

23 October 2019

## **Arms Legislation Bill**

### **Supplementary Submission by the Council of Licenced Firearms Owners**

1. This supplementary submission is not endorsed by the submitters who signed our primary submission. They have not seen it. The purposes of this submission are:
  - a. to highlight the absence of evidence that a registry will prevent or reduce the supply of firearms for unlawful purposes;
  - b. to show that licensed firearms owners are most likely not the major (or even a significant) source of illegal firearms in New Zealand;
  - c. to emphasise the importance of seeking directly more information from other jurisdictions; and
  - d. to recommend stated purposes for secure storage regulations and requirements and to protect against pointless prescription.

### **Sourcing of illegal firearms**

2. New Zealand Police have argued that the key source for illegal firearms is from licensed firearms owners. This information appears to be anecdotal at best. When COLFO sought further information, OIA responses included an 'intelligence report' relied on by Police which stated –

“Burglary from licensed owners is likely to be a primary source of firearms for criminals, although this has never been established definitively.”<sup>1</sup>
3. Police data shows that they are consistently recovering more firearms than are reported stolen per annum, see the table below.<sup>2</sup> This indicates that theft from licensed firearms owners is unlikely to be the primary source of illegal firearms.

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<sup>1</sup> 'Firearms availability in New Zealand' – 2016 Summary, at 35.

<sup>2</sup> Police OIA response, dated 20 November 2017, reference: 01/2128/350.

*Table of firearms seized and firearms recorded as stolen: 2012 - 2017*

Year	2012	2013	2014	2015	2016	2017
<b>Seized firearms</b>	835	907	974	950	1,242	866
<b>Firearms recorded as stolen</b>	428	507	667	741	830	527

Source: New Zealand Police

4. Australian data shows that 88% of seized rifles and shotguns could not be traced back to their source – these are firearms that *should* have been registered or surrendered following law reforms after the Port Arthur Massacre.<sup>3</sup>
5. Incidentally, this highlights the importance of giving licensed firearms owners fair compensation. If they are left with resentment about state ‘theft’, or simply want to avoid financial loss, we risk having a significant number of firearms enter the grey and black markets.
6. New South Wales Police came to the opposite conclusion in their own jurisdiction to our Police, stating “the figures for firearms thefts do not appear to support the contention that they are a major source of firearms fuelling gun crime in NSW.” Information from New Zealand Police states that in 2018, there were 625 reported stolen firearms.<sup>4</sup> Assuming (conservatively) each firearms licence holder has an average of two firearms that means that 0.1% of firearms held by licence holders were taken illegally last year.
7. Police state “the discovery or recording of illicit firearm origin is not a primary focus in [police] investigations.”<sup>5</sup> It is unknown how many illegal firearms come into New Zealand each year – to deduce that most unlawful holding comes from burglaries of licensed firearms owners is speculation.
8. Australian authorities acknowledge that they cannot determine the size of their illegal firearms stockpile but UN estimates state that the global illegal firearms market is approximately 10-20% of the legal firearms market.<sup>6</sup> Using the lower estimates (from the UN and our Government’s estimate of our civilian firearms numbers) there would be 120,000 illegal firearms in New Zealand – significantly more than has been acknowledged by New Zealand authorities.<sup>7</sup>

<sup>3</sup> Fact check: Where do Australians get illegal guns?, ABC News, 3 March 2016; <<https://www.abc.net.au/news/2015-05-26/source-of-illicit-guns-in-australia/6483762>>

<sup>4</sup> Excluding airguns, paintball guns, and imitation/replica firearms; see [here](#).

<sup>5</sup> Firearms availability in New Zealand’ – 2016 Summary, at 34.

<sup>6</sup> *Illicit Firearms in Australia*, Australian Criminal Intelligence Commission, 2016; <[https://www.acic.gov.au/sites/default/files/2016/10/illicit\\_firearms\\_in\\_australia\\_0.pdf?v=1477016769](https://www.acic.gov.au/sites/default/files/2016/10/illicit_firearms_in_australia_0.pdf?v=1477016769)>

<sup>7</sup> *New Zealand bans military style semi-automatics and assault rifles*, Beehive Press Release, 21 March 2019; <<https://www.beehive.govt.nz/release/new-zealand-bans-military-style-semi-automatics-and-assault-rifles>>

9. The Thorp report estimated that there were 10,000 – 25,000 illegal firearms in New Zealand (while estimating that there were between 700,000 – 1,000,000 civilian-held firearms). The report is from 1997. The New Zealand authorities may be significantly underestimating the number of illegal firearms in New Zealand.<sup>8</sup>

## More likely sources of illegal firearms

10. We have seen no reference to the availability of firearms from the dark web. Despite New Zealand's geographic isolation, illegal firearms come across our border. COLFO is advised that acquiring them is almost as easy as making an order on Amazon or AliExpress, to people familiar with the dark web and Bitcoin.
11. Police should not be making strong assertions about sources of illegal firearms. More consultation with the firearms community, the GCSB, Customs, foreign agencies, and independent experts is necessary. COLFO is advised of senior Customs' opinion that "half the money spent on a registry would be far more effective in reducing the supply of illegal arms if spent on Customs intelligence." COLFO urges the Committee to question Customs intelligence people directly.
12. The global small arms trade is reported to be growing. The small arms trade is reported to be worth an estimated US\$8.5 billion per year – eight million new small arms and up to 15 billion rounds of ammunition are manufactured each year.<sup>9</sup> Stopping the illegal importation of firearms into New Zealand should be a priority for Police. Especially given our largest trading partner, China, is now one of the major players in the global arms industry.<sup>10</sup>
13. New Zealand's 17,000 km coastline means we are porous – trafficking can occur because there is a lot of uninhabited space for smugglers to take advantage of. But from Australian reports, the substantial evasion of border interception occurs in machinery imports. Stopping, or at least hindering, this should be the priority for our Government. We have seen an influx of methamphetamine and most of the large seized shipments have come from China.<sup>11</sup> If Canadian experience is repeated here we can expect legitimate fear of fentanyl imports, and demands that it be intercepted. Firearm imports may be relatively low priority. Firearms can make it onto our shores as easily as illegal drugs.

