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Submission Paper Dot Point Summary

Select Committee Inquiry

Inquiry into Firearms law Reforms

JULY 2019

Submission summary

- I wish to thank the Committee for the opportunity to make submission regarding these matters.
- The Tasmanian Liberal Party policy document on firearms legislation review dated 9th February, 2018 is neither comprehensive nor prescriptive. It contains elements of policy and elements of possible legislative change. It demonstrates a basic attempt on the part of government to listen to the concerns of stakeholders, particularly the rural community, and to make legislation less confounding, ridiculous and impractical for those who rely on firearms as 'tools of trade.'

The review needs to be more comprehensive than the Liberal Party Policy document suggests.

- I petition the Committee to support regular, objective and constructive review of Tasmania's firearms legislation through a, yet to be developed, inclusive process.
- The process should include stakeholder groups such as TFGA, TFOC, Tasmania Police, members of parliament (MLC?), other stakeholders as identified and those with experience in legal matters. Such a group should then develop a review process framework to be approved .
- For too long, stakeholder and user inputs into publicised reviews or osmotic changes to the legislation have been largely ignored.
- With the most recent regulations, firearm storage requirements have become stricter, not relaxed.
- Most legitimate firearms owners accept these strict storage requirements as part of their duty of care in keeping our firearms out of the wrong hands.
- It is the impractical legislation restrictions on possession, carriage, use and conveyance of firearms and ammunition which cause legitimate firearms owners most concern.

My Background

- Landcare and Natural Resource Management under projects facilitated by Private Forests Tasmania. This role has expanded over the past 24 years into a permanent position, picking up whole farm planning, commercial forestry and integrated farm forestry.
- Game management and managing browsing damage are significant issues in tree establishment and management projects undertaken by landowners. I have also

gained an appreciation of the broader issues of game management across a whole range of farming enterprises.

- I have bred cattle as a hobby farmer, worked on farms and now am a tree farmer with my own plantation. Both as a tree farmer and forester I have extensive experience in game management. This has spanned the period of regular use of 1080 poison, through the period of 'Alternatives to 1080', to the abandonment of 1080 by the industrial forestry sector in order to gain forest certification and social licence to operate.
- It would appear that some farmers and individual farm forest owners are at a point of returning to the use of 1080...out of necessity.
- I am a member of the Tasmanian Farmers and Graziers Association (TFGA) holding a position on
- 1. I am a paid up member of SSAA, and Arms Collectors Guild of Tasmania (to access target shooting).
- Up until recently I was manager of some 25 shooters on a property in the North of the State, preparing Game Management Plans bringing together landowners, shooters and DPIPW staff to develop plans which attempted to meet the objectives of all parties. Coordinating property access (during deer season and for shooting under culling permits), applying for and issuing permits for wallaby, possum and the range of tags for culling fallow deer were regular tasks. Ensuring that shooters and hunters had current licences and insurance was also part of the role of 'Game Manager'.
- I continue to assist with game management on two properties, one in private ownership and the other owned by an industrial forestry company.

Do not represent any individual organization or lobby group. I hope to represent the voice of reason and common sense as someone who has a wide range of experiences in fields where firearms are considered to be a tool of trade.

The Legislation and Public safety....realities and illusions.

The tragic events of Port Arthur on 28th April 1996 triggered the National Firearms Agreement (NFA) and the Tasmanian Firearms Act 1996. The speed with which the NFA was constructed, signed, sealed and delivered (by 10th May 1996), combined with the construction and enactment of The Tasmanian Firearms Act 1996 (enacted 30th August 1996) leads to a likely conclusion. Perhaps cynical, but most likely accurate, is the assertion that the complex and detailed NFA document and State Firearms legislation had been drafted prior to the tragic murders at Port Arthur. Alternatively, given the framework of the NFA has been dropped almost 'word for word' into the state legislation, then the clumsy,

impractical piece of state legislation may have been hastily cobbled together and passed both houses of parliament to be enacted 4 months after Port Arthur massacre???

Port Arthur massacre acted as a trigger and created the collective grief and anger to support legislation which would 'make us feel safe'.

Licenced Firearms owners are not enemies of the community

Numerous studies have found no evidence to support the view that these pieces of legislation have made communities any safer, by reducing suicides and homicides. **The collective consensus appears to be that cultural factors contribute to suicides and violence, rather than access to firearms.**

Few in our community would see any justification for the use of submachine guns and assault rifles. Yet, 22 years after the NFA and state firearms legislation, we find an assault rifle in June 2018, being used to spray bullets into a restaurant in Hobart. In a string of drug and firearms seizures since 2010 the contents have regularly included submachine guns; the most recent being 5 submachine guns seized in in Melbourne April 2018.

- 'The institute of Criminology (AIC) has time and time again found that it is the unlicensed person with an unregistered firearm that is responsible for crimes involving firearms. In almost all cases, the crimes are drug, gang and organised crime related....'the fact remains that if illicit drugs and their base components can be imported in large quantities, then so can firearms...' (SSAA National Submission Paper, 2014. To Senate Standing Committee on Legal and Constitutional Affairs Inquiry- The ability of Australian law enforcement authorities to eliminate gun-related violence in the community. Pages 3 and 5.) This has proved quite true, of some 120 Glock pistols , in 2015, finding their way into the hands of Australian criminals. In March 2017 there was a poorly reported claim that 5,000 handgun (parts) were seized prior to arrival in Australia. There were some 6 automatic assault rifles included. These were 2 shipments discovered ...how many find their way into our country without being discovered?

'Our FOI applications seeking information on how many illegally imported firearms Customs has seized has revealed some interesting information.

Around 8 guns, imitation firearms, parts and accessories detected each day are disposed of... and that's obviously the 'tip of the iceberg'.

