in their sport. We ask that legal firearms owners are written into the bill and that their legal and legitimate activities are recognised as such to avoid any inadvertent or misdirected targeting. At the very minimum, we would point the committee to sections 37 (3) (a) and 37 (4) (a) of the South Australian Firearms Act 2015. We believe that a ministerial committee is the best path forward for consultation. SSAA NSW, if consulted, can advise on the unintended consequences with any proposed firearms regulation or legislation amendments.

We are certain that our contribution via a ministerial committee will ensure that strengthening the laws to target criminals can be accomplished without criminalising the legal firearms owners, farmers and sport shooters. SSAA (NSW) would also like to petition this Committee to further protect legal firearms owners by appointing a firearms commissioner to ensure that the basic legal rights of New South Wales citizens are equally applied to legal firearms owners. To summarise, please ensure that legal firearms owners are differentiated from criminals and not automatically criminalised as this bill is currently written. Please ensure that the peak bodies for legal firearms owners are represented on a ministerial level committee to support effective firearms legislation. Please ensure that legal firearms owners receive the same civil rights as all New South Wales citizens and, finally, that the basic lawful rights of legal firearms owners are supported by the appointment of a firearms commissioner. I thank you all for listening.

The Hon. ROSE JACKSON: Obviously, as you know, this is the second day that we have had hearings, so we are in some ways aware of the issue that you have raised, which is that you are concerned for the unintended consequences. The suggestion is that 51J (1) (b)—the second element of the test, as it were, that someone knows or reasonably ought to know that the manufacture that they are doing is not authorised under a licence or permit—is protection for the concerns that you have raised. In order to be guilty of an offence under this Act, a person must do the manufacture act and, as you say, there can be various legal things that that would cover, but they must know or reasonably ought to know that what they are doing is not allowed. I obviously take from your submission and your contributions that you are not satisfied by that, but why not? Why is it not legitimate to say that, yes, you can do upkeep or works on your firearms legally, but you are not allowed to do it if it is not authorised? How is that protection not there under 51J (1) (b)?

Mr MILLER: I think the primary issue is the precursor issue. The example I gave is absolutely specific in that. The reamer for a barrel—all our top shooters and our benchrest shooters use them. They have to have a heavy barrel and a light barrel for their competition. They change barrels at half-time effectively. Those barrels

shoot obviously very carefully prepared ammunition. At 200 metres they are trying to put all their bullets in one hole. It is tough. I have tried to do that. It is not possible in my case. But they are shooting in the 0.1 of an inch category and there is wind. It is the butterfly effect. You know, there is a butterfly in Japan and there is a little breeze across a rifle range in New South Wales somewhere. The precursor is the problem. The precursors for the items needed and the ability to search for—so a blank piece of metal is mentioned regularly around this. It is a tube of metal. It is not a barrel, but it could look like one. That is not a precursor but, as the bill is currently written, a police officer can assume it is a precursor.

The Hon. ROSE JACKSON: Indeed, and I think the issue that you raised about the tools and other things that people use in the legal maintenance and modification of their firearms is valid. I guess the issue is, when people are doing that modification and maintenance and it is authorised by their licence, that is fine because that is not "knowing or reasonably ought to know" that that is not authorised. I am interested a little, as I said, in how that is—

Mr MILLER: I find it open to interpretation too much. That is why we are asking that the legal firearms owner be represented beneath the category for dealers and gunsmiths.

The Hon. TREVOR KHAN: The South Australian amendment is what you want.

The Hon. ROSE JACKSON: Yes, I was going to get to that.

Mr MILLER: Ideally, something along those lines. It is going to be a New South Wales amendment if we get it, not a South Australian—

The Hon. TREVOR KHAN: Yes, but you know what I mean.

Mr MILLER: Yes, that is what we are looking for. Something like that just to mention us and give us a little bit of security against unintended—

The CHAIR: Just to clarify Ms Jackson's question, does the category A or B licence allow you to actually do what you are talking about doing, or does it just allow possession?