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<sup>8</sup> *Review of Firearms Control in New Zealand* (the Thorp report), June 1997.

<sup>9</sup> *Killer Facts: The scale of the global arms trade*, Amnesty International, 12 September 2017; <<https://www.amnesty.org/en/latest/campaigns/2017/09/killer-facts-the-scale-of-the-global-arms-trade/>>

<sup>10</sup> *How dominant is China in the global arms trade?*, China Power; <<https://chinapower.csis.org/china-global-arms-trade/>>

<sup>11</sup> *New Zealand's coastline is an 'open go' for the global methamphetamine trade*, Stuff, 12 July 2016, <<https://www.stuff.co.nz/national/81120820/new-zealands-coastline-is-an-open-go-for-the-global-methamphetamine-trade>>

## Need for independent assessment of foreign registry experiences

14. International evidence from Australian and other authorities should be sought by the Committee, without having been filtered through Police, along with independent advice.
15. Contrary to common belief, COLFO is informed that the Australians have not had outstanding success with their registries. For example, a 2019 report by the Audit Office of New South Wales into their firearms regulations states that “information in the registry is not accurate or up-to-date” and that data is not being validated as it is entered into the registry, while being heavily reliant on manual data entry.<sup>12</sup> Further, the audit revealed that “there is an increased risk of the Registry making unsound or inconsistent administrative decisions” with some licence holders having stockpiles of over 100 firearms with unclear reasoning as to why they have accumulated such large numbers of firearms.<sup>13</sup> We have attached the report by the Audit Office of New South Wales to this submission.
16. Police have not accurately summarised reports from New Zealand. With respect to the 2016 *Inquiry into issues relating to the illegal possession of firearms in New Zealand*, they misstate some conclusions. Police stated the 2016 inquiry concluded that New Zealand should establish a firearms registry. The inquiry stated:

...that instead of creating a firearms register, the legislation be amended to require the Police to record the serial numbers of firearms owned by licence holders. This would be done when a licence holder renews their licence and the Police visit their premises to check their security arrangements, or when the Police inspect a licence holder’s premises for any other reason, such as change of address. This would involve a requirement for firearm owners to produce all their firearms on demand at the time of inspection. This approach would require fewer resources to maintain and would increase the amount of information available to the Police.<sup>14</sup>

## Security requirements

17. Regulation 19 of the Arms Regulations 1992 makes every firearms licence subject to security precautions. It outlines the reasonable steps a licence holder must take, including keeping on the holder’s premises one of the following:
  - i. a lockable cabinet, container, or receptacle of stout construction in which firearms may be stored
  - ii. a lockable steel and concrete strong room in which firearms may be stored
  - iii. a display cabinet or rack in which firearms may be immobilised and locked so that none of them may be fired.
18. Regulation 28 sets out tighter security requirements for pistols, prohibited firearms, prohibited magazines, and restricted weapons.
19. The Arms Legislation Bill makes one primary change to storage requirements, that is to section 24 (Issue of firearms licence), and adds an additional requirement that Police must

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<sup>12</sup> Firearms regulation, Audit Office of New South Wales, 28 February 2019, pages 2 -3.

<sup>13</sup> Firearms regulation, Audit Office of New South Wales, 28 February 2019, pages 3 and 21.

<sup>14</sup> *Inquiry into issues relating to the illegal possession of firearms in New Zealand*, Law and Order Committee, April 2017, at page 16.

be satisfied that “the applicant’s storage facilities for their firearms and ammunition have been inspected by a member of the Police and are compliant with the requirements for the secure storage of firearms and ammunition.” This is in line with the recommendations made in the 2016 inquiry.

20. The added prescription of necessary inspection seems like a small change. Especially when it reflects usual practice. But every added requirement adds complication. This could mean that a licence holder may not replace or add a new safe as storage without previous inspection. But it is also open to Police practice informally superseding the law. COLFO urges that the obligation should be to satisfy any lawful stipulations, but Police inspection should not be a pre-condition. If it eventuates that security has not met the lawful standard, liability will mature, to a significant fine.
21. In practice, vetting officers already check storage facilities when vetting an applicant. Few applicants would expect the issue of a firearms licence or endorsement until appropriate storage is installed and inspected. Regulation making powers under section 74 of the Arms Act 1983 give Police the power to make “provision[s] for the security of premises at which any firearm or class of firearm is kept, and prescribing precautions to be taken to prevent the theft or misuse of firearms, airguns, pistols, prohibited items, restricted weapons, ammunition, and explosives in the possession of any person or class of persons.”
22. The Select Committee should oblige disclosure of proposed changes so that proper consultation can occur *before* such changes are made. Our view, which is supported by the additional precautions that Police recommend in their *Secure storage guidance for firearms* document, is that keeping firearms ‘out of sight’ (i.e. concealment) may sometimes be more effective at preventing the theft of firearms than imposing stricter physical security requirements.<sup>15</sup>
23. If Police transplant the requirements under regulation 28 to standard firearms licence holders, it could make storage requirements unnecessarily burdensome.
24. That could occur whether it is by regulation or by Police practice. Undue focus on locks and safes could also make concealment more difficult. Concealment can be effective to prevent opportunistic firearms theft. Separate safes for ammunition and parts doubles the likelihood of burglars noticing them and then searching for the firearms. Trying to ensure burglars remain unaware that firearms are kept could be harder if licence holders are forced to keep their ammunition, parts, and firearms in multiple different locations on their property. That can apply whether or not they are in a safe. Burglars will have an increased likelihood of coming across cabinets, containers etc. if there are multiple locations that advertise valuable contents by their security.
25. Currently, a licence holder is required to either:
  - i. take reasonable steps to ensure that the ammunition is not stored in such a way that a person who obtains access to the firearm also obtains access to the ammunition; or

