

# Regulatory Impact Analysis: Arms Legislation Bill

August 2019

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# Coversheet: Arms Legislation Bill

Advising agencies	New Zealand Police
Decision sought	To approve proposals for amendments to the Arms Act 1983 to ensure it is fully fit for purpose
Proposing Ministers	Minister of Police, Hon Stuart Nash

## Summary: Problem and Proposed Approach

**Problem Definition**

**What problem or opportunity does this proposal seek to address? Why is Government intervention required?**

The majority of people who have access to firearms in New Zealand, are legitimate and law abiding. However, firearms are inherently dangerous. They are designed to kill and inflict damage, and when in the wrong hands, create a real risk to our communities. This risk arises in two main ways. First, when a person obtains a licence who should not have one (lawful possession). Second, when criminals gain access to weapons (unlawful possession). In both cases, the risk increases that an innocent member of the public will be hurt or killed. Our current regulatory regime is ‘light touch’ and does not manage these risks as well as it could.

In relation to lawful possession, our licensing system could be clearer about when a person can be refused a licence, and could provide for better intervention when circumstances change. In relation to unlawful possession, we don’t know how many guns are in New Zealand, who has them, who is selling them and to who, or how secure they are. This makes it easy for firearms to be acquired by criminals – whether through a sale or through theft. Those criminals can then hold the firearms outside of the regulatory system. In both cases, the checks and balances we currently rely on to promote safety are open to serious compromise.

**Proposed Approach**

**How will Government intervention work to bring about the desired change? How is this the best option?**

There are systemic shortcomings in the Arms Act. The suite of proposals in this Impact Statement will strengthen the licensing regimes to:

- have more focus on high risk behaviour,
- make it harder for criminals to steal firearms, and

- make it harder for people in the illegal market to buy or obtain a firearm.

We can do this this by tightening our approach to licensing, by having better oversight of storage and security, and by creating a registry to keep better track of firearms - making it harder for them to move from the legal market into the illegal market. Firearms are used by a wide variety of people in New Zealand, largely for recreation, but also as a tool in some professions. The proposed approach is to establish a regulatory system designed to ensure firearms remain accessible only to appropriate people acting in the interests of personal and public safety. This seeks to minimise the risk of misuse or transfer into the wrong hands. The system requires a set of interlocking points of oversight and control, establishing reasonable constraints around importation, sale and resale, ownership, use and security. The proposed approach seeks to establish a regime that is balanced – making it harder for firearms to be in the wrong hands, while making sure that the burden we place on lawful and legitimate owners of firearms is reasonable. The proposed approach sets out to clearly establish that possessing a firearm is a privilege and not a right, and to put in place appropriate controls to reflect the harm that firearms can cause.

The coordinated collection of reforms, when taken together, will deliver a sustainable, fair, and effective firearms control system for New Zealand. It will reduce the risk of firearm misuse and improve the safety of New Zealanders.

## Section B: Summary Impacts: Benefits and costs

### Who are the main expected beneficiaries and what is the nature of the expected benefit?

*The people of New Zealand:* the main beneficiary of these proposed changes is the general public. This Bill provides the controls necessary to give all New Zealanders, and visitors to New Zealand, reassurance and confidence that in this country firearms are properly and responsibly managed. Public safety is front and centre of the arms regulatory system.

The proposals would bring changes to ensure that firearms are owned, used and traded only by those who are fit and proper to do so, and the Police have the appropriate regulatory tools to monitor and enforce the rules.

*Firearms licensees:* The changes proposed would bring about greater certainty of the rules to acquire and hold a firearms licence, and support more high quality and consistent decision making. A comprehensive centralised firearms registry would facilitate the return of stolen firearms to owners if they are later recovered. Processes, such as licence and import permit applications, would be streamlined. As an online system for handling applications becomes increasingly available, it would make it faster for people to provide the information Police need to consider applications.

*Firearms businesses/dealers:* Police are progressing IT solutions that would support the proposals in Section 3.0 of this document, to ultimately reduce the administrative work involved in recording firearms trades.

Police would benefit from improved statutory mechanisms to:

- make high quality and consistent decisions on the people that are not suitable to own, use or trade firearms, thereby reducing the availability of firearms to high risk users

- track the trade and exchange of firearms from when they first enter the country and throughout their lifecycle in New Zealand
- monitor and oversee licensees, inspect security arrangements, and to intervene with a proportionate response that will promote improved practice and behaviour
- enable the recovery of all firearms recorded as being held by firearms licence holders who lose their fit and proper status
- enable the return of lost and stolen firearms to rightful owners
- build trust and confidence with the firearms community and more broadly the public
- know before they attend an incident of the likelihood of firearms being present and prepare accordingly to protect the safety of the attending officers, and anyone nearby.

## Where do the costs fall?

### Monetised and non-monetised costs; for example, to local government, to regulated parties

There will be a number of costs associated with the changes proposed.

#### ***Implementation costs***

Police has a pre-existing programme in flight to modernise firearm processes through implementation of a new technology platform – Pega – that will provide process automation, registration, and payment functionality. This technology is able to be configured to provide for the automation required to enable the changes described in this document. In addition, there will be implementation costs associated with the development of new capabilities, such as processes, procedures and policies, for new licence tests (fit and proper, and excellent character), operation of the registry, and the stakeholder advisory group. There will also be costs associated with staff training and change management – primarily for central Police functions.

The quantum of implementation costs will depend on the options selected to go forward. This will be a mixture of capital and operating expenditure.

#### ***Transitional costs***

In transitioning to a new regime, there are two key costs that will be incurred on a temporary basis:

1. Populating the registry – if a decision is taken to backfill the registry of firearms retrospectively, there will be staff costs associated with receiving and checking an increased volume of registrations over an initial period.
2. Initial increase in court action – with changes in key legal tests (for example, fit and proper person test) there may be an initial spike in challenges to decision-making under these provisions, if the numbers of refused licences increases. This can be expected to ease off as the case law supporting these new tests becomes established.

Further analysis is required to put a dollar value on these costs.

### ***Ongoing costs (could be financed through a full or partial cost recovery model)***

The proposals will require Police to perform a number of new regulatory functions on an ongoing basis. These include:

1. Additional technology support costs – the number of users of the new technology system will be significantly higher than anticipated under the pre-existing programme. This, together with the need for increased technological functionality, will result in higher ongoing technology support costs than originally anticipated.
2. New organisational functions – additional staffing will be required to perform new responsibilities. This includes operating the full functionality of the registry, the licensing of clubs and ranges, a new internal review function, new suspension and seizure powers, new record keeping obligations for dealers, a stakeholder advisory group, and new offences.
3. Additional administrative support costs – paper-based access to the registry and its functions will be necessary as some licence-holders will not have access to technology or the internet.
4. Police prosecution functions – the addition of new offences and increase in penalties may require additional staffing for Police prosecution functions, including the Armoury, Criminal Justice Support Unit (CJSU), Police Prosecution Services and investigations.
5. Crown solicitor network – the increased penalties may require Police to make an additional call on the Crown solicitor network to support prosecutions for firearm offences.

### ***Costs to other agencies***

A number of costs will be borne by other agencies as a result of the proposed changes. It should be noted that the costs listed in respect of these activities are currently low and Police do not expect a surged increase:

1. Ministry of Justice – court activity associated with challenges to licensing decisions and prosecutions for Arms Act offences (both civil and criminal). Increased penalties could increase the number of solely firearms related cases being held with jury trials. There may be additional Legal Aid spending in criminal cases.
2. Department of Corrections – increased penalties for firearm offences could result in an increase in the prisoner population – both in terms of time on remand and sentence length.

### ***Costs to firearms licensees***

Ongoing costs could be recovered from firearm licence holders through an increase in licence and other fees. Likewise, any shortening of duration to licences would result in an increase to the average annual cost paid by the licensee. Further analysis is required to determine the extent to which fees would need to be increased in order to shift to a full cost recovery model.

Disclosure of material changes to mental health and physical fitness, may require licence holders to obtain a health check to demonstrate that they remain fit and proper to possess a licence.

An administrative cost to register firearms holdings and firearms trades will fall to individual firearms holders, and in particular dealers and collectors who hold and trade in greater volumes. The cost of verifying and logging information on sale and purchase transactions into the registry will fall to licensees. These costs are expected to be kept at a minimum, as the information technology (IT) developed is intended to make current record keeping

requirements easier. These costs will depend very much on how large the firearms holding is, and how much trading of firearms is done.

An indicative summary of some of these costs is provided in Section 4.1 of this document.

### **What are the likely risks and unintended impacts? How significant are they and how will they be minimised or mitigated?**

There are unlikely to be significant unintended impacts, as the proposal is a strengthening of largely existing controls on firearms ownership, use and trade. The exception to this, would be the extension of the current collection of data to include records in a registry of all firearms held or traded, as opposed to only prohibited firearms, pistols and restricted weapons.

The proposals stem from the recommendations of the *Review of Firearms Control in New Zealand* commissioned by the Minister of Police in 1997 (hereafter referred to as the Thorp report in this document), contained in policy decisions in the Arms Amendment Bill 3, the report of the Law and Order Committee *Inquiry into issues relating to the illegal possession of firearms in New Zealand* in 2016 and the Government Response in 2017. Both earlier inquiries, heard and sought substantial evidence and submissions on firearms controls from a broad range of sources. The Thorp report identified and considered the risks associated with firearms, Police has used this report to help identify where the risks lie and how they can be mitigated.

There is a risk that the prohibition of certain firearms could increase the trade of illegal firearms in New Zealand. Police has consulted extensively with Australian police services as to how they managed this risk. This was done to develop strategies to mitigate the risk in New Zealand. Australian practice has included the implementation of amnesties every few years to encourage prohibited firearms to be surrendered and the use of a buyback scheme (both of which the New Zealand government has done).

Over time, it is also expected that a firearms registry would support a legal firearms market. The Australian model has demonstrated that the presence of a registry makes it harder for individuals without a licence, or the right kind of licence, to obtain a firearm that they are not legally entitled to. However, it is acknowledged that firearms are held, used and exchanged in private settings, meaning the risk cannot be eliminated in its entirety.

Some of the proposals require increased information to be provided by applicants for a firearms licence, using a centralised registry. The policy intent is to include these requirements in legislation for transparency. Police has prepared a Privacy Impact Assessment to examine the processes that involve the use of personal information, identify potential risks, and then describe the mitigation, elimination and control strategies. This is will be consulted on with the Office of the Privacy Commissioner.

There is a risk that with improved oversight and information, Police may be deemed to have knowledge of licensee risks and not potentially not act on this information. The proposals will enhance Police intelligence, but risks will still remain.

An important strategy in this proposal is ensuring that the new rules, and system of firearm controls are easy to understand and use. The approach taken is to bring the law in quickly, but provide ample time for the firearms community to adjust and transition to the changes.

**Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.**

There is no significant incompatibility identified. Police has followed the *Government's Expectations for Good Regulatory Practice* in the development of the proposed statutory framework to ensure consistency and compatibility.

**Section C: Evidence certainty and quality assurance**

**Agency rating of evidence certainty?**

The policy proposals in this document stem from the findings and recommendations of two independent reports, much of which are as relevant today as when they were written. This is largely because substantive changes to firearms law has not progressed over the last couple of decades.

The high-level policy underlying this proposal has evolved from the inquiry commissioned by the Minister of Police in 1997 and conducted by Thomas Thorp. Extensive consultation in that inquiry included 2,884 written submissions and multiple hearings in the three main cities attended by gun clubs, firearms organisations, and individuals. His findings formed the basis of his report, the *Review of Firearms Control in New Zealand* (the Thorp report). The report made clear recommendations on ensuring the suitability of firearms licensees, the safe storage of firearms, and the need to gather and analyse up-to-date accurate information on the firearms environment. This was intended to properly monitor the regulatory framework, and identify weaknesses and risks in the system.

In 2005, the Government of the day picked up some of the Thorp recommendations, in the Arms Amendment Bill No 3. This Bill stalled in the Law and Order Committee and was eventually reported back and discharged in 2012.

Nearly two decades after Thorp, the Law and Order Committee's *Inquiry into issues relating to the illegal possession of firearms in New Zealand* in 2016 heard from a broad representation of the firearms community and other submitters. It similarly concluded that (among other things), there needed to be greater control over the sale and supply of firearms, more effective licensing and training, and the registration of firearms.

Police has a large body of case studies from recent years to draw on, that reflect the weaknesses of the arms regulatory system. Seventeen case studies were selected in a November 2018 briefing to the Police Minister to support the recommendations of the paper. Some of the proposals in that briefing have subsequently been enacted in the Arms (Prohibited Firearms, Magazines and Parts) Amendment Act 2019. This second Bill seeks to address some of the other proposals outlined in the briefing.

The proposals being put forward in this paper are not a knee jerk reaction to the Christchurch mass shooting. Rather this event has demonstrated why robust controls are needed and the likely harm resulting from further delay.

The level of risk is being recognised for the first time by the general public since the mass shooting. A large number of the nearly 13,000 submitters to select committee on the 2019 Arms Amendment Act raised concerns around the fit and proper person test, the licensing system as a whole, and the need for a registry to know what firearms exist, where, and how many.



To be completed by quality assurers:

<b>Quality Assurance Reviewing Agency:</b>
Ministry of Justice
<b>Quality Assurance Assessment:</b>
The Ministry of Justice has reviewed the Regulatory Impact Statement 'Arms Legislation Bill' and considers that the RIS meets the quality assurance criteria for Regulatory Impact Assessments.
<b>Reviewer Comments and Recommendations:</b>
The underlying problem is defined clearly and Police have a good evidence base to draw from in support of the proposal to establish a regulatory system designed to ensure firearms remain accessible only to appropriate people acting in the interests of personal and public safety. There has been robust stakeholder engagement with stakeholder recommendations included in the final proposal. Options have been set out and assessed against a set of criteria, with preferred options identified as a result of the options analysis. Unintended consequences have been considered and a cost benefit analysis has been prepared. The language is clear and concise and the RIA is an appropriate length.

# Impact Statement: Arms Legislation Bill

## Section 1.0: General information

### Purpose

New Zealand Police is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing key policy decisions to be taken by Cabinet on regulatory reform for the firearms licensing system.

### Key Limitations or Constraints on Analysis

While Police is confident that it has scoped the problem effectively, and that there is sufficient evidence to support this, the analysis was impacted by:

- Tight timeframes limiting the ability to provide a full cost-benefit analysis. The focus is on better known costs.
- The range of options being necessarily limited to proposals, centred on improving public safety around the control of firearms and licence holders as directed by the Minister of Police.
- Data constraints: Police has no data available on how many legal and illicit firearms there are, or in what volumes they are held by each licence holder. This limits the available quantitative data to support the analysis. In addition, Police has recognised the limitations in the rigour and consistency of its own collection of data relating to firearms incidents in every day policing. This has resulted in the initiation of the Police GunSafe programme, which seeks to significantly increase the quality and consistency of recording of firearms incidents attended by frontline staff.

The options presented in this document and the underpinning analysis have been consulted on and tested with the New Zealand Customs Service, the Department of the Prime Minister and Cabinet, the Treasury, the Ministry of Justice, the Ministry of Foreign Affairs and Trade.

Wider consultation has not been possible because of constrained timeframes. Experts in the field of firearms regulation from Australian jurisdictions contributed to the proposals. We have sought some but limited input from the firearms community.

### Responsible Manager (signature and date):

Section 9(2)(a) Official Information Act 1982

New Zealand Police

June 2019

## Section 2.0: Problem definition and objectives

### 2.1 What is the context within which action is proposed?

#### **Background**

The proposal set out in this document is the second stage of the two part process to change firearms law as pledged by the government in the wake of the Christchurch attacks. Where the purpose of the first amendment was to prohibit and remove certain types of firearms from general circulation in New Zealand, the purpose of this Bill is to improve the controls around who can own, use and trade firearms in New Zealand.

The Arms Act was established 36 years ago, at a time when New Zealand could more effectively control all imports and exports, and there was greater visibility of the national market for firearms. The Act shifted from the key control of registering of firearms, to control of firearm users through a licence regime. Additional controls were also placed over high risk users and high risk firearms. Since it was enacted, very few changes to New Zealand's firearms laws have been made.

The biggest change was in 1992 after a mass shooting in Aramoana in 1990. Amendments were made to the Act to create a new category of "military style semi-automatic" requiring a special endorsement, security, and registration (but without any limitations on their use). This was a compromise on the outright ban of these types of firearms that the Minister of Police had hoped to create. The Act also brought limited controls around the trade of firearms and ammunition by mail order, and changes to the licensing system.

However, these were not the substantially tightened firearms laws the government of the day hoped to achieve at the time. Five years later, an independent report *Review of Firearms Control in New Zealand in 1997* commissioned by the Minister of Police (the Thorp report) identified that many weaknesses in the system still prevailed. Subsequent attempts in 1999 and 2005 to tighten firearm controls failed.

An amendment to put tighter controls on the import of firearms was made in 2012. However, this did not address any other fundamental flaws in the regulatory system. In 2016, the report of the Law and Order Committee *Inquiry into issues relating to the illegal possession of firearms in New Zealand* made 20 recommendations similar to those of the Thorp report, some two decades earlier. Several of these recommendations were developed into an amendment bill in 2017, but again did not proceed. In 2019, a minor amendment to the 1992 regulations was made enabling applications and other processes carried out under the Arms Act 1983 to be made electronically.

The history of firearms law shows how difficult it has been to make changes to improve controls around the ownership, use, and trade of firearms. Police has attributed this to a strong gun lobby and vocal elements of the firearms community, as well as a lack of a countervailing voice.

Following the mass shooting in Christchurch on 15 March 2019, loud countervailing public opinion and cross party political support enabled the government for the first time in nearly three decades to move quickly to prohibit some items.

Initially, this involved an Order in Council to reclassify certain firearms as Military Style Semi-Automatics (MSSAs) to prevent A category licence holders from being able to purchase the firearms. Regulations were also changed, requiring licensed dealers to update their records to ensure that the reclassified MSSAs were correctly recorded as MSSAs and the initiation of an amnesty for the surrender of the firearms affected.

These regulatory interventions were interim measures prior to the development of the substantive changes needed. The first of these amendments was enacted on 12 April, and classified certain firearms as prohibited firearms with tight exemptions. It also introduced an amnesty provision for surrendering the newly prohibited items. To support the provisions of the Act, the Government announced that it would provide compensation in a buy back process for any firearms that had become prohibited, if they were surrendered within the amnesty period. Regulations are currently being developed to support this compensation initiative.

This proposal for a second arms amendment addresses the systemic shortcomings of the Act around licensing, monitoring, compliance and trade.

## 2.2 What regulatory system, or systems, are already in place?

Rules around the possession, use, import, sale and supply of arms are provided for in the Arms Act 1983 and in the supporting Regulations.

Much of the detail about firearms legislation is published in New Zealand Police's Arms Manual. This manual was written to provide members of Police with an explanation of the legislation, and to outline Police policy and procedures in relation to promoting both the safe use and control of firearms and other weapons. The manual is a guidance document and is not legally enforceable.

The Arms Code is another guidance document produced by New Zealand Police as a firearms safety manual for firearms users. This includes information about the safe use of firearms and what is required to be able to use them in New Zealand. Similar to the Arms Manual, this is a guidance document for the firearms community, but is not legally enforceable.

Firearms impact a large sector of New Zealand. In addition to New Zealand Police, the following agencies and groups have an interest in the regulatory system:

- Department of Conservation – pest control activities
- Customs NZ – managing cross border trade and preventing illegal imports
- Ministry of Foreign Affairs and Trade – controls on the export of firearms and international obligations
- NZSIS – national security impacts and information sharing
- Department of Internal Affairs – information sharing
- Ministry of Justice – offences and penalties, criminal history checking and human rights
- Ministry of Primary Industry – animal welfare, biosecurity
- Department of Culture and Heritage – museums
- Local authorities – pest control, noise and environment management
- Firearms dealers
- Firearms Associations and shooting clubs/ranges
- Rural Women
- Federated Farmers

- Broadcast and theatrical agencies
- Sports shooting competition organisers and competitors
- Firearms collector clubs and re-enactment societies
- Hunting clubs and organisations
- Recreational and professional firearms users

The Government sets out regulatory stewardship expectations including responsibilities for:

- monitoring, review and reporting on regulatory systems
- robust analysis and implementation support for changes to regulatory systems, and
- good regulator practice.
- Police is not yet a major regulatory department with respect to regulatory stewardship reporting.