Mr MILLER: That is the problem. We are unsure of our position under the National Firearms Agreement and under New South Wales regulations, but we do accept that, because registry has said that you should clean your firearm and you should sight in your firearm, it is acceptable practice. This bill now puts a cloud over that particular space that registry allow us.

Mr DAVID SHOEBRIDGE: I thought last time we were here there was a pretty strong argument made for the defence provisions in the South Australian Act.

The Hon. TREVOR KHAN: I have not heard anything that moved me back from that position yet.

Mr DAVID SHOEBRIDGE: But the idea that the entire replacement of a barrel would fit in the South Australian amendments troubles me. That is not where I thought it was going.

The CHAIR: Well, if the barrel is registered, it would.

Mr DAVID SHOEBRIDGE: I am just saying that the entire replacement of a barrel seems to go beyond minor repairs. If you wanted to do that, you may have to go and see a firearms dealer.

Mr ROWELL: Mr Shoebridge, in that specific example that you give, that is in relation to competition and, as Mr Borsak just said, those barrels are registered and already known and those licences have been issued by police. But, coming back to Ms Jackson's and Mr Khan's comments, that South Australian model very easily dealt with the issues that we are seeking to address here. I think it is very easy to put that into the New South Wales context, amend this bill now, and avoid those unintended consequences.

Mr MILLER: I might further add that the rules and regulations around competition are quite strict. They have been presented to registry and approved by registry. In those rules, the switching of barrels between light and heavy for the different competitions is accepted. It is a legal thing that we have had checked. We have requested that in our rules and regulations.

Mr DAVID SHOEBRIDGE: I thought that, if there is a reasonable repairs provision—and we may not agree entirely on where the boundaries of that are—there is a defence. Given all the other requirements before the offence can be made out under 51J, that would effectively resolve your concerns.

Mr MILLER: The issue I face is that I do not want to be having to defend my actions. I do not want to be arrested because I am cleaning a firearm because we have already passed all the tests. It is legal that we own a

firearm. It is legal that we use that firearm in the appropriate conditions. I honestly believe that legal firearms owners do stick in that space. We have a zero tolerance policy in SSAA. It is legit. We will defend our members tooth and nail if they are doing the right thing. If they are not, they are cast to the winds. That is the place for the police to come in. I believe it is important that I do not feel, as a firearms owner, that I can be arrested, targeted or questioned about cleaning or sighting-in a firearm. They are basic things.

The Hon. TREVOR KHAN: Mr Miller, I struggle to see how cleaning a firearm comes within—I see that there is a problem, but I cannot see that cleaning falls within the concept of having a precursor for the purposes of manufacturing.

Mr MILLER: It could come down to the individual police officer's opinion.

The Hon. TREVOR KHAN: But that is always the case. You get cops who get it wrong all the time.

The Hon. SHAOQUETT MOSELMANE: If you break the gun apart, then you are cleaning it. What are you doing with it?

The Hon. TREVOR KHAN: Well, you are not manufacturing.

The CHAIR: He also said earlier—take away the cleaning. Talk about a chamber reamer. Do you know what that is?

The Hon. TREVOR KHAN: I have a reasonable idea.

Mr DAVID SHOEBRIDGE: But that is when we are talking about modest repairs and the like. But can we take cleaning off the table? It does not feature anywhere in this Act. If it does, show me where.

Mr MILLER: I cannot show you where because it is not in the National Firearms Agreement that we are allowed to clean the firearm.

Mr DAVID SHOEBRIDGE: Show me where in the bill. If you think cleaning is seriously an issue, show me where in the bill it has been—

The Hon. ROSE JACKSON: The word "manufacture" is the operative word and it is almost impossible to see how cleaning a firearm could be in any way construed as a manufacturing act.

Mr DAVID SHOEBRIDGE: But I am open to be persuaded if you can show me a section in the bill that we are looking at that deals with cleaning, Mr Miller.

Mr MILLER: I have already identified that I believe the precursor issue is the major issue with cleaning. The tools required for manufacture are often similar to those required for cleaning and adjustment. Then there is the modification. Putting different sights on a rifle or a shotgun, for example, is a modification to a firearm. Under the extreme writing of this current bill, that is a modification. Modifications are forbidden. We just want the latitude to handle things that we currently have from the Firearms Registry written into this bill. I do not think that is difficult or confrontational.