This will be important information when it comes to the remaking of our Firearm Regulations 2008, as it challenges the often-held view that illegal guns come from the legal market.' (Combined Firearms Council of Victoria, www.firearmscouncil.org.au)

Statistics would suggest that firearms in the hands of licenced owners are of the least threats to public safety... 'and theft data indicating that only 3 to 5 percent of stolen legal

firearm per annum are being used in crimes. (SSAA, 2014. National Submission Paper to Senate Standing Committee on Legal and Constitutional Affairs Inquiry - The ability of Australian law enforcement authorities to eliminate gun-related violence in the community. Page 5. See Attachment 3)

- Restrictive and impractical legislation imposed on legitimate firearms owners will not make our communities safer. Gun laws only affect those who choose to work within the legal framework....these people are the least threat to our community.

Having said this, there are many root causes which lead to violent acts within our communities.

What drives someone to stab to death 8 children, 7 of them her own, in Cairns?

What causes someone to drive a vehicle through a crowded Burke St in Melbourne, killing 6 and wounding 28?

What causes a father to drive his children in a car into a dam to murder them?....or another to shoot his two teenage children, then himself?...or a wife, in Wilmot, to shoot her husband then herself?

What causes a grandfather to shoot his wife, one of his own children, then his grandchildren?

Why would someone murder a 16 year old and dump her body in a barrel?...or set fire to a house, knowing there was a woman inside?

What causes a young man to stab to death his young brother, teenage sister and mother with a pair of scissors?

How do you legislate to prevent such sad and tragic circumstances where individuals turn on their own families? Would creating more restrictive legislation regarding the regular use and storage of motor vehicles, firearms, matches, kitchen knives, scissors etc. prevent these horrific murders?

The root causes of violence require investigation and work towards prevention. Blaming the tools used in violent crimes may only create a 'feel-good illusion' of reducing or solving the problem.

- Licenced firearm owners' storage requirements under the Tasmanian Firearms Regulations 2016 have been increased, to the extent that I now have motion sensor operated cameras which effectively provide 24 hour recorded coverage around our house. Also required was a new firearm safe, as the older commercially supplied safe no longer met storage requirements. This has involved significant additional cost.

- **Most legitimate firearms owners accept these strict storage requirements as part of our duty of care in keeping our firearms out of the wrong hands.**
- **It is the impractical legislation restrictions on possession, carriage, use and conveyance of firearms and ammunition which causes legitimate firearms owners most concern.**

(1)Current and future firearms licencing regimes, including training, licence renewal, licence infringements and licence categories

There will, no doubt, be other submissions on these matters. There are 3 points I would make;-

- **A review of aspects of the legislation is required in order to make use of firearms in the rural areas more practical, making some practices no longer technical breaches of the legislation. Practical changes to legislation could be made through consultation with TFGA and TFOC.** Other 'minor storage infringements' could be dealt with outside the court system as is happening in other state jurisdictions. There needs to be some definition of what constitutes a 'minor storage infringement'.
- **If we consider our laws to be 'national' with basic standards provided by the NFA, then firearms licences from other states should be recognised, and, interstate licence holders granted Tasmanian firearms licences when they move to live in Tasmania. They should not have to go back to square one in order to obtain a Tasmanian licence.**
- **Renewal of a firearms licence should be just that, a renewal. The current system appears to be more like a reapplication for a firearms licence.**

(3) The role of Tasmania Police, Firearms Services (FAS) and the Proposed Tasmanian Firearms Owners Council (TFOC).

- After having my vehicle broken into, locked toolboxes broken into, and a firearm (minus its bolt) stolen, I have been on the sharp end of Tasmania's Firearms Legislation, and a Tasmania Police controlled FAS. I feel quite qualified to comment on aspects of relevant legislation as well as the actions of FAS.
- Launceston CIB verbally said that they 'had no interest in charging me with anything.' They were instructed to do so by the Tasmania Police inspector in charge of FAS.
- When I contacted FAS about the matter a police sergeant told me that the Commissioner of Police had a pro-prosecution policy and that, as such, so did FAS. **It this not a case of putting a fox in charge of the henhouse?** In the early days post 1996, when dealing with the public servant managed FAS, even though we may not have agreed with all information provided, FAS appeared supportive of firearm owners and there was mutual respect. In more recent times FAS could have been re badged as "Firearm Licencing, Compliance and Prosecutions." Firearm owners are pleased that a 'non -police' public servant has recently been appointed as manager of FAS.

- As a result of the firearm theft, I had my firearms licence cancelled immediately, and was charged with negligence in allowing the firearm to be stolen, and incorrect storage of the firearm (2 separate charges).
- **The actions and powers of Tasmaina Police (FAS) defy two of the pillars of our democratic society. In this matter, there was no presumption of innocence until proven otherwise. Also, Tasmania Police made the decision with respect to innocence or guilt and handed out punishment accordingly. This is the role and jurisdiction of the courts of the land.**
- Under the Firearms Act 1996, if the delegate of the Commissioner of police is of the opinion that I was negligent in allowing the firearm to be stolen he/she must cancel the firearms licence...she did. Cancellation of my licence meant that I could not own firearms and would mean I might have to wait for a period of 5 years before reapplying for a new licence. This cancellation of my licence was a punishment. **The power to cancel a licence (punish), based on opinion, elevates FAS (Tasmania Police) above the court system. This power should be revoked.**
- How could the manager of FAS form such an opinion when evidence on the matter had not been tested in the courts? **It is reasonable to expect a suspension of a licence pending the outcome of court proceedings. However, it should be up to the court to make the decision to cancel a licence, if appropriate, if and when a person is found to be guilty of a crime.**
- Without going into detail, this process took a year, cost me some \$3500 excluding legal costs and I was without a firearms licence for most of that time. Northern Prosecutions offered no evidence to support the 2 charges. However, despite me not being found guilty of any crime, the cancellation of my licence remained. I had to appeal the cancellation, and defend my actions, through the Court of Appeal process. The Chief Magistrate deemed that I was not negligent and ordered FAS to reinstate my licence.
- Apart from causing a great deal of stress in my life, the experience created an awareness of how, under the legislation, a firearm owner and a victim of crime, could be treated as, and made to feel like a criminal. The experience also highlighted some serious deficiencies in firearms storage legislation which could lead to similar ridiculous and unintended consequences. These were confirmed by the Chief Magistrate in his judgement.
- Included is a summary briefing paper below which was submitted to TFGA during the formation of its Firearms policy

