

FIREARMS AMENDMENT REGULATIONS 2017 — DISALLOWANCE

Motion

Resumed from an earlier stage of the sitting.

HON RICK MAZZA (Agricultural) [5.15 pm]: Before I was interrupted at the break, I spoke about the fact that the regulations that were put through in February this year based on the Lindt cafe siege had no correlation to the type of firearm that was used on that day. I also covered the fact that we had two disallowance motions on fees in the last term of government and that an inquiry had been held the Joint Standing Committee on Delegated Legislation. In the executive summary of its report, the committee resolved to advise the house of four controversial matters arising from the hearing and those submissions. The matters are, first, the processing of applications for firearm licences; second, the opportunity for error in such processing; third, the noting fee for additional firearms on certain existing licences; and, fourth, the cost of licences in other jurisdictions.

There was quite a bit of debate last term. As I mentioned before the break, Law Reform Commission report 105 was released. I will have to jump around a little bit to give this context but the Law Reform Commission undertook a two-year inquiry. It was a very expansive inquiry, which took something like 1 244 submissions. In the foreword of its report it stated —

That response included 1244 written submissions; and it was one of the largest, if not the largest, response that the Commission has ever received on one of its referrals.

It had a lot of community interest. It went on to state that some of those submissions were quite detailed and it was obvious that a lot of input had gone into it. The Law Reform Commission undertook a very extensive review, took a lot of evidence and I think a very thorough and very balanced report came out of it. As part of that review, the Law Reform Commission released a discussion paper. I think it is important, as part of this motion, that we cover some of that. I will abridge it because I know that we have limited time today. Page 19 of that discussion paper states that community safety and a concern to prevent harm is the major object of the review —

However, community safety is not the only relevant consideration. Firearms are also capable of being used for many entirely legitimate purposes—such as being enjoyed for their historical value as collectors' items, shooting at targets in sport, or serving as essential tools of trade in the agricultural sector and in pest management. Ensuring that people may obtain and use firearms for purposes such as farming, sport, hunting, pest control and collection, are legitimate aims of legislation such as the Firearms Act, just as harm minimisation is also a legitimate aim.

In this discussion paper, the Law Reform Commission noted that there had to be some balance between public safety and the ability of people in Western Australia to use firearms legitimately. In the briefing I had earlier in the week, it was suggested to me that these regulations were gazetted because those conditions are now in the National Firearms Agreements and they had to comply with it because it is a Council of Australian Governments agreement. A letter from Michael Keenan to one of the stakeholder groups states —

Irrespective of the language used in the updated Agreement, the updated Agreement is not legally binding upon jurisdictions. It remains up to the states and territories to determine how they will regulate firearms in accordance with the updated Agreement.

It is up to each state to decide what part of the NFA they will use in their firearms acts. Firearms acts around Australia vary greatly depending upon which state a person is in. In this state, we do not need to comply with the NFA if it does not suit us. This re-categorisation of lever-action firearms by two rounds—basically they are going from five to seven rounds—will have no public safety benefit. It is just another impost on legitimate firearm owners. The Law Reform Commission of Western Australian report even states —

It is noteworthy that Australian jurisdictions, including Western Australia, have not implemented every item in the National Firearms Agreements. It is clearly not enough therefore to say that a particular item ought to be in the Firearms Act because it is in each of the National Firearms Agreements.

We have to make it very clear that Western Australia does not have to adopt these regulations. Getting back to past disallowance motions, as part of the process of setting up of the Law Reform Commission inquiry and its final report, there were issues around the clunkiness and inefficiency of the licensing system in Western Australia. Through asking questions during the estimates process, we were promised a new computer processing system in Western Australia that would take care of security officers and pawnbrokers, but would be predominantly used for firearm processing. A lot of that surrounded the cost-recovery fees being charged in Western Australia, which were significantly higher than those in many other jurisdictions in Australia. That system was finally implemented at the cost of some millions of dollars. I have to tell members that that system is no cheaper—in fact, I know Hon Aaron Stonehouse has a disallowance motion on a further increase in fees—and it is no more efficient. My office continually gets complaints about processing times for firearm applications. The system is no more accurate. I constantly get complaints that firearm licence renewals are being returned with conditions on them when there

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had been no conditions on them in the past. If there are a number of firearms on a licence, the conditions can vary greatly, even though someone might have a no-conditions firearms licence. The new system is actually not performing that well.

The Joint Standing Committee on Delegated Legislation inquiry identified that part of the reason we have this very clunky, expensive and inefficient system is that people have to fill out a form online, download it, sign it and take it to Australia Post to have it processed. The application is uploaded on Australia Post's computer system, and some time in the future, it is sent to the firearm licensing branch—but the firearm licensing branch's computers did not interact with Australia Post's computers, so the branch had to manually load everything back onto its computers. In this day and age, I see that as a complete waste of time that would drive up costs. When I mentioned at the briefing the other day that the new system had some bugs in it, it was suggested to me that they were still doing manual workarounds with this new system. It has been in place for some time. I suggest that the new system has a number of flaws and that maybe the millions of dollars spent on it have been a bad investment for the state.

