

## **FIREARMS BILL 2024**

### *Introduction and First Reading*

Bill introduced, on motion by **Mr P. Papalia (Minister for Police)**, and read a first time.

Explanatory memorandum presented by the Minister for Police.

### *Second Reading*

**MR P. PAPALIA (Warnbro — Minister for Police)** [12.15 pm]: I move —

That the bill be now read a second time.

The Firearms Bill 2024 replaces the Firearms Act 1973 and will introduce a modern legislative scheme that will establish a new licensing regime, as well as address unlawful firearm activities, making explicit that the possession and use of a firearm is not a right but a privilege—that privilege being conditional on the paramount need to ensure public safety within the state.

The need for reform is driven by the recommendations from the Law Reform Commission of Western Australia’s 2016 report titled *Review of the Firearms Act 1973 (WA): Project 105 final report* that identified the 1973 act as lacking clarity and no longer being fit for purpose. Additionally, following several national and local incidents involving the unsafe, irresponsible and unlawful use of firearms since the release of the Law Reform Commission’s report, such as those in Wieambilla in Queensland or Osmington and Two Rocks here in Western Australia, the state government, informed by the Western Australia Police Force and in consultation with key stakeholders and the public, identified key reforms for the bill to address.

There have been a number of amendments to the 1973 act, the most notable of which was made following the 1996 Port Arthur massacre and the consequent National Firearms Agreement. However, since 1996, every Australian jurisdiction apart from Western Australia has enacted entirely new firearms legislation to better align with the NFA. Notably, the NFA was reconfirmed by the heads of all Australian jurisdictions in 2017, focusing on each jurisdiction, providing a general amnesty for persons surrendering firearms and a recommitment to the principles proposed by the NFA. This bill will bring the state closer in line with firearms legislation in other Australian jurisdictions and will in some instances exceed some of the concepts within the NFA to better meet the public safety principles it proposes for Western Australia. It will also implement or exceed the majority of recommendations arising from the Law Reform Commission’s report. Accordingly, the bill introduces the following key reforms to improve the administration of firearms authorities: reforms to licences, permits and approvals, the strengthening of police enforcement powers and the modernisation of offences and penalties in line with contemporary practices. These reforms will ultimately minimise the risk that firearms pose to public safety.

Firstly, the bill explicitly sets out the principles and objectives of the legislation for the Western Australia Police Force or any other person carrying out the functions of the bill. These provisions intentionally use language similar to that of the NFA and identify the paramount need to ensure public safety in connection with the possession and use of firearms in the community to be achieved through strict control over such possession of firearms.

Secondly, the bill will introduce key measures to minimise the risk of firearm misuse causing harm to others or the person in possession of the firearm. This will be achieved through improvements to the fit and proper person test, supported by health assessment and training processes, and more robust storage requirements.

Notably, a firearm authority cannot be granted if the person has committed a disqualifying offence, usually being a serious offence as contemplated by the Criminal Investigation Act 2006, or when the person has a disqualifying order apply to them—for example, a family violence restraining order or violence restraining order, or when the person is a member of a disqualifying organisation, being an organisation listed under the Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021. A disqualified person will not be able to apply for a firearm authority until a prescribed period has passed since their conviction or when the order was applied, or when they are no longer identified as a member of a disqualifying organisation.

Thirdly, the bill will reform provisions of the Firearms Act 1973 that were exploited, such as the “property letter” concept, by establishing a better system for written authorities to support the genuine reason for particular licences and give landowners clear oversight over who has authority to shoot on their land. Property letters were a means by which a person could obtain written permission from a property owner or occupier to gain access to firearms without ever having to meet the person or shoot the firearm they were applying for on the property.