Issues with Firearms storage and transport – from 1996 until 2017

Tasmanian legislation pre 2015 Review and pre December 2017

Section 85 of The Firearms Act (Now in Regulations) is often used in complaints against hunters / shooters who experience crimes against them, often relating to theft of a firearm, or simply when crossing a road which dissects a property. The section itself appears both unworkable and does not deal with the safekeeping when firearms are temporarily away from their usual place of storage. It does not provide clear and specific measures so that firearm owners know their obligations in the range of situations likely to be encountered (National Firearms Agreement)

Section 85 (a) states that 'if a firearm is not being used (fired) it must be stored in a locked receptacle...' A literal interpretation of S85 of the Act is a prohibition on almost all hunting and shooting activities.

Under Section 3 of the Act, 'use, in relation to a firearm, means to fire/ discharge the firearmor point the firearm so that it appears that it is going to be discharged'.

When not in the act of discharging the firearm, it must be in home storage, or the equivalent....this is simply unworkable, making hunting a prohibited activity

Following **examples are situations likely to be encountered** and appear to be breaches of S 85 of The Act:-

- Cleaning the firearm (Neither in use nor in home storage. Now included in regulations 2016 as a permitted activity).
- Carrying the firearm whilst stalking deer (Neither in use nor in home storage).
- Spotlighting on the back of utility (Neither in use nor in home storage).
- Going forward of the shooting line at pistol range (Neither in use nor in home storage).
- Camping out or overnighting away from one's primary residence on hunting trips, or in transit (Neither in use nor in home storage)
- Driving around the farm with a firearm in the ute (bolt in).

In its current form the requirements of Section 85 (Now regulations 2016) of the Firearms Act 1996 appears to be a prohibition of most hunting/ shooting activities.

This was tested in the court System and Chief Magistrate Michael Brett (now a Justice in Supreme Court of Tasmania) found...

“The applicant argues that a literal interpretation of s85(1) would have the result that the firearm can only ever be taken out of its fixed storage receptacle for the few moments it is being fired. Accordingly, a licence holder will commit an offence whenever a firearm is being conveyed or being used away from the storage facilities, for example when hunting overnight. The applicant's valid point is that such a literal interpretation is unworkable and would result in ridiculous and clearly unintended consequences.

I agree with the applicant that a literal interpretation is not the proper interpretation of s85(1). This conclusion is reinforced by the provisions of s104 of the Act which provides that a person who conveys a firearm or any ammunition must comply with the prescribed safety requirements. The safety requirements for conveying a firearm are prescribed by reg12A *Firearms Regulations* 2006. ...”

(If this is the view of the Court, then the Firearms Act 1996 needs to be fixed ...FAS and Tasmania Police are taking a literal interpretation of the Act)

A useful determination

“There is no definition of the meaning of *conveying* in the context of a firearm in the Act or regulations. The Macquarie dictionary defines *convey* to mean “to carry or transport from one place to another”.

“The difficulty with the respondent's (FAS) argument is that there is no attempt in the legislation to limit or regulate the circumstances in which a firearm may be conveyed. **The failure to deal with this question suggests that the intention of the legislature was to leave it within the absolute discretion of the firearm holder as to when and in what circumstances a firearm is conveyed.** If the legislature had intended to limit the circumstances in which a firearm will be conveyed, then it would have been a simple enough exercise to include such provisions in the legislation. On the contrary, there are aspects of the legislation which suggest that, provided the prescribed requirements in relation to conveyance are being met, the question of how, when and over what period and distance such conveyance occurs is a matter solely within the discretion of the licence holder. The fact that the legislation does positively deal with the question of the manner of conveyance when it does take place, but does not impose any limitation on the question of when and in what circumstances conveyance will occur, suggests that it is a deliberate decision to leave those questions unregulated. Further, s104(2) provides that it is a defence in proceedings for an offence that a person conveying a firearm has not complied with prescribed requirements if a number of conditions are met. These conditions include that the firearm is being conveyed “no further than reasonably necessary, in the circumstances”. The fact that the legislature has expressly provided for this limitation in order to justify conveyance when the prescribed requirements

have not been met, suggests that such a limitation is not intended to apply when they have been met.” (Michael Brett, Chief Magistrate)

Problems with this Section of the Act are acknowledged by the Minister of Police in his speech in parliament regarding the Firearms (Miscellaneous Amendments) Bill 2015

The Minister for Police stated “The Bill also expands the provisions of the legislation to ensure that there is no ambiguity that it is lawful to be in possession of a firearm for the undertaking of routine maintenance and cleaning of the firearm.”

The Minister appears to have been briefed on only part of the problem with respect to the workability of Section 85.

Firstly, it appears that the act of cleaning a firearm could be a breach of Section 85.

Secondly, if cleaning the firearm is a breach of Section 85, so would the other situations referred to above.... Where the firearm is neither in use nor in safe storage

Regulations of 2016-17

A number of sections of the Firearms Act 1996 were transferred to Regulation.

18. Safety requirements for conveying other firearms

The following are safety requirements for conveying a firearm that is not a prohibited firearm:

- (a) the firearm is to be in the unloaded condition;
- (b) ammunition is to be in a closed container, completely separate from the firearm;
- (c) magazines are not to contain any ammunition;
- (d) at least one of the following requirements is to be met:
 - (i) the firearm is to be in a locked receptacle;
 - (ii) the bolt of the firearm is to be in a closed container, completely separate from the firearm;
 - (iii) the firearm is to be fitted with a mechanism that locks or disables the trigger or action and prevents the firearm from being used.