Hon Colin Tincknell: How does the system work in the rest of Australia?

Hon RICK MAZZA: That is a very good question, Hon Colin Tincknell; I take that interjection. I understand that in other Australian states most of those applications are done directly online. People can apply directly to the police licensing division for their licences. I understand that in Victoria, an addition can be in place in 48 hours. In Western Australia, an addition costs \$173—I think that is the latest figure—and my last investigations showed that in Victoria it costs about \$9.20, so there is a significant difference in application fees.

Unfortunately, when it comes to firearms, there is a community attitude out there that firearms and anything to do with firearms is bad and the more restrictions the better. Very, very rarely is there an incident with a licensed legitimate firearm owner and a licensed firearm—almost never. If there is an issue, it is an illicit firearm with someone who might have some sort of criminal background. It is very rarely a legitimate firearm owner, yet much pressure and impost is put onto licensed firearm owners and it makes no sense when it comes to public safety.

A Senate inquiry report, which I think was tabled in 2015, titled “The ability of Australian law enforcement authorities to eliminate gun-related violence in the community” estimated that there are 260 000 illicit firearms in Australia, but admitted that the actual figure is unknown. Of course, those firearms are unregistered, so I do not know how they could count them. It is estimated that there are 26 000 illicit firearms in Western Australia, and that is where I think the focus should be. If we are having problems with firearms in the community—I watched the news this morning and saw that there had been another drive-by shooting in our northern suburbs—it is the work of criminals using illicit firearms; they are not legitimate owners. There has always been some indication that the 26 000 illicit firearms in this state may be stolen firearms that started off as legitimate firearms. About 400-odd firearms are stolen each year. One firearm stolen is one too many but, generally, those stolen are long-arm hunting rifles and police have told me that they do not find them used in crimes very often; they are not the gun of choice for criminals. The illicit market can be supplied through porous borders or by the manufacture of illicit firearms. In fact, there was a case on the east coast of a jeweller making and selling very high-grade machine guns in the market. If we want to look at public safety, that is where the focus needs to be, not on law-abiding firearm owners.

I understand that Queensland and Victoria are yet to implement any regulations to re-categorise shotguns. These regulations do not distinguish between the type of shotgun, whether it is a .410, a 20 gauge or a 12 gauge. The regulations are silent on that issue. I do not know whether small-bore .410s get caught up in these regulations, but it would appear that they probably do and that is quite a big impost on legitimate firearm ownership.

We were supposed to see a more efficient system. The Law Reform Commission report also referred to a reduction of red tape. The report states in part —

- an understanding that most crimes involving firearms are carried out by people who are not licensed to carry the firearms;
- a streamlined firearms registration process and reduction of unnecessary red tape;

It would make sense to me that if we had a new system that was a good system, we should have a reduction of red tape. I can tell members that over the last couple of years there have been issues around the transport of firearms. I do not know whether any members' offices have received these complaints, but particularly small dealers are finding that they cannot get a supply of firearms.

The police licensing service has recently placed a number of conditions on carriers of firearms. This has come about only in the past couple of years. Prior to that, Australia Post and other commercial carriers could transport firearms, so that people who live in Merredin, Southern Cross or Kalgoorlie could get supply and stock to their firearm dealerships. Generally, firearm dealers are just small family businesses. They make a living from a small family business and have all the challenges that other small businesses have, such as employing people and paying

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their leases. They are trying to make a living from their firearm dealership. However, in recent times, they have been struggling. They simply cannot get supply. In fact, some people are driving from Narrogin to Perth to get firearms and ammunition.

As I understand it, there are 11 accredited carriers under the new accreditation system. A lot of those carriers do not go to the more remote areas where firearms are needed by farmers for pest control or the destruction of stock. A lot of these carriers are not taking new accounts and other transport companies charge prohibitive account keeping fees. I had some calls last week about the fact that Australia Post can no longer transport firearms, so any dealer who wishes to transport a firearm to the east coast cannot do it through Australia Post. That was also the case in the past when ammunition needed to be sent to a remote area for a landholder or a primary producer, but now they can no longer get ammunition either. In a lot of the regions, including the Mining and Pastoral, South West and Agricultural Regions, not only are firearms used as a tool of trade by primary producers, but also a lot of people use firearms for recreation, whether that be clay target shooting, rifle shooting or benchrest. It is a big social sporting activity in rural Western Australia. Those people have been impacted greatly by the limitation on transporting firearms. Many of them are getting to the point at which they will have to close up shop. That is one effect of the red tape impost that has been put on firearm owners, yet there has not been an incident that has initiated these changes.

In addition to that, a policy has now been put out by the licensing department requiring firearm dealers to upgrade their security. Some of the requirements of that upgraded security on handguns are quite onerous. A lot of small dealers are saying that they cannot afford to upgrade their security to that level, and a lot of remote dealers are saying that they cannot comply because monitored alarms and those sorts of things are not available where they are. This blanket security arrangement has not been tailored for the different situations for firearm dealers around the state. Firearms may be needed more in the regions. There is a lot of work to be done in this area. I spoke to the Minister for Police and she said to me that she will try to discuss an extension to the time by which these security arrangements have to be in place and tailoring it for people in the regions who may not be able to comply or for whom the cost is prohibitive because they are a small dealer. I wait with interest to see how that plays out.