Fourthly, to reduce the number of firearms in the community, the bill will introduce numerical limits on the firearms that can be possessed under certain licences. This means the individual licence and primary producer licence will both have a limit of 10 firearms. Although this is not expected to greatly impact the majority of current licence holders, the intent is to reduce the stockpiling of firearms, removing them as a high-value target for theft. The numbers

show that for the period 1 July 2018 to 30 June 2023, 1 769 firearms were stolen, with the rate of firearm thefts across this period amounting to 6.8 firearms stolen a week. Reduced firearm numbers alongside the more stringent storage requirements and oversight powers proposed in the bill are expected to increase public safety and limit the proliferation of stolen or otherwise illegal firearms in the black market.

Further, the bill will introduce a suite of licence types, each with a clear purpose, providing guidance to applicants in selecting a licence catering to their needs. The licences the bill will introduce are the individual licence, business licence, primary producer licence, collector licence, club licence, range licence, trade licence and government entity licence. Underpinning these changes, the bill will modernise the penalty scheme of the 1973 act, with the penalties matching the serious risk of the offending and bringing them into line with contemporary penalty schemes. The bill will introduce new offences such as the possession or use of autonomous or remote-use firearms and associated technology, as well as greater penalties when an offence involves a handgun or prohibited firearm. These measures will place explicit obligations on authority holders as well as placing a significant deterrent on unlawful firearm activities such as the possession, use of and dealing in firearms and related things.

Accordingly, the bill will strengthen the powers of the Western Australia Police Force to ensure firearm authority conditions are complied with and it is able to seize, inspect, remove and place any necessary additional conditions on the possession and use of firearms and related things in a person's possession. The power to place firearm prohibition orders that will entirely restrict their recipients' access to firearms will remain with the Western Australia Police Force. These modernised enforcement provisions are balanced through the procedures included within the bill and in conjunction with other legislation relating to the exercise of police powers.

The bill and its concepts have been developed in close consultation with key stakeholders within the firearm industry, including the Western Australian Firearms Community Alliance, the Primary Producers Firearms Advisory Board, and other firearm clubs and associations. Additionally, input was sought from organisations seeking greater control over firearms, such as the Alannah and Madeline Foundation, Injury Matters and the Western Australian Council of Social Service. Further, consultation occurred with other affected state agencies such as the Department of Primary Industries and Regional Development; the Department of Biosecurity, Conservation and Attractions; the Department of Justice; and the State Administrative Tribunal.

The wider public has also been involved from the start in shaping these reforms from the initial Law Reform Commission process through online surveys and community engagements and, finally, through the submissions on the consultation paper in the last quarter of 2023. It should be noted that consultation with all stakeholders will continue as the bill progresses through Parliament, throughout the transition period from the 1973 act to the new act, and during the development of the regulations. The reforms this bill will introduce have not been made in a vacuum and were drafted to provide detail and clarity on the responsible and safe possession and use of firearms and related things within the state.

I will now explain the bill in more detail. Under part 1, the principles and objectives of the bill are plainly laid out for the benefit of the public and for those who will make decisions under the bill and specifically states that the possession and use of firearms and related things are a privilege that is always conditional on the overriding need to ensure public safety. The 1973 act places no such emphasis in its provisions and, without this, leaves a decision-maker free to consider that the individual need overrides the paramount principle of public safety.

Part 1 also defines the terms used throughout the bill; namely, what is a firearm, ammunition, a major firearm part, and what constitutes possession and use, along with disqualification concepts of offences, orders, and membership of disqualifying organisations. Notably, the bill defines the use of a firearm as either the firearm having been fired or being loaded and in immediate possession. This is required to provide clarity for when a firearm is in use, relating to the offence provisions for the unauthorised use of a firearm. The risk of a person in immediate possession of a loaded firearm is more significant than that of being in possession of an unloaded firearm.

Finally, part 1 deals with exemptions from some of the provisions of the bill, notably for those who should not require a licence in the course of their duties, such as law enforcement agencies and the Australian Defence Force. Further exemptions can be made via the regulations should the need arise for a person, or type of person, to be exempted from the licensing offences or storage requirements in the bill.