## What is the policy problem or opportunity?

### ***Policy problem***

Since the Act was enacted 36 years ago, changes in the marketplace have been significant.

The Act was designed at a time when New Zealand strictly controlled all imports, exports, people and money flows. In this environment, effective import controls together with controls over dealers meant less emphasis was needed on risk management approaches at key points in the system, such as licensing, storage and the monitoring of compliance.

Technology and globalisation of the marketplace has profoundly changed the way firearms are traded. This enables individuals and businesses to exchange firearms without any meaningful oversight by Police, of who is buying what types of firearms or parts to assemble firearms. Without this information, Police is unable to determine where potential risks to public safety lie. Furthermore, this lack of visibility facilitates criminals being able to acquire firearms they should not be able to. The firearms industry itself has changed considerably, with multiple suppliers from many different countries and the manufacture of 'modular' parts that allow significant adaptation of existing firearms.

### ***Limited oversight of trading***

The Act operates on a series of different licences and endorsements, that each enable access to different types of firearms and weapons. Given the ability of individuals to trade with each other, and with limited oversight of this trading, this approach places significant onus on licence holders in understanding each licence and endorsement category. It also requires sighting and complying with the correct licence and endorsement requirements at the point of sale. The inability to monitor sales or transfers of firearms on A category licences enables a flow of firearms between the lawful and illicit markets.

Weak licensing settings also enables a flow of firearms between the lawful and illicit markets that fuel crime. For example, in 2013 a licence holder bought bulk quantities of rifles and shotguns, modified them into pistols and shortened weapons, and sold at least 69 firearms to gang members and associates. There was no means of identifying this stockpiling or transfer of firearms, and it only

came to light because the licence holder was under investigation for other reasons. However, by the time the licence was removed, the person was no longer in possession of firearms.

**Firearms risks could be better mitigated**

The regulatory tools to address the flow of firearms between licenced and unlicensed people could be improved to better manage firearms risks. For example, in 2018 a licence holder threatened the West Coast Regional Council with “lethal force” and posted a video on Facebook making threats to organisations. The licence holder was sent a notice advising that his licence could be revoked (a written notice is required by law). The licence holder did not respond in the 28 days provided to him. Police called him to advise of his licence revocation, only to be told he had given his firearms away. He refused to name to whom the firearms were given.

Regulatory tools to inspect security on an ongoing basis where required also need strengthening, as do the consequences for lack of secure storage. For example in 2018, three safes not secured to the floor and containing 17 firearms were taken from a residential property of a person who had held a licence for nine years. The security arrangements were inspected in 2008 at the time the person was applying for a licence, and therefore prior to the person having possession of any firearms. At that time, it was not known how many firearms the licence holder would purchase. In 2008, the house had a monitored alarm system, which by 2018, had been disconnected.

There are no express limitations on the number of firearms that an individual may own, although the requirement for them to be securely stored, if appropriately adhered to, provides some limitations. However, there is little or no ability for Police to enforce existing storage obligations. The current regime begins only after unsafe practices become evident and either enforcement action or licence revocation is necessary.

**Threats from access to firearms including through organised crime**

We know that increasing numbers of firearms, and more high-risk firearms, are being accessed and used by criminals. In recent years, there has been an increase in the number of fatal shootings involving gang members or criminals. The prevalence of large volumes of firearms is also a key feature among organised crime groups. For example, although the number of proceedings for firearms related offences among the general population has steadily decreased since 2010, firearms-related offences committed by gang members have increased every year since 2013 (from 7.6% in 2013 to 11.1% in 2017/2018). The most significant increase since 2010, is in the number of offences of unlawful possession of a firearm (from 635 in the five years 2010/11 to 2014/15 to 821 offences in the three years – 2015/16 to 2017/18).

Firearms were involved in almost 11% of serious violent offences over the last 6 financial years. They remain persistently high in aggravated robbery and increasingly represented in other acts intended to cause injury, often associated with domestic violence and drug-related criminal activities. As shown in the table below, the number of offences where firearms are involved in serious violence remains consistently high.

**Table One: Firearm-related offences as percent of total number of violent offences**

	2012/13		2013/14		2014/15		2015/16		2016/17		2017/18		Six year Total	
	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total
Murder	4	7.8	8	16.3	7	12.5	6	9.7	7	15.9	13	32.5	45	14.9
Attempted murder	4	19.0	6	30.0	3	23.1	9	34.6	3	17.7	10	43.5	35	29.2

Aggravated robbery	215	9.6	181	8.4	197	9.8	223	10.1	300	11.6	233	9.7	1349	9.8
Other acts intended to cause injury	13	31.7	12	28.6	26	44.8	19	38.0	25	40.3	36	43.3	131	39.0
<b>Total, all serious violent offences*</b>	<b>236</b>	<b>10.1</b>	<b>207</b>	<b>9.0</b>	<b>233</b>	<b>10.9</b>	<b>257</b>	<b>10.9</b>	<b>335</b>	<b>12.3</b>	<b>292</b>	<b>11.4</b>	<b>1560</b>	<b>10.8</b>

\*As defined in Sentencing Act for the 3 strikes provisions

Source: New Zealand Police Crime Statistics

The Act provides for fees to be charged for the implementation of regulatory functions and services. However, costs to licence holders and importers have not increased for 20 plus years, resulting in insufficient revenue to cover the cost of service delivery, monitoring, auditing and inspection. In addition, the Act is not clear on the scope and nature of the regulatory functions that fees can be set for.

### ***Opportunity***

History has shown us that to not act with speed, is to not act sufficiently. If not enough is done now to address the regulatory failures around arms control, it is possible that in the future other communities could be impacted by firearms violence or a mass shooting in the same way as Christchurch.

New Zealand has an opportunity now to change its regulatory system, so that it works more effectively to identify people who may be of danger to our communities, and reduce access to firearms to criminals that could be used to cause intimidation, violence, harm and terror on a large scale.

These changes would fit well with work Police began in 2018 to modernise its operational systems for licensing, recording of pistols, restricted weapons and MSSAs, and other regulatory requirements for firearms administration. The systems have been designed to increase the efficiency of the delivery of firearms services. This includes enabling electronic transactions through a centralised service centre, to support the role of field-based Arms Officers who do the checks and community based work locally. This work will support some of the high level policy objectives to deliver consistent service and advice, training of staff, and management of costs across districts. The system is being developed in collaboration between Police and the firearms community.

A large number of the nearly 13,000 submitters to the select committee on the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 supported strengthening of controls around firearms. Recurring themes in the submissions, whether in support of, neutral or opposed to the first Bill, was the need to address the fit and proper person test for the issue of a licence, greater ability for Police to be able to monitor and track firearms through a registry, to monitor people of concern, and greater ability for Police to act.

The Arms Act 1983 does not achieve its current purpose to enable only 'fit and proper' people to possess firearms for legitimate purposes, while mitigating the risk of misuse by placing limitations at critical control points in the system. Detail on this is drawn out in each of the specific proposals and options analysis in Section 3 of this document.

## 2.4 Are there any constraints on the scope for decision making?

### **Constraints**

The Government has signalled that it wishes to heavily restrict the possession of high-harm firearms in the interests of public safety.

### **Dependencies**

The proposals in this paper depend on investment in improved firearms information management systems, firearms security standards, the national security system, and Police's detection and risk management protocols and processes. Implementation also depends on adequately resourcing Police (including to set up and maintain the firearms registry and transitional capability to ensure there is sufficient staff capacity to provide early support and interventions for all firearms licence-holders).

Overall success depends on robust information sharing systems and mechanisms. Police, the firearms sector, and external agencies will need to work collaboratively and share information to support effective risk management.

Communications and stakeholder engagement will be critical and can be incorporated into the current stakeholder engagement with the firearms community detailed in the next section.

## What do stakeholders think?

In general, representatives of clubs and organised groups of licence holders consider that the Arms Act achieves an adequate balance between risk management and constraints on their use of firearms. They acknowledge the use of firearms in criminal activity and think that legislation should focus on those who possess and use firearms illegally, and not further constrain the activities of lawful licence holders. The non-firearm owning public is typically not involved in discussion on firearms legislation.

In April 2019, the majority of the nearly 13,000 submissions to comment on the first Arms bill, in particular those from the hunting and farming community, supported regulation. However, submissions coming from representatives of the estimated 20,000 licence holders who are active members of firearms related clubs and organisations tended to oppose the changes.

In response to a call for Police to consult with the firearms community, in 2012 Police brought together a broad section of representatives of the firearms community, to create the Firearms Community Advisory Forum (FCAF). Since 2013, FCAF have met two or three times a year to discuss a broad range of firearms issues. These have included issues around licensing, visitor's firearms licences and secure storage of firearms, the registration of MSSAs, pistols and restricted weapons, and import permitting processes.

In 2018, Police undertook a nationwide roadshow to understand the current challenges around firearms regulation and the administration of the Act. Police visited 18 locations, met over 300 Police staff (including vettors and operational staff) and more than 800 community members. Community meetings were attended by a mix of individual licence holders, dealers, collectors, and pistol clubs. There was also Iwi engagement, primarily



focussing on the Whakatūpato programme that delivers firearms safety training to rural and isolated communities.

Among other things, feedback in relation to these proposals included the need for modernisation of processing firearms licences and permits. One of the key areas of opportunity identified during the roadshows, was the need for Police to introduce digital options and automation where possible to meet the changing needs of the community, while still retaining paper-based options. In September and October 2018, Police tested with firearms licence holders and dealers a proposed system that streamlines licensing processes and record keeping and received positive feedback.

Other feedback from this engagement included:

- the need for simplicity while maintaining rigour,
- clarity and consistency in the interpretation of the Arms Act,
- building nationwide awareness and knowledge on the safe use and storage of firearms, and
- the need for stronger penalties for firearms offending and stronger action to manage offending.

Many of the recommendations for amending firearms legislation that were put to the Police Minister in December 2018, were to address these issues discussed with stakeholders. Since then, and subsequent to the Christchurch attack, the policy around these issues has been developed and progressed further to form the proposals and options developed in this Regulatory Impact Analysis.

After the Christchurch attack there was, for the first time, a high level of public support for amending the Arms Act. From the nearly 13,000 submissions received by the select committee on the first Arms Amendment Bill, it was clear that the public would like to see a range of broader issues addressed in a second amendment bill. These comments were received from submitters on all sides of the argument on the first bill. A large number of comments were centred around the need for:

- A statement of intent in the Act to help Police enforce the rules
- Higher penalties and mandatory prison terms for violations of the Arms Act
- Higher levels of vetting and security
- A review of the licensing system to make it more rigorous, codification of the fit and proper test, and a fit and proper test that takes into account criminal associations
- A registry of all firearms and where they are located, including recording of private sales, and owners obliged to supply details of all firearms
- Demonstrating a genuine need for a firearm
- More regulation around dealers and manufacturers, including broadening the definition of 'dealer'
- Duty of care for firearms licence holders
- Gun clubs to report questionable behaviour
- Revocation of licence and penalties for failure to comply with storage regulations

These above views included in this analysis were drawn from submissions to the first Arms Amendment Bill in March 2019.

On 14 March, the day before the Christchurch attack, FCAF met. At that meeting there was general agreement expressed that the Arms Act needed amending. An all day workshop to discuss the elements of those amendments was planned for the July 2019 meeting. This workshop was brought forward and held on 16 May. At that meeting, participants considered options for proposals the Government had signalled it was looking for advice on: vetting and licensing, a firearms registry, new offences and increased penalties. All options included consideration of maintaining the status quo.

### **Registration**

Participants remained unconvinced that a registry would achieve the desired benefits. They promoted a system of audited self-management. Licence holders would be required to keep a record of the firearms they own and that this must be made available at the licence reapplication stage and for security inspections. This could be supported by an occasional census.

### **Licensing and vetting**

On duration of licence, FCAF acknowledged circumstances can change significantly in ten years. There were mixed views on possible solutions. Some favoured a five year licence, with others preferring to retain the ten year licence or return to a lifetime licence, but accompanied by obligatory five year vetting.

Section 9(2)(ba)

(i) Official  
Information Act  
1982

[Redacted content]

### **Offences and penalties**

FCAF members have regularly expressed concern about the low level of penalties in the Act. They consider these lead to judges imposing inadequate sentences upon offenders who criminally use firearms. They acknowledge the absence of a suite of graduated responses in the Arms Act. Some members have previously suggested the need for Police to have ability to suspend licences pending revocation procedures.

New group, Gun Control NZ, formed after the Christchurch attack

On the 28 May, Gun Control NZ was launched in New Zealand. This is an interest group that advocates for tighter firearms control laws. Its mission is that stronger gun laws are needed to make New Zealanders safer. Further that any person owning a gun imposes risks and costs on all. It claims to represent the New Zealand majority. It is the first group of its kind since the establishment (and disestablishment) of GunSafe in the nineties. In May, Police met members of Gun Control NZ to discuss their views on the current firearms legislation. The group expressed a view that the prohibition on semi-automatics should go further than the first Arms Amendment Act did, that a firearms registry should be established, and that the duration of a firearms licence should be shortened, from ten years to three years.

## Section 3.0 Introduction to the Policy Proposal

### The Policy Proposal

This section lays out multiple issues with current legislation, and options for addressing them. The analysis begins with the need for a clear statement of purpose for the Act – that the intent of the Act is to promote personal and public safety and that possession and use of a firearm is a privilege and not a right. The proposals and options that follow are all measured against this overarching purpose.

- **Section 3.1** provides options for a clear statement of purpose in the Arms Act.
- **Section 3.2** provides options for strengthening the general licensing decisions on who is a fit and proper person.
- **Section 3.2.1** provides options for strengthening the general firearms licence regime
  - **Section 3.2.2** provides options for strengthening the licensing regime by shortening the duration of the firearms licence
  - **Section 3.2.3** provides options for strengthening the dealer licensing regime.
  - **Section 3.2.4** addresses the lack of controls around the operation of shooting clubs and ranges
  - **Section 3.2.5** provides options to address the use of firearms by visitors
- **Section 3.3** provides options to increase compliance and enforcement tools
- **Section 3.4** addresses the need for a firearms registry to expand the collection of information
- **Section 3.5** provides options for the trading of firearms
- **Section 3.6** provides options for exemptions on the ban of prohibited firearms, parts and magazines (section 4A(1) of the Act)
- **Section 3.7** provides options for the sale of ammunition
- **Section 3.8** provides options for the modernising of offences and penalties

### Objectives

These sections are set within the context of the high-level objective to guard public safety and security by improving the controls around the ownership, use, and trade of firearms. They are also in line with the four high level strategies of the Arms Act 1983, namely:

- Reduce availability of firearms to high risk users
- Promote acceptance of responsibility for the privilege of owning a firearm
- Restrict high risk uses
- Restrict access and availability of high risk firearms

## Section 3.1: A clear statement of the purpose of the Arms Act 1983

### What is the problem?

The legislation does not contain a statement of the purpose of the Act. The current Long Title of the Act states that the Arms Act is “*An Act to consolidate and amend the law relating to firearms and to promote both the safe use and control of firearms and other weapons*”. At present, while the Long Title seeks the promotion of safety, this does not help to guide decision-makers who must exercise a discretion within the firearms regime. The act of promoting safety does not set expectations that decision makers will make decisions to actually keep the public and licence holders safe. The unintended consequence is that decisions in the firearms regime may trend towards a strict interpretation of the law, which over time may decrease public safety outcomes.

### Background

In the years between 1983 and today, the firearms environment has fundamentally shifted and challenges for legislation include the need to adapt to manage the:

- Rapid development of firearms and ammunitions technology, many of which have increased the lethality of firearms available to civilians.
- Globalisation of firearms markets, and the increased flow of commodities, like firearms which has fostered easier access and at lower costs.
- Online trading which has reduced the ability to oversee both legitimate sales and illegal sales, such as on dark web firearms trading platforms.
- Global anonymous online information groups which have exacerbated the risk of the misuse of firearms. New Zealanders have exposure to the transnational networks of radical influencers that seek to incite harm.

While the Long Title of Act currently states that its intention is to promote both the safe use and control of firearms and other weapons, it is not sufficiently flexible to manage the risks associated with the changes listed above. Consequently, the effectiveness and enforceability of statutory interventions in the legislation have been compromised.

The inclusion of purpose provisions help users of legislation and the courts to understand the particular Act or part of an Act to which the provisions relate. The purpose clause explains *why* the law is being enacted. The remainder of the Act shows *how* this purpose will be implemented. A clear statement of the *why* will not just set the tone for the legislation and its application by the Courts, but guide future legislative amendments, and set expectations by users.

### Privilege not a right

There is no right to own or possess firearms under New Zealand law, including for the purposes of self-defence. This policy position is reflected in the Arms Manual 2002 which notes that ‘*The possession of firearms in New Zealand is considered a privilege rather than a right.*’ However, this is not an enforceable document and the Act remains silent on this matter. As such, the intent of the Act has been challenged (unsuccessfully) a number of times in the Courts by complainants asserting that there is a ‘*right to possess firearms*’ in New Zealand.

The view that possession of firearms is a privilege was supported by a number of submitters in response to the Arms (Prohibited Firearms, Magazines and Parts) Amendment Act 2019, who noted that to own a firearm is not a right, and that only people with a specific need or purpose should own firearms. A small number of submissions

suggested the principle that firearms ownership is a privilege should be enshrined in legislation.

***Promote actions in the interests of personal and public safety***

The legislation seeks to achieve the intent of the long title to promote the safe use and control of firearms by providing a framework to mitigate the risks to personal and public safety posed by the use of firearms.

It enables interventions at key points in the system, such as the licensing of individuals considered fit and proper to possess firearms, controlling access to firearms with endorsement and permit regimes (including for dealers), and controlling the manufacture, importation, sale and supply of firearms and ammunition. The Act provides for monitoring by Police and sanctions for non-compliance with the law.

However, at present the long title does not make it clear that all of the people involved in the use, importation, selling and supply of firearms have a responsibility to act in the interests of personal and public safety.

***Co-operation of all***

There is an opportunity for government agencies and community organisations to work more closely with people, both within and around the firearms community, to help support and reduce risks in our firearms environment. The intention of this purpose is to foster a supportive and interconnected approach to ensuring the ongoing public interest of personal and public safety.

The majority of our firearms licence holders are law abiding members of our communities and so this purpose promotes all interested actors working in partnership to support people to meet the requirements of the law. There are many different people in the system who need to work together, and the success of this approach will require nurturing a collegial environment, from the regulator through to communities, to empower people to speak out when personal or public safety is at risk.

At present, the long title does not make it clear that a safe firearms environment depends on everyone playing their part. [Section 9\(2\)\(ba\)\(i\) Official Information Act 1982](#)

**What options have been considered to address the problem?**

***Option 1: Status quo***

Retain the current Long Title as the Acts implicit purpose.

“An Act to consolidate and amend the law relating to firearms and to promote both the safe use and control of firearms and other weapons”.

***Option 2: Add high level purpose statements to reinforce the current Long Title***

This could look like:

- The possession, ownership and use of a firearm, weapon and ammunition is a privilege.

- People with permissions to possess, use, import, sell and/or supply firearms, weapons and ammunition have a responsibility to act in the interests of personal and public safety.
- Everybody works together to promote and protect personal and public safety.

