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Hon Liz Behjat MLC  
Chairman  
Standing Committee on Public Administration  
Parliament House  
PERTH WA 6000

Dear Ms Behjat 

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION – INQUIRY INTO THE POTENTIAL ENVIRONMENTAL CONTRIBUTION OF RECREATIONAL HUNTING SYSTEMS**

Thank you for the opportunity to appear before the Committee and make a submission to your inquiry into recreational hunting systems in Western Australia.

In making this submission, I refer to the Inquiry's Terms of Reference:

That the Council:

- (a) acknowledge the use in other States of regulated, licensed recreational hunting systems and the potential environmental contribution made in controlling pest animals on public lands, together with the possible economic, cultural and recreational benefits to the community; and
- (b) directs that:
  - (i) the Public Administration Committee inquire into the benefits or otherwise of a similar system being adopted in Western Australia and report back to the House by 4 December 2014; and
  - (ii) Hon Rick Mazza be co-opted as a member to the Public Administration Committee for the purposes of the foregoing inquiry.

**Introduction**

Western Australia Police (WA Police) are not opposed to a controlled and regulated arrangement, that would allow hunting on public lands for certain purposes where there is a need. The question of whether there is such a need is a matter outside the expertise of WA Police. Whilst indicating that WA Police do not oppose such an arrangement, this is not an indication of unconditional support.

Should the method of hunting include the use of firearms there are, in my view, implications for shooter safety, public safety and occupational safety, that must be a primary consideration by the Committee. These considerations should not be outweighed by the apparent desire of some firearm licence holders to shoot on public lands or the need to shoot on public lands for the

purpose of controlling pests or destroying vermin. The degree of risk and ways of mitigating those risks are matters that I would ask the Committee to fully explore as part of their inquiry.

WA Police acknowledge that recreational hunting and shooting is an activity that historically has been undertaken by responsible firearm license holders without any significant problems or issues being encountered. The introduction of a scheme to allow hunting on public lands using firearms has the potential to change this.

Responsible firearm ownership and use is supported by WA Police and existing legislation provides a suitable framework to meet the wider community expectation that only fit and proper people, and those with a genuine reason, should have access to firearms. WA Police actively apply existing legislation where there are breaches; but most importantly where firearms are used for illegal or criminal purposes.

A weakening of legislation, a lack of regulation or the irresponsible use of firearms by firearm licence holders is likely to reduce wider community support for the current legislative arrangements that are in place to enable the occupational, sporting and recreational use of firearms.

### **Terms of Reference**

The Terms of Reference (ToR) do not specifically refer to firearms (the licensing of which is a responsibility of the Commissioner of Police); in general terms the nature of what the Committee has been asked to look at may involve licensed recreational hunting by a variety of means, such as the use of traps, poisons or other weapons e.g. bows, spears etc.

By its wording the ToR appear to imply that, based on schemes used in other States, the task of controlling pest animals on public lands could be undertaken by recreational hunters rather than (or in addition to) professional shooters, government agencies, primary producers or pastoral leaseholders.

Use of the term "recreation" would seem to indicate a scheme that is less than professional or occupational and this is where I have some concerns. Therefore the question of whether recreational hunters can adequately undertake this role is a matter for the Committee to consider.

In my view, a scheme that involves the management of recreational hunters in a state the size of Western Australia will have significant resource implications if this responsibility is to fall wholly or partially on State Government Departments and Agencies, including WA Police.

### **Existing Legislative Provisions**

As the Committee will be aware, firearm licensing and administration of the *Firearms Act 1973* falls under my responsibility. This being the case, my submission in respect to your inquiry will be limited in this context, and is on the assumption that the use of firearms is one of the hunting systems that you will be considering.

Current legislative provisions exist to assess the reasons why a person requires a firearm licence and the need for certain types of firearm. Firearm licence applicants must satisfy the Commissioner of Police that they are a fit and proper person to hold a license. Provisions also exist to revoke a license where a person is found to no longer be a fit and proper person to hold a license.

In relation to recreational hunting and shooting, the categories of firearm that are most likely to be suitable for general use, are the less restricted types of firearm within categories A and B (ref: *Firearms Regulations 1974* Schedule 3). WA Police do not consider that categories C and H are suitable or necessary for the purposes that the Committee has been asked to address in

respect to recreational shooting on public lands. Category D firearms are available for Commonwealth or State Government purposes; and category C and category H firearms are available for restricted use by primary producers and pastoral leaseholders respectively.

