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12 January 2018

## **Submission to Regulatory Impact Statement – Firearms Regulations 2018**

The Combined Firearms Council of Victoria (CFCV) welcomes the opportunity to comment on the Regulatory Impact Statement for the proposed Firearms Regulations 2018.

The CFCV represents the political interests of seven of Victoria's major shooting organisations, with a collective individual membership of approximately 50,000 licenced shooters in the state.

### **Key points of our submission:**

- 1. We generally support the proposed regulations which do contain some positive initiatives**
- 2. Fees increases for permits to acquire firearms and for shooting club approvals are excessive and should be reduced in line with CPI**
- 3. Any funding shortfall can be made up by removing the primary producer waivers and efficiency gains within Victoria Police**
- 4. The benefits of the shooting sports are understated which affects the relative merits of other public benefit claims in the RIS**

### **General support for proposed regulations**

Subject to the issues raised in this submission, the CFCV generally supports the proposed regulations.

We see the:

- introduction of pensioner discounts;
- inclusion of Field & Game Australia as a prescribed organisation for the purposes of nominating members to the Firearms Appeals Committee; and
- maintaining junior licences at current levels

among the positive changes.

## Issues

### Ongoing improvements

The main item the CFCV would like to focus on relates to the opportunity for Victoria Police to find efficiency gains to better match the regulatory effort they expend to the regulatory requirements of the *Firearms Act 1996* (the Act).

At this point we would like to acknowledge the efficiencies which Victoria Police has found through improvements to its systems. Section 4.6.1 of the RIS lists examples which include:

- the introduction of BPay for licence payments;
- expanding the Online Dealer System to more dealers; and
- the removal of the requirement to have a bank stamp on payment notices.

However, the RIS and advice from others suggests there is still some misalignment between the regulatory effort expended by Victoria Police and Parliament's intent. Put another way, there are still some opportunities for streamlining regulatory processes to improve the operation of the regulatory framework which the proposed regulations can still able to address.

### Permits to acquire

The RIS proposes increases in the fees for permits to acquire Category A and B firearms. The current fees are \$9.20 and it is proposed they be increased to \$17.60 for Category A and \$19.90 for Category B.

The current fees, which were set in 2008, were not indexed, while other fees were. We agree that this is inappropriate and the fees should be expressed in fee units to allow for future CPI adjustments.

However even allowing for CPI increases of 3.5% per annum, the CFCV suggests the current fee levels for Category A and B firearms should be around \$12.50, not the proposed higher levels of \$17.60 and \$19.90. We also note that it is proposed that club approvals increase by 59%

In the absence of any changes to the Act which has increased the regulatory burden or affected how it is to be administered over this period, it is difficult to see what justification there may be to exceed CPI increases.

The CFCV understands that it is not possible to limit fee increases while freezing others (such as junior licences) without creating a funding shortfall. However, this can be addressed through:

- the abolition of the waiver for primary producers; and
- imposing resourcing caps on Victoria Police to drive efficiency gains which can be achieved over time.<sup>1</sup>

A further reason we should be seeing efficiency gains is with the growth in the number of licences and permits issued over the past few years. This create opportunities for increased economies of scale and scope in processing transactions which should lower costs without any impact on public safety.

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<sup>1</sup> There is no suggestion or evidence which suggests this would affect the integrity of the licensing regime. If there is evidence to that effect, Victoria Police should demonstrate that to the Firearms Consultative Committee.

Section 8.3.5 discusses such an opportunity which illustrates the point. That section discusses the option of bulk discounts for bodies corporate applying for very large numbers of permits to acquire. The narrative suggests Victoria Police's systems do not allow for bulk processing and the Department considers this change should not be progressed. However, this explanation seems to ignore what any rational business faced with an opportunity to lower costs would do.<sup>2</sup>

Section 4.6 discusses the efficiency of the cost base. The principle set out in the second paragraph in that section is the appropriate view to take. While the discussion immediately following that paragraph is on jurisdictional comparisons, it does not follow that other jurisdictions provide reasonable benchmarks, as they tend to suffer from the same problems: limited expertise in being a regulator (as opposed to policing) and little or no incentive to innovate.

Rather, the CFCV suggests better benchmarks may be able to be found in other industries.

#### Primary producers

As noted above, the CFCV belies the waiver for primary producers is outdated. The main rationale provided in the RIS for its continuation is the public benefit of pest control.

Page 58 of the RIS refers to two reports which identify the likely costs of invasive pests (and plants). Neither report demonstrates the contribution primary producers make to addressing those issues: they only state the cost that invasive plants and pest impose on the community.

The other main argument put forward in support of the waiver is that it was put in place in 1972 and is also available in NSW. However there has been significant changes to the regulation of firearms since then, which means the policy rationale and the environment in which firearms are regulated, are simply no longer relevant.