A firearms collector, Dr Leo Laden, opens his collection to the public; it is like a museum. Dr Leo Laden was referred to in "Inside Cover" in last Saturday's *The Weekend West*. He has had to start to dispose of his collection, which he has had for a very long time and is very passionate about. He has a lot of antique, collector-type items that he now has to sell. In fact, I think there was an auction last night, or maybe it is tonight. He has said that the reason he is getting rid of his stuff is the new security arrangements. It will cost him \$15 000, which he does not have, so he is in the process of getting rid of those items. Just to digress slightly, members, I think Alston is a great cartoonist. I find a lot of humour in his cartoons, particularly his portrayal of the Liberal Party in Saturday's *The Weekend West*. He captures things very well and I have a lot of respect for his artwork. However, I thought his cartoon in "Inside Cover" in Saturday's paper was a bit of bad taste. In the cartoon, Dr Leo Laden, I assume, is in a chair smoking his pipe with a fire in the background and a row of trophy heads and some guns on the wall behind him, along with the head of his wife, who passed away last year. I thought it was particularly bad taste. My office spoke to Dr Leo Laden and he just dismissed it, but I think it was a bit off in circumstances such as those when someone has had a recent bereavement.

Noting the time—I know that there are other speakers and we must deal with this motion today—I will wrap up by saying that I think these regulations are ineffective for public safety. A lot of the issues in the Law Reform Commission report need to be implemented and we need a review of the act. I addressed the annual general meeting of the Western Australian branch of the Sporting Shooters Association of Australia a few weeks ago. A couple of hundred people attended that meeting, as did the Minister for Police, Hon Michelle Roberts. She spoke to the members, and some of the comments she made about getting some of these things over the line were very encouraging. These are just everyday people going about their daily business and enjoying their sport who have been marginalised and covered with red tape. It is wrong to put in place these regulations, which do nothing for public safety but simply put a greater impost onto these people for no good reason.

I commend this disallowance motion to the house and I hope that members can see that it is a very worthy motion. I am very hopeful that members will support it.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.36 pm]: I thank you, Madam President, for the opportunity to speak on the motion this evening. I indicate that the government will not support Hon Rick Mazza's disallowance motion. Quite simply, we believe that the reclassification of lever-action shotguns should remain. The disallowance of the regulations would make Western Australian law noncompliant with the National Firearms Agreement and the agreement of all other Australian jurisdictions. The government believes that disallowing the regulations would not keep our community safe.

In 2016 the former Liberal–National government in this state agreed at the Council of Australian Governments meeting to reclassify lever-action shotguns into more stringent classifications. I am advised that, for instance, shotguns with a magazine capacity of no greater than five rounds were reclassified into category B. Shotguns with a magazine capacity of greater than five rounds were reclassified into category D, the most restrictive category. This is clearly written into the 2017 National Firearms Agreement. There are two reasons that Western Australia adopted the reform. First, it aligns high-capacity, lever-action shotguns with high-capacity pump-action shotguns under category D. Second, it limits access to high-capacity lever-action shotguns and supports the intent of the National Firearms Agreement, which seeks to limit access to such weaponry. These limits were put in place to improve community safety.

WA Police is managing the implementation of the change in Western Australia and it is working with firearms owners and licensees. I am pleased that Hon Rick Mazza has indicated this afternoon that he has had some conversations with the Minister for Police about firearms and that she is open to working with him moving forward. I do not propose to answer all the issues he raised in his contribution, because obviously this is a disallowance motion as opposed to debate on a bill and it is not appropriate that I respond, but I am pleased that he is bringing his concerns more broadly to the minister's attention. However, in relation to the motion, we wish to remain compliant with the National Firearms Agreement.

The regulations were part of a long-term national initiative to protect the community against illegal firearms. I am advised that the majority of states and territories were in agreement at COAG, and the previous Liberal–National government implemented the regulations, so I hope we can rely on the support of opposition members. I am advised that most states and territories have indicated that they support the regulations and have acted to put in place similar regulations or have moved amendments to acts. Obviously, the previous government acted in February this year. I am advised that, under the Firearms and Weapons Legislation Amendment Act 2017, New South Wales will implement its action on 1 November this year. I understand that South Australia has taken action, by amending its Firearms Act, which is to be progressed later this year. Also, Tasmania has indicated that it will make an amendment to its Firearms Act 1996, although it has not indicated what the time frame is. The Northern Territory took action on 1 July this year and the Australian Capital Territory took action in June. I am advised that Queensland and Victoria are yet to indicate a time frame in which they will act.