Mr DAVID SHOEBRIDGE: I think the case is better made out, though, when you are sticking to actual issues that are raised in the bill. There are some actual issues in the bill and your case is better when you stick to them.

Mr MILLER: Okay, I appreciate that. Thank you.

The Hon. ROSE JACKSON: Can I just clarify—apologies, I am obviously not particularly familiar with firearms licences. Within your firearms licence or permit, does that document spell out what cleaning or modification you are allowed to do? Is that spelled out in that document?

Mr MILLER: No. It is certainly an expectation from the Firearms Registry but it is not written into the licence.

The Hon. ROSE JACKSON: When you say "expectation," is that mostly verbal or do they have policies?

Mr MILLER: No, it is a memorandum.

The Hon. ROSE JACKSON: They have memorandums, right. I actually think that in a way we are in agreement. There is an understanding that because it is not referenced in the licence or permit, it is not clear that that is allowed. References to those other documents are not contained in this Act or in the amendment that specifically provided as protection or defence that people who were operating within the purviews of those

memorandums would be allowed. We are concerned to ensure that it is limited to that and that we do not provide additional defences that people who are doing the wrong thing can hide behind.

Mr MILLER: We also have zero tolerance within our organisation. Mr Shoebridge has already mentioned that he is unsure about barrel switching. That is very a common practice in competition. The ability to write us into the bill at a lower level—we are not asking for what a dealer or gunsmith can do—gives us the confidence that we can do these things. As I said before, the National Firearms Agreement does not manage cleaning and sighting in. That is left to the State regulations to pick up. The State regulations are not clear on that either, so the Firearms Registry having their memorandum is a very useful thing for us. This bill competes a little bit with that. It has not taken it into account. I will not say that it competes but I think it has not taken it into account properly.

The CHAIR: In your evidence you talk about a firearms commissioner. Do you want to elucidate a little bit on that?

Mr MILLER: We note that in some instances firearms users are perhaps not afforded the same basic civil rights as all citizens in New South Wales. We are specifically asking for that. A firearms commissioner is something along the lines of an ombudsman to sort out the issues that could come up if police have one idea and the firearms owner has another. As long as it is not a black-and-white piece of space like zero tolerance—we have said that—that person needs protection not just from their own lawyer but from government. We are looking for that type of thing. We understand that we cannot ask for an ombudsman.

The Hon. TREVOR KHAN: Protection from their lawyer? I can think of circumstances where some of my clients needed protection.

Mr MILLER: We are not asking for an ombudsman because our industry is just not that big. That is irrelevant. Let us get the telcos sorted out first. But we would like some representation and a place to go if we feel that we have been unfairly treated.

Mr DAVID SHOEBRIDGE: You have the NSW Civil and Administrative Tribunal.

Mr MILLER: Yes, we have. If there is a place where we are not feeling fairly treated, we would like somewhere to go.

Mr ROWELL: I think it is broader than that as well. The Government has a long and well-established route of establishing commissioners for all sorts of industries and issues, whether it is the children's commissioner or the recent one in the drug debate, to look at processes and practices. This would be another opportunity. A commissioner for firearms that would not be a sworn police officer, that would be outside of that, can look at those issues to ensure that there is fairness and that those issues are resolved.

Mr DAVID SHOEBRIDGE: That seems well outside the remit of this bill or even the terms of reference for this inquiry.

Mr MILLER: I agree that it is outside the remit of the bill. I wanted to put it before this inquiry because you guys are investigating what this bill is supposed to achieve.

Mr ROWELL: Potentially in the situation where there are unintended consequences of this bill, a firearms commissioner may be an important part of dealing with some of those issues. But we would hope that this Committee would recommend to Parliament that some of those unintended consequences do get resolved and the South Australian model is a clear example of how you potentially could.

The CHAIR: Is there another jurisdiction that has something like that?

Mr DAVID SHOEBRIDGE: Apart from Texas.

The CHAIR: In Texas you do not even need a licence.