Here are the reasons we offer for removing the waiver:

1. Primary producers are not the only entities who conduct pest control activities.

The Sporting Shooters Association of Australia (Vic) has an MOU on pest control and advice on its website; the Australian Deer Association has similar interests as noted in its objectives on its website; and the Victorian Hound Hunter also provides advice to its members on pest control on its website.

Further schedule 2 to the Act includes pest control as a condition for hunting licences. The scale of pest control by persons other than primary producers is likely to be far greater than the scale of pest control by primary producers.

2. In 2016/17, the Victorian Parliament held an *Inquiry into the control of invasive animals on Crown land*. The Government's own response noted the roles recreational hunters, volunteer shooters and professional shooters play in pest control. It did not mention primary producers.
3. Primary producer activities are limited to their properties while pest control by others is occurs outside those properties (including crown land). The government administers a wild dog bounty for pest control, which is mainly used by recreational shooters.

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<sup>2</sup> This raises a question of whether Victoria Police is the appropriate body to manage licensing when it may be able to be done more efficiently elsewhere. That is a question which falls outside the scope of the review, but highlights the need for regulatory settings to support and incentivise efficient arrangements, even if the regulator chooses not to implement them.

4. The costs of licences for primary producers is tax-deductable.
5. Pest control as a justification without similarly recognising the sporting benefits of the shooting sports (which is discussed in the next section) implies the former has a greater public benefit than the latter.

Without denigrating the importance of pest control by primary producers, the CFCV argues that the value of the shooting sports has been significantly understated which affects the relative merits of waivers.

As it is not practicable to waive fees for all shooters on the basis all activities produce public benefits, we believe the only sensible solution is to have a level playing field with no waivers at all (apart from other concessions outlined in the RIS).

The revenue from abolishing the waiver (approx. \$2m) can be redistributed to offset any revenue shortfalls Category A and B permits to acquire at \$12.50 might create. In our estimation, this would cover about half the shortfall, in which case the remaining shortfall can be covered through efficiency gains as noted above.

On page 59, the RIS poses a question about what impact would an end to the waiver have on pest control activity. We submit ending the waiver would have no impact on primary producers because they also use firearms to destroy injured stock, and as noted above, can claim their costs on tax. The removal of the waiver will not affect the ability of primary producers to conduct their businesses.

#### Renewal of licences.

The CFCV notes that the RIS discusses issue and renewals of licences in the same way. The term “*issue or renewal*” appears six times and “*issue and renewal*” three times.

This implies that the processes are similar.

Section 41 of the Act sets out the process for applying for a renewal. The Act only requires an individual applicant to complete a form, list firearms in his / her possession and pay the relevant fee.

This means that for most renewals, the process for renewing their licences will be significantly less than the process for applying for their first licence under Part 2 of the Act. However, the proposed fee structure does not suggest this.

It is therefore our view that the fee for renewing a licence should be separated from the discussion on issuing licences, and reduced to reflect the lower burden imposed by the Act (rather than the processes which Victoria Police has in place).

As with the discussion above on permits to acquire, reducing the fee for renewals to a lower level to reflect the regulatory intention, places an obligation on Victoria Police to ensure its administration is efficient. This will reduce the cost base upon which fees have been calculated.

#### Benefits of the shooting sports

As noted above, the RIS understates the benefits of the shooting sports. In section 2.2, the benefits of firearm use are not limited to the enjoyment of individuals. The economic benefits are real: the CFCV notes the reference to the economic value of hunting in the RIS. **Attachment 1** is a letter from the Donald Chamber of Commerce and Industry to Field & Game Australia demonstrating the value of what they do to the local community.

The CFCV's own work puts the benefit of the broader range of shooting activities (eg hunting, target shooting, pest control and gun collecting) to the community well over \$1bn per annum.

There are also health and societal benefits which the sport offers. These non-financial benefits explain why shooting is popular and why it supports approximately 400 clubs in Victoria, run by volunteers.

The 'positive externalities' of the shooting sports are noted on page 44, but in a limited way. They are discussed again in the context of pensioner discounts on page 64, where the RIS correctly notes the societal benefits offered by the shooting sports: these are equally applicable to non-pensioners.

The CFCV suggests that the benefits of the shooting sports are at least equal to the benefits provided by primary producers.

Page 65 poses questions about whether concessions for older licensees is appropriate given it will result in a subsidy from general revenue. Yes, it is appropriate.

## **Other matters**

This part of the submission deals with other matters, including commentary on the appropriateness of some claims in the RIS, and in response to some of the consultation questions asked.

### Safety

On page 17 it is stated ricochet injuries in shooting ranges are possible. While this has occurred, it is exceedingly rare and used out of context. It was not an appropriate comment to make.

### Illegal market

Similarly comment on page 17 and on 18 about the diversion of legally held firearms to the legal market overstate the problem. While the comments were referenced a data source (footnoted), closer examination of that source reveals the problems with the analysis: at clause 2.67 of that source, former Federal MP David Hawker said that the data used is not complete and open to interpretation and exaggeration by vested interests.