The legislative restrictions on category C, D and H firearms require that a person has a genuine need (ref: section 11A *Firearms Act 1973*) for these firearms in addition to the requirement for a genuine reason (ref: section 11B *Firearms Act 1973*). To satisfy the genuine need test the applicant for a category C or H firearm must satisfy the Commissioner that a firearm of category A or B, or C (in respect to category H firearms) is inadequate or unsuitable. Further restrictions apply to category C, D and H firearms which mean they are not licensable for general use by recreational hunters.

WA Police are strongly opposed to any proposal for recreational hunting and shooting on public lands being extended to include access to category C, D or H firearms, as their use for this purpose by recreational hunters cannot be reasonably justified. If for some reason they are required, they can be accessed by primary producers, professional shooters or government agencies under existing legislative arrangements. Allowing recreational shooters access to these firearms would be inconsistent with the resolutions of the 1996 National Firearms Agreement (NFA).

In order to provide some control over the use of firearms on private land, the *Firearms Act 1973* includes the following provisions:

**23. General offences**

- (8) Except as provided in subsection (8a), a person who, without lawful excuse, points a firearm at any other person commits an offence.
- (9a) A person who from any place, discharges any firearm, or any shot, bullet, or other missile from a firearm, to the danger of, or in a manner to cause fear to, the public or any person, commits an offence.  
Penalty: Imprisonment for 3 years or a fine of \$12 000.
- (10) A person who, without reasonable excuse, uses a firearm on land belonging to another person without the express or implied consent of the owner or occupier of that land or some person apparently authorised to act on behalf of the owner or occupier, commits an offence.  
Penalty: \$2 000.
- (10a) A person who, without reasonable excuse, carries a firearm, other than on a road open to the public, onto or across land that is used for or in connection with primary production without the express or implied consent of the owner or occupier of that land or some person apparently authorised to act on behalf of the owner or occupier, commits an offence.  
Penalty: \$2 000.

These provisions are the same provisions that would apply whether firearms are being used on private or public lands. Of particular note is section 23(10) that requires a person who wishes to shoot on land belonging to another person to have the express or implied consent of the owner or occupier of the land, or a person authorised to act on their behalf.

A contravention of this provision would constitute an offence and most appropriately it is a means of ensuring the safety of land owners, or other people who may be on a property. This raises the question of who would be the person in control of public lands that would authorise shooting and hunting on the land. This is not a role for police and will require government to identify a suitable authority to manage this process.

WA Police would not support a scheme that allows people to enter and shoot on public land without the same controls that apply to private land, as this will have significant public safety implications.

#### **11A. Genuine reason required in all cases**

- (2) A person has a genuine reason for acquiring or possessing a firearm or ammunition if and only if:
  - (a) it is for use by the person as a member of an approved shooting club and the person is an active and financial member of the club.
  - (c) it is for use in hunting or shooting of a recreational nature on land the owner of which has given written permission for that hunting or shooting.
- (3) A person does not have a genuine reason for acquiring or possessing a firearm or ammunition of a particular kind unless the Commissioner is satisfied not only as to the person's reason for acquiring or possessing a firearm or ammunition but also that the particular kind of firearm or ammunition can be reasonably justified.

The *Firearms Act 1973* also requires in section 11A that a person has a genuine reason for acquiring a firearm. In particular, section 11A(2)(c) provides that a person who wishes to acquire a firearm for recreational hunting and shooting, must have written permission from a land owner. Whilst this is currently applied in respect to private land, this provision could also apply to public lands. However, this would require someone to be placed in charge of the land with the status of "owner" in order to meet the requirements of section 11A(2)(c). Further legal opinion may be required to confirm whether the current legislative provisions are adequate or if minor legislative amendments are required.

A further issue deals with the genuine reason that a person uses to acquire a firearm. Because of the strict requirements for a genuine reason, a firearm licence holder would only be able to use a firearm that they acquired for recreational hunting and shooting for that purpose. So, for example, if a firearm licence holder satisfied the genuine reason test to use a firearm as a member of an approved shooting club (ref: section 11A(2)(a) *Firearms Act 1973*) they would also have to satisfy the genuine reason test if they wanted to use that same firearm for recreational hunting and shooting. This could be applicable either at the time of licensing or at some later stage.

#### **Ministerial Council Agreements**

Existing provisions in WA legislation have their basis in the 1996 NFA. In part, the NFA made provision for access to firearms for recreational hunting and shooting which was considered to be one of the genuine reasons why a person would require a licence.