Where did this come from? Hon Rick Mazza mentioned the Martin Place siege. In response to the Martin Place siege there was a review of the technical elements of the National Firearms Agreement. While the review was underway, the federal government temporarily prohibited the importation of lever-action shotguns with a magazine capacity greater than five rounds. This was in response to the imminent arrival in Australia of a significant number of lever-action shotguns with a magazine capacity of seven rounds. Lever-action shotguns were not a new development in Australia, but the concern of the commonwealth, state and territory governments and their law enforcement agencies was that this specific shotgun had a significant rate of fire combined with a greater magazine capacity than the vast majority of lever-action shotguns in Australia at that time. As a result of the review of the National Firearms Agreement, the firearms and weapons policy working group recommended that lever-action shotguns be reclassified.

A shotgun has the potential to inflict great harm at short range. Combined with a high magazine capacity, this is a particular concern when such firearms get into the wrong hands. It is easier for an untrained shooter to inflict serious harm with a shotgun, particularly compared with what they could do with a rifle. The revised classification of lever-action shotguns with a magazine capacity of five rounds or fewer will bring them more into line with the classification of lever and pump-action centre-fire rifles. I am advised that the revised classification of those lever-action shotguns with a maximum magazine capacity of greater than five rounds will bring them more into line with the restrictions on magazine capacities already in place in some jurisdictions for lever-action and pump-action shotguns across the country. Pump-action shotguns with a magazine capacity of more than five rounds are already in category D of the firearms categories.

I am aware of the time limitations this afternoon, and the fact that we need to vote on this motion by 6.20 pm, and I am conscious that other members want to make a contribution, but I want to touch on the Council of Australian Governments' decision to reclassify the categories. On 9 December last year, COAG met to consider these issues. Premiers and first ministers at that stage resolved to strengthen the National Firearms Agreement, and to reclassify those lever-action shotguns with a magazine capacity of no greater than five rounds to category B and, as I said, those with a magazine capacity of greater than five rounds to category D. Before this COAG decision, all lever-action shotguns, regardless of magazine capacity, were categorised as category A firearms in schedule 3 of the regulations. I understand that the federal Minister for Justice, Michael Keenan, confirmed the urgency of these changes and wrote to Western Australia requesting that the implementation of the new classifications be undertaken as a priority. The letter to the states from the minister stated that commonwealth importation rules would remain in place until states and territories have undertaken implementation.

What is the impact of these new changes in Western Australia? I am advised by the minister that, of the 2 805 lever-action shotguns in Western Australia, 2 803 have a magazine capacity of less than five rounds. Therefore, there is minimal practical impact on these existing gun licences and owners. WA Police has advised that two gun owners have guns with a magazine capacity of greater than five rounds. I am advised that WA Police has been in contact with one of those owners, and is trying to contact the other owner, who is overseas at the moment, and I think is due back in the country in October this year. The one owner with the category D firearm is yet to signal what he wants to do with the firearm—whether he wants to reduce the magazine capacity, keep the licence as a keepsake or surrender the weapon for destruction. The reclassification would impact on new licence applications, but we contend that the changes help with community safety. Once the audit of existing firearms is complete, WA Police will write to all gun owners in Western Australia advising them of the reclassification of the licensing system. The McGowan government supports the National Firearms Agreement, particularly in relation to these regulations.

I was going to touch on a range of other things but, given the time, I will begin to finish up. This regulation was approved for publication in the *Government Gazette* by the former government at the Executive Council meeting on 31 January this year. The amendment was gazetted on 3 February 2017, before the government went into caretaker mode ahead of the state election. It has been in place now for a number of months. I do not believe it has caused undue hardship across the state. For that reason, the government will not be supporting this disallowance motion.

HON AARON STONEHOUSE (South Metropolitan) [5.46 pm]: I rise in support of this disallowance motion, and I am glad Hon Rick Mazza has moved it. If he had not done so, I certainly would have. Hon Rick Mazza, in his contribution, mentioned the Law Reform Commission's report into the Firearms Act. I do not think he mentioned the appearance laws, as he was talking about some of the ridiculous red tape that is imposed on firearm owners. The Law Reform Commission recommended in its report that the appearance laws be dropped. That is worth keeping in mind. The appearance laws, as they currently stand, basically mean that importing or licensing is refused for anything that looks like it might be a category D, or a military-style firearm. A category B centre-fire bolt action rifle might have its licence declined because it is painted black, and maybe has a rail mounting system for accessories. Simply, the appearance rather than the actual function of a firearm has a bearing on its licensing and importation. The Law Reform Commission itself said that that law should be dropped.

As the youngest member of Parliament, it is fun to give fellow honourable members and the public a history lesson, so I will go back a little bit, just briefly.

The PRESIDENT: Honourable member, I might just remind you that this debate has a time limit, and a number of other speakers would like to put their party's view on the record as well, so I am hoping you do not take us back too far.

Hon AARON STONEHOUSE: Thank you, Madam President, I will be very quick. The first commercially successful lever-action shotgun was the Winchester model 1887, but the lever action had been around since about the 1860s, which makes lever action more than 150 years old. As technology has improved and firearm designs have evolved, we have moved away from lever action into things like pump-action, bolt-action and eventually self-loading rifles. In fact, John Moses Browning, the man responsible for designing the Winchester 1887 for the Winchester Repeating Arms Company, himself protested against the idea of the lever-action shotgun as being very inefficient, and declared that the pump-action shotgun was much more efficient. Even John Moses Browning himself was not too keen on the idea of lever-action shotguns. Lever-action shotguns are not new, and in many ways are not very efficient. A perfect example is that throughout history lever-action shotguns have never been adopted by the military on any large scale, save for the Russians in World War I, out of necessity.