The claims in the RIS by the author and regulator are made out of context and should not have been put forward in the manner they were. The CFCV has a history of challenging Victoria Police over this issue and is yet to see evidence of the extent of the problem and its relevance to the regulated sector. That said, some firearm thefts do occur, and need to be prevented.

### Appearance laws

Pages 31 and 32 refer to issues with chassis kits. While I will leave that to handgun organisations to comment on, the reference to this being a problem on the basis that it changes the appearance of a firearm as being "intimidating and militaristic" is a simplistic and emotional view of the world.

This raises other issues which are outside the scope of the regulations, but we make the point that this reference should have been left out.

### Infringements and cautions

We note the point at footnote 33 regarding the use of discretion in whether issue infringement notices and earlier reference on page 22 of there being 21 cautions issued in 2016/17.

While we cannot comment on these numbers (as we do not know the circumstances in which they were issued), we support the use of discretion by officers where it addresses minor matters of non-compliance.

### Role of Victoria Police

Comments on pages 38 and 39 suggest that Victoria Police sees its role as a market maker, by proposing changes which limit the number of firearm dealers able to sell category D and E firearms.

We do not see decisions relating to market design as a role for Victoria Police and raises a recurring concern about the involvement of Victoria Police in policy matters. As such, it was not appropriate for that comment to be included.

### Junior licence fees

Questions on page 60 ask about the impact of junior licence fees on participation. We concur with the rationale for maintaining fees at their current level and believe they are important for the future of the sport, which provides a broader benefit for the community.

Well over half of Shooting Australia's High Performance Squad (which represents Australia in the shooting events at the Olympics and Commonwealth Games) took up shooting as juniors.

### Fee for reviews of licensing decisions

Questions on page 62 ask about what impact would an increase in decision review fees on firearm licencing have on the assessment process. We support the retention of the existing fee (as is proposed). This ensures access to review remains accessible and provides an incentive on the regulator to ensure its decisions are properly justified.

### Handgun target shooting annual reports

Section 8.3.4 of the RIS proposes that handgun target shooting annual reports no longer require serial numbers. Subject to the views handgun organisations may wish to offer, this would seem logical given, as the RIS states, Victoria Police has no need to collect that information.

### Non-regulatory activities

The CFCV appreciates the effort to which the Department went to separate out costs which do not relate to regulated activities however we believe some project costs may have been inadvertently left in.

These include:

- processing the surrender of firearms during amnesties;
- a trial targeted those applying for permits for their 11<sup>th</sup> Category B firearm to provide greater justification; and
- projects to increase storage inspections beyond those required to ensure compliance with Schedule 4 of the Act.

These activities should be funded by taxpayers rather than licence holders because they are not required under the regulatory framework. Page 48 of the RIS notes ad hoc attendance at the opening of duck season, which is a cost due, in a significant part, to protestor activities.

Without more information on what the costs of these activities are, it is not possible to comment on what the impact might be – but the principle of ensuring that licenced shooters do not pay for the costs imposed by others is important to us.

## **Matters outside the scope of the regulatory review**

### Matters relating to the Act

Section 8.4 of the RIS lists a number of issues which are (correctly) noted as relating to the Act rather than the regulations (such as fingerprinting of handgun licence holders and the duration of firearm licences).

The CFCV would support a limited review of the Act confined to those matters raised in the RIS. This should be subject to oversight by the Firearms Consultative Committee, or CFCV.

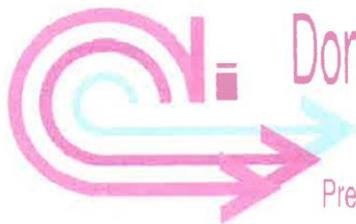
### Storage at dealer premises

Appendix 1 raises an issue of fee incentives to help firearm owners store firearms at dealer premises. The CFCV recommends the Department pursue this with the Firearm Safety Foundation of Victoria. The FSFV has a contract with the State Government to develop initiatives which improve firearm safety, including matters relating to storage.

This can be coordinated through the CFCV.

Yours sincerely

Neil Jenkins  
Secretary



## Donald Chamber of Commerce & Industry

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President: Shane O'Shea - 5497 1222 Secretary: Sandra Harris - 5497 1827

Rod Drew  
C.E.O  
Field and Game Australia.

22<sup>nd</sup> March 2102.

Hi Rod,

Last night the Donald Chamber of Commerce and Industry held a General meeting during which the success and benefit of Duck Opening to Donald was raised.

Positive feedback was received from food businesses, hotels were well patronized, motels, restaurant, fuel stations, supermarket some claiming "best ever."

The influx of visitors to Donald certainly had the town buzzing. Rural country towns such as Donald have experienced droughts, floods and poor seasons and this is a great boost for the economy.

The behaviour of shooters was exemplary and you are most welcome again.

Yours Respectfully,

Sandra Harris.  
Secretary  
Donald Chamber of Commerce and Industry