Provisions in the new regulations 2016 make travelling with the firearm in a vehicle, around the farm or whilst spotlighting game and vermin, completely impractical. Regulation 18 is inadequate when compared with the NSW legislation requirement.

- **NSW provisions allow for exemptions when there is a likelihood that vermin will be encountered, or where sick or injured stock may need to be put down.**
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- Even with changes to the regulations outlined below, with no provision for carrying the firearm and no exemptions for dealing with livestock or vermin, then storage and conveying safety requirements apply....a totally impractical requirement, potentially, making criminals out of honest people.
- In over 40 years of experience, the typical time available between spotting a target animal and getting a shot at it is in the order of 3 to 5 seconds1, 2, 3, 4, opportunity gone! Feral cats often provide even a smaller window of opportunity to get a kill shot away.

It is simply not possible to remove the firearm from its inoperative state, load it, steady and fire a shot in this time frame... Users need to see changes to the legislation to make sure that we are able to act legally when carrying firearms in a state of practical readiness.

Changes From December 2017 - Storage

If a firearm or firearm part is not being used, maintained, or conveyed it must be stored in a locked receptacle:

- Receptacles must not be easily penetrable;
- Receptacles must be made:
 - (a) of metal at least 2mm thick for Category A or B firearms or firearms parts;
 - (b) of metal at least 3mm thick for Category C, D and H firearms or firearms parts; or
 - (c) of concrete;
- Receptacles that weigh less than 150 kilograms (when empty) must be fixed by masonry fixing bolts or coach screws (as appropriate):
 - (a) at least twice to a wall and at least twice to the floor; or
 - (b) at least four times to either a wall or the floor;
 - in a manner that prevents easy removal;
- The lock on the receptacle must be an internal locking mechanism.
- The receptacle must have:
 - (a) an internal hinging mechanism; or
 - (b) a mechanism that, when the receptacle is locked, would prevent the door from being opened if the hinges were removed.

S85 of the Firearms Act has been amended and moved to the new regulations.

- The term 'maintained' allows for cleaning, taking a firearm in for repairs etc?
- Therefore, whilst the firearm is not being fired, pointed with intent to fire or being cleaned it must be stored as above, or comply with the safety requirements for conveying a firearm
- **The regulations regarding firearms storage, do not clarify a number of issues around carrying a firearm in the ute while working on the farm (quite useless and impractical if you have to comply with the conveying requirement), carrying a firearm around the property (say stalking a deer), going forward of the shooting line at a pistol range to adjust and inspect targets, or whilst you are on the back of the ute spotlighting etc.**
- **The literal interpretation of the legislation is that you must comply with storage and safety requirements (prescribed for conveying a firearm) at all**

times, except when you are pulling the trigger or cleaning the firearm....I challenge anyone to find a section in the Act to demonstrate otherwise.

- Section 104 of the Firearms Act 1996 only gives instances where operating outside the specified storage or safety requirements is a 'defence in proceedings' (It appears to be after you have been charged with not complying with storage or safety requirements). Section 104 specifically refers to primary production ... However, it is not acceptable to have to go through the process of being charged with an offence in the first place.
- An alternative approach would be to allow exemptions to the safety requirements for conveying a firearm as in NSW legislation. That is, whilst managing livestock and when there is a likelihood of vermin being encountered
- Another sensible change would be to delete the term “maintain” in the new regulation and substitute the term “Carry” in its place. Delete ‘or firearm part.’

If a firearm is not being used, carried, or conveyed it must be stored in a locked receptacle:.....

- A definition of the times when the firearm is being ‘carried’ would be required. The term ‘carry’ is a broader coverage of situations where the firearm is in its owner’s possession, and would include the times when the firearm is being maintained.
- Such a change would make the regulation consistent with the equivalent legislation in ACT, Victoria and NSW.

- Legitimate firearm owners have the objective of public safety in common with legislators and Tasmania Police. Hopefully, the TFOC will provide with constructive input into policy and regulation to achieve a balance between safety and the practical needs of firearm owners. **The State government is to be commended for attempting to engage major stakeholder groups and create a workable and practical legislative framework for firearm owners.**
- Tasmania Police would do better to adopt a more supportive and educative approach to legitimate firearm owners attempting to do the right thing. It would assist in gaining the respect and cooperation of firearm owners. Providing (formal or informal) warnings and infringement notices for minor indiscretions may also be a step in the right direction.
- **However, prior to the adoption of warnings and /or infringement notices for minor storage offences, there needs to be a clean-up of the legislation to clarify users' obligations and remove impractical and ridiculous sections some of which have been highlighted in previous (and following) sections of this submission. There then needs to be some definition of what constitutes a 'minor storage offence'.**

(2) Compliance with the provisions of the National Firearms Agreement (NFA).

It was interesting to hear federal politicians, in recent times, suggest that the NFA was only a guide to the formulation of State firearms legislation. This author's opinion, after reading the NFA (review 2017) is that the NFA provides a set of minimum standards and it forms the structure of (if not word for word) large sections of the Tasmanian Firearms Act 1996.

After reading both NFA and the proposed policy document by the then Minister for Police (the Hon Rene Hidding) dated 9th February 2018 (not 2 days prior to the March 3rd State Election as the 'dogs of political aspiration' might suggest) there appear to be only 2 areas where there is potential divergence from the NFA

It is quite disappointing that there is not bipartisan support for this proposed review of firearms legislation. A number of opposition politicians are from rural backgrounds, and are supposed to represent rural communities, particularly those in the electorates of Lyons, Bass and Braddon. **Yet these politicians would use the proposal as a political football and set back the plight of those in the agricultural and rural sectors for the sake of self- gratification and political expediency.** I am not sure what they intend to take back to constituents in those rural communities, by way of justification, if they succeed in squashing rational improvements to firearms legislation.