The intention of this option is to make clear that there is no automatic right to own or possess firearms in New Zealand, including for the purposes of self-defence, and that along with privileges come responsibilities. A principle that makes all licence holders responsible for personal and public safety aims to lift expectations and drive behaviours towards the desired outcome. All people who operate in the firearms community have a part to play and all need to work together to this end. It is a simple and straightforward approach to supporting the Long Title of the Act.

This option will provide some additional guidance on the purpose of the Act whilst being sufficiently broad to ensure the purpose retains its relevance over time.

**Option 3: Insert an alternative stand-alone purpose statement, as well as being more specific around what public safety means**

This option is a mix of purpose and objectives, and might look like:

Purpose of the Act

- 1) *The purposes of the Act are to:*
  - a. *confirm firearm possession and use as being a privilege that is conditional on the overriding need to ensure public safety; and*
  - b. *improve public safety –*
    - i. *by imposing strict controls on the possession , use, acquisition, supply and manufacture of firearms; and*
    - ii. *by requiring/promoting the safe and responsible storage, transport and use (whether for recreational or other purposes) of firearms.*
  - c. *confirm that people with permissions to use, import, sell and supply firearms have a responsibility and duty to act in the interests of public and individual safety; and*
  - d. *confirm that having a safe firearms environment requires the cooperation and support of everyone.*
- 2) *The object of this Act is to prevent the misuse of firearms.*

This option provides a clear high-level statement which combines both purpose and objectives covering the key areas identified as needed to clarify the intent of the Act.

The high-level nature of the option allows for both certainty and the flexibility to evolve to meet the challenges around firearms in the future. However, as with the first option, this option does not provide any greater detailed objectives that describe how the purpose will be achieved.

**Option 4: Insert a purpose statement, supported by more detailed objectives**

This option is similar to the purpose statements and objectives in firearms laws in South Australia and New South Wales. This might look like:

Purpose and objects of Act

- 1) *The purposes of the Act are to:*
  - a. *confirm firearm possession, ownership and use as being a privilege that is conditional on the overriding need to ensure public safety; and*
  - b. *improve public safety –*

- i. *by imposing strict controls on the possession, use, acquisition, supply and manufacture of firearms; and*
- ii. *by requiring/promoting the safe and responsible storage, transport and use (whether for recreational or other purposes) of firearms*
- c. *confirm that people with permissions to use, import, sell and supply firearms have a responsibility and duty to act in the interests of public and individual safety; and*
- d. *confirm that having a safe firearms environment requires the cooperation and support of everyone*

2) *The objects of the Act are as follows:*

- a. *to ensure that the possession and use of prohibited firearms and magazines and parts is permitted only in strictly limited circumstances;*
- b. *to establish a register of firearms and an integrated licensing and registration scheme for all firearms, and enable information sharing for the register for specified government agencies for specific purposes;*
- c. *to establish a “fit and proper” assessment for firearms licence holders;*
- d. *to require each person who possesses or acquires a firearm or ammunition under the authority of a licence or permit to have established a genuine reason to possess or acquire the firearm or ammunition;*
- e. *to provide strict requirements that must be satisfied in relation to firearms and transactions and activities involving firearms;*
- f. *to provide standards to ensure the safe and secure storage and transport of firearms and to provide an inspection and monitoring regime that includes enabling Police to inspect security and storage arrangements more regularly*
- g. *to establish appropriate offences and penalties to prevent people from retaining, using or selling the newly prohibited firearms, parts, magazines and ammunition*
- h. *to ensure fines and penalties are both proportionate and dissuasive, where needed*
- i. *to reduce the number of firearms that are in unlawful possession in the community through a general amnesty;*
- j. *to prevent or restrict persons and organisations from accessing, possessing or using firearms for criminal purposes;*
- k. *to establish a small number of exemptions, to avoid criminalising those who have a legitimate use for a prohibited firearm;*
- l. *to minimise the risk of persons becoming victims of crimes involving the use or threatened use of firearms;*
- m. *to minimise the risk of persons causing injury or harm (including psychological harm) to themselves or others by the use or threatened use of firearms.*

This option provides a clear high-level statement of purpose and a more detailed list of objectives that set out both the why and how of firearms controls. The detailed list provides signposts to what is in the body of the legislation and the principles behind it. As such it provides more specific guidance for users of the legislation, including the Courts, to facilitate a better understanding of the underlying policy.

However, there is a risk that this approach is too prescriptive and some of the flexibility sought to enable the legislation to move with the times may be lost. There is also a risk that the prescriptiveness could result in a more narrow interpretation of the purpose than intended, and not be as effective as wanted or needed.

The length of the objective list could also prove to be a barrier to some users in trying to understand the requirements and their obligations under the Act.

All new options require a legislative change.

Options:

- Option 1: Status quo retain the current Long Title of the Arms Act 1983.
- Option 2: Add a high level purpose statements to reinforce the current long title of the Act.
- Option 3: Introduce a stand-alone Purpose Statement and broad objectives.
- Option 4: Introduce a Purpose Statement and detailed objectives.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option reflects a current need for a statement of intent over and above the Long title of the Act.
- Effectiveness: The extent to which the option is able to guide decision making, provide clear direction, and adapt to the changing firearms environment.
- Practical: The extent to which the option is practical to implement.

***Assessment of each option against criteria***

	<b>Criteria 1: Purpose</b>	<b>Criteria 2: Effectiveness</b>	<b>Criteria 3: Practicality</b>	<b>Net benefit</b>
<b>Option 1:</b> Status quo	Low Does not explain why the Act is being implemented.	Low Compromises effectiveness of statutory interventions and does not provide any greater detail to describe how the purpose will be achieved.	High Easy to implement with no cost as no change.	Low/Med
<b>Option 2:</b> Add high level purposes to reinforce the current long title of the Act	High Explains why the Act is being implemented and clearly articulates a common goal.	High Provides additional guidance while remaining broad to ensure relevance over time. Intended actions and behaviours over time are short and clear.	Medium Will require legislative change.	High/Med



<p><b>Option 3:</b></p> <p>Introduce a stand-alone Purpose Statement and broad objectives</p>	<p>High</p> <p>Explains why the Act is being implemented and clearly articulates a common goal.</p>	<p>Medium</p> <p>Provides additional guidance while remaining broad enough to ensure relevance over time. Short and clear but does not describe the actions and behaviours that will allow the purpose to be achieved over time.</p>	<p>Medium</p> <p>Will require legislative change.</p>	<p>Medium/High</p>
<p><b>Option 4:</b></p> <p>Introduce a Purpose Statement and detailed objectives</p>	<p>High</p> <p>Explains why Act is being implemented and clearly articulates a common goal.</p>	<p>Med/Low</p> <p>Overly prescriptive approach could lead to narrow interpretation. May be challenged in Court.</p>	<p>Medium</p> <p>Will require legislative change.</p>	<p>Medium</p>

**Which of these options is the proposed approach?**

Option 2 is recommended as the option most likely to balance guidance and adaptability needed to support the high level purpose of the Act.

## Section 3.2: Licensing

### Introduction

Firearms licences and associated endorsements are issued for a variety of reasons to a variety of different licensees. The licences have commonalities and differences. There are several licensing and endorsement proposals in this section.

For each licence and endorsement, an individual must first have a basic firearms licence requiring a fit and proper person assessment. If they want to possess or use any firearm other than a category A firearm<sup>1</sup>, collect firearms or needs to use prohibited items, the individual will need to acquire an endorsement on their firearms licence or in the case of a dealer, obtain a dealer's licence.

<sup>1</sup> A firearm that can be possessed with a standard firearms licence without any other endorsements on the licence required. A firearm that requires an endorsement includes prohibited firearms, restricted weapons, and pistols.

**Section 3.2.1 General Firearms Licences – options to strengthen the fit and proper test in the firearms regime**

**What is the problem or opportunity with the fit and proper test?**

The Act does not set out criteria of what constitutes a fit and proper person. Rather, this is established from information provided on the application form and through interviews of referees. The Arms Manual provides an approving officer with some guidance on what indicates a person may not be a fit and proper person. Further, the framing of the criteria in the negative means (see discretionary criteria) that the test has the effect of lowering standards, rather than assisting determinations to be about applicants' positive patterns of safe and responsible behaviour.

The Thorp report noted that a frequent criticism of the current system, is that the grounds for assessing whether someone is a fit and proper person to possess firearms are not set out in the Act, and are instead left to Police discretion. The impact of this is lower quality and inconsistent decision making, as well as a risk someone who is not fit and proper may be issued a firearms licence. This can also generate uncertainty and a lack of transparency for firearms licence applicants.

Furthermore, the assessment is a moment in time of the person's suitability. Once the firearms licence is issued there is very little further interaction with Police, unless the person seeks an endorsement or changes address (in which case Police will visit the new premises to check there are appropriate storage requirements for the firearms held). The next point of contact is 10 years later, when the licence is renewed.

If Police have reasons to believe that someone is not suitable to hold a firearms licence, or during the course of their licence becomes unsuitable, the lack of statutory rules around whether a person remains fit and proper has made it difficult for Police to refuse or revoke a firearms licence.

The current problem with licensing duration problem is therefore three-fold, the discretionary nature of the fit and proper person test, the moment in time consideration of suitability for a 10 year licence, and the enforceability of licence refusals or revocations. The options presented can be selected independently or as a package.

**What options have been considered to address the problem?**

***Option 1: Status quo***

The legislation provides that a firearms licence shall be issued if the member of the Police to whom the application is made, is satisfied that the applicant is a fit and proper person. Currently, a general firearms licence is given for 10 years, and any endorsements on the licence last for the period of the licence. At reapplication for a firearms licence, the requirements are the same as for the initial assessment of a person's suitability to hold the licence. A person can be required to do the practical firearms safety course again, if Police think it is necessary. Most renewals only require the completion of the theory test on the safe use of firearms. A dealer's licence is renewed annually. Any reassessment of a dealer's licence will depend on there being some concern identified during the preceding period.

***Option 2: Fit and proper person test (including what makes a person fit and proper, what makes a person not fit and proper and discretionary criteria to assist decision making)***

This option looks at the opportunity to set clear rules in statute around what makes a person fit and proper and what does not. This will strengthen the robustness of the process and provide certainty for both Police and the applicant. It will also reduce the risk that someone who is a high risk user (a person who has disregard for safety or is a criminal) being issued with a firearms licence.

Having a fit and proper person test that balances positive and negative characteristics or criteria in primary legislation will increase transparency, enforceability, and will better align to the proposed purpose of the Act to ensure personal and public safety.

To balance contributions to an assessment of a person's fit and proper status might include:

- having the knowledge and skills, or access to the knowledge and skills, for the safe use and possession of firearms
- behaviour consistent with the personal and public safety objectives of the Act
- having knowledge of, and adherence with, legal obligations (such as registering all firearms), and any set conditions on their licences

There will be many ways to demonstrate these criteria. Young people may learn hands-on safe firearms skills under supervision in a family or whanau environment. Alternatively, a common route to learning skills and knowledge is through target shooting and hunting clubs. There are also various training courses in New Zealand. The safety test that must be passed by first-time applicants will be relevant. A fit and proper assessment would involve determining the patterns of behaviour consistent with the knowledge and skills element of the fit and proper test. This option would be supported by further guidance developed by Police.

The requirement to display patterns of behaviour consistent with the personal and public safety objectives of the Act links the person's ability to get a licence directly with the overarching purpose of the Act. There are two ways that Police recommend this could be done.

First, would be criteria in the Act that would give Police clear grounds for refusing a licence application. These could be similar to those in Queensland firearms law, that a person is not a fit and proper person if in the last five years:

- They have been convicted of, or discharged from custody after the person has been convicted of:
  - serious offences relating to the misuse of drugs;
  - an offence relating to participation in an organised crime group (s98A of the Crimes Act 1961);
  - serious offences involving the use or threatened use of violence; or
  - serious offences involving the use, carriage, discharge or possession of a firearm or weapon;
- when a protection order, other than a temporary protection order, has been made against them.

These convictions are significant. They demonstrate behaviour not in keeping with the personal and public safety purpose of the Act. If a person meets any one of the criteria the Act will be clear that they cannot apply for a licence for ten years. A person's licence would also be revoked if, after obtaining a licence, they were convicted of one of these offences or issued with a domestic violence order.

Under this option, the Act would also set out some discretionary criteria indicative of behaviour that a person may not be fit and proper. These may not necessarily disqualify an applicant or existing licence holder, but would empower Police to seek further information to establish if there are concerning patterns of behaviour. These could include a person who has:

- has been the subject of a protection order;
- has shown no regard for the Arms Act or Arms Regulations;
- has a pattern of substance abuse;
- has committed a serious offence against the Arms Act;
- has committed any serious offence against any other Act;
- has committed a series of minor offences against the Arms Act;
- has committed crimes involving violence or drugs or alcohol;
- is a member of, or has close affiliations with, an organised crime group or gang involved in committing violent offences;
- has been or is involved in serious family violence incidents;
- has shown patterns of behaviour demonstrating a tendency to, or encouraging or promoting, violence, hatred or intolerance;
- has exhibited significant mental ill health or attempted suicide or other self-injurious behaviour;
- has shown disregard for peoples' property and land or Crown property and land;
- has been assessed as a risk to a state's national security; or
- any other discretionary criterion as defined in regulations.

There may be a perception that the discretionary criteria are far-reaching and intrusive. Police operates within the Privacy Act, however, there are privacy-sensitive areas that need to be considered. The state of mind of the firearms licence holder is an important factor in assessing a person's fitness to hold a firearms licence, which over the duration of 10 years of a licence, can change due to any number of life events. This is looked at in greater detail in the next option.

### ***Option 3: Ongoing disclosure requirements of firearms licence holders***

This option recognises that over the course of a licence period, circumstances can change, as can a person's suitability to hold a firearms licence. It mitigates the risk of this by requiring a person to agree to disclose if, at any time, during the licence period the information they have supplied has changed. Police can then assess if the person still meets the fit and proper person test.

The proposal is that a licence holder must disclose material changes in circumstances, including:

- serious mental health changes or any temporary or permanent physical hindrance that might prevent the applicant from safely using a firearm; and
- any changes relating to the set of discretionary factors that are considered as part of the fit and proper test, e.g. drug abuse, gambling addiction or violence.

Timely information is key to managing firearms risks. Complete information is needed both at the outset of assessing a person as being fit and proper, and at any stage during a

licence, if there are concerns about legitimate firearms licence-holders who display unsafe behaviours. The state of mind of the licence holder is the most difficult matter to assess.

Police would make its risk assessment on the basis of all the available information. If during the course of a licence, new information becomes available, such as if a licence holder's mental or physical health status has changed. Police can then ask the person to seek confirmation from an appropriate health practitioner of their health status, suspend or revoke the licence.

The need to ensure that someone remains fit and proper during the course of their licence is inextricably linked to the purpose of the Act of ensuring personal and public safety. The intention of this approach is to place the onus of responsibility on the firearms owner, to make safe and responsible choices in line with being a fit and proper person. This requirement could have an offence for false or misleading information supplied on the form, and for not advising Police if circumstances/information has changed.

Putting the obligation into the main body of the Act would support a transparent approach, as well as making the requirements a legal obligation. Transparency enables people to choose whether they want to give the information required or not, and they can act accordingly. This might be holding off making a firearms licence application, or voluntarily surrendering their firearms licence.

This approach has formed part of Police's human rights and privacy considerations. A Privacy Impact Assessment has been done to highlight risks of Police holding sensitive and personal information and steps that can be taken to mitigate the risks.

#### ***Option 4: Provide for a review of decisions***

At present a person whose licence application is declined or whose licence is revoked may appeal to the court (section 62 of the Arms Act provides a right of appeal from official decisions to a District Court Judge).

There may be value in building in a (legislatively provided for) review step prior to the court appeal.

The review would be taken by a person delegated by the Commissioner who was not involved in the original decision. This will provide an opportunity to ensure that:

- decisions are robust;
- decisions can be changed;
- a decision can be explained better (which may avoid an appeal); and
- police are better prepared to defend an appeal.

This would provide a lower cost option for applicants or licence-holders who wish to challenge a decision, than if they were to take a case to a court of law. It is expected that this intermediate measure will address some challenges that would have otherwise gone into the court process.

There is a risk that, as a standalone option without the fit and proper person test being put into the legislation, and without the ongoing disclosure requirements, a new review process could increase the quantity of challenges to Police decisions because of the lack of transparency and enforceability.

Considerations:

The impact on an applicant for a firearms licence is that they may be required to provide more supporting information than at present, but it is not expected to be an onerous amount or costly.

Confirmation of this information, and any information needed to assess the criteria would be done in the same way as currently. This is through referees appointed by the applicant, criminal history checking, from Police's internal case files, from other government departments and in some circumstances from health professionals. These information sources are within the rules set in the Privacy Act and Police intend to continue to operate within these.

The licence holder will be required to be mindful during the period of their licence about the information they have provided to ensure any material changes are communicated. This would not be onerous or costly for the licence-holder.

Options:

- Option 1: Status quo – no clear rules on what constitutes a fit and proper person in any statutory instrument.
- Option 2: A clear and enforceable three pronged fit and proper person test in legislation that includes: what constitutes a fit and proper person, what does not constitute fit and proper, and discretionary criteria to enable further information to be sought.
- Option 3: An ongoing disclosure requirement on firearms licence holders around fit and proper criteria.
- Option 4: An internal right of review of decisions.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act, that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of ensuring only that fit and proper persons are able to obtain and continue to hold a firearms licence.
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
<b>Option 1:</b>  Status quo no clear rules on what constitutes a fit and proper person in any statutory instrument	Low  A high degree of discretion leads to inconsistent decision making and thus a risk someone who is not fit and proper being issued a licence,	Low  The lack of statutory rules around fit and proper has made it difficult for Police to refuse or revoke a	High  Easy to implement with no cost as no change.	Low/Medium

	as well as uncertainty and a lack of transparency for firearms licence applicants.	firearms licence.		
<b>Option 2:</b> A clear and enforceable three pronged fit and proper person test the in legislation	Medium Greater quality and consistency in decision making.	High Sets clear rules around 'fit and proper', provides a robust and transparent process and provides certainty to Police and applicants.	Medium Will require legislative change.	Medium/High
<b>Option 3:</b> An ongoing disclosure requirement on firearms licence holders around fit and proper criteria	High Ensuring someone remains fit and proper during the course of their licence is inextricably linked to ensuring personal and public safety.	Medium Addresses concerns around changes that can occur over a licence period and the 'moment in time'.	Medium Will require legislative change.	Medium/High
<b>Option 4:</b> An internal right of review of decisions	Medium Supports the purpose of the Act by ensuring decisions are robust, transparent and can be explained.	Medium Addresses the policy problem of a lack of a clear set of rules, a lack of transparency of those rules.	Medium Will require legislative change and establishment of review committee.	Medium

### Which of these options is the proposed approach?

Options 2 and 3 together achieve the purpose of the Act and would be the most effective way to bring necessary changes for robust decision making. Police recommend however, that Option 4 also be adopted as this will provide a more straightforward and cost effective way for people to challenge a decision on refusal or revocation of a licence, and would therefore support natural justice considerations.

**Section 3.2.2: Duration of licence – shorter licence period to enable more frequent monitoring to reflect change of circumstances that occur within current 10 years licence period.**

**What is the problem with the duration of a firearms licence?**

Fifty percent of first time licence applicants are aged between 16 and 30 years of age. Twenty-two percent of these are in the 16-19 year age range. The next fit and proper assessment will be held when the age range of these people is 26 to 40 years. It can be expected that the circumstances of these applicants will have changed significantly in terms of residence, income security, financial obligations, relationships, marital status and family obligations. Some of these changes may have impacted on their fit and proper status.

Data shows that, of those aged 16-19 when first issued a firearms licence, thirty-one percent had been convicted on an offence by the time they reach 20 years of age. By the time licence holders reach the age of 30 years, forty-five percent have been convicted of an offence. These convictions are predominantly driving convictions with the largest proportion alcohol related driving offences. The two next biggest groups are drugs and anti-social behaviour, followed by violence related convictions.