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<sup>15</sup> *Secure storage guidance for firearms*, New Zealand Police, November 2018, see [here](#).

- ii. ensure that, where the ammunition is stored with the firearm, the firearm is not capable of being discharged.<sup>17</sup>

26. Below we illustrate the practical effects of changing to tighter security requirements akin to those in regulation 28 –

“Z” is a licence holder and occasional duck shooter. Z keeps his shotgun in a lockable steel cabinet along with his ammunition. Per regulation 19, he makes it inoperable when it is being stored Z’s cabinet is hidden from sight and despite being burgled in the past, his cabinet was never discovered.

After the passing of the Arms Legislation Bill, Police change the storage requirements so they are more like those for pistols, prohibited firearms, prohibited magazines, and restricted weapons – despite Z only having a shotgun.

Z may no longer store ammunition in the steel cabinet with the shotgun (despite it being made inoperable). Z goes on holiday and his house is burgled again. The burglars discover his ammunition. This reveals to them that there is likely to be a firearm somewhere in the house. They search until they find his cabinet. The average lock on such a cabinet takes approximately 10 minutes to break. The burglars manage it. They steal his shotgun. Z has got out of the habit of making his shotgun inoperable because it is no longer stored with the ammunition so the burglars now have the ammunition and his working shotgun.

- 27. Currently, ammunition does not have to be secured. Some vetting officers do not allow ammunition and bolts to be stored in the same cabinet or safe as the firearms, even if there is a separate lockable container within the cabinet or safe. Requiring ammunition to be securely locked could be burdensome for some firearms owners, for example, club ammunition stewards get annual shipments delivered to their door to then dispatch during a season.
- 28. We support sensible requirements, such as allowing ammunition and parts (where appropriate) to be stored in a fastened container inside a firearms safe or cabinet that has the same or better standard of security as the safe or cabinet.
- 29. The Bill should state the purpose of the security and storage regulations. Genuine consultation with the firearms community will reduce mistakes and reduce the risk of a rift between Police and the firearms community. If Police are intent on making changes to storage requirements without proper consultation, there should be a stand-down period to allow firearms owners to make the appropriate changes.
- 30. We suggest provisions for the purpose in *Attachment A - proposed sections relating to storage and security*.

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<sup>17</sup> Regulation 19 (1)(b) of the Arms Regulations 1992.

## **Attachment A – proposed sections relating to storage and security**

*[X] The purposes of provisions to govern storage and security of firearms are to prescribe, or to authorise a police officer to set and approve, minimum precautions that in the circumstances reasonably reduce the risks in respect of:*

- 1) A firearm;*
  - a. of theft;*
  - b. of unauthorised access by persons lawfully on the relevant premises (including children);*
  - c. that a person not authorised to use it can make it operable and fire it.*
- 2) Ammunition and firearm parts:*
  - a. of theft of such items which are generally likely to be otherwise unavailable, for unlawful use of firearms;*
  - b. of unauthorised use (including by children) of a firearm stored in the vicinity.*

*[Y] In making regulations for the purposes set out in section [X] and in exercise of the power to set and approve minimum storage and security precautions:*

- 1) Without limiting the matters that may be taken into account, reasonable reduction in the risk of theft of unauthorised access and use may differ according to the number of firearms at risk in one place, and to the relative attractiveness any of them may have to prospective offenders;*
- 2) In respect of storage of no more than [5] firearms in one place, if the security arrangements are considered likely to prevent access for [10] minutes against the attack of a burglar, they may be assumed to be reasonable;*
- 3) Concealment and impeding access to a safe or place of storage are proper considerations, and may affect the degree of security otherwise required, particularly where persons who might steal the objects, or intend to use them unlawfully, are likely to find that security precautions may not impede them for as long as, or as effectively, as concealment;*
- 4) Separate storage of parts to render a firearm inoperable, particularly reasonably concealed storage, may satisfactorily mitigate the risk of storage of its ammunition under the same security as the firearm;*
- 5) A police officer may apply practical judgment to minimise expense or inconvenience that does not advance the purposes in section [X] to a degree commensurate with the expense.*
- 6) For the avoidance of doubt nothing in this Act concerning ammunition is intended to imply that ammunition on its own is inherently more dangerous than many other products which may be stored in premises (including houses), or valuable to prospective offenders, but without restricting the application of section [Y] in respect of kinds of ammunition which may be particularly attractive to prospective offenders or particularly hazardous (including because of amounts held).*

# Firearms regulation

28 FEBRUARY 2019



NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

PERFORMANCE AUDIT



# THE ROLE OF THE AUDITOR-GENERAL

The roles and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Public Finance and Audit Act 1983* and the *Local Government Act 1993*.

We conduct financial or 'attest' audits of State public sector and local government entities' financial statements. We also audit the Total State Sector Accounts, a consolidation of all agencies' accounts.

