



Gun Control Australia

22 April 2026

[REDACTED]  
**Committee Secretary**  
**Standing Committee on Legal Affairs**  
**Legislative Assembly for the Australian Capital Territory**  
**Canberra 2600**

By email: [LACommitteeLegal@act.gov.au](mailto:LACommitteeLegal@act.gov.au)

Dear [REDACTED]

I refer to my appearance before the Committee on 21 April 2026 and your email of the same date following up with requests for some answers to questions taken on notice.

This letter first deals with the fourth of those topics, being reflections on possible steps that could be taken to guard against the misuse of firearms prohibition orders.

firearms prohibition orders and warrants

As I understood the question from the Committee, this issue arises in a context where Police have a search warrant and, in the course of searching for a prohibited firearm, may come upon other items that are prohibited. An example may be drugs.

If I have misunderstood the question, I invite you to clarify it, because my answer will depend very much on the terms of the question as phrased above.

The *Firearms (Firearm Prohibition Orders) Amendment Bill 2026* contains provisions permitting entry by Police with warrants and without warrants.

Subdivision 12A.10.3 deals with entry with warrants.

This kind of provision is common throughout Australia. It enables a magistrate to issue a warrant and under the proposed s.183ZZB(7)(c), requires the warrant to state the things that may be seized under the warrant.

Once the police officer has entered the premises in accordance with a warrant, the police officer is empowered to seize any other thing found at the premises, but only if that thing is connected with an offence against the Act and the seizure is necessary to

prevent that thing from being concealed, lost or used to commit or repeat the offence etc.

In other words, the powers of Police upon entry pursuant to a warrant in respect of a firearms prohibition order are carefully circumscribed by the Act.

This Bill, like similar legislation empowering the issuing of warrants around Australia, is drafted against the background of the decision of the High Court in *Coco v. The Queen* (1993) 179 CLR 427. In *Coco*, a warrant was issued by a judge approving the use of a listening device in premises. But the terms of the legislation authorising the warrant did not confer power on the judge to authorise entry on to premises for the purpose of installing and maintaining the listening device.

In the result, a unanimous High Court held that the approval for entry to the premises to install the listening device was wholly void.

In other words, the power of entry is not at large. It is circumscribed either by legislation, or by the terms of a warrant issued by a judge or magistrate.

If Police were to extend their search to seize items not the subject of the warrant, in the course of any subsequent criminal proceedings in the ACT they would be met by objection to the evidence by reference to the terms of s.138(1) of the *Evidence Act 2011 (ACT)*. Section 138 provides that evidence obtained improperly or in contravention of an Australian law or in consequence of an impropriety must not be admitted, unless certain factors are satisfied such as to lead a magistrate or judge to conclude that the desirability of admitting the evidence outweighs the undesirability of admitting the evidence.

There are many cases on this area of the law and which consider s.138 of the *Evidence Act*. A recent example is *Johnston (a pseudonym) v. The King* (2023) VSCA 49. In that case, Police were issued a warrant to locate a missing 17-year-old. The terms of the warrant permitted entry to the home where it was suspected the teenager to be, and then to take her into safe custody. Police entered the home, determined that the teenager was not present, but then went from room to room conducting an intensive and invasive search of the house for over one hour. In the course of this unlawful search, several items were located including videos depicting people engaged in sexual intercourse.

At trial, the evidence gained in the unlawful search was ruled admissible. On appeal, however, the Victorian Court of Appeal ruled that the evidence should have been excluded.

So, in terms of warrants issued, Police are required to comply strictly with the terms of the warrant. The Courts will require strict observance of the terms of the warrant; but at the end of the day, whether the evidence is admissible or not becomes a matter of judgment to be made by the magistrate or judge in each case.

In this way, the position pertaining to firearms prohibition orders is no different to any other warrant that can be issued to Police, whether by a magistrate or judge, whether

for search and seizure for drugs or firearms or child abuse material, unlawful tobacco, stolen goods or anything else.

To try and carve out a protection for a householder in relation to firearms prohibition orders would not only be unnecessary but would likely be unworkable.

Warrants to enter and search for prohibited firearms carry their own status. A firearm and ammunition in the possession of a person subject to a firearms prohibition order presents a potential (and significant) situation of grave danger to the community, but also to the Police. If Police happen to locate any other items in the course of a search, the admissibility of that evidence at trial should be a matter for the discretion/evaluation of the trial judge or magistrate.

#### Illegal import of firearms

I next deal with the question about the claimed extent of illegally imported firearms into Australia. The gun lobby has made these claims for years, but the claims are contrary to the evidence.

Attached to the email carrying this letter is the 2017 report by the Australian Criminal Intelligence Commission: *Illicit Firearms in Australia*.

I refer the Committee to this paragraph at page 17, and to the chart at page 23.

#### *ILLEGAL IMPORTATION*

*According to Australian border detection figures and the FTP, illegal importation accounts for a comparatively small percentage of illicit firearms in the Australia market. Of all firearms traced by the FTP in 2015–16, only 1 per cent were identified as illegally imported. It is likely that some illicit firearms imported remain undetected at the border.*

As is clear, the proportion of illegally imported firearms as of 2016 was at a level of 1%. It appears those firearms were the subject of intercept and prosecution, though not all of them.

For a long time, when asked about the illegal import of firearms into Australia, Gun Control Australia has posed this question rhetorically:

“Why would a person bother trying to bring in an illegal gun by boat or plane into Australia, when there’s a thriving black market in this country fed by significant numbers of guns stolen each year?”.

Yours faithfully,



Roland Browne  
Vice-President