In order to satisfy the genuine reason test under WA legislation, applicants must provide written permission from the owner of the land on which they wish to shoot. The NFA does not address the question of whether recreational shooting is undertaken on private or public land; this was a matter for States and Territories to address. As the Committee will be aware, arrangements that allow hunting on public lands are in place in NSW, Victoria and South Australia which may provide a model for such a scheme to operate in Western Australia.

#### **Current role of WA Government Agencies**

Western Australian State government agencies are currently issued a Corporate License in accordance with section 16(1)(c) of the *Firearms Act*.

#### **16. Licences**

- (1) The licences which may be issued under this Act are:

- (c) a Corporate Licence, which may be issued in the corporate or trading name of any bank, financial institution, government department, state instrumentality or other organisation approved by the Commissioner and entitles that organisation to possess the firearms named and identified in that licence, together with ammunition therefor, and, subject to section 16A, authorises that organisation to permit any person to whom subsection (2) applies to possess, carry and use any such firearm or ammunition either:
  - (i) on the premises of the organisation; or
  - (ii) in the course of carrying out a function approved by the Commissioner and authorised by that organisation, in accordance with the terms, restrictions, limitations and conditions applicable to that licence.
  
- (2) An organisation which holds a Corporate Licence may permit a person who is:
  - (a) an employee of that organisation.
  - (b) in respect to any particular act or omission authorised by the organisation:
    - (i) an agent of the organisation; or
    - (ii) a person acting at the request of and on behalf of the organisation.
 or
  - (c) a person employed in the Public Sector by or under an employing authority, within the meaning of the *Public Sector Management Act 1994*, who is required or authorised by the organisation to act on behalf of the organisation in respect to a relevant act or omission, to possess, carry or use a firearm or ammunition in accordance with that licence.

This section of the Act enables those government departments and agencies to either use their own employees or a person contracted or engaged by that agency to access firearms. I will leave it to those agencies to advise the Committee how they use these provisions to meet their current obligations and whether these provisions are adequate for their purposes, or would be enhanced by the additional resources that may be provided by recreational hunters.

### **WA Police Core Police Functions**

The question of management or control of public land areas allocated for recreational shooting should be considered by the Committee especially the likely times when most recreational shooters will be active. Recreational shooting, by nature of the vermin would be conducted during darkness and predominately on weekends. Most government departments other than WA Police are closed over the weekend and therefore any complaints would directly impact on police resources. WA Police are currently reviewing our response to non-core business to provide a whole of government response.

The location of public lands in WA is diverse and widespread; located in high density living areas such as the South West and Great Southern as well as sparse remote locations such as the Kimberley, Pilbara and Goldfields. The interaction between recreational shooters and community members will create complaints and will require diverse responses from WA Police.

An examination of WA Police databases identified that between 1 January 2013 to 31 December 2013 police attended 28 properties to respond to concerns from residents who heard gunshot fire in their immediate area. Fifty five percent (55%) of these call outs occurred between the hours of 1800 hours and 2200 hours.

On every occasion, attending police were required to drive to a number of properties in an attempt to locate the persons believed to be using firearms, while also attending the complainant's property to advise them of the outcome of their grievance. An average resolution to a complaint regarding gunshot fire takes between 1 to 3 hours of police time. Recreational shooting on public land will inevitably see a significant rise in these types of complaints, whether justified or not.

The Committee should also consider the powers provided to staff from the agency controlling these lands. Will they have the power to confiscate firearms; will they in turn be allowed to carry firearms for their own protection? Again the likely scenario is that police will be called to attend.

### **Matters for Committee to Consider**

In summary, I would ask that the Committee consider the following matters:

- What implications there may be for shooter safety, public safety and occupational safety?
- That the Committee be satisfied that there is a need for recreational hunting using firearms on public lands to control pest animals.
- Whether an existing government department or agency will be responsible for managing recreational hunting on public lands.
- The experience in NSW would seem to indicate that a scheme under the administration and control of a game council may not have been a suitable model.
- Any scheme should not result in a proliferation of firearms by people retaining firearms that they no longer have a reason for owning, or who accumulate firearms beyond what they could reasonably justify that they need.

I trust that this will assist the Committee in their deliberations on this matter.

Yours sincerely



KARL J O'CALLAGHAN APM  
COMMISSIONER OF POLICE

13 June 2014