As a TFGA member, farm forester and professional forester, I am fully supportive of the Hodgman Government actually listening to our sectors of the Tasmanian community and adopting more balanced approach to firearm legislation whilst working within the NFA.

I can only find two minor proposed changes which would appear to be in contravention of the existing NFA. Section 34 of the NFA states that licences must be issued for a period of no more than 5 years. Most other licences (motor vehicle, fishing licence etc.) require renewal after 1, 3 or 5 years.

- **There is probably no reason why a firearms licence should exceed 5 years.**
- **However, the provision should be for a licence renewal, not an application for a new licence.** There are few hurdles to overcome when renewing a motor vehicle licence or boat licence etc. A firearms licence renewal should be treated in a similar manner.

There may be some issues around owning and use of Category C firearms which may test the NFA, however, the Government is quite clear that this issue will be referred to the Council of Police Ministers.

The National Firearms Agreement (NFA) dated February 2017 states quite clearly, in its Opening Statement, that the possession and use of a firearm is a privilege “that is conditional on the overriding need to ensure public safety, and that public safety is improved by safe and responsible possession, carriage, use, registration, storage and transfer of firearms.”

The other 2 basic principles are that the NFA sets minimum standards and that there are to be substantial penalties for illegal possession.

In the rush to condemn the proposed changes to firearms legislation/ regulations those claiming that there will be a watering down of laws have failed to acknowledge that the **Tasmanian Firearm Regulations of 2016 have imposed, arguably, the strictest firearm storage conditions in the whole of Australia on Tasmanian licenced firearm owners.**

Arguably, Tasmania has the safest firearms in the whole country; to the extent of some requirements defy logic and contribute little to public safety. Some requirements for storing ammunition and firearm parts being amongst the worst.

Everyone has the right to feel safe and live freely in our communities without life being cut short by malicious or negligent acts.

- The NFA fails to acknowledge that sporting shooting, recreational hunting and game management are legitimate uses and firearms are the tools of trade in the hands of licenced firearms owners.
- **For some 200 years, since Europeans first set foot on this continent, firearms have been considered an essential tool. Without firearms early settlers would have starved. Many colonies survived on shot game and crops were protected using firearms. Pasture and crop protection, as well as protection of livestock from feral predators, continue to require use of a firearm to this day. It is incredibly naive for urbanised, centralist politicians, creating some poorly constructed legislation, to decide they could legislate to change that reality.**

In rural areas much has changed since the enactment of the Firearms Act of 1996. Development of irrigated agriculture and plantation forestry has meant that animal populations are growing rapidly and potentially causing serious economic harm to individual farmers and to the State's economy. These concerns are regularly reported. In recent times the Tasmanian Legislative Council has heard much with regard to management of fallow deer.

I include Final Report, 2011, Alternatives to 1080 Program, as an integral component of this submission (See Attachment 1). This program was funded and supported by both the Australian Government and The Government of Tasmania. Its findings and recommendations provide sound justification for a review of aspects of the State's firearms legislation

1080 use has declined, and in certain sectors, is socially & politically unacceptable. Industrial forestry moved away from 1080 in order to gain Forest Stewardship Council (FSC) certification, and a social licence to operate. Similarly, the Agricultural sector has moved away from using 1080. In 2000 the total annual use of 1080 was 8 to 10 kilograms of active ingredient state-wide, spread approximately equally between forestry and agriculture. Today, the state-wide use is much less than 1 kilogram active ingredient per annum.

Ferotox (Cyanide based), a viable alternative, and more humane poison than 1080, recommended by experts, has been rejected.

'Shooting is by far the most commonly used method of browsing management currently undertaken in Tasmania, and its use has significantly increased commensurate with the decrease in 1080 poison use' (Final Report, 2011, Alternatives to 1080 Program. Page 29)

Alternatives to 1080 report suggests that there is no silver bullet.... A combination of fencing and shooting are the most relied upon tools in the rural sector.

If firearms are becoming more relied upon, as long as changes to legislation comply with NFA and there is no increased threat to public safety, then review of legislation to make firearm use more effective as tools, is common sense. **It is illogical claiming on one hand, that wildlife, in plague proportions, are causing unacceptable damage and, on the other hand, not allowing landowners and their agents the most effective tools to deal with the problem. In rural communities there needs to be a move away from urban political view (a somewhat perverted myth) that firearm ownership is privilege back to the view (reality) that they are necessary tools.**

The NFA states that 'there are to be substantial penalties for illegal possession.' The Examiner newspaper reported 'Ex-army man who trafficked firearms gets third suspended sentence.' (November 3rd, 2015) . He was also fined and ordered to complete community service.

Surely, after 3 convictions involving firearms and trafficking stolen firearms, a custodial sentence would have been appropriate. After leaving the court, this individual was immediately free to

continue his criminal activity. A licenced firearm owner may lose his licence for at least 5 years for a single minor indiscretion.

Legislative focus, police resources and the wrath of the courts need to be directed towards serious criminal activities.

(5) The ownership and use of sound suppressors by Category C licence holders.

This particular point appears to be a co-joining, blending and confusing of two separate issues. Issue one being the ownership and use of sound suppressors and the second issue being an allowance of greater access to Category C firearms. It is neither practical nor effective to fit sound suppressors to Category C firearms as there is blow back of gases and noise through the breach as the empty case is extracted and slide or bolt is propelled forward to load the next round. It is not as practical to fit sound suppressors to shotguns.

Sound suppressors are most effective on bolt action firearms or other mechanisms which are manually cycled. They are also most effective when subsonic ammunition is employed.

So, in the main, sound suppressors would be used at close ranges (up to 50m) on smaller game such as rabbits, brushtail possum and pademelons. Ammunition for .22 rimfire rifles is readily available in both supersonic and subsonic velocities. Small trials under the Alternatives to 1080 program where a .22 rimfire bolt action rifle with sound suppressor was many fold more efficient than the same rifle without the sound suppressor. Larger calibre firearms loaded with subsonic ammunition may have a useful range of over 100m, albeit in a 'rainbow' trajectory.