For those with little prior knowledge, or those who have never operated a lever-action shotgun before, it might be useful for me to take a moment to explain how they actually work.

There are a few distinct features associated with the lever action. For starters, we have to remove our finger from the trigger to cycle the action. It actually takes quite a bit of force, depending on the shotgun, to move the action forward. We have to use a bit of weight to cycle the action. Maybe I am a wuss, but it can be quite uncomfortable on the knuckles when cycling. Cycling such a shotgun from the shoulder position while taking aim is also quite difficult. Trying to cycle while it is in the shoulder is not very easy. It normally has to be lowered. This generally means that the rate of fire of a lever-action shotgun is much lower than something like a bolt-action shotgun, which can be cycled from the shoulder quite comfortably. The assertion that lever-action shotguns somehow provide a faster rate of fire is not very accurate. They may be cycled quickly from the hip, but we cannot aim from the hip—not well, at least. Some members of this place, and members of the public, may have seen videos of people firing lever-action shotguns quickly, but those are really the exception. Those videos are more a marketing stunt than an accurate representation of the typical use of a lever-action shotgun.

I have handled an Adler, and lived to tell the tale. I can tell members now that they are not the finely tuned killing machine that the media will have us believe. They suffer from a very clumsy and difficult-to-work action. The action on the Adler is exactly the same as the action on the Winchester 1887, so the assertion by Hon Stephen Dawson that they are somehow a faster rate of fire shotgun compared with what we have seen in the past is not true. Another design feature of lever-action shotguns is the tube-fed magazine. This is essentially a tube running along the bottom of the barrel. This changes the balance of the shotgun when loaded, making it front heavy compared with bolt-action rifles on which the magazine is closer to the trigger. The biggest limitation of the tube magazine is that because it runs along the barrel, the magazine capacity is related to the length of the barrel. A lever-action shotgun cannot be sawn down without sacrificing magazine capacity. But I will talk a little about that later. Despite the drawbacks of lever-action shotguns, they remain popular amongst sporting shooters, especially given the difficulty of obtaining pump-action shotguns under the current licensing regime.

Under the old licensing regime, lever-action shotguns fell under category A, which includes things like double-barrel shotguns and rim-fire rifles, .22s and such. Even for those, the forms must be completed and identification provided and a valid reason must be given for wanting the firearm in the first place, and serviceability and firearm awareness certificates must be provided. After all that has been done, it needs to be submitted at the post office along with a passport photograph. That is funny because, as I think Hon Rick Mazza pointed out during his remarks, the application has to be submitted through Australia Post, which sees our details, where we live, where we store our firearms and what firearms we are obtaining. However, we do not trust Australia Post to transport firearms or ammunition, so that is a bit of a double standard. That is perhaps a topic for another day.

Category B includes centrefire rifles and it covers most bolt-action rifles. To obtain a category B licence we must prove a genuine need beyond a simple want. That means we must be a hunter or involved in a sport that uses category B rifles. Category C includes pump-action and semi-automatic shotguns. The requirements for obtaining a category C licence are much more stringent and it requires a higher proof threshold. Category H includes handguns for which we need to be a member of a sporting club or a primary producer. Category D includes semi-automatic rifles, such as AR-15s. I think Hon Rick Mazza referred to them as assault rifles or military-style assault rifles. That is rather inaccurate, I think. The AR-15 is a very popular sporting rifle and is quite often used for hunting. If people want to hunt and drop quickly pest animals such as wild boar or wild goats, an AR-15 is perfect. A lot of people who hold a category D licence do so because they are hunters and use guns such as AR-15s. However, they are very hard to obtain. Only a handful of people in the country hold category D licences.