Part 2 of the bill provides for each licence, their obligations and authority, as well as provisions requiring a genuine reason and reasonable justification for having a firearm, with personal protection explicitly being an unsuitable reason or justification. The bill replaces the ambiguous 1973 act licensing scheme, providing a range of licences tailored for specific firearm purposes.

Licences generally deal with the individual possession and use of firearms and related things, the possession and use by businesses or government entities, and firearm activities carried out by ranges, clubs, dealers, repairers, and manufacturers. Notable amongst the key concepts introduced by this part are the individual licence, primary producer licence, and club and range licences.

The individual licence may be granted for three purposes; namely, competition shooting at a licensed range, hunting on approved properties, and participating in paintball games. Other than for prescribed paintball guns, which do not have an upper limit, the individual licence can have an overall maximum of only 10 firearms under the licence, with a limit of five of those available for hunting purposes. However, competitive shooters recognised at a state, national or international level will be able to apply for additional firearms exceeding the overall limit in special circumstances.

For hunting purposes, a written authority from the owner or occupier of a property must form part of an application. The Western Australia Police Force may then consider the appropriateness of the property to undertake hunting, taking into account the size, features, number of existing authorities on the property and type of vermin being hunted. The holder of an individual licence for hunting can hunt only on properties for which they have approval, but are not limited to the number of properties they may receive an approval for. This differs from the 1973 act, which enables a person to receive one written authority and then shoot on any property, regardless of the suitability of that property.

Following consultation with primary production stakeholders, the bill includes a licence specific to their purpose; namely, a primary producer licence. This licence is intended to provide clarity for people engaged in primary production activities, instead of what occurs now with the recreational, hunting or shooting licence. Primary producers, in the course of their business, sometimes require the use of a firearm to manage livestock or destroy vermin. This licence will enable them to apply for categories of firearms unavailable to the individual licensee that are more suited to primary production purposes. However, primary producer licensees will be limited to a maximum of 10 firearms under their licence. The primary producer licence will also enable licensees to nominate certain family members and employees as authorised persons under the licence. This means that those authorised persons will be able to possess and use the firearms on the licence for primary production purposes. Similar to the hunting licence, the licensee and authorised persons will be able to use the firearms on the property to which they are licensed, as well as other primary production properties with the permission of the owner or occupier of that property. The licensee will also be able to undertake hunting activities, additional to the primary production activities authorised under this licence.

The bill includes a licensing scheme for clubs and ranges that undertake firearm-related activities. This differs from the approval scheme in the 1973 act and will provide clearer obligations and functions for firearm clubs and ranges, along with better means for the WA Police Force to ensure compliance. The club licence is intended for any firearm club that is seeking to provide written authority to a competition licence, which will confirm membership of a club carrying out particular firearm competitions. This is to provide validity to a competition licence applicant, proving they belong to a club undertaking a particular firearm discipline and justifying the licensing of an appropriate firearm. The club licence will also authorise the licensing of firearms for use by club members or visitors at a licensed range. It is intended that applicants for a club licence must be an incorporated organisation and provide documents illustrating the club structure and detailing who the office bearers are. It is further envisioned that regulations will specify membership requirements for a licensed club, avoiding membership being given to someone who is disqualified or to whom a firearms prohibition order applies. A club licence will also require, amongst other matters, the maintenance of accurate records of membership and competition attendance, which must be regularly provided to the WA Police Force. This will ensure compliance by the firearm club and those who use club participation to inform their genuine reason for a competition licence.

The range licence will provide a means for operating a shooting range that authorised persons or casual users can attend and use either their own firearms or firearms granted under the range licence. The inclusion of such a licence will provide clear obligations on the licensee, such as having a compliant range and meeting construction standards and land suitability, as well as recording and reporting requirements for attendance, similar to the club licence.

Part 2 of the bill will also provide for the approval of replacement or additional major firearm parts under a licence; the ability to reload ammunition for licensed firearms; the prohibition of particular firearms, ammunition and activities; as well as the additional authority for people with licences that enable the use of a firearm to “sight in” the firearms at a licensed range or on a property for which an approval has been granted.