Financial audits are designed to add credibility to financial statements, enhancing their value to end-users. Also, the existence of such audits provides a constant stimulus to entities to ensure sound financial management.

Following a financial audit the Audit Office issues a variety of reports to entities and reports periodically to parliament. In combination these reports give opinions on the truth and fairness of financial statements, and comment on entity compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These examine whether an entity is carrying out its activities effectively and doing so economically and efficiently and in compliance with relevant laws. Audits may cover all or parts of an entity's operations, or consider particular issues across a number of entities.

As well as financial and performance audits, the Auditor-General carries out special reviews and compliance engagements.

Performance audits are reported separately, with all other audits included in one of the regular volumes of the Auditor-General's Reports to Parliament – Financial Audits.



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In accordance with section 38E of the *Public Finance and Audit Act 1983*, I present a report titled **'Firearms Regulation'**.

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

**Margaret Crawford**

Auditor-General  
28 February 2019

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# contents

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## Firearms regulation

### **Section one – Firearms regulation**

Executive summary	1
Introduction	6
Reliability of the register	12
Administering the Act and Regulation	17

### **Section two – Appendices**

Appendix one – Response from agency	25
Appendix two – Reasons for firearms licences to be suspended or revoked	34
Appendix three – Licence holder obligations	38
Appendix four – Firearms licence categories	39
Appendix five – Firearms distribution	41
Appendix six – About the audit	42
Appendix seven – Performance auditing	45



## **Section one**

### Firearms regulation





# Executive summary

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Firearms used by the general public in NSW are regulated through the *Firearms Act 1996* (NSW) (the Act) and the *Firearms Regulation 2017* (NSW) (Regulation). In October 2018, there were over 237,500 firearm licence holders and just over one million registered firearms in NSW.

The Act and Regulation reflect the National Firearms Agreement reached by all Australian jurisdictions in 1996 and confirmed in 2017. This Agreement sets out the minimum requirements for regulating firearms. The Act recognises that possessing and using firearms are privileges conditional on the overriding need to ensure public safety.

The NSW Police Force (NSW Police), which includes the Firearms Registry (the Registry), is responsible for administering the Act and Regulation, and for operating the NSW firearms licensing and registration scheme. Relevant third parties such as approved clubs, firearms dealers and shooting ranges also carry some administrative and oversight responsibilities under the Act and Regulation.

The role of the Registry includes administering the following requirements under the Act and Regulation that are relevant to this audit:

- licence conditions
- licence suspensions and revocations
- initiating seizure of firearms
- assessing permits to acquire firearms
- administering the good reason test
- maintaining the register of firearms
- approving alternative safe storage arrangements.

The Registry's other activities identified in this report support its regulatory responsibilities under the NSW Government framework for better regulation.

This audit assessed how well the Registry administers the requirements of the Act and Regulation for existing firearms licence holders. To effectively administer these requirements, the Registry should have:

- a reliable database that supports the firearms licensing and registration scheme
- appropriate risk-based policies and procedures for the Registry's operation that are consistent with the Act and Regulation.

We did not assess the Registry's processes in assessing and issuing firearms licences to new applicants or renewing licences of existing licence holders. We also did not examine the administrative actions conducted by police officers who are not part of the Registry.

See Section 1 for details on the role of the Registry. See Appendix six for details of the audit.



## Conclusion

**There are gaps in how the Registry administers important requirements for existing licence holders which reduce the Registry's ability to take an effective risk-based approach to regulating firearm ownership.**

**The Registry has some good processes to monitor and apply changes to the register.**

The Registry is promptly advised of the sale of firearms or potential criminal or anti-social behaviour activity of licence holders and it promptly updates relevant information in the register.

**Information in the register is not accurate or up-to-date.**

Licence holders do not always advise the Registry of their address changes within the time required. The Registry does not have processes to efficiently identify these changes if not advised. This exposes a critical gap in the Registry's data on the location of some firearms. While the Registry has implemented a number of programs for checking the accuracy of data in the register, some of these programs have either ceased or been severely curtailed. For example, the Registry was conducting various checks on the accuracy of the data relating to the description of firearms in the register and correcting errors. These checks ceased after July 2017, with only around 50 per cent of the register checked.

**There is an increased risk of the Registry making unsound or inconsistent administrative decisions.**

The Registry lacks appropriate policies and guidance for important administrative decisions and sanctions. These include making decisions about licence suspensions and revocations, assessing good reasons for acquiring firearms, and initiating some enforcement actions. There is also limited review of these critical decisions.

### Regulatory context

The Commissioner of Police's response to this report (Appendix one) indicates he disagrees with some of our findings and recommendations based on his view that the firearms licensing and registration scheme is a 'co-regulatory model'. The conclusion and recommendations of this report are based on the provisions in the Act which indicate that the Commissioner, and through him the NSW Police Force (including the Firearms Registry), is the responsible regulator. We acknowledge that other stakeholders have obligations to undertake certain actions in accordance with the Act and Regulation. This is further discussed below.



## 1. Key findings

### Address details in the register are not up-to-date

Keeping the register up-to-date with address changes for licence holders and firearms storage locations is critical to public and police safety. We found that address details in the register may be out-of-date for up to five years. Over the three years to October 2018, an average of around seven per cent (or 200) per month of licence renewal notices were returned to the Registry due to incorrect addresses.

The Registry is not proactive in ensuring that address details in the register are up to date if licence holders fail to notify it of address changes when required. The Registry finds out about address changes from other sources, which it may receive well after the change has occurred. This includes when licence holders apply for a permit to acquire a firearm; when police attend events or conduct safe storage inspections; or when licence renewal notices are returned to the Registry due to incorrect addresses.