While many licence holders are not convicted of offences, the above data suggests that assessment of an individual’s fit and proper status may change, with a change in licence duration.

Generally, firearms security arrangements for A category firearms are checked only at the time a licence is issued or reissued, thus, every 10 years. Given a key source of firearms into the illicit market for criminal use come from theft, the standard of a person’s security is crucial to ensuring the safety of the public.

Members of FCAF acknowledge that licence holders’ circumstances can change significantly in ten years. Some considered this could be addressed by shortening the licence to five years. Others preferred retention of the ten year or return to the lifetime licence, but with obligatory five year vetting.

This duration may be too long to provide confidence that licence holders continue to be fit and proper and to ensure the safety and security of firearms storage.

**What options have been considered to address the problem?**

Options:

- **Option 1:** Status quo: A firearms licence is issued for 10 years. A person wishing to reapply for their licence must make an application before the current licence expires. In considering this reapplication, a new fit and proper person assessment is undertaken. The applicant is required to complete a safety theory test but not the practical assessment required when first applying for a licence.
- **Option 2:** Firearms licences are issued for five years. This addresses the likelihood of a change in circumstances occurring, but increases the cost of obtaining a licence, as the cost of obtaining a licence has to be met more frequently.



- **Option 3:** The initial licence is issued for five years, thereafter for 10 years. This reduces cost for those for whom there has been no concerns over maintenance of fit and proper status.
- **Option 4:** To retain the 10 year licence, but require fit and proper vetting every five years, while not doing safety tests and storage checks.

Options Analysis:

The above options are assessed against the following criteria:

- **Purpose:** The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who possess a firearms licence have a responsibility and part a play in ensuring personal and public safety.
- **Effectiveness:** The extent to which the option addresses the policy problem of ensuring licence holders remain fit and proper to retain a firearms licence, and retain a high standard of security.
- **Practical:** The extent to which the option is practical to implement.

***Assessment of each option against criteria***

	<b>Criteria 1: Purpose</b>	<b>Criteria 2: Effectiveness</b>	<b>Criteria 3: Practicality</b>	<b>Net benefit</b>
<b>Option 1:</b> Status quo 10 year licence remains unchanged	Low/Medium Current legislation enables an assessment of a person's fit and proper status at one point in a 10 year period. Would need fit and proper test and tools to intervene to revoke licence strengthened in order to meet purpose of the Act.	Low/Medium On its own doesn't reflect how much circumstances can change over 10 year period and it is effective only in assessing the fit and proper status at one point in time.	High Practical to implement, no additional cost to licence holders.	Low/Medium
<b>Option 2:</b> Reduce the length of licence to five years for all licence holders	High Most in line with the purpose of Act around ensuring personal and public safety, that firearms ownership is a privilege and that	High Enables a more frequent assessment of a person's fit and proper status and re-affirms their safety skills at a point in time. Increased frequency compared to option 1 may	Low Practical but adds significant costs to all licence holders, and adds cost to regulator.	High/Low

	with it comes responsibilities.	provide an incentive for a person to retain firearms without holding a licence, as regulatory burden increases to provide information more regularly than currently, and particularly if coupled with more robust licencing process.		
<b>Option 3:</b> Initial licence is for five years and later licences for 10 years	Medium Enables a first-time licence applicant's fit and proper status after the first 5 years, which is a higher risk period for licence holders so option 3 is moderately aligned to purpose of the Act.	Medium While as effective as option 2 for first 5 years, needs to be supported by other measures, such as fit and proper test and tools to intervene to revoke licence during subsequent 10 year licence durations.	Low/Medium Less straightforward for licence holders and for operational implementation compared to option 2. Reduces the regulatory burden and cost to the majority of licence holders after second licence issued.	Medium/Low
<b>Option 4:</b> Licence for 10 years but re-vetting at five years with no safety and storage checks	Medium Enables fit and proper checking every 5 years but advantage with respect to purpose is lessened by lack of safety and storage checks.	Medium/Low Effectiveness is improved compared to option 1 but the fact that there would be no checking of safety skills reduces the effectiveness compared to option 2.	Low/Medium Less straightforward for licence holders and for operational implementation compared to option 2.	Medium/Low

**Which of these options is the proposed approach?**

Option 2 is more likely to meet the personal and public safety objective of the Act, as well as the purposes – that firearms ownership is a privilege and with that privilege comes responsibilities. Retaining fit and proper status over a shorter period of time is consistent with these purposes. Option 2 is more likely to pick up changes in lifestyle and circumstance which might alter assessment of an individual's fit and proper status. Option 2 will cost both firearms users and the regulator more, however, the public safety benefits outweigh the additional costs.

### Section 3.2.3: Dealer licensing – shifting the focus to improve personal and public safety in the way dealers conduct business

#### What is the problem in dealer licensing?

The problem is three-fold. There is no criteria or guidance as to what constitutes 'excellent character'. Compliance requirements envisage one type of dealer (as set out in the Act) and are silent for other types of activity involving the 'trade' in firearms, such as gunsmithing and the hiring out of firearms. In addition, Police powers to encourage compliance do not support actions allowing speedy response to compliance issues.

Despite significantly greater risks of holding firearms in quantities (including possibly prohibited firearms), the ability to import firearms, and a continuous flow of firearms passing through these sorts of businesses (either by buying and selling, repair or hire), a dealer needs only to satisfy the same 'fit and proper' person test as any other licensee. The legislation does not require dealers to have any technical knowledge of firearms.

The Arms Manual notes that an approving officer for a dealer's licence must be satisfied that the applicant is of 'excellent character'.<sup>2</sup> This implies that dealers should be held to a higher standard than 'fit and proper' but does not provide any further guidance.

The Act is not sufficiently future proofed to take into account activities, such as manufacturing of firearms parts or gunsmithing. Because it is not clear who a dealer licence should apply to, the regime is applied inconsistently.

On the whole most of New Zealand's dealers try to comply with their legislative obligations, which, proportionate to the risks, are 'light' (i.e. minimum standards for security and storage, and a requirement to record certain transactions). Police has evidence the following issues are occurring within some firearms businesses:

- leakage into the criminal system due to lack of oversight of trades, and a gap in information on the buyer at the point of sale;
- theft by criminals because of inadequate security and storage arrangements;
- dealers who don't follow the spirit of the legislation (including circumventing the intention to limit the number of MSSAs in New Zealand by importing parts that lead to ready conversion of an A category semi-automatics to a MSSAs);
- dealers selling large capacity magazines to A category licence holders sometimes at the same time as selling a semi-automatic firearms constructed on an AR15 or AK47 platform.

Dealers have business objectives and priorities, and the current legislation provides no incentive to manage the risks to public safety, or help customers be safe or stay safe. At present, the only compliance tool Police has for dealers who do not meet their statutory obligations is revocation of the dealer's licence.

Although there is a power in legislation to revoke a licence at any time, in practice this is an action of last resort as Police recognises that the business is the dealer's livelihood and because of the difficulties of substantiation. In 2016, a dealer's licence was only revoked after the licence holder was found to own 172 cannabis plants, be in possession of cocaine and possessing a 0.22 rifle that was insecure and not stored in a manner compliant with the Arms Regulations.

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<sup>2</sup> Arms Manual 2002, clause 7.4.1.

As of 16/4/19 there are 14 dealer licences that are revoked, but they are able to hold onto these licences as Police has no legal power to seize the licence once it has been revoked.

The analysis considers each of the options individually, however, any one of the options, or combination of options could be implemented to improve public and personal safety in the way dealers operate. The options presented can be selected independently or as part of a package.

## What options have been considered to address the problem?

### ***Option 1: Status quo***

The Act's definition of dealer includes anyone who is 'in the way of business' selling or manufacturing firearms or parts. The determination of 'in the way of business' is left unclear and the definition only includes those selling or manufacturing firearms. Police has extended the regime operationally to include those who buy and sell firearms, hire out firearms (for movie making etc.), or engage in firearms repair and modification.

Currently to become a dealer, a person must first acquire an individual firearms licence and then a dealer's licence. To acquire a dealer's licence the Arms Manual requires a person to be of 'excellent character'. The requirement to meet an excellent character test is not set out in legislation, nor does the arms Manual contain detailed criteria for the excellent character test. Because the business of a firearms dealer presents notably greater risk to public safety, it may be in the public interest for the test for dealers to be enshrined in law.

### ***Option 2: Excellent character test for dealers in legislation***

In many ways a firearms dealer is the central point within the firearms community. They are the vehicle by which firearms are imported into New Zealand, and are a primary source for trade, repair, or hire of firearms. Police information shows a large number of individuals buying their first firearm go to a dealer both for advice and to purchase a firearm. The position of the dealer within the firearms community presents an opportunity to strengthen public and personal safety by standing up dealers as a paragon of safe and responsible firearms ownership and business owners acting in the public interest and in the spirit of the law.

One option is to set out in legislation an excellent character test for dealers. This would provide greater certainty for approving officers around what constitutes 'excellent character', would support the purpose of the Act around public safety, and reflect that firearms ownership is a privilege.

An excellent character test for the issuance of a dealer's licence could include the following components:

- sound knowledge of firearms and their purposes;
- understanding of own legal obligations;
- understanding of, and ability to communicate, firearms law and obligations of individual licence and endorsement holders;
- financial probity and an ability to manage financial and record-keeping systems;
- business partners and close associates who are also fit and proper persons; and

- a minimum technological capability to meet any required safety plans, record-keeping, reporting obligations and any other interface with the registry as required.

As with the fit and proper person test, dealers would be required to maintain the behaviours that demonstrate excellent character for the duration of the dealer's licence, and provide evidence of this if asked.

Much of the additional information required to meet the 'excellent character' test can be obtained from referees when the original dealer licence application is made and annually, from looking at the business history, accounts, and IT systems. This should not therefore be a regulatory burden for dealers, but rather an additional layer of checks and assurance for Police. Some of the information provided may be of a commercially sensitive nature, Police is aware of the need to keep this data confidential and would not look to hold this data or include it on any registry.

Having a sound knowledge of firearms is important, particularly where firearms are being sold to people who do not have a great deal of knowledge (a person may be buying their first firearm). An ability to share their knowledge with customers about what they are buying, and to ensure customers are getting what they need as well as what they want is an important safety consideration.

The requirement to operate within the spirit of firearms laws will require dealers to be mindful of the purpose of the Act. Police is aware of a few dealers who have been trying to find alternative equivalents to prohibited firearms that they can import and sell. This sort of activity/behaviour might be considered to be against the spirit of firearms laws and not in the interests of personal and public safety.

Section 9(2)(ba)(i) Official Information Act 1982

### ***Option 3: Expand coverage of legislation to all firearms related commercial activity and improve compliance***

Under this option the Act would be amended to expand the definition of dealer to apply to a broader set of circumstances, whereby people may require a specific licence to be in the business of buying, selling, supplying, hiring, manufacturing, repairing, investing in, or otherwise carrying out commercial transactions involving firearms. This would become a broader category than what exists in statute now, largely clarifying and codifying operational practice. It will mean there are no arbitrary distinctions that prevent dealing-type behaviour being appropriately regulated. It would apply to all collectors who are in the business of investing in and trading firearms, and also to auctioneers, parts manufacturers and all gunsmiths.

Similar to other firearms licence holders, under the current system, there is very little that Police can do to punish minor infringements and real intervention only occurs when a dealer has done something significant (i.e. liable for revocation and/or prosecution). For example, a dealer only had their licence revoked after being sentenced to 4 years imprisonment for 17 charges of GST fraud. Other revocations have included where dealers were convicted of firearms offences, possession of banned substances, or for temporary protection orders.

As a result, a small number of dealers have been able to operate on the very edges of the law and retain their dealer's licence. There is an opportunity to provide in legislation, intervention measures and compliance tools that Police can use to encourage and ensure dealers meet their statutory obligations. These could include:

- a supervision power to provide support and mentoring for requirements such as record keeping (as is currently done in New South Wales, Australia where Police reports that although it can be time consuming it is effective at getting business owners in a routine of keeping records);
- Improvement Notices that clearly advise the dealer where they are falling short of their statutory obligations, what they need to do and by when;
- a power to suspend a licence until a dealer meets their statutory obligations;
- a graduated system of penalties that can be imposed on dealers for more minor infractions, such as inconsistencies in their records, failure to maintain record keeping, insecure storage of firearms on their business premises, failure to ensure a purchaser has the correct licence and endorsement prior to purchase, etc.

These interventions are intended to enable Police to initially take a 'soft' approach to encourage and support compliance. The approach is based on the assumption that most dealers want to run a business within the law. The intervention measures and compliance tools can be used catch potentially larger issues before they arise.

For the occasional dealer who is persistently non-compliant, the use of intervention measures that have failed to result in compliance provides Police with evidence that can then be used to revoke a licence.

Options:

- Option 1: Status quo – current scope of legislation and rules around operating as a dealer
- Option 2: An excellent character test for issuing a dealer's licence
- Option 3: A clearer definition of a dealer, supported by set of intervention measures and compliance tools

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of a need to create and maintain a higher standard for those who run a firearms related business than a general licence holder.
- Practical: The extent to which the option is practical to implement.

#### ***Assessment of each option against criteria***

	<b>Criteria 1: Purpose</b>	<b>Criteria 2: Effectiveness</b>	<b>Criteria 3: Practicality</b>	<b>Net benefit</b>
<b>Option 1:</b> Status quo current scope of the Act and rules around operating as a dealer	Low Current legislation provides no incentive to manage the	Low Currently a dealer need only satisfy the same fit and proper test as	Low The determination of 'in the way of business' is left unclear	Low

	risks to public safety or help customers be safe or stay safe, as some 'dealers' are not captured by the law, and most dealers retain their licence unless their behaviour is particularly poor or illegal.	an individual – regardless of the greater risks associated with holding more firearms. Most legislative interventions do not apply to broad range of businesses.	leading to the ad hoc issue of a licence.	
<b>Option 2:</b> An excellent character test for issuing a dealer's licence	High Supports the purpose of the Act around ensuring personal and public safety and reflects the increased risk that dealers expose the public to (ability to import, store, sell firearms).	High Creates and maintains a higher standard for those who run a firearms related business than a standard licence holder, and reflective of the risk of having dealers in communities.	Medium/Low Will require legislative and operational policy change to implement. Will require dealers to undergo a higher standard of test, and may mean some dealers go out of business.	High/Medium
<b>Option 3:</b> A clearer definition supported by a set of interventions to improve compliance	High Supports the purpose of the Act regarding ensuring personal and public safety as it includes more businesses dealing in some type of firearms trade. More businesses	High Creates and maintains a higher standard for those who run a firearms related business than a general licence holder. Businesses unable to circumvent law and be held accountable because able to be assessed against legal regime.	Medium/Low Will require legislative and operational policy change to implement. Will require dealers to undergo a higher standard of test, and may mean some dealers go out of business.	High/Medium

### Which of these options is the proposed approach?

Option 2 is recommended as being most in line with the purpose of the Act and in addressing the increased risk proportionate with the activity of the licence holder. Option 3 would assist Police to implement early intervention strategies to help dealers meet their statutory obligations. As a package Options 2 and 3 together best meet the intention of the Act. These options may have a significant impact on some dealers, particularly those who may not be currently regulated effectively.

## Section 3.2.4: Clubs and ranges – oversight and safety controls

### What is the problem or opportunity?

The problem is two-fold: no oversight or control of non-pistol shooting clubs and no legitimate venues for exempted groups to practice or sight in with prohibited firearms.

Up until 12 April 2019, some of these clubs and ranges would have provided a place for firearms licence holders with an E endorsement to practice with firearms that are now prohibited. Since the passing of the amendment, this is no longer possible. The legislation needs to provide a regulatory framework for clubs and ranges to enable exempted groups who have a need to use prohibited firearms to practice. It is also an opportunity to improve regulatory oversight and controls that haven't been there before.

Police has no oversight of non-pistol clubs and ranges and so does not know how many clubs or ranges operate within the guidelines it has developed. A key risk is one of ricochet from a range and/or range design that is not adequately mindful of public in the vicinity.

Submitters to the recent amendment bill commented on the value of these clubs as a social hub. This can be positive, but can also provide opportunity for reinforcement of extremist views or the encouragement of inappropriate behaviour with firearms. Legislation could be used to counter this risk and provide for some oversight of the management and activities of clubs and ranges.

Shooting clubs and ranges can be a large commercial businesses through to informal set ups in community halls. They are venues where shooters come together and there is often a strong social element to them drawing together a group of people from all walks of life. This presents risks around who is using the club, particularly since members do not necessarily have to hold a firearms licence and may not therefore have been assessed as a 'fit and proper person'.

There could be a responsibility on operators of clubs and ranges to manage risks. This could include requiring clubs and ranges to be run by an approved operator who has to meet a higher standard of the fit and proper person test than for a standard firearms licence holder. It could require operators and club members to advise Police of any behaviour or views that may impact on the safety of any member of the club, or member of the community or member of the public. Clubs are carefully managed in Australia.

The options presented can be selected independently or as part of a package.



## What options have been considered to address the problem?

### **Option 1: Status quo**

Currently there is a regime that provides oversight of 96 pistol clubs. There is no oversight of other rifle and target shooting clubs.

The legislation only enables oversight of clubs that operate pistol ranges. However, regulatory oversight is achieved indirectly. The regime requires pistol users to be licensed, and to belong to a pistol club recognised by Police. The clubs themselves are not regulated.

Outside of pistol clubs there are an estimated 260 clubs that operate ranges for different types of firearms, over which there is no oversight. The Christchurch attacker gained target shooting skills at such a local shooting club. Some ranges are operated by landowners or lessees who set them up as a commercial enterprise, charging private members or the public to practice shooting. A club or range that wants to hold/store/lend firearms on the premises requires the operator to have a firearms licence.

Police has developed guidance, the *Principles for the design and development of shooting ranges*, to enable operators to run ranges safely. The guidelines are not legally enforceable.

### **Option 2: Operators of shooting clubs and ranges to be of excellent character**

One option would be to set out an 'excellent character' test for operators of clubs and ranges.

Unlike firearms dealers, there is currently no provision in the regulatory regime for such a test for operators of shooting clubs and ranges other than that applied if they were a firearms licence holder. Whereas a dealer must hold a dealer's licence to conduct trade, there is no corresponding licence to operate a club or shooting range.

A person without a firearms licence, or any knowledge of firearms could set up a shooting club or range as a commercial enterprise without any oversight as to whether they are suitable or capable of operating the club and/or range safely and responsibly.

There is an opportunity to set out in legislation an obligation for operators of clubs and ranges to hold a firearms licence, and in addition, demonstrate they are of excellent character (along similar lines to dealers).

An excellent character test for an operator of a club or range could include the following components:

- sound knowledge of the types of firearms the operator allows shooters to use on their premises;
- knowledge of the NZ Police Range Manual, Principles for the design and development of shooting ranges and or the Target Shooters of New Zealand Target Shooting Range Manual and Range Operation Manual or other relevant equivalent;
- completion of a range officer course
- patterns of behaviour consistent with operating a club or range in the interests of personal and public safety;

- understanding and communicating firearms obligations to members including but not limited to security of storage and transport of firearms, as well as supervision

These would be the minimum requirements needed for an operator to be running a club/range safely. Similar to the fit and proper person test, operators would be required to maintain the behaviours that demonstrate excellent character for the duration of the period they operate the shooting club or range, and provide evidence of this to Police if asked.

There could be an offence for operators who provided misleading information to Police, or who did not advise Police of any changes to information supplied at the time of their assessment of good character to operate a shooting club or range.

This option would address a need that people who operate shooting clubs and ranges are suitable to do so in a manner which prioritises public safety and personal safety. It would support the purpose of the Act around public safety, acting in the public interest and reflect that firearms use is a privilege.

This would create compliance costs for operators, depending on the size, activities and current operational procedures of the club. This could include the cost of acquiring a firearms licence.