Mr ROWELL: Those issues are broadly being considered in other jurisdictions. I think this is a simple one. This is not the debate around firearm ownership; this is a debate about ensuring that civil liberties are protected and that firearm users are not treated unfairly. At the end of the day we are talking about firearm users. We are not talking about criminals but people that have been legitimately background-checked by police. They have undergone all of that testing. Just a few words in this Act could certainly resolve those issues.

Mr DAVID SHOEBRIDGE: I look forward to your support for a human rights act in New South Wales—or is it only rights for firearms owners?

Mr ROWELL: I am always happy to talk to you, Mr Shoebridge.

The CHAIR: I think that is also outside of the remit of this inquiry but I would also be happy to consider it in another inquiry.

The Hon. TREVOR KHAN: I am not saying no, but isn't that actually the purpose of what this Committee is doing now? One of my concerns is that we do have commissioners in various areas. It does not actually mean that they are involved in the identification of shortcomings in legislation. It is actually the upper House committees, as opposed to the lower House committees, that seemed to do the hard work on whether a piece of legislation is up to scratch. You are actually experiencing the dynamic of lawmaking as it should be right now.

Mr ROWELL: Thank you. I will not enter the debate about which committees work harder. I think they all work very hard, Mr Khan, having served on committees with you in the past.

Mr DAVID SHOEBRIDGE: The question is which ones actually have a functional role in amending legislation. This process is designed to do exactly what you are asking: look at unintended consequences.

Mr ROWELL: I think there are some broader issues outside of just good and bad legislation: issues in terms of practice. Police do a fantastic job right across the State but unintended consequences happen on a daily basis. I am sure that everyone around this table would at least be aware of multiple cases where that may be the case.

Mr DAVID SHOEBRIDGE: You are coming back to that human rights act issue again.

Mr ROWELL: Thank you, Mr Shoebridge.

The Hon. ROSE JACKSON: We have talked about the amendments in relation to the substantive offence. But assuming that one of your members became subject to a firearms prohibition order—which obviously if they were doing the right thing you would hope would be unlikely but which nonetheless could be possible, because as you say there is a fair degree of discretion involved and mistakes are made—one of the things that this legislation does is provide automatic review of those firearm prohibition orders after 10 years. The Ombudsman recommended five years in its review. I just wondered if you had any views about that. Linked to that and considering your zero tolerance for people who do the wrong thing, what is the status of people who are subject to firearms prohibition orders within your organisation? You would imagine that if they were subject to those orders then the suggestion is that they have done the wrong thing or that there is suspicion around their activity.

Mr MILLER: We are unable to prove one way or the other. There is often a they-said, they-said argument. I am afraid that is for the police and the courts and not for us to determine. If someone feels unfairly represented in that space, though, then I would point straight back to this commissioner that we are interested in. We do find that a licensed shooter is very cautious with their licence. We all are and I can give you examples of specifics. If a relationship breaks down, the easiest way to kick a shooter is to get an apprehended violence order [AVO] of some form, because that automatically loses him or her their firearms. But it is usually a bit grey, so we cannot touch that. It is up to the police to manage that, it is up to the courts to manage that, but we would like a commissioner to help us in that space.

The Hon. ROSE JACKSON: So in your view, the firearms commissioner that you would propose would engage in individual case-by-case representation of individual firearm owners?

Mr ROWELL: Broader brushstrokes.

The Hon. ROSE JACKSON: Or would it just look at broad policy issues and system-wide issues? Would they actually get involved in the nitty-gritty of—should this person have lost their firearm licence or not?

Mr MILLER: I think the concept around the person losing their licence, not the individual, but the concept of is in that space, yes. But, again, I do not control that and I do not profess to try and control that. We are asking that you may consider it. And if there is appropriate space, and the violence orders are definitely one of those spaces, where there is a lot of conjecture about validity in each instance. Each party says something different. They are a violence order—there is conflict already—and we do not want firearms in the space where conflict occurs, we agree with that. And that is why they are securely locked away. That is why ammunition and bolts are secured separately to a firearm in a separate locked environment. All of those things are there to protect all of us—everybody—from the misuse of a firearm. We do not want it.