### The Registry is responsive in updating data as it relates to potential criminal or antisocial behaviour, and for changes in firearm ownership

The Registry ensures that it updates the register when it receives information about potential criminal or antisocial activity of licence holders. The Registry processes information logged into NSW Police's Computerised Operational Policing System (COPS) on the next working day. This may lead to suspending or revoking licences.

The Registry also promptly records changes of firearm ownership, with buyers, sellers and firearms dealers separately required to notify the Registry within seven days of sale transactions.

### **The Registry's processes do not ensure sound and consistent decisions for licence suspensions or revocations**

The Registry does not have adequate policies, guidance or supervision to support staff to make sound and consistent decisions when responding to breaches of the Act or Regulation by licence holders. The Registry must promptly suspend or revoke a firearms licence, and have any firearms in possession seized, if a licence holder commits a serious breach of licence conditions. The Act and Regulation include a wide range of discretions for the Registry to decide whether to suspend or revoke existing licences.

Junior staff make these decisions. While these officers can seek advice, they are not required to refer their decisions to a supervisor for review. We found that licence holders have sought an internal review for 13.7 per cent of the 2,739 revocation decisions made over the three years from January 2016. The internal review of these cases overturned 27 per cent of revocation decisions, with most not due to additional information provided in the review. This would indicate inconsistent or unsound decision making. Moreover, an additional and greater risk to public and police safety is that due to the limited supervision, staff may make unsound decisions not to suspend or revoke licences, but these will not be tested by an appeal. The Registry does not have a policy to quality review these decisions.

### **The Registry's processes do not ensure all data is accurate when added to the register**

In addition to finding that address details are not up-to-date, we also found that the Registry does not validate all data that is added to the register and data cleansing programs have been discontinued.

The register is based on outdated technology and is heavily reliant on manual data entry, which can be prone to errors. There are some controls to ensure that data is accurate before being added to the register. These include names being checked against identity records, and staff manually checking data from scanned or other source documents. However, the Registry does not validate critical data before it is stored in the database. This includes address changes when licence holders update their details.

The outdated technology also means that the Registry cannot tailor staff access, and their ability to change records, to their role in the Registry. The Registry is not conducting the number of staff computer use and access audits required by NSW Police Force policies to mitigate this risk.

### **The Registry is aware that data in the register is not accurate and up-to-date**

Prior to June 2016, the Registry did not use standard firearms descriptions when creating new firearms records. This meant the register had many variations recorded for the description of the same firearm. This made it difficult to analyse the data and interact with other jurisdictions. In June 2016, the Registry introduced firearm descriptions based on a national standard for all new records added to the register. While the Registry had a program to correct the descriptions of firearms recorded up to then, it stopped this program in July 2017 with only 50 per cent of the previous firearms records corrected.

The Registry has various data integrity reports available to identify potential anomalies in the register. While it regularly produces these reports, it has a backlog in actioning them.

### **The Registry has ceased its risk-based safe storage inspection program**

In October 2015, to supplement the firearms safe storage inspections initiated by local police, the Registry introduced a risk-based safe storage inspection program to better target these inspections. This involved providing police across the state with locations that pose a higher risk due to the type and number of firearms stored as well as inspection history. This program is well designed to achieve its objectives. Since January 2017, the Registry has generated these inspection schedules less frequently, with none since July 2018. The Registry provides information on higher risk locations to local police when requested.



## The Registry does not effectively administer important parts of the Act and Regulation

The Act and Regulation contain detailed requirements, as well as broad discretions, that the Registry must administer. While the Registry has many operational procedures to guide how it processes day-to-day transactions, we found shortcomings in processes, guidance and policies in four key areas:

- retrieving firearms held by deceased estates after a six-month statutory period
- initiating enforcement action against licence holders for breaches and non-compliances, other than for licence suspensions and revocations
- pistol clubs' obligation to confirm members' safe storage arrangements.

In addition, the Registry is not adequately assessing the validity of the 'good' reason provided by licence holders for acquiring firearms. In November 2018, around 360 licence holders in the three categories we reviewed held 50 or more firearms each. The Registry cannot assure that some of these licence holders are not collectors seeking to avoid taking out a firearm collectors licence, which has more stringent storage and firearm disablement requirements.

## The Registry does limited monitoring of its performance

The Registry's executive can access data on the volume of work processed by the Registry, such as number of licence applications and renewals processed. They can also access some limited performance information, such as time to process licence and firearm permit applications.

This information lacks performance-based indicators that would assist effective management of operations and performance. For example, measuring the trends in number of firearms safe storage inspections undertaken against those that failed could indicate whether compliance is improving.

## Regulatory context

The principles that frame our analysis and recommendations in this report are informed by provisions in the Act which provide that the Commissioner of Police, and through him the NSW Police and Firearms Registry, is the responsible regulator, and therefore ultimately responsible for the effective operation of the firearms licensing and registration scheme.

The Commissioner's response at Appendix one refers to the firearms licensing and registration scheme as a 'co regulatory model', and states that this report incorrectly ascribes some responsibilities for implementation of regulation to the NSW Police and Firearms Registry. The Commissioner has rejected our recommendations regarding pistol clubs actively confirming members' safe storage arrangements (recommendation 8) and implementing strategies for timely reporting of address changes (recommendation 10a) in the context of this interpretation of his role.

We have not found evidence during the course of this audit, that firearms regulation could reasonably be interpreted as being co-regulatory. The NSW Department of Justice's Regulatory Impact Statement (RIS) for the *Firearms Regulation 2017* states: the NSW Police Force administers the regulation of firearms, including licensing, registration and permits, through the NSW Firearms Registry. The RIS does not describe any regulatory responsibilities of third parties or a co-regulatory model.