This new regulation will move lever-action shotguns with a magazine capacity of no more than five rounds from category A to category B. This will have a minimal effect on sporting shooters. Western Australia Police have suggested they will issue category A licence holders who own a lever-action shotgun with a magazine capacity of no more than five rounds with a category B licence. Those seeking new licences will now be required to show a genuine need for a lever-action shotgun by obtaining a category B licence. This is an additional hoop that law-abiding firearm owners need to jump through—law-abiding firearm owners who in this state are already paying up to four times more than firearm owners in other states pay. However, it will have a minimal impact at the very least. The real concern is the reclassification to category D of lever-action shotguns with a magazine capacity of more than five rounds to. This makes them essentially unobtainable. The proposed change will take the same type of shotgun that is otherwise category B and move it to category D, which is otherwise reserved for semi-automatics. There is an immense difference between a lever-action and a semi-auto. If we accept the common narrative that semi-autos pose a greater risk to public safety than bolt-action rifles, such as those normally in category B, why would a lever-action shotgun, which is mechanically no different from another sitting in category B, be moved to category D simply due to its magazine capacity? How do we quantify the increased public risk of an additional two rounds of magazine capacity? Why is there a need to reclassify such shotguns? Could they not be moved into category C? I would like to have heard the government's position on this, but I do not think we will get a reply. If Western Australia Police are willing to issue supposedly two people in the state who have a seven-shot lever-action shotgun with a category D sort of grandfathered licence, does that not show that seven-shot shotguns do not pose an imminent public health risk—if they are willing to keep them out there and issue these interim licences? The assertion that somehow seven-shot shotguns were flooding into the country and are terribly popular is clearly not true if there are only two in the state. If there are two in the state, it is not really an imminent public health risk. I sat down with several members of Western Australia Police who briefed me on these changes to lever-action shotgun licensing. I asked them whether they had experienced any crime—any crime at all—committed with a lever-action shotgun. They had no record of that and indicated that they were not aware of any crimes being committed with a lever-action shotgun. I hope the government will at some point be able to provide some data on firearm-related crimes committed with lever-action shotguns, but if it cannot, I wonder what justification there is for imposing these restrictions on lever-action shotguns. It is worth noting that violent crime has been decreasing over time. I refer to data available from the Australian Institute of Criminology. I have some interesting numbers here. In 2013, the total number of homicides was 243. Of those, firearms made up only 47; knives, 83; homicide with another weapon, 63; and homicide with no weapon at all, 51, so firearms make up the

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smallest category of weapons used in homicides. The same goes for robbery and kidnapping and abduction. The point here is that in looking at crime, firearms are rarely used. Of those firearm crimes, how many are committed with lever-action shotguns? Based on the meeting I had with Western Australia Police, none so far as I can tell. If we are going to change regulations around firearms, show me that there is a public safety benefit—show me! If there is a genuine need to change the laws, provide some empirical evidence. I have some data here from the United States, which keeps track of the types of firearms used. I hesitate to compare Australian gun laws with those in America because America is a very different place from Australia. Even in 2005, of the total 10 100 firearm-related homicides, 7 543 were committed with handguns and only 517 were committed with shotguns. Out of 10 000 firearm-related homicides, only five per cent were committed with shotguns. Shotguns are very rarely used in crime. I wonder whether Western Australia Police, the powers that be, the previous government or the new government can provide any similar data. If they can show me that there is any tangible improvement to public safety by changing these regulations, I will be convinced. The truth is they cannot; no such data exists. These firearms are clearly not the weapon of choice for criminals. The barrel cannot be sawn down without compromising the magazine capacity, so why would a criminal buy a seven-shot Adler or a seven-shot lever-action shotgun that is incredibly long and unwieldy?

Hon Robin Chapple interjected.

Hon AARON STONEHOUSE: Yes, but the weapon cannot be concealed; that is the point. Criminals want concealable weapons.

Hon Robin Chapple interjected.

The PRESIDENT: Order, members! We have only 20 minutes left on this debate. There are at least three other members who would like to speak, so interjections will desist.

Hon AARON STONEHOUSE: The point I am making is that criminals want concealable weapons and lever-action shotguns are not that. A person could saw it down, but they would end up with a magazine capacity of four or maybe five rounds at most. If additional restrictions are to be placed on law-abiding firearm owners, the onus of proof is on the government to show that it is in the public interest.

The PRESIDENT: Hon Michael Mischin has the call, but I say to him that we have only 20 minutes and perhaps he would appreciate that two other members would like to put their views on the record as well.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [6.00 pm]: Thank you, Madam President. I am very conscious of that so I will truncate my remarks to indicate that the Liberal Party cannot support the disallowance motion. The reasons therefor have been explained to Hon Rick Mazza behind the Chair. The position is basically this: the National Firearms Agreement arises out of the unfortunate events at Port Arthur back in 1996. The then Howard Liberal federal government took the lead in trying to control access to firearms across Australia by having some level of uniformity amongst state and territorial jurisdictions in order to limit access to firearms and also to have a level of consistency between the states. As has been recognised, there is no power to impose these limits on the states and territories. The commonwealth does not have the power to do that. It has the power under the customs laws to restrict the sorts of firearms that may be allowed into the country, but ownership and access are a matter of state and territorial jurisdiction.

It is true that this firearms agreement, the latest iteration of the National Firearms Agreement, which was negotiated after some considerable time over the last couple of years between police ministers of each jurisdiction, is not binding on the states and territories, but as a matter of comity and for public safety purposes, the state of Western Australia has advised that it will be a party to it and will act consistently with it unless there are compelling reasons to the contrary. This particular restriction was not lightly come to. It was reached on the advice of law enforcement agencies. It was quite vigorously debated over the time of the last police minister, and although I was not a participant in the discussions, I was there for some of them and I know that there was some great debate about what the restrictions ought properly to be. As it remains, it was entered into and there was agreement on behalf of the state of Western Australia to impose some uniform controls over these types of weapons. That has been reflected in the change to the Firearms Regulations 1974 by making this amendment, which was gazetted on 3 February this year.