### ***Option 3: A licensing regime for clubs and ranges***

A shooting club or range may be the central point within a local firearms community. The club or range is one of the primary means by which shooters come together to practice, to mentor, and to socialise. A shooting club or range may be a person's first experience of shooting and these early experiences can dictate long term attitudes to firearms.

An option would be to require all shooting clubs and ranges to be licensed. This includes pistol clubs. This would provide oversight of what types of clubs were operating in what locations and what their operational processes and procedures are. It would provide a touch point for Police to connect with firearms users in communities to reinforce positive and healthy attitudes to gun ownership.

Legislation could specify a definition of a club or range in order that licensing requirements apply. As the Arms Act is constructed on the premise that individuals are licensed, the licensing regime for clubs and ranges will be based around the types of activity that can be undertaken, the design of the club and range, and obligations to, and by, members.

The licensing regime would place greater obligations on clubs to meet planning and reporting requirements and to have inspections undertaken. In addition, licensing would require clubs and ranges to:

- provide ongoing training programmes for operators, users, instructors and supervisors;
- have a charter around the safe operation and healthy attitudes to firearms ownership and use, published in visible locations at the club;
- ensure all users have agreed to abide by the rules as a pre-requisite of using the club and range and show evidence that they are enforced; and
- provide the Commissioner of Police with information on request.

The regulatory regime could be graduated, in regulations, based on the size and nature of the club or range.

The licensing regime could provide for those that need to train, and are endorsed to shoot, prohibited firearms.

To support the intention of the Act, there could be a new offence of not taking reasonable steps to protect personal and public safety or acting contrary to the public interest.

Options:

- Option 1: Status quo – no regulation or oversight of non-pistol shooting clubs.
- Option 2: Require club and range operators to meet an excellent character test.
- Option 3: Licence all clubs and ranges, including pistol clubs.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of no oversight or control of shooting clubs and ranges, limited oversight of pistol clubs, and no legitimate venues for Police and pest controllers to practice with prohibited firearms.
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	<b>Criteria 1: Purpose</b>	<b>Criteria 2: Effectiveness</b>	<b>Criteria 3: Practicality</b>	<b>Net benefit</b>
<b>Option 1:</b> Status quo No regulation or oversight of non-pistol shooting clubs	Low Does not support the purpose of the Act in ensuring personal and public safety.	Low Little to no legislative oversight of clubs and ranges which could put club users and the public at risk.	High Easy to implement with no cost as no change.	Low/Medium
<b>Option 2:</b> Require club/range operators to be of excellent character	High Supports the purpose of the Act in ensuring personal and public safety, and firearms possession and use being a privilege. Also supports the purpose of everybody working	Medium Provides improved legislative oversight and reinforces the principle of cooperation in the interests of public safety.	Medium Will require legislative change and will impose a compliance cost on operators.	Medium/High

	together to improve safety.			
<b>Option 3:</b> Licensing regime for clubs and ranges, including pistol clubs	High Licensing of clubs and ranges is directly in line with the personal and public safety objectives of the Act, and reinforces that firearms ownership	High Directly addresses the policy problem of no oversight or control of non-pistol shooting clubs and no legitimate venues for Police and pest controllers to practice or sight in prohibited firearms.	Medium Will require legislative change and will impose a compliance cost on operators, club and range users, and Police as the regulator.	High/Medium

### Which of these options is the proposed approach?

Options 2 and 3 are recommended. Option 2 ensures that only those of excellent character can operate club. Option 3 provides robust oversight of a place where firearms are used and thus improves public safety. There is a risk that if applied across the board to include small or occasional clubs/ranges that some community run facilities could be unavailable because of high regulatory costs and requirements. To minimise this the regime could be designed to graduate requirements based on the size and nature of the club.

## Section 3.2.5: Visitor licensing – limitations on firearms

### What is the problem for visitor licensing?

Currently, approximately 4,000 firearms licences are issued to visitors annually. The level of risk posed by visitors compared to New Zealand licence-holders is not known.<sup>3</sup> However, a visitor may not understand or have regard for firearms laws, and potentially they could sell, gift or dispose of a gun in a way that would provide an avenue for firearms to make their way from the legitimate market to illicit markets. This risk will be mitigated over time through the registry.

There is a growing problem of opportunistic theft of firearms from vehicles, and the highest risk is visitors because they are less likely to have good storage arrangements when travelling, particularly if they are using hire vehicles which may not have suitable anchor points or a safe box in the trunk. Visitors are also less likely to have secure storage for their firearms if they purchase their firearms in New Zealand. This means they are more vulnerable to criminals targeting firearms. Firearms brought into New Zealand by visitors are more likely to have a value to the visitor and are more likely to be securely stored.

<sup>3</sup> There is little data available to assess the number of incidents involving visitors with a firearm.

If a visitor purchased their firearm in New Zealand there may be less of an incentive to report a theft to Police as there is unlikely to be any record of its purchase, the visitor may see little point if they are unlikely to get it back before they leave, or they may be concerned about repercussions if they did not taken reasonable steps to secure it.

The options below include consideration of the ability for visitors to obtain permits and visitors' ability to purchase firearms and ammunition whilst in New Zealand. The options for visitors permits are also interdependent with options to improve the fit and proper test.

## What options have been considered to address the problem?

### ***Option 1: Enhanced status quo***

For administrative ease applicants are encouraged to apply before they arrive and this is increasingly the norm. A firearms licence is issued to a visitor for a maximum of 1 year or the duration of the stay (whichever is shorter). There is no specific provision for visitors in the legislation but the Arms Manual provides guidance to approving arms officers when visitors apply for a firearms licence.

Approximately 80% of visitors seeking a firearms licence also want to bring their own firearm. Visitor firearms are registered (because they are imported and as such they are able to be tracked). However, visitors are currently able to purchase firearms and ammunition in New Zealand. There is also an outward bound export process when leaving New Zealand with firearms.

Under an enhanced status quo option, a visitor to New Zealand would need to be able to meet the same higher standards as a person residing in New Zealand who is eligible to apply for a firearms licence.

### ***Option 2: Prevent visitors from purchasing firearms while they are in New Zealand or bringing their own ammunition with them (without a permit)***

Option 2 seeks to continue to enable visitors to obtain permits akin to the status quo. However, under this option visitors would not be able to purchase a firearm whilst in New Zealand. Limiting visitor licence holders to only purchasing ammunition lowers the risk of firearms shifting into the illicit economy. This is because visitors' firearms, when imported into the country with them, will also undergo a corresponding export process.

Given most visitors bring their own firearms and most are here to sport shoot or hunt with a recognised provider, then the ability to use weapons provided by the person who accompanies them is still available to those who do not bring firearms with them.

### ***Option 3: Remove firearms licences for visitors***

This option would still enable visitors who wanted to shoot to do so as part of a supervised tour, with a hired firearm – just as any New Zealander without a firearms licence can do. This would prevent firearms being in transit for the duration of the persons visit to the country.

However, this option would prevent visitors from bringing their own firearm into the country for the duration of their visit, and could impact on businesses that provide tours. Experienced hunters have their own firearms set up in their preferred way, and having to borrow or hire a firearm may see a decline in this hunting tours for visitors in New Zealand. This option would also prevent competitive shooters from being able to compete if they are unable to use their own firearm.

Since most visitors seeking a firearms licence bring in their own firearm, it is reasonable to assume that the impact on businesses, clubs and competitions and tourism generally could be significant.

Options:

- Option 1: Status quo continue with non-legislative basis for the issue of a licence to visitors, and to allow people on a visitors licence to be able to purchase firearms in New Zealand.
- Option 2: Allow firearms licences for visitors but prevent visitors from being able to buy a firearm in New Zealand or from being able to bring ammunition with them without an import permit.
- Option 3: Remove firearms licences for visitors.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of assessing if a visitor is a fit and proper person to be issued a firearms licence, and that firearms are able to be tracked when disposed of.
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
<b>Option 1:</b> Enhanced status quo continue with non-legislative basis for the issue of a licence to visitors, and to allow people on a visitors licence to be able to purchase firearms; fit and proper tests are improved	Low  Does not fully meet the purpose of the Act in ensuring personal and public safety, or reflect that firearms are a privilege.	Low  Possible lack of sufficient skill and/or lack of understanding of firearms laws unless fit and proper standards improved. Risk of transfer of firearms into illicit markets.	High  Easy to implement with no cost as no change.	Low/Medium
<b>Option 2:</b> Visitors cannot buy a firearm or bring in ammunition without an import permit	Medium/High  Supports the purpose of the Act in ensuring personal and public safety and reflects	Medium/High  Possible lack of sufficient skill and/or lack of understanding of New Zealand's	Medium  Requires legislative change.	Medium/High

	that firearms are a privilege.	firearms laws unless fit and proper standards improved.. Mitigates risk of transfer of firearms into illicit markets.		
<b>Option 3:</b> Remove firearms licences for visitors	High Meets the purpose of the Act in ensuring personal and public safety. May adversely reduce compliance and therefore risk of visitors operating unlawfully without a licence.	Low Visitors would have to be accompanied by a NZ licence holder who has met the fit and proper person test. Onus then on licence holder to ensure safe use, rather than on visitor.	Low No legislative change required, but requires a change to operational policy.	Low Significant impact on tourism sector and international competitive shooting sector.

**Which of these options is the proposed approach?**

Options 2 manages the policy problem with visitors using firearms in New Zealand and be in harmony with the purpose of the Act. There is a risk that the more robust fit and proper test proposed may preclude someone not because of their lack of experience or ability to be safe with a firearm but because they cannot demonstrate they meet the test.

**Section 3.3: Increasing compliance and enforcement tools**

**What is the problem and opportunity?**

Under the current licensing system, there is little that can be done to respond to or rectify minor infringements. The current system allows for a warning, followed by licence revocation or prosecution. These are quite blunt tools and with the exception of the warning, they would suggest a level of seriousness of breach before they can be used. There are limited intervention tools that are proportionate to the behaviour or risk. There is an opportunity to provide for other compliance and enforcement tools to help Police as the regulatory better support a change in behaviours and attitudes around safe practice, over time.

The Act provides for conditions on dealer’s licences that enable Police to inspect pistols, restricted weapons, prohibited firearms or prohibited magazines on demand and to inspect the place where they are kept. A similar ability is provided in relation to endorsement holders with pistols, restricted weapons, prohibited firearms and prohibited magazines. But no such ability extends to A category licensees, or A category firearms which make up the vast majority of firearms in New Zealand.

The revocation of a licence process is cumbersome and not a response designed to reflect to the seriousness of revocation. Licence holders must be informed in writing if their licence is to be revoked. Licence holder may then hide or dispose of their firearms. There is currently no remedy for someone who hides or disposes of their firearms once the process to revoke a licence has begun. These firearms are then either held illegally, or find their way onto the illicit markets. There is no obligation on the part of the licence holder to inform Police about the current location of any firearms owned.

As a result of a lack of regulatory tools, some people have been able to operate at the edges of the law, or even outside of the law, and retain their firearms licence. There is an opportunity to provide in legislation for more compliance tools that can be used to help licence holders better meet their statutory obligations, and to lift behaviours in general in line with the safety objectives of the Act.

Below are a suite of interventions that emphasise prevention first, early or assisted compliance, and a more targeted inspection and regulatory action regime.

## What options have been considered to address the problem?

### ***Option 1: Status quo***

Most licence-holders want to possess and use firearms safely. Amongst the majority of those users, some will self-comply, some may need education and awareness-raising to comply, and some may need more active assistance to comply. At the other end of the compliance spectrum, there may be a small number who are unwilling to possess and use firearms in the interests of public safety and those who intentionally use firearms to harm themselves or others – whether lawfully possessed or otherwise.

The firearms regime is enforced – on the ground – by frontline Police officers. Police use resources selectively and with a frequency that is proportionate to the behaviours or risks presented in any circumstance. The primary tools available for use by Police include licence revocations or prosecution.

### ***Option 2: Inspection powers***

One option is to extend inspection powers to all licences and for all firearms (this would include collectors and, if regulated in the future, gun clubs). This power should also be extended to enable inspections of vehicles when used for the transportation of firearms. As this new power will relate to less dangerous firearms, it should be exercised *on notice*, as well as at a reasonable time. This will minimise any inconvenience to the licence-holder.

This option will also fit well if a registry is progressed. A decision could be made on whether to inspect the security arrangements of a licence holder if additional firearms are added to the licence holder's collection.

### ***Option 3: Improvement Notices***

Another option could be establishing in legislation the ability to issue improvement notices. These would be issued for minor infringements and would identify the specific improvements sought. For example, to improve storage security and arrangements for firearms. They could also include remedial steps that should be taken by a particular date. If the licence holder fails to take such steps, a licence revocation process may be commenced.

The improvement notice would give Police an additional touch point, at the follow up date.



The advantage of this is that it enables Police to require improvements to ensure compliance for low level concerns, without having to wait until non-compliance has got to a serious point where revocation is necessary. It also empowers the licence-holder to improve their practice. This option will both improve compliance with the law but also be a low level, lower cost intervention.

**Option 4: Suspension of licence and power to seize firearms**

A third option could be establishing in legislation a power to suspend a licence (and seize firearms) at the start of the revocation process. This would overcome the problem of firearms being passed on to other or hidden during the revocation process. This power would support the purpose of the Act to protect personal and public safety, and reinforce the principle that firearms ownership and use is a privilege, and not a right.

**Considerations**

The options can work independently or complement each other to form a graduated approach to achieving compliance. The interim measures allow for early intervention before habits or attitudes get ingrained. They represent a softer approach to encouraging compliance on the basis that most people want to do the right thing. Where a person persistently fails to comply with the law, a record of steps taken by Police to encourage compliance will provide evidence to substantiate the more serious consequence of revocation.

**Options:**

- Option 1: Status quo issue a warning, and revocation of a licence (with notice) if conditions are breached, or prosecute the licence holder.
- Option 2: Increase inspection powers.
- Option 3: Issue of Improvement notices.
- Option 4: Power to suspend a licence and seize firearms prior to revocation.

**Options Analysis:**

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of a need for measures that assist early intervention to improve compliance and manage licence holders who do not comply with the law or conditions of their licence.
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
<b>Option 1:</b> Status quo warning, revocation	Low Does not support the purpose of the	Low Minor infringements not dealt with, no ability to shift	High Easy to implement	Low

with notice, prosecution	Act that firearms use and ownership is a privilege and comes with responsibilities, as more likely that minor infringements not dealt with.	behaviour and practice in constructive way, more likely that firearms move into illicit markets upon notice of revocation.	with no cost as no change.	
<b>Option 2:</b> Increase inspection powers around security	High Supports the purpose of the Act that firearms use and ownership is a privilege and comes with responsibilities.	High Emphasises prevention first, early or assisted compliance, encouraging shift in practice over time. Able to be targeted at risk with development of a registry.	Medium Will require an amendment to the legislation, will increase monitoring and lower level enforcement costs.	High/Medium
<b>Option 3:</b> Issue of Improvement notices	High Supports the purpose of the Act that firearms use and ownership is a privilege and comes with responsibilities.	High Emphasises prevention first and early or assisted compliance, encouraging shift in practice over time.	Medium Will require an amendment to the legislation, will increase monitoring and lower level enforcement costs.	High/Medium
<b>Option 4:</b> Power to suspend a licence and seize firearms prior to revocation	High Supports the purpose of the Act that firearms use and ownership is a privilege and comes with responsibilities.	High Lowers risk that firearms subject to revocation will disappear into illicit markets. More targeted regulatory action at risk.	Medium Will require an amendment to the legislation.	High/Medium

### Which of these options is the proposed approach?

As a package, options 2, 3 and 4 would provide for a suite of tools that would bring the most benefit to supporting personal and public safety and addressing the need for early and proportionate intervention. There is a risk that Police will be required to use the Improvement notice approach in the first instance even when aware that the licensee in

question is intentionally non-compliant or non-compliance is a serious safety risk and ordinarily Police would have sought to revoke.

### Section 3.4: Registry - options on information

#### What is the problem with information on firearms?

There is no oversight of the transfer of second-hand A category firearms, so it is not known whether they are going to licensed or unlicensed people or what they are being used for.

There are significant information gaps and poor controls over firearms sales processes. In addition, identity verification, licence verification, and quality assurance around sales, relies completely on an honesty system. This includes: international sales, online auction sites enabling buyers and sellers to trade firearms via private sellers as well as dealers.

As mooted by Thorp in 1997, the rationale for a complete register of all firearms is so that Police can know:

- how many firearms there are and what they are used for;
- who has them and where they are located; and
- can track and trace firearms if and when serious situations arise.

A number of written submissions to Select Committee for the recent Arms Amendment Act expressed surprise that there was no registry and there is no effective way of getting this information. A large number of submissions supported the development of a registry to establish a fuller picture of firearms ownership, use and trade. Support for a registry was a recurring theme in the submissions despite not being part of the amendments and was expressed by submitters both in support and against the changes in that bill.

Police's drug and other operations indicate that the criminal system in New Zealand has obtained large numbers of firearms unlawfully – Since 1 March 2019, 662 firearms have been seized or located during normal policing operations. Police intelligence indicates that firearms obtained for criminal use is primarily by theft, and also by subverting weak controls in the current buying and selling market for firearms. Without adequate oversight and quality assurance, it is relatively easy to use other peoples' firearms licence numbers to purchase firearms. Alternatively there may be pressure on legitimate dealers or licence holders to purchase firearms and for those to be subsequently supplied for criminal use.

Police is in the process of automating and centralising the information and processes to manage the firearms regime and the limited information it currently collects. Police's improvements in technology for the firearms registry are relevant to the options below because it more easily enables self-service registration, paperless systems, identity verification and online trading between licence holders.

#### What options have been considered to address the problem?

##### ***Option 1: Status quo***

The information currently collected provides a partial register of firearms:

- the permit to import process enables data collection on the importation of all firearms coming into New Zealand;
- the permit to possess process enables data collection on the purchase and sale of all prohibited firearms, restricted weapons and pistols already in New Zealand;

- mail order sales effected through an endorsement by Police, including for A category firearms enables data collection;
- dealer records of all sales of firearms that is provided only upon request back as far as a five year period.

This information largely represents sales of new firearms and the transfer of pistols and restricted weapons. Following amendments to the Arms Act this year, this will now include prohibited firearms. Firearms have a long life and new firearms sales are a small proportion of New Zealand's armoury. There is a strong market for second hand firearms and unless these are sold through a dealer, the transfer of these guns is not captured in any way.

***Option 2: Expand the current registry to include all firearms***

Option 2 proposes that information on all firearms is collected. The benefits are that Police could then track and trace all firearms in New Zealand as well as across the border. While at first glance this may appear to be very costly, the costs can be reduced through technology. Shortly, firearms and licensing information will be held on a single centralised records and the current permit to possess processes will be automated as above (currently limited to prohibited firearms, pistols and restricted weapons). Police is funding its firearms modernisation project within its baselines.

Modern automation can be used to both collect information on firearms and licence-holders and also place quality assurance and controls on the processes for purchasing and selling firearms. Practically, this means:

- the information on people and the firearms they possess can be linked and known in real time;
- the identities of firearms licence holders can be verified in real time;
- identification of the firearms can be traced at the point of registration or purchase; and
- any firearm can be tracked through its lifecycle, as can firearms licence-holders for the duration of licences.

With a technology-enabled registry, applicants will be able to log in to their own account and see their details held, which could include name, address, date of birth, licence number and endorsements, plus any firearms registered to them. No one else would have access to that information. During the sale of a firearms the seller would sign into the registry and be able to check whether the name and firearm licence number of the buyer is valid. The registry would signal that the seller should proceed with the transaction if the information is correct.

A benefit of having a registry of firearms holdings against each licensee is that it can help Police to identify when a person has a firearm. For example, Protection Orders: people with firearm licences often claim in Court they do not have any firearms, and it is difficult for Police to verify this or use current search and seizure powers.