The Act provides that the Commissioner is responsible for regulating the firearms industry to ensure it complies with the Act and Regulation. For example, sections 84, 85 and 85A of the Act clearly prescribe that in the event of a breach of the Act or Regulation only police officers, or other authorised members of the NSW Police, can commence proceedings for offences or issue penalty notices.

An inherent conflict of interest would arise in the circumstance where firearms dealers, clubs and ranges benefit from the use of firearms and regulate their use. Under the Act, clubs, dealers, ranges and licensees have responsibilities – not regulatory oversight. Clubs and ranges have obligations to undertake certain actions against club members or users in accordance with the Act and Regulation. Under clauses 95 and 98 of the Regulation, if the Commissioner thinks fit, he may revoke his approval for any club or shooting range to operate.



## 2. Recommendations

**To improve integrity of data in the register, NSW Police Force (Firearms Registry) should urgently:**

1. address backlogs in identifying and updating incorrect data in the register
2. conduct computer access audits according to NSW Police Force policy.

**By July 2019, to ensure consistency of administrative decisions, NSW Police Force (Firearms Registry) should:**

3. introduce updated delegations for all administrative functions that delegate functions to specific positions
4. introduce guidance for assessing discretionary reasons when considering a licence suspension or revocation
5. introduce procedures to quality-review decisions about licence suspensions and revocations
6. introduce guidance for assessing whether 'good' reasons provided by licence holders for acquiring firearms are satisfactory
7. introduce a policy and procedures for taking enforcement action
8. ensure pistol clubs actively confirm safe storage arrangements.

**By May 2019, to ensure safety of the public and police, NSW Police Force (Firearms Registry) should:**

9. restore the Firearms Registry initiated risk-based firearms safe storage inspection program
10. implement strategies for:
  - a) timely reporting of address changes
  - b) prompt retrieval of firearms from deceased estates after expiry of the six-month statutory period.



# 1. Introduction

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## 1.1 Firearms regulation in NSW

The *Firearms Act 1996* (NSW) (the Act) and the *Firearms Regulation 2017* (NSW) (Regulation) form the regulatory framework for firearms in NSW. These legislative instruments reflect the principles of the National Firearms Agreement that all Australian jurisdictions have accepted.

The Act aims to improve public safety by imposing strict controls on the possession and use of firearms, and by promoting the safe and responsible storage and use of firearms.

Objects and principles of the Act include:

- confirming firearm possession and use as a privilege that is conditional on the overriding need to ensure public safety
- improving public safety by imposing strict controls on the possession and use of firearms
- promoting the safe and responsible storage and use of firearms
- establishing an integrated licensing and registration scheme for all firearms
- requiring each person who possesses or uses a firearm under the authority of a licence to prove a genuine reason for possessing or using the firearm
- providing strict requirements in relation to licensing of firearms and the acquisition and supply of firearms
- ensuring that licence holders store and convey firearms in a safe and secure manner.

In October 2018, there were over 237,500 firearm licence holders and just over one million registered firearms in NSW. See Appendix five for the geographical distribution of registered firearms by police area command and police district.

## 1.2 The Role of the Firearms Registry (the Registry)

The Registry, with delegated authority from the Commissioner of the NSW Police Force (NSW Police), is responsible for administering the Act and Regulation. It does this through managing the firearms licensing and registration scheme (the scheme). The Registry's obligations to manage the scheme are extensive and sometimes rely on third parties to assist in its management.

The scheme consists broadly of a three-stage process for applicants to obtain a firearms licence and acquire a firearm. The three stages are:

- The Registry issues different categories of firearms licences to applicants that meet the defined criteria, including establishing at least one of the eight 'genuine reasons' for having a firearms licence. Licence holders in turn can use or possess the type of firearm specific to those categories of firearms licence.
- The Registry issues licence holders with a permit to acquire the specific type of registered firearm they are licenced to use which they can only purchase from a licenced firearms dealer. A separate permit must be issued for each individual firearm.
- The Registry ensures that licence holders continuously meet their obligations such as safe storage and updating their information held by the Registry.

The Registry also approves and monitors various third parties that it relies on to assist in issuing, suspending and revoking licences, and the sale of firearms. This includes shooting ranges, hunting clubs and firearms dealers.

The Act prescribes a list of eight genuine reasons for holding a firearms licence. Each genuine reason relates to certain licence categories and types of firearms.

**Exhibit 1: Firearms licence genuine reasons and number of licence holders October 2018**

Genuine reasons	Number of licence holders
Sports/target shooting	115,604
Recreational hunting/vermin control	376,665
Primary production	95,030
Vertebrate pest animal control	3,041
Business or employment	3,523
Animal welfare	42,278
Firearms collection	3,728

Note: In many cases, licence holders will have licences with multiple genuine reasons.

Source: NSW Firearms Registry 2018.

The Act also provides for seven main categories of firearm licences; five of which apply to a certain type of firearm and the remaining ones apply to two classes of firearm stakeholders.