That is one of the factors that I take into account in forming my position, or that the party has taken into account in forming its position; that is, although we are reluctant to impose restrictions when it is not necessary to do so and no case is made out for it, this restriction has been in place since February. The number of people affected is relatively low. If we disallow these regulations and some further restriction of a like type is introduced at a later date, more people may be affected by it. As it happens, there are not many at this stage. A level of consistency is required across jurisdictions in respect of this class of weapon, and in the circumstances the Liberal opposition

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will not support the disallowance motion. I should note that the Law Reform Commission's report on the review of the Firearms Act, which was completed in October last year, tabled before this place on 22 November last year and is now, I presume, the subject of work by the current police minister and will no doubt be the basis for some decision-making on how to reform firearms regime, will hopefully address many of the concerns that have been voiced in the course of debate and on other occasions about the inadequacies of the firearms regulation system in Western Australia. That might be an appropriate time to revisit the classification of weapons generally. I note that one of the principles in that Law Reform Commission report is that no firearm owners should be worse off after the implementation of the recommendations, and I urge honourable members who have an issue with this to continue to make representations to the government about where the appropriate lines ought to be drawn. In the circumstances of this particular regulation, we cannot support the disallowance motion.

HON ROBIN CHAPPLE (Mining and Pastoral) [6.04 pm]: I will not touch on the points made by Hon Stephen Dawson or Hon Michael Mischin, because I support what both of them said. I think we need to address what happened in the federal arena when the decision was made to create these categories. We are basically dealing with four categories—A, B, C and D. As Hon Rick Mazza knows, I was originally an armourer in the Northern Territory and handled just about every firearm under the sun, including an M16. When it comes to firearms, I heard a lot of tripe, literally, said by Hon Aaron Stonehouse. There are 18 versions of the Adler shotgun. They can be bought in any configuration and the configuration can be changed by uncapping the barrel or adding a barrel extension. One of the problems, particularly with that firearm, is that an extension for an Adler can already be bought in Australia, whether it be a five-shot or whatever. That can be extended to an 11-shot, and one can be added up the barrel to make 12. Also, a 12-click can be added to the side of the gun. We are talking about a firearm that can be very easily modified in under 10 minutes by anybody—it does not have to be an armourer.

Hon Aaron Stonehouse: You cannot conceal it though.

Hon ROBIN CHAPPLE: It can just be taken off, put in a pocket and put back on—it is as simple as that.

Let us understand that this firearm does exactly the same thing as a pump-action shotgun. It has a faster fire rate than a pump-action shotgun. The Manufrance LaSalle M37, which was used by Monis, has a fire rate of four rounds per five seconds. It is noted in the blurbs for Adler shotguns that they can discharge five rounds in five seconds. That is from Adler's own blurb. Let us get some facts into this debate. The problem with the federal decision is that Adlers were being introduced into the country and they were automatically being put into category A. Rather than them being moved into the category that they should have been, which is category C, they were moved into category B because there were so many in the country.

Hon Rick Mazza: These regulations do not define it as a hazard.

Hon ROBIN CHAPPLE: I understand. I will talk to the member about the Taylor's and Co 1887 unit, the Pardus LAX 12, or whatever pump-action firearm he wants to talk about. Interestingly, the Browning Auto-5 magnum automatically went into category D, and it has only a five-round lever action. Members need to be aware of a whole range of issues around this. I am mindful of the time and other speakers, but I am trying to bring some reality into this debate.

Hon Rick Mazza interjected.

Hon ROBIN CHAPPLE: Hon Rick Mazza might disagree, but if he understands the capabilities of these firearms, he will know that they are no different from a pump-action shotgun.

Hon Rick Mazza interjected.

Hon ROBIN CHAPPLE: I have handled both, and two of the weapons we are talking about in the Adler range are classified as sweepers. Does Hon Rick Mazza know what a sweeper is?

Hon Rick Mazza: You tell me.

Hon ROBIN CHAPPLE: A sweeper is a military-style firearm with a short barrel for discharging in a room full of people, and it is an Adler A110. They are the guns that are allowed by this regulation to go into category B, whereas they should be going into category C. Just be wary of what we are talking about. The one thing about the Adler as opposed to a Browning, a Stevens or whatever is that the Adler is a componentised unit. For example, barrel extensions can be added to them. A company in Australia markets the extensions. I have one of the catalogues here.

Hon Rick Mazza: Can I make an interjection?

Hon ROBIN CHAPPLE: Certainly.

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The PRESIDENT: Member, you could perhaps focus on then —

Hon ROBIN CHAPPLE: Yes, I will wrap up because I am aware that other people want to speak and we have only 10 minutes to go. I just wanted to put some other information on the table. The Greens do not support this disallowance motion.

HON MARTIN ALDRIDGE (Agricultural) [6.10 pm]: I rise in the time that is remaining to put the position of the National Party on this disallowance motion. At the outset, I inform the house that the National Party will not be supporting the disallowance motion this afternoon. As Hon Michael Mischin said, we were part of a state government that took a view and a position at the Council of Australian Governments on the National Firearms Agreement, and our position has not changed since that time.