Police estimates the additional establishment cost of extending the regime to include A category firearms to be approximately \$2.0 million based on current costs of the system to date (see Section 4.1 – costs and benefits analysis). Some groups will express concern about the administrative costs to the sector of setting up a registry. Some firearms owners will need assistance to identify particularly older firearms and load information into the system, which would be a resource cost. This cost could be met by the individual firearms owners in recognition of the private benefit they derive from having the firearm, or met by the taxpayer given the public benefit derived from better public safety as a result of a more comprehensive collection of data.

### ***Sub-option 2a: Collect forwards looking information only on A category firearms***

One option to close the information gaps to expand controls around all firearms trade and processes to improve public and personal safety is to have a register that collects forwards-looking information only on A category firearms.

Collecting information from now on could be relatively straightforward. The information could be collected during the purchasing process similar to vehicle registration. Automation can be used to manage processes around information quality control, identity verification and the authenticity of, and endorsements on, firearms licences.

The benefit of this approach is that the registry builds over time, and less resource is required to support those who need help to uniquely identify their firearm in order to populate the registry. However, there is significantly less benefit in establishing a forwards-looking only register as it will not capture any information on the large number of firearms that are not being traded, and so the risk management and public safety benefits of having this data will not be fully realised.

### ***Sub-option 2b: Collect both forwards looking and backfilled information on A category firearms***

A second option would include collecting both forwards-looking and backfilled information on A category firearms. Backfilling could be achieved by enabling firearms owners to log in and provide information themselves, at any point, and not just when trading or relicensing occurs. The time this will take someone to do will depend on the size of their firearms holding but for the majority of firearms holders this is not expected to be onerous.

Requiring individual firearms owners to backfill information on their own firearms holdings is in line with the principle that all people involved in the firearms regime have a responsibility to act in the interests of public and personal safety, and therefore to participate in a registration system.

At natural touch points with the system people will be required to register all the firearms in their possession. As well as collecting information when the trading of firearms, these other points should include:

- at the firearms owner's licensing stage
- when required to notify a change in circumstances, such as a change in address
- when applying for an endorsement on a licence
- when issued with monitoring or enforcement action or otherwise at the request of Police.

Licence holders will be required to provide the registry with their firearms inventory as and when these points arise. As a catch-all, any person who has not registered their firearms will be required to do so within five years of the registry going live.

There is a risk that some individuals will not fully backfill. One of the incentives to backfill will be that the owner of the firearm will need to have the firearm registered if they ever want to sell or transfer the firearm to another person.

It may take some time for firearms holders to comply, Police should take an enabling role to educate and assist anyone having difficulty providing the necessary information. This would be done at a local level with the community arms officers who already provide support and guidance to firearms licensees. Communication and support could also be

shared via dealers and clubs. The ease of use of the registry will also be critical to ensuring that it is used by firearms licensees.

For all options there would need to be a paper-based process for those unable to access or use technology in order to gather the information.

Options:

- Option 1: Status quo do not collect information to complete a registry of all firearms.
- Option 2: Expand the registry to include all firearms.
- Sub-option 2a: Collect forwards-looking information only on A category firearms.
- Sub-option 2b: Collect both forwards-looking and backfilled information on A category firearms.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of information gaps to establish the volume and location of firearms and being able to track and trace them when serious situations arise.
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	<b>Criteria 1: Purpose</b>	<b>Criteria 2: Effectiveness</b>	<b>Criteria 3: Practicality</b>	<b>Net benefit</b>
<b>Option 1:</b> Status quo do not collect information	Low Does not mitigate the high risk that firearms transfer easily into the illicit markets, and misuse of firearms is the risk to public safety.	Low Does not address the policy problem of information gaps to establish the volume and location of firearms and being able to trace them when serious situations arise.	High No legislative change required.	Low
<b>Option 2:</b> Expand the registry to include all firearms	High Knowing where firearms are at all times is aligned to the	High Addresses information gaps and enables risks regarding who	Medium Requires legislative change, technological	High

	purpose of the Act in ensuring personal and public safety.	and where firearms are to be managed. Enables better tracking of firearms and thus a reduction in firearms going into the illicit markets. It will take time however, to populate a registry.	design, user friendly solutions, and clear communication in order to implement.	
<b>Sub-option 2a:</b> Collect forwards-looking information	Medium Would mitigate some of the risk of misuse of firearms and promote acceptance of responsibility for the privilege of owning a firearm.	Low Would not address the policy issue and is expected to capture a number of the firearms currently owned, but not all over time.	Medium Requires legislative change, technological design, user friendly solutions, and clear communication in order to implement.	Medium
<b>Sub-option 4:</b> Collect both forwards-looking and backfilled information	High Over time, would enable Police to knowing where firearms are at all times, which is aligned to the purpose of the Act in ensuring personal and public safety.	High Expected to capture a large number of the firearms currently owned. May be data quality issues if a large volume of people entering older firearms without support.	Medium Requires legislative change, technological design, user friendly solutions, and clear communication in order to implement.	High/Medium

**Which of these options is the proposed approach?**

Options 2 (and Sub-option 2b) are recommended as being the options that will provide Police with the most comprehensive register needed to address the information gaps and manage controls and risk around the use, ownership and trade of firearms. The risks are that people will not register all of their firearms, or that information they do register may not be accurate. This can be mitigated by offering Police assistance to help identify any older firearms that may not have clear identifying features. This would add costs and require additional capability to establish a register that includes backfilled information.

## Section 3.5: Options for the trade of firearms

### What is the problem?

A key weakness in the legitimate market is private licence-holders are permitted to trade A category firearms, provided the sale is to a licensed person. There are no checks and balances on the trading of these firearms. There are two key problems with this:

1. The system relies on individuals complying with the legal requirement that both buyer and seller have valid licences. There is no way of knowing for sure whether a person selling their firearm will sight the licence of the purchaser. The current trading between licence holders relies on an honesty system. In addition, a member of the public selling their firearm, when sighting the licence of the purchaser, has no real way of knowing if the licence is valid or genuine.
2. There are no obligations on licence holders to inform Police of the firearms trade for A category firearms and so Police is unable to register information on who holds which firearms. This prevents Police understanding the risk landscape for firearms at a national level.

Because there are weak controls on trading, it is easy for firearms to leak into the illicit market. New Zealand's organised crime and illicit drugs market is enabled through the possession and use of firearms. Organised crime groups use the threat of firearms and other types of violence to 'enforce' illicit drugs markets and trades. This is evidenced by Police regularly finding caches of illegal firearms in the possession of organised crime groups, independent from, and alongside significant illicit drugs operations. The number of firearms reported as stolen in burglaries has increased in recent years, from 222 in 2009/10 to 779 in 2017/18.

The fact that firearms are able to get into the wrong hands with relative ease is indicative that there is an illicit market operating in tandem with a weakly controlled legal market. Police has recently established a unit which includes the investigation into firearms trading on the dark net. Police is working with overseas law enforcement to identify possible NZ purchasers.

### What options have been considered to address the problem?

#### *Option 1: Status Quo*

An associated problem is the lack of control over the number of firearms possessed by one licence-holder. Currently there is no way of preventing individuals from amassing significant numbers of firearms. This is a risk, as licence-holders with a large number of weapons present a target for burglars who supply organised crime groups.

Effective risk management of the legal firearms market is dependent on the ability to know who possesses what firearms, and where they are located. Options for the control over the trade of firearms naturally centre on whether an automated registry with the necessary processes embedded in it are set up. Licence validity and identity checks can be controlled through an automation process by linking Police's system to New Zealand's RealMe identity verification system. This means that Police will be able to provide a crucial identity and firearms verification assurance to all sellers and purchasers.

This may reduce the need to create a regime in which private sales would be discontinued to minimise the identified risk. However, given the experience of overseas countries, there is still good cause to consider the unique role of dealers in the market given dealers are



well-placed to have the security systems and means to manage some of the more pressing risks.

### ***Option 2: Require a permit to possess for A category firearms***

One option for the forward-looking process would be to require firearms licence-holders to seek a permit to possess for A category firearms the same as for prohibited, restricted firearms, and pistols. A permit to possess is essentially a pre-approval to purchase a pistol, restricted weapon and prohibited firearm. The permit process enables the tracking of one of these firearms and weapons throughout their lifecycle.

Police is in the process of automating and centralising information and processes to manage the firearms regime for prohibited firearms, pistols and restricted weapons as part of its modernisation programme.

The advantage of this process is that Police would have the discretion to approve or refuse the issue of a permit. Without a permit the transaction could not proceed. Police may refuse a permit to possess if the licence holder already has significant quantities of firearms and there is no justification for purchasing more, or, if the storage and security arrangements for the firearms needed updating as a consequence of the purchase.

This option would enabled private sales to continue. However, there would be a delay in completing the transaction and this approach would represent a reasonable departure from current purchasing practices for people who currently only buy A category firearms. If high volumes of firearms are traded on the second hand market this option may be impractical to implement. It may require more administrative resource to operate a pre-approval process in a timely manner, and it may not be targeting finite regulatory resources at a significant risk. In addition this option would still require the purchaser and the seller to notify the registry of the completion of the transaction.

### ***Option 3: Require people to register A category firearms transactions after sale and purchase***

Another option is to require people to independently notify the registry that they've either sold or purchased an A category firearm. Police would then confirm the transfer of ownership of the firearm from the seller to the buyer. This is how vehicle transfers occur, with both parties independently notifying NZTA of the transaction.

In this process, there would be no discretion to limit the number of A category firearms per licence holder, because all Police would be doing is confirming the transaction after the fact. The information would still be available to Police however, to undertake checks on security and storage if a person holds a high number of firearms. This option provides a more timely option for the transfer of firearms between owners. As both parties are required to notify of the transaction, if one party forgets to, Police can follow up following notification by the other party to the transaction.

It is also less burdensome and potentially time saving to both the regulator and the firearms owner, because there is one less step to completing a trade, compared to the option above. Under this option, private sales between individuals could continue.

Implementation and compliance costs for Police are also manageable as the automated system is already under development to provide for restricted and prohibited firearms. The system could be expanded to include the private sales of A category firearms.

### ***Option 4: Dealer only sales for all firearms***

Another option would be to disallow/prohibit private sales altogether. All A category firearms, both new and second-hand, would be acquired and disposed of through a dealer.

The dealer would be required to be licenced (there are currently 493 licence dealers), and provide the details of all transactions to Police.

This option would allow for Police oversight, and possibly ensure a more accurate (in terms of the details of the firearm) record of all legal A category firearms transactions including the ownership and location of all A category firearms going forward. This is important as A category firearms are the majority of firearms in New Zealand.

However, it would also result in licence holders, primarily private individuals, facing increased compliance costs from the commission and administrative fees likely to be charged by licenced firearms dealers and potentially from the requirement to obtain a permit to possess. In Australia, only dealers are able to trade second hand firearms and, despite a cap being put on chargeable commission, licence holders do face increasing trading costs.

Dealers may not have the capacity to handle the thousands of A category firearms sales every year. It is likely that this option would in the longer term see an increase in licenced firearms dealers given the increased volumes of trading and commissions on sales, amongst other benefits. There would be some increased costs for Police from having to manage an increased number of applications for firearm dealer's licences and ongoing auditing procedures.

All Australian jurisdictions have prohibited private sales and require all firearms transactions to be conducted by or through a licenced firearms dealer.<sup>4</sup> This is largely due to the lack of an automated IT processes being available to Police in 1996 when the legislation came into force. Purchasers are also required to obtain a permit to acquire, which is a similar concept to New Zealand's permit to possess.

#### Considerations

At present, people may not make mail order sales of firearms and ammunition unless the purchaser has signed for the sale, and without an endorsement showing that a member of Police has inspected the purchaser's firearms licence and is satisfied that the purchaser is fit and proper to purchase that firearm or ammunition. In a modernised system, this process would be supplanted by the new permit to possess system for firearms and ammunition. For firearms, whichever option is decided for private sales should be applied in the mail order context as well. However, at present any person may sell ammunition, not just licence-holders, (this is discussed further in section 12 on ammunition).

Auctioneers are not in the business of buying and selling firearms, rather they are in the business of providing the platform or forum for buying and selling. They provide the means to negotiate and agree on price. Police envisages that online trading platforms and auctioneers would continue to auction legitimate firearms between legitimate sellers and legitimate buyers who have the correct permissions.

#### Options:

- Option 1: Status quo – allow private sales of A category firearms to continue without any checks and balances.
- Option 2: Require a permit to possess for A category firearms.
- Option 3: Require registration of A category firearms transactions after sale and purchase.

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<sup>4</sup> *National Firearms Agreement*, Council of Australian Governments, February 2017

- Option 4: Dealer only sales for all firearms.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of enabling the effective tracking of a firearm throughout its lifecycle (and therefore mitigating the risk that criminals exploit weaknesses in the firearms trading environment to acquire firearms).
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
Option 1: Status quo allow private sales to continue without checks and balances	Low Does not meet the purpose of the Act in ensuring personal and public safety.	Low Does not address the lack of oversight of private sales of firearms, so does not mitigate the risk of firearms leaking into criminal hands.	High No legislative or operational change required.	Low
Option 2: Require a permit to possess for A category firearms	High Addresses the public safety goal of restricting access and availability of firearms and reinforces that firearms are a privilege.	Medium Provides oversight of who is purchasing firearms, but will still require confirmation transaction has been completed. Thus high administrative burden for lower risk firearms transactions	Low Legislative change required, complex operational design, and additional resources available to pre-approve transactions.	Medium
Option 3: Require registration of A category firearms	High Addresses public safety goal of	Medium Provides oversight of	Medium Legislative change	Medium/High

transactions after sale and purchase	restricting access and availability of firearms and reinforces that firearms are a privilege.	firearms transactions and requiring two parties to notify of the trade provides a safety net that transaction will be captured.	required, some complexity in operation design but likely lower cost than option 2.	
Option 4: Dealer only sales for all firearms	High Addresses public safety goal of restricting access and availability of firearms to those that hold the appropriate authority	Medium Provides oversight of who is purchasing firearms by dealers, but will limit licence holders' ability to trade simply and at low costs. Thus high administrative cost/burden for lower risk firearms transactions	Low Significant change to market behaviour would be required and likelihood of non-compliance to avoid high costs would be more significant	Medium

**Which of these options is the proposed approach?**

Option 3 is recommended as the most effective and practical option. This option provides Police visibility over the private sales of A category firearms. This option is also likely be more acceptable to licence-holders, in that it has the lowest compliance costs, and allows individuals to maintain control over the sale of their A category firearms, albeit with some reporting requirements. The existence of an electronic registry will mean there is little advantage, in terms of public safety, from involving a third party i.e licenced firearms dealers, in the transaction process.

**Section 3.6: Exemptions from the ban on prohibited firearms, parts and magazines (section 4 A (1) of the Act)**

**Introduction**

The recent Amendment Act passed in April this year banned the possession of military style semi-automatics (MSSAs). The amendment provided some limited exemptions for certain groups that could demonstrate a genuine need to import, sell, and supply, possess, or use the prohibited items. There are two key groups affected by the prohibition – competitive shooters and manufacturers of firearms parts – for which further policy decisions are necessary.

## Section 3.6.1 Competitive shooting

### What is the problem?

No exception was made for those who up until 12 April may have used MSSA firearms in club, interclub, regional, national and international competition. The Select Committee report noted that they considered an exemption unnecessary because the amendments would not prevent people from competing in shooting disciplines at the Olympic or Commonwealth Games. The Select Committee also noted that the purpose of the amendments was to prohibit the use of most semi-automatic firearms in New Zealand, and that “providing an exemption for sporting competitors would allow more semi-automatic firearms to remain in circulation than we consider desirable for public safety.”

There were a number of public submissions received on this matter, predominantly from pistol clubs, which noted that the proposed amendments would mean that sports competition shooters would no longer be able to compete in national and international events using semi-automatic rifles and shotguns. Submissions noted that sports competition shooters, most of whom hold B (pistol) or E (MSSA) endorsements, are a responsible and legitimate user group that should continue to be able to participate in their sport.

Approximately 1,500 New Zealanders are involved in Pistol New Zealand national events with types of rifles that have been recently prohibited, of which currently less than 10 individually compete internationally. At the last national championships, 120 people took part in the MSSA rifle disciplines, including 40 individuals from Australia.

The problem is that up until 12 April, use of MSSAs in a sporting context has been growing. There are three classes of competitions held: Multi-gun and 3-Gun events run by Pistol New Zealand; NZ Service Rifle events; and NZ Deerstalkers Association centrefire events. There are 34 formally accredited target shooting sports competitions in New Zealand, with semi-automatic shotguns or rifles being used in five of these. Pistol New Zealand has over 90 affiliated clubs. It is estimated by these organisations that the number of shooters participating in these events could be as many as around 5,000. This represents about two-thirds of those who held E endorsements as of 31 March 2019.

### What options have been considered?

#### ***Option 1: Status quo – no exemption provided for competitive shooting***

Retaining the status quo would ensure public safety risks associated with the increased number of prohibited firearms, if an exemption were applied to sporting competitions, do not occur. This includes risks relating to the security and storage of the prohibited firearms when travelling to competitions.

This option would also avoid the significant administration costs to Police associated with the high level of monitoring compliance needed to oversee the use of MSSAs in sport.

#### ***Option 2: Provide for an exemption for competitive shooters that enables an ongoing sport in New Zealand***

This option would exempt sports competition shooters from the prohibition. It would enable new people to enter the sport but could, by virtue of stringent regulatory requirements, limit further significant growth in numbers of people and events to which the exemption applies.

The use of prohibited firearms for this purpose would take place in a club or range, and competitors in this sport must hold a specific sport shooter endorsement on their licence and

be a member of an approved club or range. This option is dependent on clubs and ranges being licensed under the current policy proposals for amendment to the Arms Act. This would enable the exemption to operate alongside tightly controlled eligibility and robust public safety measures.

In addition to the general requirements for a club or range to be licensed, a mixture of legislation, regulation and notices would set out the parameters of the sporting exemption, including:

- a requirement to be an approved club or range for the purposes of sport shooting with prohibited firearms
- specifying the classes of prohibited firearms and the types of shooting competition events for which prohibited firearms may be used, and alignment of these shooting classes with international rules
- a requirement to notify and seek pre-approval of Police for each sporting competition
- a requirement to have an annual training schedule, as well as an operator supervisor plan, both prepared in advance and approved by Police
- a requirement to have processes for incident reporting to Police
- the safety specifications for ranges that draw from international military standards of safety for shooting ranges, and balance what is practical and implementable in the New Zealand context<sup>5</sup>, and
- a requirement that (prior to any exemption becoming law) the shooter seeking exemption surrender their firearm to Police, or provide evidence to Police (through the registry) that the prohibited firearm has been transferred to a person who has a permit to possess the firearm and the correct endorsement.

#### Eligibility of competitive shooters

This option would limit eligibility to compete in New Zealand based competitions to New Zealand citizens or residents only. In addition:

- the fit and proper test for a competitive shooter licence endorsement would require additional referees over and above a standard licence fit and proper person test, as well as more rigorous safety training tests
- an exempted shooter would be endorsed for competitive shooting purposes and endorsement would be renewable every two years
- an exempted shooter would be required to demonstrate that they are actively working towards international competitions
- the ongoing secure storage and transport arrangements for shooters' prohibited firearms would be required to not pose a risk of theft and loss, with security arrangements on premises and in vehicles inspected when endorsements are renewed (or at any other time considered necessary as per the Arms Act).

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<sup>5</sup> Examples of current best practice for range design and development are: Ministry of Defence JSP403 (Joint Services Publication (JSP) 403 – Handbook of Defence Land Ranges Safety, Volume II – Design Construction and Maintenance of Small Arms, Infantry Weapon Systems and 30mm Weapon System Ranges). Range Design and Construction Guidelines produced by the Canadian Firearms Centre. The New Zealand Pistol Association Range Manual (2005).