**Exhibit 2: Categories of firearms licences and number of licences issued October 2018**

Licence categories	Prescribed types of firearms	Number of firearms licences issued
Category A	Long-arms, such as: <ul style="list-style-type: none"> <li>air rifles</li> <li>non-self-loading rimfire rifles</li> <li>shotgun/rimfire combinations</li> <li>non-pump-action or non-self-loading shotguns.</li> </ul>	231,457
Category B	Long-arms, such as: <ul style="list-style-type: none"> <li>muzzle loading firearms (other than pistols)</li> <li>non-self-loading centre-fire rifles</li> <li>shotgun/centre-fire rifle combinations</li> <li>lever action shotguns with a magazine capacity of no more than five rounds.</li> </ul>	217,200
Category C	Long-arms, such as: <ul style="list-style-type: none"> <li>self-loading rimfire rifles with a magazine capacity of no more than ten rounds</li> <li>self-loading shotguns with a magazine capacity of no more than five rounds</li> <li>pump action shotguns with a magazine capacity of no more than five rounds.</li> </ul>	16,561
Category D	Long-arms, such as: <ul style="list-style-type: none"> <li>self-loading centre-fire rifles</li> <li>self-loading rimfire rifles with a magazine capacity of more than ten rounds</li> <li>self-loading shotguns with a magazine capacity of more than five rounds.</li> </ul>	522
Category H	Pistols including blank fire pistols and air pistols	16,790
Firearms Dealer	All firearms	710
Firearms Collector	All firearms	2,890

Source: NSW Firearms Registry 2018.

See Appendix four for more details on licence categories, genuine reasons and corresponding types of firearms.

## **Approving firearms licence applications**

The Registry issues firearms licences to applicants who meet the following specific criteria:

- being over 18 years of age
- not being convicted of certain offences listed in the Regulation in the past ten years
- completed required training courses
- able to meet firearms safe storage requirements
- able to exercise continuous and responsible control over firearms, considering any history of suicide or self-harm attempts, or mental health conditions
- not being subject to an apprehended violence order in the past ten years
- not being subject to a current interim apprehended violence order, good behaviour bond or firearms prohibition order
- able to demonstrate at least one of the eight genuine reasons for having a firearms licence
- able to satisfy further requirements imposed on the nominated genuine reasons, for example: for sport/ target shooting, the applicant must be a current member of an approved shooting club.

Firearm licence holders can use specific types of firearms, but do not need to own firearms. In October 2018, the Registry had issued 486,210 firearms licences among 237,649 firearms licence holders. Note that a firearms licence holder may hold more than one firearms licence category.

## **Issuing permits to acquire firearms to licence holders**

Firearms licence holders can apply for a permit to acquire the specific type of firearm that is authorised for their genuine reason and licence category. The Registry only issues permits to acquire firearms to licence holders who have a 'good' reason for acquiring each firearm. The Registry cannot issue these permits until 28 days after the date of application, unless the licence holder already owns a firearm in the same category.

In October 2018, there were 1,000,099 registered firearms in NSW. Individual, business and club licence holders held 881,101 firearms. Dealers, club and theatrical armourers held 99,545 firearms, while collectors held 13,076 firearms.

## **Maintaining the firearms register**

All registered firearms in NSW must be listed in the firearms register (the register) compiled and maintained by the Registry. Details stored in register include:

- details of the firearm (including its serial number if any)
- details of the licence holders registered with the firearm (including name, residential/business addresses, premises where the firearm is kept)
- date of acquiring the firearm and the name of the firearms supplier
- identifying number of any spare barrel for the firearm.

Licence holders must apply to have the acquired firearm registered in their names. The Registry may refuse registration of any firearm until the licence holder has it inspected by a police officer. The Registry must also cancel any firearm registration where the licence holder:

- no longer holds the appropriate firearms licence or permit
- has supplied false or misleading information on application
- is convicted of offences specified in the Act or Regulation
- requests a cancellation.

The Registry must maintain the register in a form that integrates with the National Exchange of Police Information Scheme. This is to enable the information contained within the register to be accessible by the firearms authorities of other Australian jurisdictions.

## **Approving third parties**

The Registry also approves organisations, persons or activities related to firearms, such as:

- firearms dealers
- firearms safety and training course providers, and their instructors
- firearms collectors, hunting and shooting clubs
- shooting ranges
- security firms and security guards.

From time to time, the Registry and police officers may perform inspections and checks on these third parties to ensure that they comply with their legal obligations and satisfy any approval conditions.

## **Managing the scheme using the register**

The Registry uses the register as its primary source of data and information when administering the Act and the Regulation. The Registry regularly receives additional information regarding status changes of licence holders from the licence holders themselves and other third parties. See Section 1.3 for further details. The Registry must update the register to reflect those changes in an accurate and timely manner. The Registry and police officers make operational and administrative decisions based on data in the register.

## **Taking enforcement action**

Under its delegation from the Commissioner, the Registry may suspend a firearms licence if it is satisfied that there may be grounds for revoking the licence. Where the Registry has reasonable cause to believe that a licence holder has committed or has threatened to commit a domestic violence offence, the Registry must suspend the firearms licence. The Registry informs the licence holder of the reason for the suspension, who is requested to provide any reasons why the Registry should not revoke the licence.

If the Commissioner believes that a licence holder poses a risk to public safety and that it is contrary to the public interest to allow the person to continue to be a licence holder, the Commissioner may suspend the firearms licence without providing the reasons for suspension. The licence holder can provide any reasons why the Commissioner should not revoke the licence. The Commissioner has not delegated this decision to the Registry.

The Registry may make a firearms prohibition order against any person who it thinks is not fit, in the public interest, to have possession of firearms. The Registry may revoke a firearms prohibition order at any time for any or no stated reason.

The Registry immediately revokes a firearms licence if the licence holder becomes subject to a firearms prohibition order or an apprehended violence order. The Registry has discretion to revoke a licence for various other reasons. See Appendix two for the full list of reasons used by the Registry to support the suspension and revocation decisions it makes.

When the Registry suspends or revokes a firearms licence, that licence holder must surrender their licence and all firearms in their possession to police.