The state and federally funded Alternatives to 1080 Program made a number of conclusions and recommendations. One conclusion was that, there is no silver bullet to managing browsing damage, a number of methods must be employed. 'The Program has advanced our understanding of the more promising alternatives...the potential for specialised shooting equipment such as thermal scopes and silencers...' (page 3)

'The program has identified that the most effective control strategies are likely to be those which use a combination of controls particularly...effective wallaby proof fencing with best practice shooting, trapping and poisoning...' (page 3).

'There are, however, restrictions under the Firearms Act 1996 on the possession and use of silencers in Tasmania, although this is currently under review by Tasmania Police using information obtained under the Program' (page 29). **One can only ask why has Tasmania police shelved this recommendation for the past 6 years?** The forestry and agricultural sectors need to make control of browsing damage as efficient and effective as possible. We need a sensible approach based on factual information and research, not one based on ideological position and perpetuated by fear mongering.

Sound suppressors are very easily manufactured in the home workshop by any moderately skilled metal lathe operator. In simple form they consist of either a perforated tube within a larger tube or a tube with a series of chambers separated by several disc baffles, no more complex than a muffler on a car exhaust. Crude suppressors can even be created by taping a

plastic drink bottle over the rifle barrel or by modifying a motor vehicle oil filter and attaching it to the rifle barrel.

If sound suppressors were the of interest to would-be criminals then sound suppressors would be turning up in numbers with police seizures during drug raids and criminal use of firearms. We see very few reported and no reports of them being used in crimes involving a firearm. The weapons of choice appear to be sawn-off shotguns, automatic pistols and submachine guns or assault rifles. For example, in June 2018 a Hobart cocktail bar was sprayed with bullets from an SKS assault rifle. There has been a string of seizures on mainland since 2012, netting drugs, semi-automatic pistols and submachine guns. Reported in June 2018 was the seizure of 2 semi-automatic pistols, two revolvers and 5 submachine guns. These threats to public safety are not posed by licenced firearms owners with registered firearms, with sound suppressors, using low velocity ammunition.

- **Also, these criminal activities, sound suppressor or not, will not be controlled by more restrictive gun laws. These people operate outside the law.**

The NFA version February 2017 makes no reference to sound suppressors, and they are legal, with restrictions, in the States of NSW and SA.

- **If sound suppressors are registered in a similar manner to a firearm and stored as a firearm is stored, their ownership and use passes the public safety test, and creates greater efficiencies in managing browsing damage to crops and pasture.**

Suppressors on larger rifles and hunting larger game

Whilst it is possible to load larger calibre rifles with subsonic ammunition, both trajectory and terminal energy are compromised. Loading subsonic ammunition is really the skill of an experienced handloader, as there is little opportunity to purchase subsonic ammunition commercially. Some rifles may, if loaded with subsonic ammunition fail to deliver the legal energy required to take fallow deer ($E=0.5mv^2$. Energy is proportional to the square of velocity, for a given mass).

There is a considerable difference between the portrayal of suppressors on high-powered sniper rifles and what is the reality of their worth.

- **Any projectile travelling at velocity greater than the speed of sound (approximately 340 m/s or 1100 f/s) will create a supersonic crack. ' there is no technology which can remove the sound of a supersonic projectile no matter what claims are made to the contrary (Mark White . Silencer Research, [www.silencerresearch.com/suppressors on high powered rifles.htm](http://www.silencerresearch.com/suppressors%20on%20high%20powered%20rifles.htm). Pages 3-4. see Attachment 4). Velocities of most centre fire hunting rifle projectiles are in the range 2,000 to 3,000 f/s, typically supersonic.**

There are a number of other benefits from applying sound suppressors to larger calibre rifles, legally required to shoot fallow deer and which provide longer range shooting of smaller game giving more humane kills. Rifles in calibres from .223 to .308 are typically used in Tasmania to take game.

- **Whilst the supersonic crack remains the overall sound level is greatly reduced...The suppressed .223 and .308 rifles become quite comfortable to shoot without hearing protection. (Mark White. Silencer Research, [www.silencerresearch.com/suppressors on high powered rifles.htm](http://www.silencerresearch.com/suppressors%20on%20high%20powered%20rifles.htm). Page 4)**
- **With a suppressor fitted to a high-powered rifle, there are less indication as to where the shot came from, which often confuses game and enables opportunities for repeat shots at target animals.**

Other authors suggest that some hearing protection should be worn even with a sound suppressor fitted as the remaining sound may be comparable with the noise level of a police or ambulance siren.

- **The management of high pressure gases by a well-fitted sound suppressor increases the accuracy of a rifle....' the recoil level will be about half that of an unsuppressed rifle'. (Mark White. Silencer Research, [www.silencerresearch.com/suppressors on high powered rifles.htm](http://www.silencerresearch.com/suppressors%20on%20high%20powered%20rifles.htm). Page 4)**
Reduced recoil reduces user firing fatigue and contributes to greater accuracy.

Considering user health and safety, reduced recoil, improved accuracy, and increased efficiency there is a strong case for allowing greater access to sound suppressors. This is the view of our New Zealand counterparts, who place no restrictions on the use of sound suppressors. There are reports that some landowners will only allow shooters with sound suppressors fitted to their firearms onto their properties....**simply because suppressed rifles cause less stress to their livestock.** (MacCarthy, M. PhD etal, page 58)

At the time of writing this submission, there is a petition before the Victorian government, supported by groups such as SSAA, to legalise the use of sound suppressors for hunting, as well as for sporting and recreational use. The basis for the petition is for user health and safety.