Mr ROWELL: So coming back to the heart of the intended purpose of this bill—to further punish criminals doing illegal activity. We 100 per cent support that, that is why we are here today. Unfortunately, as we have said before—and I am sure you have heard it from other participants in this inquiry—there are some unintended consequences. We do note the police commissioner's and the police Minister's views about that. We

do think it is a reasonably simple fix to be done, but the fact that we are here talking about potential unintended consequences, and the bulk of this time has been spent of that—we would rather be here talking about the intended purpose of the bill, which is targeting criminals, and we certainly would support that.

The CHAIR: You talk about an advisory panel to the Minister, what have you got in mind there?

Mr MILLER: If the peak bodies, the people that—there is probably four peak bodies that could be representative in that space, maybe five. They cover every gamut of the shooting sports, and they have a lot of members, and they run disciplines and hunting and all the environment that we play in. The ability to talk to a committee, which is getting their information currently from police potentially in our environment, about the little things, like this reamer that I am talking about—just put that on the table and say, "Let's fix that before it becomes legislation." Once something becomes legislation, we find it very difficult to manage. We cannot manage it obviously, that is your job. Prior to it becoming legislation, we can point out the flaws in a logical argument environment that will carry the day. Logic will win, we will get a good law. We are able then to support that law, because we know it is targeting criminals. And straightaway our members, and the 240,000 legal firearms owners in New South Wales, are satisfied because the peak bodies are saying, "Guys, this is okay—the law passes without all this going on."

Mr DAVID SHOEBRIDGE: That is back to the future with the Firearms Consultative Committee, is it not? And it is also almost certainly outside the remit of the bill.

Mr MILLER: I do not think the Firearms Consultative Committee went far enough up the totem pole.

Mr DAVID SHOEBRIDGE: And it is also almost certainly well outside the remit of this inquiry or the bill.

Mr ROWELL: Mr Shoebridge, I would probably disagree with that, with all due respect. If there was a committee that was of high level that had ministerial input or consultation, perhaps this inquiry would not have been established in the first place.

Mr DAVID SHOEBRIDGE: But you would exclude gun safety advocates, you would exclude those other bodies who would have a contrary view from that committee. It would just be a one-sided firearms committee, is that right?

Mr ROWELL: I think it is important, Mr Shoebridge, that good government is about listening to all sides of all debates.

Mr DAVID SHOEBRIDGE: But all I heard from you is that it would just be the gun lobby at the table. You would not have Gun Control Australia and others at the table?

Mr ROWELL: With respect, Mr Shoebridge, we are not the gun lobby. We are a sporting association with 58,000 members.

Mr DAVID SHOEBRIDGE: I heard the list of potential persons you are pointing forward.

Mr ROWELL: Mr Shoebridge, that would be a matter for the Minister to set up and advise the Committee and seek their views, just like all other portfolios do. We think engagement is a very important thing. The fact that we were not consulted on this bill and others—

The Hon. TREVOR KHAN: You are.

Mr ROWELL: We are now, we are through this inquiry. We would like the opportunity to maybe put that at the front of a process and contribute to that dialogue.

The CHAIR: The Firearms Registry had a number of advisory groups at various levels, did they not work in any of this?

Mr ROWELL: Mr Borsak, they had a purpose but, as Mr Miller said, it was not of sufficient capacity to really put those issues on the table in front of government or its agencies at a meaningful level.

The CHAIR: Are they still functional?

Mr ROWELL: I do not think they have met in a long time.

Mr DAVID SHOEBRIDGE: Lack of maintenance.

The CHAIR: It needs maintenance.

Mr MILLER: If I may comment also, this ministerial committee—I believe everyone should be contributing to it. So, at the moment, it should have industry—whatever the bill is about, whether it is about firearms—if it is not about firearms, we should not be on that committee. But whatever a new law or legislative change is about should have the people that are interested in it, the industry around it and the people that are opposed to it in the meeting. We are quite egalitarian in that space. We are happy to have the debate and get genuinely good legislation from that debate. And, at the moment, the highest level that we had as a review was with the head of the Firearms Registry. That is, as I said before, up the top of the totem pole when legislation is coming up.