I want to speak briefly to a couple of areas that have not been canvassed today. In doing so, I think that much of the contributions I heard by Hon Aaron Stonehouse and Hon Rick Mazza do not relate directly to the regulations that we are dealing with today; they dealt extensively with issues that have been canvassed in previous disallowance motions and in the Law Reform Commission report tabled in November last year. The disallowance motion we are dealing with today is about the re-categorisation of lever-action shotguns. The minister has already informed the house that 2 805 of these shotguns are currently in Western Australia, two of which have a magazine capacity of greater than five rounds. On the issue of the impact of these regulations on existing gun owners, noting the briefing provided to us by WA Police on the grandfathering arrangements for current owners, I have to contend that there would be no impact on current gun owners from the reclassification arising from the agreement at COAG. Hon Rick Mazza is correct when he says that decisions made at COAG are not binding. It is ultimately the decision of Parliaments whether a decision made at COAG is followed through by the introduction of a piece of legislation or an amendment to a bill, or perhaps some sort of regulation introduced to enforce an agreement at COAG. Parliament cannot be bound by a decision of a minister or a government at COAG; it makes its own decisions based on the information available to it.

Some of the answers we sought in the briefing with WA Police—we thank them for accommodating us earlier this week—were particularly about firearms that would be moved into category D, which are those lever-action shotguns with a magazine capacity greater than five rounds. Obviously, that is reserved for state or commonwealth government purposes. It was confirmed in the briefing that if someone were acting on behalf of the state or commonwealth government—that is, through a contract or through some other purpose—they would be eligible to apply for a category D firearm for that purpose.

Some of the issues raised in the debate have been about jurisdiction. First of all, achieving national agreement from every state and territory would not be easy. The first thing to recognise in this debate is that it is difficult to try to achieve nationally consistent laws or regulations. It is not often that that happens. We also know that rarely is it ever perfect, because trying to perfectly apply a universal law or regulation in every jurisdiction is almost not possible. That has been achieved through compromise and negotiations, and advice was sought through that process.

The foreword of the Law Reform Commission inquiry report conducted in Western Australia mentioned the importance of having nationally consistent laws for the regulation of firearms. That is important to note again because today many references have been made to the Law Reform Commission report. To date, a number of jurisdictions have introduced either amendments to primary legislation or regulations to that effect to the COAG agreement. It has been argued—perhaps not today but certainly outside this place—that there is no point doing this unless every jurisdiction holds up its end of the bargain. The information I received from WA Police is that the commonwealth will maintain a ban on the importation of these firearms for as long as those jurisdictions do not uphold the agreement that they made at COAG on the amendments to the National Firearms Agreement. I think that is an important point to make: the commonwealth does have jurisdiction over the importation and exportation of these firearms and it does have that power to not allow the importation of these firearms until such time as every jurisdiction has dealt with its processes in respect of the agreement. As I said, I do not believe that there will be any impact on current gun owners, and the National Party believes that the impact on future gun owners is reasonable and consistent with stronger and nationally consistent laws for the regulation of firearms.

I want to conclude by referring to the Law Reform Commission inquiry, which made 143 recommendations, and I acknowledge that the new government will take some time to work through all those recommendations. Obviously, the most significant one is that the firearms legislation should be redrafted from the ground up and re-enacted. That will take time to do, but it is only one of 143 recommendations. Recommendation 3.1 states —

The *Firearms Act 1973* (WA) should contain a statement as to the purpose of the Firearms Legislation that confirms:

Extract from Hansard
[COUNCIL — Wednesday, 6 September 2017]
p3395a-3403a

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- a. The primary principle is the need to ensure public safety;
- b. The possession and use of firearms is a privilege that is always conditional on that need to ensure public safety; and
- c. public safety can be improved by requiring strict controls on the possession, use, dealing and manufacturing of firearms and requiring the safe and secure storage and carriage of firearms.

In stating that, I conclude my remarks, and reiterate that the National Party will not be supporting the disallowance.

Division

Question put and a division called for.

Bells rung and the house divided.

Several members interjected.

The PRESIDENT: Members, I might just remind you that during a division you are not supposed to talk and you should not have your backs to the Chair. Thank you.

Ayes (5)

Hon Robin Scott
Hon Charles Smith

Hon Aaron Stonehouse
Hon Colin Tincknell

Hon Rick Mazza (*Teller*)

Noes (23)

Hon Martin Aldridge
Hon Jacqui Boydell
Hon Robin Chapple
Hon Tim Clifford
Hon Alanna Clohesy
Hon Peter Collier

Hon Stephen Dawson
Hon Diane Evers
Hon Donna Faragher
Hon Adele Farina
Hon Nick Goiran
Hon Laurie Graham

Hon Colin Holt
Hon Kyle McGinn
Hon Michael Mischin
Hon Simon O'Brien
Hon Martin Pritchard
Hon Tjorn Sibma

Hon Dr Sally Talbot
Hon Dr Steve Thomas
Hon Alison Xamon
Hon Pierre Yang
Hon Ken Baston (*Teller*)

Question thus negatived.