Australia has a history of use of sound suppressors. GSA silencers were manufactured in Adelaide and distributed across Australia and overseas until at least 1957. **'From accessing records of sales from 1950 onwards, it has been clarified that at least 400 000 silencers were sold throughout Australia and overseas until legislation made it an offence to have one in your possession.'**(Hunter, John. Silenced Forever-The GSA Silencer. Australian Shooter, May 2001.)

Currently we do not have law-abiding firearm owners roaming city streets with bolt action hunting rifles, shooting everyone and everything in site, or sniping unsuspecting community members from roof tops. Our firearms are tucked away under the strictest storage requirements in the country. The gun control lobby would have it that suddenly, by screwing a sound suppressor on the .22 rimfire or our favourite hunting rifle, we would become gun-crazed snipers of the CBD....too much Hollywood, and too little reality!

- **The reality is that, if our firearms are in safe hands, the community is just as safe, whether those rifles are fitted with sound suppressors or not. As long as the firearm is stored safely then there is no added risk posed by the possession of a sound suppressor stored in a similar manner.**

As stated previously, bolt action firearms are not favoured by would-be criminals. The weapons favoured in the drug trade are generally not suited to sound suppression. If they were an item of choice, then sound suppressors can be easily manufactured or smuggled into the country (as are firearms) and we would see them turning up in numbers during police seizures...they are not.

I include as an integral component of this submission, attached in its entirety, one of the most comprehensive reports on the use of sound suppressors. The report was prepared for Professor Robert Mulley. Chair, Research Committee, Game Council of NSW.

MacCarthy, M. PhD et al, Edith Cowan University, WA. An investigation into the use of sound moderators on firearms for game and feral animal management in NSW. (See Attachment 2)

The report is submitted in its entirety.

Key advantages for both subsonic and supersonic ammunition include :-

- Hearing loss prevention
- Increased accuracy
- Reduced recoil
- Reduced livestock disturbance
- Reduced noise pollution
- Increased safety through enhanced communication
- Increased safety through increased barrel length
- Increased humane animal husbandry through enhanced accuracy.

Key disadvantages :-

- Centre of gravity shift
- Increased weight of firearm
- Cost (could double the cost of a rifle)

- Potential for misuse (crime)

Finnish studies found that 'all rifle suppressors reduced the original (approximate) 160 decibels to below the EU risk limit of 140 decibels' including supersonic ammunition. This is consistent with MacCarthy's experience with the perceived sound of a moderated .223 lowered, at the firing point, to the sound of an un-moderated .22Magnum...a substantial reduction in sound signature....' (MacCarthy,M. PhD etal. pages 39-40)

- **Sound suppressors are legal for recreational hunting in The United Kingdom and the United Nations continues to identify 'the fact that the UK continues to have one of the lowest rates of gun homicides in the world' (MacCarthy, M PhD, etal. page 20).**
- **There is no evidence to suggest that legalising sound suppressors will contribute to gun crime or create a frenzied 'gun culture' in Australia.**

In some legislation sound suppressors are described as 'dangerous weapon.' I suspect they could be perceived as a 'dangerous weapon,' just as a baseball bat could be deemed to be a dangerous weapon and when used in the same manner, as a club!

A final word from British author, Jim Dickson:- 'One of the best examples of the effectiveness of brainwashing in this country is the transformation of an innocuous safety and noise reduction device to a sinister assassin's tool in the public mind.'(2011)

Category C

- **The use of Category C firearms is a separate issue from the use of sound suppressors, as stated above.**

Since 1996 the agricultural sector has developed, with better access to irrigation, improved prices for some commodities, and lucrative export markets. Intensive agriculture and horticulture have become substantial drivers of Tasmania's economy. This development has coincided with, if not triggered, a rapid growth in animal populations.

- **There has been little action from government, the owners of our wildlife and pest animals, to actively manage populations. As examples, populations of pademelons brushtail possum and sulphur crested white cockatoos are in plague populations in either in local districts or state wide. These and other pests have the capacity to reduce pasture growth and decimate crops. Their control is thus left up to the private sector...in the main, the farmer.**
- **Poisoning of Cockatoos, (an introduced species) although probably the most effective means of reducing the ever-increasing numbers appears restricted to the use of illegal poisoning practices. Similarly, the poisoning of native wildlife is now politically incorrect as many certification schemes prohibit the use of 1080. Recent use of 1080 in the Tasmanian Highlands has been plastered over the media and**

condemned by a number of groups. Governments have found the adoption of the more humane poison options, such as Ferotox (Cyanide based) even more unpalatable.

- **So, farmers are left with fencing and firearms as the few effective tools in the battle to produce our daily bread.**

Fences do not restrict birds and possum, and only expensive well-maintained wallaby-proof fencing will retard the movement of marsupial macropods. Category C firearm are considered by many to be more efficient in reducing damage caused by these animals.

Currently a land owner can only own one self-loading rimfire rifle, and one semi-automatic shotgun. Also, under the Firearms Regulations 2016, **a person employed in the business of primary can be granted a Category C licence for a period of 12 months.** As well as being an unnecessary burden on the agricultural community, it is a failure to recognise that farmers are unlikely to spend 12 to 16 hours a day working on the farm and then front up for shooting until 2 am...and then front up for work at 7:00 am the next day. Game management on most farms is undertaken by employees, recreational shooters and/ or professional shooters.

Groups are seeking to have the regulations amended to allow employees and agents of the landowner access to Category C firearms for the duration of their licence. A requirement or justification for Category C firearms in game management could be built into DPIPW approved Property – based Game management Plans.