The Hon. TREVOR KHAN: Well, I do not want to repeat myself, Mr Miller, but that is not correct. You are actually here today. There is no law in place. This is why this Committee is meeting, and why the processes of the Legislative Council were changed in the last few years—to allow bills to be sent offer for consideration by committees, because the process previously was not thorough enough.

Mr DAVID SHOEBRIDGE: Even when there might be differing views amongst members about the direction or the purpose of it.

The Hon. TREVOR KHAN: There are.

Mr DAVID SHOEBRIDGE: If there are legitimate concerns raised, the practice has tended to be—not uniformly—that legitimate concerns are given this kind of opportunity. That is a change in practice.

Mr ROWELL: Mr Khan and Mr Shoebridge, we do respect this process very much, and I think it has been a welcomed addition, that there is scrutiny on many bills, not just in this area. But having been a former Minister myself, I know that good governance is about consultation with key stakeholders, and this inquiry is one of many opportunities for Government, Opposition and crossbench to engage in the process. And we would certainly hope that we would have that dialogue from our point of view with the Minister of the day, Government, Opposition, and certainly we respect this process. That is why we are here today. We do not have a view about getting rid of this process—we think it is really good and we do appreciate it—but good governance from any Minister is also about consultation. As Mr Borsak alluded to, there was some committees in the past. We think it probably needs to be bumped up a little bit higher so it has that level of input from decision-makers.

The CHAIR: I might just add to what Mr Khan said, that we are very appreciative of the fact that the Government now is coming along with us and making these changes to the standing orders.

The Hon. TREVOR KHAN: Kicking and screaming.

The CHAIR: Kicking and screaming, I know, but you can thank the crossbenches for this, after the last election. And, in that sense, it is about the only thing I agree on with Mr Shoebridge—we have a much better process now, and you are part of that process.

Mr ROWELL: Thank you. We very much—

The Hon. TREVOR KHAN: Actually, to be fair, the one who initiated this was Peter Phelps.

Mr DAVID SHOEBRIDGE: I do not recall that. I think that is rewriting history. That is fundamentally and rather strangely rewriting history.

The CHAIR: Order! That is a fundamental misrepresentation.

The Hon. SHAOQUETT MOSELMANE: It is becoming too political for me, Mr Chair.

The Hon. NATASHA MACLAREN-JONES: He might just have the loudest voice.

Mr ROWELL: Mr Borsak and honourable members, we will leave the politics to the politicians. I am not one, so I am very happy to appear here on behalf of our organisation.

Mr DAVID SHOEBRIDGE: I fully accept it is hard to get to Minister Elliott. He once built a hedge between my office and him to avoid any accidental consultation.

The Hon. TAYLOR MARTIN: Can you blame him?

The CHAIR: A hedge!

The Hon. TREVOR KHAN: Only a hedge?

Mr DAVID SHOEBRIDGE: He is a man who can be hard to get to.

Mr ROWELL: We are not here to make any judgement of any member of Parliament.

The Hon. TREVOR KHAN: Really?

Mr ROWELL: We are just saying that the former process of the committees in the past were probably not at a sufficient level to put some meaningful dialogue in, and we think one of those opportunities for Parliament to consider is having a ministerial advisory council, where we can put that in, contribute to that process, and we very much appreciate the fact that we are here today as well.

Mr DAVID SHOEBRIDGE: Mr Elliott, tear down that hedge.

The Hon. TAYLOR MARTIN: Wow.

Mr MILLER: I do not think we need to answer that.

The CHAIR: Mr Miller said earlier that if such a consultative committee were to be created that they would see the logic of the position. I put it to you there is not just logic involved here, there is a bit of politics, too—it is not just logic.

Mr MILLER: We accept that, but that is beyond our purview.

The CHAIR: That is right. Thank you very much for coming today. I do not think there were any questions on notice.

Mr ROWELL: Thank you very much for having us. It is always a pleasure and we genuinely do appreciate the time you have taken at this time of the year to listen to this important issue. Thank you very much.

The CHAIR: Thank you for coming.

(The witnesses withdrew.)