

Our Ref: CMA:941995

Your Ref: COR 2016 004356

25 November 2022

**Attention: Coroner Bracken**

Coroners Court of Victoria  
65 Cavanagh Street  
Southbank VIC 3006

**Email: [cpuresponses@coronerscourt.vic.gov.au](mailto:cpuresponses@coronerscourt.vic.gov.au)**

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Dear Coroner Bracken

**Our Client: Bunnings Group Limited**  
**Matter: Inquest into the death of Mr Anthony Georgiou COR 2016 004356**  
**Re: Response to Coroners Recommendations**

We continue to act for Bunnings Group Limited (**Bunnings**) in this matter. We refer to your Honour's findings and recommendations dated 26 August 2022, received 6 September 2022, which have been carefully considered. Bunnings' responses to your Honour's three recommendations follow.

**Recommendation 1**

*"Bunnings consider including in their training of Store Managers instruction in relation to the supervision of LPO's particularly when such Officers are involved in a physical confrontation with a customer. Bunnings consider include in such training instruction about when Store Managers should become directly involved in actively managing LPO's involved in any such confrontation."*

Bunnings has considered Recommendation 1.

Store team members have well defined duties and tasks to complete within their shifts which reflect their terms of service under relevant awards, enterprise bargains and contracts. At senior levels, manager training focuses on ensuring that personnel have the necessary organisation, emotional, commercial and technical knowledge to effectively operate a Bunnings store or complex. Other tasks, which require specialist knowledge and training, will be performed by appropriate contractors in the relevant trades or occupations. LPOs are one such set of contractors. They receive specialist industry training, designed and facilitated by registered organisations, and they undergo a regulated licensing process overseen by Victorian Police. Their employers, (such as New Security Solutions Pty Ltd in this case) represent to their clients, here, Bunnings, that their employees have undergone regulated training and that they have

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the skills required to maintain the safety of team members, customers and stock integrity at Bunnings stores.

Bunnings has a statutory duty to maintain, so far as is reasonably practicable, a safe workplace for its team members, customers, other workers and persons, and common law duties to protect people on its premises from reasonably foreseeable risks of harm. Accordingly, Bunnings' instruction to its Store Managers was not to get involved in circumstances where specialist contract LPOs were involved in a physical confrontation with third parties, including customers. Bunnings detailed the reasons and basis of its position in Part 15 of its submissions to the Court dated 22 May 2020. Importantly, these submissions showed that there was no evidence on which to conclude that had the Store Manager acted differently the outcome would have changed. The Store Manager *became aware* of the incident (our emphasis) after the apprehension had occurred. We also refer to Part 15, paragraph 15.11, where Dr Zalewski stated twice that his opinion as to the role of the Store Manager was in the context of having a role prior to actual or potential escalation (which was not the case here).

Bunnings trained and directed its Store Managers not to get directly involved in physical confrontation and conflict, but to remain calm, vigilant and alert to ensure Store Managers had the capacity to observe and to de-escalate the situation as safely as possible, in a timely manner for other team members, customers and people at the store. For example, Store Managers are trained to direct or provide instruction to bystanders including other team members, to attend to the surrounding environment to reduce the possibility of injury (eg isolate doors and redirect customers to other points of entry/exit, to provide support or aid to any persons, to be a witness (if possible or required) and if necessary, to call the Police and any other emergency services (as was in fact done in this case)).

To place or attempt to place an additional obligation, requirement or expectation on Store Managers to become directly involved in confrontations is inconsistent with their contractual/agreement obligations. It would also be inconsistent with Bunnings' obligations to its team members and other entrants into its stores and may also expose its Store Managers, team members and other persons at the store to greater risk of injury.

Bunnings is a retailer. It is not a registered training organisation or a training organisation that is approved by Victorian Police to provide security training to team members of the type which appears to be contemplated in the recommendation. It is for this reason that Bunnings obtained the services and support of a specialist security service. Bunnings could not practicably provide security training or suitable security training to its Store Managers to ensure, so far as is reasonably practicable, that they were not exposed to foreseeable risks of injury in the workplace arising from their involvement in physical confrontation or by attempting to actively manage LPOs whilst the LPOs, who are specially trained, are involved in a physical confrontation. Bunnings provides comprehensive training to its Store Managers and all team members in all aspects of their respective occupations, including dealing with challenging situations.

Bunnings has and will continue to be vigilant in selecting and monitoring the service standards, training and expertise of its third party security providers.

## **Recommendation 2**

*“Bunnings record the details, including the names of LPO's involved, of all interactions between LPO's working at Bunnings Stores and customers. That Bunnings periodically audit those records, reviewing the performance of LPO's and provide a copy of those audits and reviews to the direct employers of LPO's operating at Bunnings Stores.”*

Bunnings has considered Recommendation 2.

Bunnings refers to Part 16 of its submissions to the Court dated 22 May 2020 and maintains that Recommendation 2 was already implemented prior to the incident and the inquest.

## **Recommendation 3**

*“That the Bunnings Training for LPO's as referred to in paragraph 92 of this Finding include the kind of 'refresher training' recommended by Dr Zalewski and set out in his reports provided to the Court in this Inquest.”*

Bunnings has considered Recommendation 3.

Bunnings is not in the business of providing security services and therefore engaged and continues to engage third party expert companies to provide this service. Recommendation 3 suggests Bunnings provide training to third party contractors who have undergone a process of legislated training and licencing on matters on which Bunnings is not a subject matter expert.

The High Court of Australia has accepted that a company is entitled to rely on the expertise of third party experts it engages to carry out works for it: *Leighton Contractors Pty Ltd v Fox* [2009] HCA 35 and *Biada Poultry Pty Ltd v The Queen* [2012] HCA 14.

The very fact that security guards are licensed by Victorian Police and are in fact subject to the oversight, audit and review of Victorian Police confirms the speciality of the skills required in the industry and is evidence in and of itself that the licence holder is considered, according to predetermined standards set by an independent government authority, to be suitably qualified and competent to carry out the duties that they are licensed to perform. This position was expressly accepted by Dr Zalewski under cross examination during the inquest. Further, Dr Zalewski provided clear oral evidence that his preferred model was to impose the *primary responsibility for ongoing training on the individual security guard licence holder* (our emphasis), rather than imposing it on end users of the service such as Bunnings as detailed in Part 13.2 of Bunnings' submissions to the Court dated 22 May 2020.

Bunnings otherwise maintains the matters it set out at Parts 13.7 to 13.9 and 13.13 of its submissions to the Court dated 22 May 2020.

Bunnings agrees with your Honour's direction to provide the Findings and Exhibits 11 and 12 to the Secretary of the Department of Justice and Community Services for consideration in conjunction with the 2021 review of the private security industry. This is appropriate as this is

the Department that is responsible for setting the requirements for the licensing of security guards (and LPOs) in Victoria.

Please direct any future correspondence in this matter to Colin Almond at the details below.

Yours faithfully



**Colin Almond**

Partner

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