- **Note: allowing shooters greater access to sound suppressors for Category A and B firearms may reduce the need to allow greater access to category C firearms?? Farmers who experience crop damage by birds may disagree.**

(4) The proposed Memorandum of Understanding between the Government , Tasmania Police and TFGA

- **Much of what is written in point 5 above makes it plainly obvious that the Agricultural sector (and organised shooting associations which support landowners) were not consulted, or listened to, in the formulation of The Firearms Act 1996 and subsequent regulations.**
- **‘Primary producers and regional Tasmanians generally make up a very large percentage of the legitimate firearm users in the State, using firearms on a daily basis, both as tools of trade and for sporting and recreational purposes’ (TFGA Firearm Use Policy, June 2017).**

This key message from the TFGA policy is both accurate and provides complete justification for, possibly the representative of the largest stakeholder group in Tasmania to have a

memorandum of understanding with law makers (government) and those who enforce the law (Tasmania Police).

- **Firearms, like motor vehicles, knives etc. when in the wrong hands can result in devastating accidents or be used as weapons to cause horrendous crimes. Legitimate user groups are equally concerned about keeping firearms in the right hands and maintaining public safety.**
- **There are plenty of noisy interest and lobby groups in the community, that target the media, are ideologically opposed to firearms, have little knowledge of firearms or firearms legislation and often have little regard for factual information or the truth. It is such lobby groups which oppose firearm users having influence in firearms legislation.**
- **Such a view is like suggesting that the RACT not have any input into reviews of the road rules.**

. (it is the opinion of this author that The Firearms Act 1996 was over influenced by such groups resulting in sections of it being draconian, impractical and ridiculous).

- **Hopefully, such a memorandum of understanding would bring a more realistic and practical balance between public safety and the legitimate use of firearms.**

I provide the following as an example. In June 2018, a group of shooters left their hunting property in a vehicle, to drive 300m on a public road, before entering private property where they would camp in a hut/ shack. They were intercepted by Tasmania Police prior to reaching their camp. Their firearms were stored correctly as required for being conveyed. Police noticed some 3 rounds in the front of the vehicle, and proceeded to seize the firearms of the shooters. This should never have happened. The actions of Tasmania Police whilst in accordance with the letter of the law, were out of touch with its intent. The lads concerned had made the effort to store their firearms for the short distance they needed to be conveyed. The author could cite pages of such examples. Developing a memorandum of understanding between the State Government , TFGA and Tasmania Police could help avoid such ridiculous outcomes.

Legislation must 'provide clear and specific measures so that firearm owners know their obligations in the range of situations likely to be encountered' (National Firearms Agreement) ...and also for Tasmania Police who enforce legislation.

Sections of the Firearms Act are clumsy and draconian, focused on strong, and in places, impractical, ridiculous impositions on legitimate firearm use, whilst providing little or no gain in public safety.

In the past user groups have been ignored, excluded and even vilified when attempting to achieve sensible and practical reviews of some of the confusing and impractical sections of the Tasmanian Firearms Act 1996 and subsequent regulations.

Bringing firearm users groups and TFGA to the table for policy and legislative review gives opportunity to create a better balance.

Bringing user groups and TFGA to the table allows legislators and regulators to enlist their support for sensible legislation regarding carriage, use, storage and conveyance of firearms.

Such groups would then be able to educate and inform members of their responsibilities and obligations

Summary and Final Say

- Tasmanian firearms legislation was hastily constructed placing a number of unnecessary restrictions on legitimate use. Sections of the Firearms Act 1996, if interpreted literally may lead to ridiculous and unintended consequences.
- With little input from users, sections of the Firearms Act 1996 remain impractical.
- Neither the NFA nor the Firearms Act support the notion of firearms being 'necessary tools' in rural Tasmania.
- There needs to be a facts based review of the legislation to allow practical use and clarify obligations for both firearm users and Tasmania Police.
- The Hodgman Government is to be commended for beginning to listen to stakeholders and user groups.
- There is much emotional and ill-informed debate over proposed changes to 'gun laws'.
- **There has been no acknowledgement that Firearms storage regulations in Tasmania became stricter in 2016-17, not relaxed.**
- **Firearms owners accept their duty of care in keeping their firearms out of the wrong hands. It is the impractical legislation restrictions on possession, carriage, use and conveyance of firearms and ammunition which cause legitimate firearms owners most concern. These areas require review.**
- The government policy is only the beginning of a process. The actual outcomes need to be fleshed out.
- The government sponsored Alternatives to 1080 Program recommended that a variety of measures are needed to manage browsing damage, with shooting and fencing being the most commonly used. This needs to be reflected in the wording and spirit of the Firearms Act and Regulations.
- Wallaby fencing is a high cost, high maintenance option.
- There has been a 90% reduction in the use of 1080, to less than one kilogram per annum used across the state.
- Unfortunately, violence in communities is reported in the media on a daily basis.
- Firearm crimes are often associated with gangs and the illicit drug trade.

- Domestic violence is sad and, it is difficult to legislate to prevent knives, scissors, matches, motor vehicles, disturbed minds, fists and firearms becoming potential weapons in domestic violence.
- We need to take the 'Hollywood' out of discussions on legalizing the use of sound suppressors.
- Comprehensive studies have shown that there is no evidence to support the notion that legitimate use of sound suppressors will contribute to increased gun crime or violence. Our neighbours across the Tasman Sea place no restrictions on their use.
- Using subsonic ammunition sound suppressors improve the efficiency of taking smaller game at ranges up to 50 to 100m as velocity, energy and trajectory are compromised.
- The greatest contributions of sound suppressors are when using supersonic ammunition. Increased accuracy (and hence more humane kills), reduced (but not eliminated) noise and reduced recoil are the main advantages, with improved health and safety of users and bystanders being significant.
- The greatest disadvantage is the cost of quality commercially manufactured units.

I encourage Committee membership to consider what is before it as ideas and policy, with a little process and few specific outcomes. I hope this committee supports, and works with, the Hodgman policy on review of the legislation and how reviews might be inclusive of stakeholder input in a constructive manner. There will be ample time and opportunity to refine the outcomes and review the flow on legislation in both houses of parliament. I also ask that the state opposition support the process and seek to have constructive input.

I hope that review and objective improvement are ongoing processes.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Bower', with a horizontal line underneath.

David Bower