This option would enable New Zealand competitive shooters to continue to participate in overseas events, and would enable them to train at New Zealand-based events under well-controlled conditions. This option enables people to compete in New Zealand based events in order to develop the necessary skill to be able to compete on the national and international stage. Thus, there would likely be local and regional competitions to flow through to the competition infrastructure at the higher levels, and any person, in practice, could become a competitive shooter. This may significantly limit the effectiveness of the prohibition and retain large numbers of prohibited weapons in circulation.

***Option 3: Enabling overseas visitors to attend exempted events***

Under this option overseas visitors would be able to attend New Zealand events for the purposes of competing using prohibited firearms. This proposal is based on concerns from PNZ which, in its submission, said that it wishes to grow this sport from a tourism perspective. PNZ signalled that preventing visitors that can lawfully compete with MSSAs in their home country from attending New Zealand based competitions could disrupt the principle of reciprocity in event-hosting within the international sporting community.

There is a risk that this option would grow the industry and that the development of a tourism market for firearms that have been prohibited in New Zealand, would send the wrong messages domestically and internationally.

***Option 4: Grandfather existing international competitive shooters***

This option entails exempting the people who, over the last five years, can show that they have already travelled overseas to compete in international competitions that utilise newly prohibited firearms. We understand that there are approximately 10 people who fall within this category currently. This group of people would be allowed to continue their training and competitions in New Zealand for the purposes of preparing for international events.

Similar parameters would need to put around this exemption as outlined in option 2 above. Some of these parameters may already be in place to some extent at pistol clubs. Thus grandfathered competitors could be limited to training at these pistol clubs.

A grandfather regime for certain competition using prohibited firearms was applied in Australia. If New Zealand follows the same path as Australia, this option may be able to be managed safely.

This approach would be consistent with the intent to limit the number of prohibited firearms in New Zealand yet creates a pathway for those who have invested time and resources into an activity. Given that lower level competition would be prohibited, it would not create a pathway to develop future international competitors and would ultimately lead to the sport dying out over time.

**Options:**

- Option 1: Status quo no exemption for competitive shooters to use prohibited firearms.
- Option 2: Provide for an exemption for competitive shooters that enables an ongoing sport in New Zealand.
- Option 3: Enabling overseas visitors to attend exempted events.
- Option 4: Grandfather existing international competitive shooters.

**Options Analysis:**

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Amendment Act to remove semi-automatic firearms from general circulation and use among the general population.
- Effectiveness: The extent to which the option addresses the policy problem of whether there is a genuine need to use a prohibited firearm for sports shooting.
- Practical: The extent to which the option is practical to implement.

**Assessment of each option against criteria**

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
Option 1: Status quo – no exemption for competitive purposes	High Addresses the public safety goal of restricting access and availability of firearms.	High Limited opportunity to continue this activity illegally because of the additional controls over prohibited firearms.	Medium No legislative change required and no additional cost to Police. High cost to sports shooters as firearms may be expensive.	High/Medium
Option 2: Provide for an exemption for competitive shooters that enables an ongoing sport	Low Does not meet the objective of the Amendment Act changes to substantially restrict access and availability of firearms. Risks pressure to expand the exemption for pest control to farmers.	Medium Would add costs to clubs and participants but retains a pathway for competition, may limit rate of growth but may not prevent a growth in the number of participants and the associated public safety risks.	Low Legislative change required. Substantial regime required for shooting ranges. Places reasonable auditing and monitoring costs on Police.	Low/Medium
Option 3: Enabling overseas visitors to attend exempted events	Low Does not meet the objective of the Amendment Act changes to substantially restrict access and	Medium Would add costs to clubs and participants but retains a pathway for	Low Legislative change required. Substantial regime required for	Low/Medium



	availability of firearms. Reputational risk in New Zealand.	competition, may not prevent a growth in the number of participants and the associated.	shooting ranges. Places reasonable auditing and monitoring costs on Police.	
Option 4: Grandfather existing international competitive shooters	Medium Balances the objective of the Amendment Act changes to substantially restrict access and availability of firearms, with the genuine sporting achievements of some competitors.	Medium Would add costs to clubs and participants potentially out of proportion to number of competitors, will not enable growth.	Low Places auditing and monitoring obligations on Police that may place pressure on resources particularly in the absence of full cost recovery	Medium/Low

### Which of these options is the proposed approach?

Option 1 is recommended as the option that best achieves the purpose of the Amendment Act, to restrict access and use of semi-automatic firearms among the general population. There is a risk that competitive shooters will choose to hold on to their firearms rather than surrender them through buyback. Offences and penalties for doing so could be sufficiently dissuasive.

## Section 3.6.2 Manufacturers of firearms parts

### What is the problem?

#### *Manufacturers of firearm parts*

The manufacture of suppressors requires the use of a small number of semi-automatic firearms to test the product prior to export, which now fall under prohibited firearms. Manufacturers that use firearms to test their parts will hold a general firearms licence with an E endorsement that prior to 12 April 2019 would have enabled them to use the prohibited firearm. They would not necessarily hold a dealer's licence as they are not selling firearms per se. A manufacturer of prohibited parts who does not test their product on a firearm could operate without a firearms licence.

MFAT has identified three manufacturers that collectively export more than 1 million suppressors per year<sup>6</sup>. Manufacturers state that they require the exemption to test their

<sup>6</sup> MFAT has noted that the number may be slightly higher than this, as the export permit is for the final product (e.g. suppressor) rather than the use of the prohibited firearm. Import permits are also problematic to investigate, as they are issued to individuals (who hold the relevant gun licence/endorsement) rather than the business that may be using the prohibited item. Police believes the overall number of businesses using prohibited firearms/parts to be small.

suppressors as it is not possible to test their parts on other non-prohibited firearms, and there will be a significant impact on their business if they are not permitted to keep using prohibited firearms in their testing.

The three businesses that currently manufacture firearms parts, such as suppressors and magazines have been unregulated until now. The suppressors are being exported for use in hunting, pest control, and by Police and Defence agencies in various countries. The magazines which include large capacity magazines have been designed for the domestic market although in their submission the business operator stated it had manufacturing plans to develop NZ assembled semi-automatic firearms.

To prevent these businesses becoming illegal on 12 April 2019, a transitional provision was included in the recent amendments (Regulation 28 E and F) to enable existing manufacturers to continue to use prohibited firearms or manufacture prohibited parts or magazines in order to continue to operate their business. The exemption expires in December 2020, so a decision is required as to whether the exemption should be made permanent.

### **What options have been considered to address the problem?**

#### ***Option 1: Status quo current transitional exemption will expire in December 2020***

The status quo would be to allow manufacturers of prohibited parts to continue to make, sell and export prohibited parts and to test them with prohibited firearms until the exemption expires in December 2020. After this date they would no longer be able to, possess, sell or supply any prohibited parts or test them using a prohibited firearm. All prohibited items remaining would need to be surrendered for destruction as holding them would no longer be legal.

#### ***Option 2: Provide a permanent exemption for manufacturers of prohibited parts for export***

This option would provide a permanent exemption under section 4A, through the issue on an endorsement. It would apply to manufacturers of prohibited parts intended for export (but not prohibited firearms or magazines which cannot be exported). This could also enable manufacturers with a genuine need to use prohibited firearms to test the prohibited parts before they are sold to the export market.

The endorsement process could be used to apply appropriate conditions and controls for exempted manufacturers (for example, security of the prohibited items at the place of manufacture and transportation to the place of export, limiting the number of firearms needed for testing and ensuring that their only use is for testing).

The exemption would apply to existing and to new manufacturing businesses. This would allow innovation and international business opportunities to continue for new businesses. Given semi-automatic firearms are only used for testing parts, the increase in the number of prohibited firearms in use would be nominal. As such there would be limited increased risk to public safety, and the administration costs for Police will remain similar to current costs, as manufacturers using prohibited firearms (previously MSSAs) will already have an endorsement on their licence.

Options:

- Option 1: Status quo – current transitional exemption will expire in December 2020

- Option 2: Provide for a permanent exemption for manufacturers of prohibited parts for export

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Amendment Act to remove semi-automatic firearms from general circulation and use among the general population.
- Effectiveness: The extent to which the option addresses the policy problem of manufacturers of parts for export no longer having an exemption to continue to use prohibited firearms from 2020.
- Practical: The extent to which the option is practical to implement

#### **Assessment of each option against criteria**

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
Option 1: Status quo no extension of the exemption past December 2020	High Meet the objective of the Amendment Act to substantially restrict access and availability of firearms.	Low Limits use of small number of firearms likely to pose low risk, and significant economic loss to business owners and communities.	High No legislative change.	High/Low
Option 2: Provide a permanent exemption for manufacturers of parts for export	Medium Balances the objective of the Amendment Act changes to substantially restrict access and availability of firearms, with the genuine business needs.	Medium Reflects low risk to safety, and avoids economic loss to business owners and communities.	Medium Requires legislative change. No increase in marginal costs to Police to monitor.	Medium

#### **Which of these options is the proposed approach?**

Option 2 is recommended as it uses the existing exemption and endorsement regime to enable genuine businesses to continue to manufacture parts for export. It is unlikely there will be substantive growth in the industry as it is a niche international market. The parts themselves do not as present a significant public safety risk provided strict conditions are put on the licence around secure storage and transport and use is limited to the business needs.

## Section 3.7: Options for ammunition sales

### What is the problem?

The Arms Act risk management regime places heavy emphasis on the management of high risk firearms, high risk users and high risk use but there is limited recognition of the risk to public harm that results from the ready access of ammunition.

The importation, sales and supply of ammunition is not well-regulated at present, including that:

- any person may import ammunition and any person may sell ammunition. There is no requirement for a seller to be a dealer or club with permission to sell or supply ammunition
- a seller is not required to keep records of sale of ammunition or of the buyer's licence number, or to report unusual ammunition purchasing behaviour to Police
- there are no restrictions on ammunition quantities that may be bought
- there are no restrictions on supplying ammunition to people who are not licence-holders.

The two points of ammunition regulation in New Zealand law are that:

- ammunition sales must always be to a licence-holder, and
- there is a pre-approval process via Police for mail order/online sales – but not for person to person sales.

The Christchurch attacker sought pre-approval from Police for online sales of ammunition from multiple different suppliers, some of which were dealers and some not. The new legislation remedies these problems for prohibited ammunition. Under new law it, would be an offence to import any prohibited ammunition into New Zealand (section 16 A) and an offence to possess, sell or supply any prohibited ammunition (section 43AA). This will apply when an Order in Council is established to list prohibited ammunition.

The problem is two-fold and involves a lack of oversight on ammunition sales and whether it is being sold only to firearms licensees as required by law. It is clear that criminals have been aware of the gaps in the control regime over ammunition as in many warranted and warrantless searches Police identify criminals possessing large quantities of ammunition but may only seize few or no firearms.

### What options have been considered to address the problem?

#### ***Option 1: Status quo: Retain current settings involving limited oversight of the importation and sales of ammunition***

The reasoning behind the current more relaxed treatment of ammunition is unclear. There are many outlets for ammunition both physical (petrol stations, farm supply stores, as well as licensed firearm retail outlets) and online stores.

It may be that the intention was to allow those who need ammunition (e.g. farmers and animal pest controllers) to have ready access while maintaining greater controls over the purchase and sale of firearms. The anomalous treatment of ammunition may simply reflect

that the policy makers did not anticipate the expansion of online or face to face private purchases both domestically and internationally.

***Option 2: Introduce a requirement to have a permit to import any quantity of ammunition***

This would provide oversight of ammunition importation necessary to see what the demand is for different types of ammunition. It would also prevent the importation of prohibited ammunition. This will encourage individuals to purchase ammunition via a dealer rather than directly from an overseas market. It may increase the price of ammunition if it cannot be bought directly, but margins are not expected to be significant.

***Option 3: Require anyone who, by way of business, sells ammunition to obtain a dealer's licence***

This will strengthen the opportunity to ensure ammunition is only sold to licence holders but may be onerous for those businesses, such as petrol stations and farm supply stores, who sell no other firearm-related items. A possible outcome of this may be that the smaller of these sorts of outlets decide not to stock ammunition. This could make acquiring ammunition by farmers for pest control in some rural areas harder.

***Option 4: Require a person who, by way of business, sells ammunition to obtain a firearm's licence and attach specific record and reporting conditions***

This fourth option would ensure ammunition is only sold to licence holders. The reporting conditions would include an obligation to report any unusual purchasing behaviours. This will strengthen the opportunity to ensure ammunition is only sold to licence holders, but may be less onerous for those businesses, such as petrol stations and farm supply stores who sell no other firearm-related items.

This fourth option would use the existing regulatory regime, but tailor the regulatory requirements specifically to suppliers and sellers of ammunition so as not to be as onerous as the requirements to be a dealer. Recording of ammunition sales could be done through a firearms registry.

Considerations:

Both of the last two options could be used in conjunction with the second option to provide an additional layer of oversight (i.e. at the front end – importing and at the user end – sales). The second proposal ensures that only the military can import prohibited ammunition and provides Police with oversight as to what ammunition is being imported and in what quantities. The third proposal is intended to ensure that ammunition is only being sold to firearms licence holders, and to identify any unusual purchasing.

There is no evidence that any of the proposals will reduce the availability of ammunition to licence holders. Those that will be affected by regulating ammunition sales include: dealers, farm stores, other general outlets which include ammunition in the wares they offer for sale, individuals who have identified the opportunity to support their firearms activities, and clubs who may sell ammunition to members.

For dealers the impact will be marginal to their business in that they may need to apply for an import permit if sourcing their supplies from overseas. However, dealers have all the other processes around checking firearms licences and record keeping to easily manage these regulatory controls.

For some outlets, such as Farmlands who stock no firearms items except ammunition, the impact will also be marginal. They are likely to source their stock from a New Zealand supplier, and they already have processes around records of who they have sold

ammunition to, including listing the firearms licence number on the sales docket. The marginal cost to them will relate to the retention and audit of records.

For pistol clubs the impact is also likely to be marginal. They already keep records of each member's club participation. However, if they wish to continue with the sale of ammunition they will be required to nominate a person to be the licensed seller. They will be able to offset any additional costs through club memberships.

Other clubs that are not currently registered will be required to nominate a person to be a licensed seller and meet reporting obligations or discontinue the sale of ammunition.

For individuals who want to sell ammunition, they will need to become a licensed seller and comply with the associated permitting, licensing and reporting requirements. Some smaller sellers will decide the benefit obtained from importing and resale is insufficient to offset the costs of meeting the regulatory requirements.

Options:

- Option 1: Status quo that there is no regulation on the sale of ammunition, only that the buyer must be a firearms licence holder.
- Option 2: Introduce a requirement to have a permit to import any quantity of ammunition.
- Option 3: Require a seller of ammunition to have a dealer's licence.
- Option 4: Require a person who, by way of business, sells ammunition to obtain a firearm's licence and attach specific record and reporting conditions.

Options Analysis:

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act that firearms use and ownership is a privilege and all people who operate in the firearms community have a responsibility, and a part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem of a lack of oversight on ammunition sales and whether it is being sold only to firearms licensees as required by law.
- Practical: The extent to which the option is practical to implement

***Assessment of each option against criteria***

	Criteria 1: Purpose	Criteria 2: Effectiveness	Criteria 3: Practicality	Net benefit
Option 1: Status quo - no regulation on sellers only on buyers	Low Provides no additional support for the purpose of the Act that all people who operate in the firearms community have a	Low Provides no additional oversight of who is importing and selling ammunition and what type and in what quantities,	High No legislative change required.	Low/High

	part to play in ensuring personal and public safety.	and whether it is being sold only to firearms licensees as required by law.		
Option 2: Introduce a requirement to have a permit to import any quantity of ammunition	High Supports the purpose of the Act that all people who operate in the firearms community have a part to play in ensuring personal and public safety.	High Would discourage individuals from purchasing ammunition from overseas. Creates a permitting system that enables Police to track imports and sales of ammunition.	Medium Requires legislative change.	High/Medium
Option 3: Require a seller of ammunition to have a dealer's licence	High Supports the purpose of the Act that all people who operate in the firearms community have a part to play in ensuring personal and public safety)	Medium Creates a system that enables Police to track imports and sales of ammunition. But may limit access to ammunition for some rural or isolated communities if local businesses do not want to get a licence.	Low Can be incorporated into the dealer regime. May be onerous for some businesses that only sell ammunition and no other firearms related items, and costly for smaller businesses to meet requirements of dealer licence regime.	Medium
Option 4: Require a person who, by way of business, sells ammunition to obtain a firearms licence and attach specific record and reporting conditions	High Supports the purpose of the Act that all people who operate in the firearms community have a part to play in ensuring personal and public safety.	Medium Creates a system that enables Police to track imports and sales of ammunition. But may limit access to ammunition for some rural or isolated communities if local businesses	Medium Can be incorporated into the dealer regime. May be onerous for some businesses that only sell ammunition and no other firearms related items, and costly for	Medium/High

		do not want to get a licence.	smaller businesses to meet requirements of dealer licence regime.	
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### Which of these options is the proposed approach?

Options 2 and 4 together are recommended as providing a proportionate level of regulation to the risks around the import and sale of prohibited ammunition and other ammunition, and will enable necessary oversight. It recognises that ammunition may often be sold by retailers who do not sell any other firearms related products. There is a risk that keeping records may dissuade some retailers who currently sell ammunition from continuing to do so. Police is aware that large rural stockist, Farmlands, are already set up to keep records and would like to encourage others to follow suit.

## Section 3.8: Modernising offences and penalties

### What is the problem?

The offences and penalties in the Arms Act require review for a number of reasons.

Some of the penalties for some offences may be unduly low because of the age of the Act, and also reflecting a different understanding of offending at that time (being considered more administrative rather than criminal).

They may not all meet Legislation Design Advisory Council (LDAC) guidelines. Issues include: some strict liability offences not having appropriate defences; mens rea elements for some of the offences could be clarified; the burden of proof falls on the defendant in some cases, rather than the Crown (which is prima facie inconsistent with the presumption of innocence).

New requirements that will be in the proposed bill (such as related to a Registry or licensing) may require new offences and penalties.

The Ministry of Justice, as part of its offence and penalty vetting role, has noted that there is an opportunity to revise the offence and penalty provisions in the Arms Act to ensure they are constructed coherently and consistently, and the penalty levels are appropriate.

### What options have been considered to address the problem?

#### ***Option 1: Status Quo***

The status quo is not feasible as the penalties are insufficient to be dissuasive. Further there are gaps in the offences regime. Together, these problems reduce the enforceability of the firearms regime.

#### ***Option 2: Amend the offences and penalties***

Modernise offences to ensure appropriate mens rea elements, defences for strict liability offences, removal of reverse burden of proof, penalties set at a commensurate and appropriate level (to both deter and address offending).



While some penalties will be increased, including maximum imprisonment terms, it is difficult to estimate what the impact on courts or prison beds may be, as many firearms offences are prosecuted along with other offending (including more serious offending).

Members of FCAF and others in the wider firearms community have expressed concern at the low level of penalties contained in the Arms Act. They consider more resources should be applied to controlling illegal use and not on controlling the activities of licence holders.

**Options Analysis:**

The above options are assessed against the following criteria:

- Purpose: The extent to which the option supports the purpose of the Act including that all people who operate in the firearms community have a responsibility, and part to play, in ensuring personal and public safety.
- Effectiveness: The extent to which the option addresses the policy problem.
- Practical: The extent to which the option is a practical approach to addressing the issue.

<b>Assessment of each option against criteria</b>				
	<b>Criteria 1: Purpose</b>	<b>Criteria 2: Effectiveness</b>	<b>Criteria 3: Practicality</b>	<b>Net benefit</b>
<b>Option 1: Status quo</b>	Low Offences with no defences, or inappropriate evidential burdens do not meet best practice. Unduly low penalties unlikely to deter, punish and publicly denounce harmful behaviour.	Low New offences and penalties can meet modern expectations, but the current offences and penalties would not be best practice.	Low No change required, but does not resolve the issues identified.	Low
<b>Option 2: Modernise offences and penalties</b>	High Expectations will be clear, offences and penalties will meet best practice, and penalties will deter, punish and publicly denounce harmful behaviour.	High Offences and penalties will meet best practice. Maximum penalties will appropriately reflect the worst case of possible offending.	Medium Both new and old offences and penalties would meet best practice.	High/Medium

### Which of these options is the proposed approach?

Option 2 is recommended as the option most likely to meet the objectives of guarding public safety and security by improving the controls around the ownership, use and trade of firearms. A complete list of new offences and penalties in line with Option 2 will be developed and approved by Ministers during the development of a Bill.