Part 3 of the bill deals with permits that will authorise the possession and, in some circumstances, use of firearms and related things on a temporary basis. Similar to the 1973 act, permits will usually be granted to international or interstate competitors participating in competitions in Western Australia. However, permits may be granted for a range of genuine reasons beyond this.

Part 4 of the bill provides for firearm authority procedures that will specifically deal with the requirement for a person to be deemed fit and proper to be granted an authority, as well as any restriction, cancellation, suspension, or renewal of authorities, their terms and any conditions on them. The commissioner, in forming an opinion on an applicant’s fit and proper status, may have regard to a wide range of matters to ensure that a person is suitable to safely and responsibly possess firearms and related things. Although not limited in what this may include, the commissioner may consider the person’s conduct, behaviour, physical and mental health, views, opinions, attitudes, character, domestic circumstances, honesty and integrity, as well as who their close associates are. Additionally,

the commissioner will inquire into the relevant criminal records of an applicant to determine whether there is any risk of the firearm being misused, or any suspicion of the person being a threat to public safety.

Explicitly laid out in part 4 is a complete restriction on granting any authority to a disqualified person or person to whom an FPO applies. There is no means by which this can occur other than the disqualifying period or order ending. Further, applicants are to undergo a health assessment, carried out by a registered health practitioner, possibly via telehealth, examining their physical and mental health. However, the health practitioner will not make a determination on a firearm authority but will provide health evidence to the commissioner to inform a determination. Should there be any matters arising from the initial assessment, the person may also be directed to a specialist for further examination as to whether they meet the standards to be set in the regulations. There is a clear need, similar to other licences such as pilot or dangerous goods drivers' licences, for a health assessment to be required for granting an authority. This is a preventive measure to reduce instances of a person's wellbeing being an impacting factor on firearm misuse. These measures for assessing the fit and proper status of an applicant are an integral part of the bill. They give the WA Police Force the clear means to satisfy itself, on behalf of the community, that the applicant would not be a risk to public safety if they were to possess a firearm.

Part 4 also contemplates the applicant successfully completing a firearm safety training course, including instruction on the safe handling and use of firearms. This will improve on what occurs under the current scheme, in which applicants only have to pass a multiple-choice questionnaire online. It is envisioned that the training courses, going forward, will now include modules on the theory of safe firearm use, the obligations of a firearm authority, and a practical module on the safe handling of a firearm.

The bill also enables the ability to suspend or cancel a firearm authority, with the cancellation being automatic if the person becomes a disqualified person or an FPO applies to them. Suspending an authority can occur when there are reasonable grounds to suspect that the person is no longer fit and proper, with the person being required to provide evidence to the contrary. A person can also be suspended if they are subject to an interim disqualifying matter, such as an interim order, or have been charged, but not convicted, of a disqualifying offence. Cancellation occurs when the authority holder is deemed to be no longer fit and proper; the person contravenes a provision of the act; or for a range of other reasons.

It should also be noted that part 4 will replace the extract of licence card under the 1973 act—noted to be burdensome and no longer fit for purpose—with the ability to grant a physical or digital licence card. Access to either a physical or digital licence will provide a measure of flexibility for authority holders, supporting the government's move to improved digital governance.

Parts 5 and 6 deal with the licensing and general offences of the bill. The proposed offences and penalties will provide a more uniform structure to deter the unlawful possession and use of firearms and related things, and engagement in unlawful firearm activities such as manufacture, trafficking, destruction or trade. Significantly, the bill will introduce a new graduated penalty structure, increasing penalties when the firearms involved include handguns or prohibited firearms. The possession, use, trade-in, or manufacture of such firearms are of a significantly higher risk to the community, and the proposed penalties are commensurate with this. Additionally, notable amongst the introduced offences are the unlawful possession and manufacture of ammunition components; and the possession, use, or manufacture of remote or autonomous firearms.