## Section 4: Conclusions

### What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

At present, the regulatory settings in the Arms Act 1983 do not enable sufficient controls for managing the risk of potential misuse. At the same time, legitimate firearms use is widespread and popular, both recreationally and for business purposes. The controls on firearms need to be comprehensive as they apply to items generally designed for lethal purpose. Society has allowed people to use these items but subject to assurance that there are tight controls commensurate to the risk they represent. This is because when things go wrong the impacts on third parties can be serious. The impact of firearms misuse falls on the families of victims, the communities in providing the support needed, and the costs to the taxpayer and government in the response required to deal with the situation. In the case of an event like the March 15 terror attack, this can be a huge cost running into many millions of dollars across many different agencies and organisations that respond. This event has had an unquantifiable impact on New Zealand, the ongoing risk of terror attacks and our community's perception of its own safety. The proposed changes are aimed at mitigating the more common societal impacts caused by firearms misuse (including but not limited to murder, threats of violence, suicide, accidental death, serious and permanent disability).

Our conclusions and proposals therefore reflect this. A registry would enable Police to have better oversight on the risks to public safety by having information on the lifecycle of firearms holdings, trading and transfer particularly into the illegal armoury. A strengthened licensing system across the board would enable more consistent decision making (further supported by the proposal to include clear purpose statement for the Act and updated penalties). While, for firearms licence applicants and existing licensees, it will mean greater transparency and certainty.

The recommendations are those that best fit with the purpose criteria to protect personal and public safety, and that firearms possession and use is a privilege. They are also the options that best address the specific policy problems identified where they are wider than the purpose of the Act.

Specific recommendations:

**Section 3.1** provides options for a clear statement of purpose in the Arms Act.

**Option 2:** Add high level purposes to reinforce the current long title of the Act

**Section 3.2** provides options for strengthening the general licensing decisions on who is a fit and proper person.

**Section 3.2.1** provides options for strengthening the general firearms licence regime

**Option 2:** A clear and enforceable three pronged fit and proper person test in legislation that includes: what constitutes a fit and proper person, what does not constitute fit and proper, and discretionary criteria to enable further information to be sought.

**Option 3:** An ongoing disclosure requirement on firearms licence holders around fit and proper criteria.

**Option 4:** An internal right of review of decisions.

**Section 3.2.2** provides options for strengthening the licensing regime by shortening the duration of the firearms licence

**Option 2:** Firearms licences are issued for five years.

**Section 3.2.3** provides options for strengthening the dealer licensing regime.

**Option 2:** An excellent character test for issuing a dealer's licence

**Option 3:** A clearer definition of a dealer, supported by set of intervention measures and compliance tools

**Section 3.2.4** addresses the lack of controls around the operation of shooting clubs and ranges

**Option 2:** Require club and range operators to meet an excellent character test.

**Option 3:** Licence all clubs and ranges, including pistol clubs.

**Section 3.2.5** provides options to address the use of firearms by visitors to New Zealand

**Option 2:** Prevent visitors from being able to buy a firearm in New Zealand or from being able to bring ammunition with them without an import permit

**Option 3:** Require visitors to demonstrate their fitness to use a firearm before they arrive

**Section 3.3** provides options to increase compliance and enforcement tools

**Option 2:** Increase inspection powers.

**Option 3:** Issue of Improvement notices.

**Option 4:** Power to suspend a licence and seize firearms prior to revocation.

**Section 3.4** addresses the need for a firearms registry to expand the collection of information

**Option 2:** Expand the registry to include all firearms.

**Option 4:** Collect forwards-looking and backfill information on A category firearms.

**Section 3.5** provides options for the trading of firearms

**Option 3:** Require registration of A category firearms transactions after sale and purchase.

**Section 3.6** provides options for exemptions on the ban of prohibited firearms, parts and magazines (section 4A(1) of the Act)

Competitive shooting

**Option 1:** Status quo no exemption for competitive shooters to use prohibited firearms.

Manufacturers of firearm parts

**Option 2:** Provide for a permanent exemption for manufacturers of prohibited parts for export

**Section 3.7** provides options for the sale of ammunition

**Option 2:** Introduce a requirement to have a permit to import any quantity of ammunition.

**Option 4:** Require a person who, by way of business, sells ammunition to obtain a firearm's licence and attach specific record and reporting conditions.

**Section 3.8** provides options for the modernising of offences and penalties

**Option 2:** Modernise offences and penalties

The intention is to provide perspective that the huge cost to society by misuse of firearms necessarily requires an element of greater regulation of the responsible fit and proper firearms licence holder to be effective in managing the risks. This regulation will mean more information be supplied to Police at the time of applying for/renewing a firearms licence, registration of firearms, an obligation to retain their fit and proper status or advise Police is any information changes.

For businesses or interests (such as collecting) that require more than a standard firearms licence there will be greater requirements to provide more information (excellent character test for dealers).

Currently the administration of the Arms Act is only partially cost recovered. Approximately 70% of the actual cost of providing the services and activities required are met by the Crown. Police has largely funded the administration of the Act from Vote Police.

## Section 4.1: Summary table of costs and benefits of the preferred approach

<b>Additional costs of proposed approach, compared to taking no action</b>			
<b>Affected parties</b> <i>(identify)</i>	<b>Comment:</b> nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks	<b>Impact</b> \$m present value, for monetised impacts; high, medium or low for non-monetised impacts	<b>Evidence certainty</b> (High, medium or low)

<p><b>Individual Licencing</b> (including impact of moving first time applicants to a five year licence term, followed by ten year licences)</p> <p>Regulated parties and regulator impacted</p>	<p>Moving to a five year licence term would effectively double the cost of licence application processing – costs are almost entirely marginal as they are labour intensive. Fees collected would also increase. The net effect is estimated to be \$5.08m-\$6.82m additional annual costs to Police.</p> <p>The current Licence application fee is \$110 ex GST. The cost to process an application is estimated at \$315-\$385 ex GST<sup>7</sup>.</p> <p>There may be additional costs to licence holders and Police from implementing and operationalising:</p> <ul style="list-style-type: none"> <li>• Legislated fit and proper processes</li> <li>• Additional fit and proper compliance</li> <li>• Rights of review processes</li> </ul> <p>The cost impact would likely be the work associated with more stringent fit and proper testing.</p>	<p>Annual average of \$5.08m-\$6.82m net increase in costs to Police which would be incurred when the first cohort issued with five year licences apply for a licence.</p> <p>(The total takes in to account licence holder fee contributions of \$2.75m)</p>	<p>Medium</p>
<p>Dealer licencing – impact on regulated party</p>	<p>An excellent character test and additional compliance and set of intervention tools; there are character test and regulations in place</p>	<p>Not estimated – dependent on additional requirements on dealers</p>	<p>NA</p>
<p>Club registration and club oversight</p> <p>Cost on regulator in the absence of cost recovery</p> <p>Some unknown costs on clubs</p>	<p>Based on an estimated 260 new club registrations:</p> <ul style="list-style-type: none"> <li>• An estimated cost is \$435-\$520 per club.</li> <li>• Club re-registration costs have been estimated at a fee of \$840-\$1,010 for each club. The estimate is based on re-registration every five years</li> </ul>	<p>\$115k-\$135k one off</p> <p>\$45k-\$55k per year</p> <p>\$590k-\$715k for all clubs on a one-off</p>	<p>Medium</p>

<sup>7</sup> In 1998, the cost to Police of issuing a Firearms Licence to an applicant was estimated at \$270 by NZ Treasury. The fee for the ten year licence was set at \$126.50 incl. GST due to concerns about potential low compliance following the move from a life-time licence to a ten year licence. Over time, costs have increased The cost to process a licence application is estimated at \$360-\$440 which covers:

- direct personnel costs (Arms Officers, Vetting Staff, Administrative Support and Sworn Officers)
- direct costs (travel and resources)
- indirect costs (overheads including ICT, property).

	<ul style="list-style-type: none"> <li>• Certification of ranges \$2,500 to audit against recognised standard.</li> </ul>		
<p>Visitor licensing</p> <p>Cost on regulator in the absence of cost recovery</p>	<p>An additional 380 import permits based on current visitor licences processed per year extended to ammunition</p>	<p>\$15k-\$20k per year</p>	<p>Medium</p>
<p>Register and Trade of Firearms</p> <p>Cost on regulator in the absence of cost recovery</p> <p>Regulated parties will experience marginal unknown costs associated with demands upon their time</p>	<p>Registry updates from licence holders including new registrations, changes in ownership, and other updates</p> <p>Approximately \$22-\$30 per change.</p>	<p>\$5.7m-\$6.9m for licence holders on application for licence over 5 years</p> <p>\$0.88m-\$1.10m ownership change processing per year</p>	<p>Low</p>
<p>Register IT related costs</p> <p>Cost on regulator in the absence of cost recovery</p>	<p>Capital spend register/licensing system within in-flight programme. Includes build, testing, integration, and contingency. Inter-agency data sharing.</p> <p>Ongoing operating costs including licencing, support, depreciation and contingency.</p> <p>Includes training, travel, change management. This is for a basic register of information. It will require additional development and costs to include all the processing abilities proposed.</p> <p>Ongoing costs of administration of firearms laws.</p> <p>Ongoing cost of training of Police staff and building Police capability and monitoring of register.</p> <p>Administration and enforcement of the licensing regime.</p>	<p>\$4.4m-\$5.3m Capital includes registry and data sharing capital costs.</p> <p>Annual operating costs \$0.95m-\$1.37m</p>	<p>Medium</p>

<p>Exemptions from the ban on prohibited firearms, parts and magazines (section 4A(1) of the Act)</p> <p>Cost on regulator in the absence of cost recovery</p>	Status Quo	No impact	High
<p>Ammunition and parts imports</p> <p>Cost on regulator in the absence of cost recovery</p> <p>Regulated parties will experience marginal unknown costs associated with demands upon their time</p>	<p>Allowance for ammunition import permits. Over 2015-2018 the average annual level of imports has been approximately \$19m. Assuming an average consignment \$5,000 value the number of permits would be 3,000 per year at a \$22-\$30 each or \$84,000-\$114,000</p> <p>For coverage of other parts an assumption of an additional 3,000 permits per year at a \$22-\$30 each or \$84,000-\$114,000</p>	Ongoing annual costs of \$0.97m-\$1.17m	Low/ Medium
<p>Other: Advisory board</p> <p>Cost to regulator</p>	<p>Chair plus up to 8 ordinary members including secretariat, fees (less absences), travel, and sundry expenses. Quarterly meetings. Allowance included for stakeholder engagement.</p>	Annual \$208k-\$252k	Medium
<p>Other: New applications for C endorsement from those currently holding only E</p> <p>Holders of A firearms licence applying for a C endorsement and competitive shooter exemptions</p> <p>Cost on regulator in the absence of cost recovery</p> <p>Regulated parties will experience marginal small unknown costs associated with additional demands upon their time</p>	<p>Endorsement services require Police to carry out the following:</p> <ul style="list-style-type: none"> <li>• site visit(s) – checking security every three years</li> <li>• processing of applications for an endorsement</li> <li>• produce and issue endorsed licence card</li> <li>• issue licence card after endorsement</li> <li>• receive fees</li> </ul>	\$219k-\$264k at time of application (every five years) \$390k-\$470k one-off	Medium
<p>Other: Unquantified</p>	<p>Due to insufficient data, ambiguous impact and low quantum the following have not been quantified:</p>	Not quantified	Low

	Compliance/ enforcement with possible long term neutral costs Depending on changes arising Police prosecution and Crown Law costs		
Wider government	Discussed more fully in Section 2 summary of this document (Where do the costs fall). Police expects there may be some additional costs to the Ministry of Justice and the Department of Corrections.	Not quantified	Low
Other parties	Not defined	Not quantified	-
Initial costs Cost on regulator in the absence of cost recovery Regulated parties will experience costs of range certification if not already obtained	Registry and data sharing capital investment initial and ongoing costs.	\$7.7m-\$9.3m	Low/ Medium
Ongoing operating costs (annual)	The total operating cost includes: <ul style="list-style-type: none"> <li>• Ongoing registry costs</li> <li>• Movement to five year licencing</li> <li>• Advisory Board</li> <li>• Club and range monitoring</li> <li>• Import permits</li> <li>• New collector endorsements</li> </ul>	\$36.1m-\$43.7m 2019/20-2026/27 and \$9.0m-\$10.9m in out years.	Low/ Medium

<b>Expected benefits of proposed approach, compared to taking no action</b>			
Affected parties (identify)	Comment: nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks	Impact \$m present value, for monetised impacts; high, medium or low for non-monetised impacts	Evidence certainty (High, medium or low)
Regulated parties	Electronic system for easier licence application and renewal – (but paper based for the small number of people without internet access). This has been developed with much input by the firearms community.	High	High
	Electronic system to record all trades, providing certainty of provenance for buyers and certainty of identity for sellers.	Medium	High



	<p>Greater transparency and consistency of the rules and decision making</p> <p>A decision review panel to make challenges more accessible.</p> <p>Improved controls should see a reduction in firearms deaths, injuries and accidents.</p>	<p>High</p> <p>High</p> <p>High</p>	<p>High</p> <p>High</p> <p>High</p>
Regulators	<p>Improved oversight of the possession, trade and transfer of firearms, the operation of clubs and</p> <p>More robust processes for establishing someone's suitability for a firearms licences.</p> <p>Greater intervention powers to get non-compliant behaviour back on track quickly.</p> <p>Putting the rules and criteria into legislation should translate to better enforceability.</p>	<p>High</p> <p>High</p> <p>Medium/High</p> <p>High</p>	<p>High</p> <p>Medium</p> <p>Medium</p> <p>Medium</p>
Wider government	<p>Improved controls should see a reduction in firearms deaths, injuries and accidents.</p> <p>Increased transparency by having criteria in legislation should translate to fewer challenges to Police decision making and fewer court actions.</p>	<p>High</p> <p>Medium</p>	<p>High</p> <p>Medium</p>
General public	<p>Improved ability to identify risks and better controls should translate to a safer society for New Zealanders, while enabling firearms users to continue their activities.</p>	<p>High</p>	<p>High</p>
Total Monetised Benefit		<p>Not quantified</p>	<p>Not quantified</p>
Non-monetised benefits		<p>High</p>	<p>High</p>

## 4.2 What other impacts is this approach likely to have?

The impact of the proposed changes for standard firearms licence holders will initially be low and will mostly occur gradually as they renew their firearms licences and are required to register their firearms holdings. At the same time, significantly increasing the penalties for not having an appropriate licence – which may disproportionately affect licence holders. For other stakeholders such as dealers, clubs and ranges, and collectors and heirloom holders the impact will be more immediate and Police is developing a transitional planning and communications programme to help these groups to transition smoothly.

## 4.3 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

Yes. The revised regulatory system has clear objectives against which the proposals have been measured. The resultant preferred option minimises costs on the firearms community but also increases the responsibility of the firearms community and Police.

# Section 5: Implementation and operation

## 5.1 How will the new arrangements work in practice?

The proposals will be given effect by legislative amendment to the Arms Act 1983 to incorporate them into the current regulatory regime. Government has signalled its intention is to introduce the Bill into Parliament in 2019 and for all stages to be completed so that it will come into effect in 2020. New Zealand Police will be the responsible agency for implementing and administering the legislation. The Ministry of Justice will have a role in respect of firearms offences.

Some parts of the legislation will be enabling and require the development of regulations before they can be implemented. These are expected to be developed in 2020 to give full effect to the changes.

There will be some immediate changes following enactment that firearms users and businesses will need to be prepared for. Police is developing a plan to fully scope the communications needs and the messages to deliver to the firearms community and the public in general that support the changes. In particular the messaging around firearms use being a privilege and that a safe firearms environment requires the co-operation and involvement of all.

Service delivery and operational requirements of the proposals once the legislation comes into force will be significant and Police has begun scoping what will be needed to ensure that it is ready to deliver those changes. In particular, will be the need to have the capability to deliver the strengthened licensing system which will have capability implications both centrally and across the Police districts.

Police has scoped the development of an information based registry to include A category firearms. The proposal to include A category firearms could be implemented by the end of 2020. A more detailed project plan will be developed that will include transition and implementation considerations.

Where relevant, transition issues have been addressed in the individual analysis. Police will bring any transitional risks together to create a comprehensive plan to address these.

## 5.2 What are the implementation risks?

As most of the proposals put forward in this Regulatory Impact Statement are extensions of existing operational functions Police is confident that it already has the knowledge and experience to implement the proposals.

However, the proposals do represent a step change in regulatory control and tools and there is a risk of underestimating the staffing and training requirements designed to deliver the changes. Ensuring there is an outreach plan and communications package for licence holders and the firearms community will be critical successful implementation and compliance. To mitigate this Police will carefully scope the changes and their practical impact in order to be as prepared as possible.

The implementation costs will fall to Police so to ensure that there is sufficient funding to meet Police's administrative obligations, Police will develop up costings for the proposals to a more accurate level than stipulated in this document which provides only an indicative estimate for readers.

## Section 6: Monitoring, evaluation and review

### 6.1 How will the impact of the new arrangements be monitored?

There will be a reduction in movement of firearms into illegal hands as shown in reduction in number and types of firearms reported stolen.

Over time it will become easier to trace illegal firearms seized and firearms used for criminal activity back to source.

The ability to transact firearms purchases with an expired licence or to make multiple purchases across multiple retailers without the Police becoming immediately aware will disappear.

Police and other first responders will be more aware of the likelihood of firearms being present when they respond to a situation (based on data from the licence and registry data base).

Data on implementation of firearms regulation, including some aspects of enforcement are already being collected through the "Firearms Summary Report".

Ongoing centralisation of activity means that Police expects an increase in the timeliness of critical data relating to illegal behaviour by firearms users being made available. This will be assessed using system level processes, using data sets already being collected including the "Firearms Summary Report, and that held on a newly implemented firearms registry.

New data from a firearms registry will enable Police to quantify and track firearms ownership in a more comprehensive manner than is currently possible. A greater knowledge of who holds firearms, how many and what type will also support the Police in continuing to ensure public safety.

Additionally, monitoring of changes to licensing and registration will be monitored through customer engagement and satisfaction surveys seeking feedback on the electronic process. Additionally, if the proposed Commissioner's Stakeholder Advisory group is

progressed, this can be used to gather stakeholder input into the efficacy of proposed changes.

Sentencing notes from criminal cases to establish if there are less firearm possession cases as leakage into the system dries up due to tighter controls. Less civil cases as more people accept Police licensing decisions due to a more transparent process.

Police considers that should an online and largely electronic reporting system be adopted that efficiency gains should free up Police resources.

## 6.2 When and how will the new arrangements be reviewed?

Police intends to develop new information systems and new operating models for regulatory stewardship of the firearms regime.

However, the Act and its delivery should be tested after five years. We expect a review would cover:

- the structure of the Act and its regulatory effectiveness
- the functional arrangements for the firearms regime
- the offences and penalties scope, burden of proofs, levels and terms of penalties
- Consideration of the systems for cost recovery, given the benefits of firearms possession and use are largely private.

Should monitoring or feedback demonstrate that users are not registering firearms or failing to declare firearms when renewing their licence this would prompt an earlier assessment of the proposed changes.

Stakeholders will have the opportunity to provide feedback through the select committee process. There will also be the opportunity to raise concerns through the proposed Commissioners Stakeholder Advisory Group.