Part 7 deals with the principles of safe security and storage of firearms and related things. The 1973 act provides very limited guidance to authority holders on the appropriate measures that should be taken to minimise the risk of firearm theft. This bill, then, provides explicit requirements for how a firearm or related thing must be stored, and in what circumstances they can be removed from storage, such as use in an authorised activity or for general maintenance. Further, maintenance is defined by the bill to provide greater clarity for firearm authority holders. The bill, additional to the paramount duty to ensure the safekeeping of firearms, includes provisions that deal with firearms in transit. These provisions will require the authority holder to keep the firearm stowed in the best available place within a vehicle, with the firearm not being visible from outside the vehicle. Part 7 also details the obligation for an authority holder to allow an inspection of their storage by the WA Police Force, as well as the grounds for cancelling the authority should the holder refuse an inspection or the storage is found insufficient.

Part 8 contains the provisions dealing with firearms prohibition orders, which have been amended following the analysis of their operation since 2022. The FPO provisions within the bill have clarified the circumstances in which the commissioner may place an order against a person, prohibiting their access to firearms. The commissioner, in determining whether a person is not fit and proper, will use similar measures employed under part 4—notably, the criminal history of the person, the level of risk to public safety should the person possess a firearm, and whether there is a significant risk of a close associate who has been deemed not fit and proper gaining possession of a firearm. Further, the commissioner may consider the application of an order against a person who is a member of an outlaw motorcycle gang or any other identified organisation, being an organisation named under the Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021.

Further, part 8 will remove the ambiguity in the 1973 act in which the prohibited person, when ordered to surrender any firearm or related thing in their possession, does not commit an offence if they provide assistance leading to the WA Police Force seizing the firearms within 24 hours. The bill will instead place a requirement for the assistance, or information, to immediately assist in locating and accessing wherever the firearms and related things are, but offences may still apply.

Part 9 deals with the review of decisions made under the bill, carried out by the State Administrative Tribunal, and remains largely unchanged. Similarly, part 10, dealing with the general amnesty for the surrender of firearms and related things, remains unchanged from the principles of the 1973 act.

Part 11 contains provisions dealing with the range of powers for the WA Police Force to administer and enforce the bill. These include the powers to enforce FPOs to search persons, places, and vehicles to seize firearms and related things; request personal details; apply for a fit-for-purpose search warrant; to dispose of seized things; and to issue compliance directions to ensure an authority holder meets the conditions of their authority.

For part 11, division 2, the bill introduces an enhanced ability for the WA Police Force to search and seize firearms after an FPO is made, but before it is served, without a warrant. This power is intended to be used where reasonable efforts have been made to serve the FPO, but the person is deemed to be actively avoiding service of the FPO. The paramount objective in this instance is to remove any firearms in possession of the person to minimise the risk of the firearms being unlawfully disposed of or used. It is envisioned reasonable effort for service would include, but not be limited to, going to the person's residence or place of work. If the person held an authority at the time the FPO was made, a police officer may then enter the location where the firearms are listed as being stored in order to remove them. The police officer who has exercised this power must provide a report to the commissioner detailing the efforts made to serve the FPO.

Part 12, dealing with information, provides the means by which any person can report a matter of concern over the continued possession of firearms by another person. This goes further than the 1973 act by enabling family members, friends, fellow club members or whoever to report concerns to the commissioner that may be investigated. The bill provides a protection of identity and against liability for the person who reports these matters in good faith. Division 2 of this part also enables the inverse situation in which the commissioner can disclose information regarding authority holders or other information on a person relevant to a firearms authority. This means the commissioner may disclose whether a person has been deemed not fit and proper or is a disqualified person or a person against whom an FPO applies to a club or range. This ability also may be used to disclose relevant information to other law enforcement agencies or inform any national registration scheme.

Part 13 deals with evidentiary matters when prosecuting an offence under the bill. The bill includes further averments, additional to the 1973 act, for things such as firearms, major firearm parts, ammunition and prohibited firearms and ammunition. The inclusion of these matters will ensure that WA Police Force resources will not be wasted on spurious challenges on whether a firearm is a firearm when it evidently is.

Part 14 addresses the means by which firearms and related things may be advertised and the reporting obligations placed on licence holders. These remain largely similar to the principles within the 1973 act.

Part 15 contains general provisions that deal with a range of matters not addressed elsewhere in the bill and includes expanded limitation periods, the ability to approve forms and charge, waive, or reduce fees, and a general regulation-making power. The regulation powers will be able to cover a range of matters including applications, health standards, recording and reporting requirements, range construction and operation, as well as any other matter necessary or convenient to give effect to the bill once enacted. As a matter of course, part 15 will require a review of the operation and effectiveness of the bill to occur soon after the fifth anniversary of its enactment and for the report to be tabled in Parliament.

Part 16 provides the transitional and savings provisions to enable 1973 act authority holders to transition to the new licensing scheme under the bill. Accordingly, the provisions in this part detail the transition period, with authorities under the 1973 act to continue until the commencement of the new legislation. Post commencement, existing 1973 act authorities will be turned into transitional authorities, which will essentially continue the 1973 act authorities until they can be transitioned to a relevant authority under the new legislation.

Noting the almost 90 000 existing licences, a gradual transition is preferable to reduce the impact on those licence holders and on WA Police Force resources. Licences may transition when the renewal arises or when the commissioner decides to transition a licence to an appropriate licence under the legislation. However, should an existing authority holder be no longer eligible to hold an authority due to the provisions of the new legislation, their authority will not continue. For example, a disqualified person who holds an authority under the 1973 act will not be eligible to hold a transitional authority post commencement of the new legislation.

Finally, part 17 deals with the consequential amendments required following the enactment of the bill. These mainly deal with updating the references from the 1973 act to the proposed Firearms Act 2024. The notable change is to the Restraining Orders Act 1997, which will remove the ability for a court to allow a person to whom a violence restraining order or family violence restraining order applies to continue to have a firearm authority. This goes

against the introduced disqualifying order scheme, which automatically cancels an existing authority should a VRO or FVRO apply to an authority holder.

The reforms this bill will make to the regulation of firearms within the state will be significant, but they will provide a greater level of certainty and clarity than the 1973 act. The bill places public safety as its paramount objective, and the ensuing provisions will provide for this while balancing the privilege for the persons who require a firearm for legitimate purposes. Ultimately, these significant reforms will go a long way towards the government's priority to ensure public safety by diminishing the risk posed by unlawful firearm activities. The principles and objectives of this bill are such that it should last in Western Australia for another 50 years.

The bill would not be possible without the hard work and dedication of many talented individuals, and I would like to take this opportunity to thank some of the people who have contributed to the bill. I thank the leadership of the Western Australia Police Force: Commissioner of Police Col Blanch, APM; Deputy Commissioners Kylie Whiteley, APM, and Allan Adams, APM; and Assistant Commissioner Pete Healy, APM. I also thank the Western Australia Police Force's licensing enforcement division and firearm reform division; Commander Lawrie Panaia; Acting Inspector Ken Walker; Sergeants Paul McCourt and Lysle Cabbage; assistant director, Mal Penn; senior research and legislation officer, Declan Warburton; research and legislation officer, Dr Alessandro Silvestri; research support officer, Jasmine Sutherland; Acting Superintendent Jason Banks; Acting Inspector Karl Van Der Sluys; program manager, Matt Stacey; executive manager, Vanessa Collins; project manager, Sue Hunter; and project manager, Mark Champion. I also thank the team at the Parliamentary Counsel's Office.

Finally, I thank current and previous staff from my office; chief of staff, Aleisha Banner; principal policy adviser, Peter Zappelli; senior policy advisers, Jessica Garcia, Chris Dunnell, John Gangell and Dickson Wamukoya-Garbutt; senior media advisers, Nathan Brooks and Joey Catanzaro; and executive officer, Nicola Byrne.

I commend the bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle (Deputy Leader of the Opposition)**.