An authorised officer may issue penalty notices for any relevant offence against the Act or Regulation. Prosecution of other breaches of the Act or Regulation may be subject to court proceedings.

## 1.3 Notifications from firearms licence holders and third parties

### Firearms licence holders

The Act and Regulation impose various self-reporting or compliance obligations on firearms licence holders. Some of the key obligations require the licence holder to:

- notify the Registry of any status changes including change of names, addresses and genuine reasons
- take all reasonable precautions to ensure safe-keeping of firearms
- advise the Registry of any acquisition, supply, loss or theft of firearms.

See Appendix three for a more detailed list of obligations imposed on licence holders.

### Third parties

Certain third parties report to the Registry in relation to the status of firearms licence holders. Examples of these reports include:

- firearms club officials disclosing information about their club members in good faith
- firearms clubs providing annual return on club memberships and their members' participation records
- firearms dealers notifying the Registry of all transactions and movements of firearms
- health professionals advising the Registry that a licence holder may pose a threat to the public safety (and their own safety) if in possession of a firearm.

## 1.4 About the audit

This audit assessed how well the Registry administers the requirements of the Act and Regulation for existing firearms licence holders. In making this assessment, we considered the following lines of inquiry:

1. Does the Registry's database (the register) support the firearms licensing and registration scheme by having readily accessible, accurate and up-to-date information regarding the status of firearms licence holders and their registered firearms?
2. Does the Registry have, and comply with, appropriate risk-based policies and procedures for identifying and acting consistently on status changes of existing firearms licence holders?

This audit specifically focused on existing firearms licence holders who hold firearms licences with at least one of the following three genuine reasons. These accounted for around 92 per cent of genuine reasons provided by all licence holders (October 2018).

- Sport/target shooting – 18 per cent
- Recreational hunting/vermin control – 59 per cent
- Primary production – 15 per cent.

Licence holders in these categories own around 860,000 or 86 per cent of all registered firearms.

The Registry uses the same administrative processes for the other firearms licence holders who hold firearms licences with the other five genuine reasons, including:

- vertebrate pest animal control
- rural occupation
- animal welfare
- business or employment
- firearms collection.

Accordingly, the findings and recommendations of this audit can be reasonably applied to the Registry's administration for all existing firearms licence holders.

We did not assess the Registry's processes in assessing and issuing firearms licences to new applicants or renewing licences of existing licence holders. We also did not examine the administrative actions conducted by police officers who are not part of the Registry. However, we did look at what policies and procedures the Registry provide to police officers for carrying out and reporting on those administrative actions.

We did not assess the efficiency of Registry operations, as a separate review reported on this in 2013. Nonetheless, we comment on some of these issues where they affect our findings or to provide context.





## 2. Reliability of the register

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To effectively administer the requirements of the Act and Regulation, the register that supports the firearms licensing and registration scheme should have readily accessible, accurate and up-to-date information regarding the status of licence holders and registered firearms.

### 2.1 Licence holder status changes

During the five-year period of a typical firearms licence, details about the licence holder may change. Changes can be to residential and firearms storage addresses, the number and types of firearms held, the genuine reasons, and licence holder's name. Other key status information can be a licence holder's potential criminal activity or antisocial behaviour, as well as their state of health.

Status changes that can be critical to public and police safety would include possible or actual criminal activity or antisocial behaviour, as well as address changes and changes to firearms held. While licence holders must notify the Registry of status changes within prescribed times, relying only on self-reporting to detect changes presents a risk.

#### **The Registry is responsive in updating data as it relates to potential criminal activity or anti-social behaviour, and for changes in firearm ownership**

The Registry has processes that ensure it quickly updates the register with some status changes. These include identifying and acting on information logged into NSW Police's Computerised Operational Policing System (COPS) which involve potential criminal activity or antisocial behaviour of licence holders. These changes can lead to possible licence suspension or revocation and seizure of any firearms in a licence holder's possession.

The Registry receives daily notifications from COPS if there is an event listed by police officers that matches firearms licence holder details and meets business rules relating to offence type or public interest considerations. Registry officers review each notification to determine whether details of the person associated with the event correctly relate to a current licence holder. The officer then interrogates COPS to assess details of the event, and any other criminal activity of the licence holder. Together with the present status of the licence holder, the officer decides whether they should suspend or revoke the licence. The Registry processes these COPS event notifications, and enters the outcomes of its decisions in the register, on the next working day.

While only the Registry is authorised to revoke a firearms licence, police officers, as well as the Registry may suspend a firearms licence. The COPS report will list any event where a police officer issued a suspension notice and seized firearms. This will enable a prompt adjustment to the register, reflecting the licence holder's changed status.

The Registry also promptly records changes of firearms ownership details, assisted by the fact that firearms can only be bought or sold through firearms dealers. In addition to licence holders needing to notify the Registry within seven days of either sale or purchase of a firearm, firearms dealers must also notify the Registry within seven days of such transactions.

Requiring such transaction details from three sources provides a strong level of assurance that the Registry manages changes to firearm ownership details in a timely manner.

### **Address details in the register are not up-to-date**

Early detection and updating the register with address changes of licence holders and firearms storage locations is critical to public and police safety. We found that the register was not up-to-date regarding address changes.

The Registry lacks a risk-based or proactive approach to identify address changes, particularly when licence holders have a large number of firearms in possession. Without having up-to-date details on addresses, the Registry may lose track of both licence holders and firearms locations. An inherent risk is to police officers attending events without knowing whether there are firearms present.

The Act and Regulation have a strong emphasis on licence holders updating their personal details promptly. The Act has prescribed penalties for non-compliance. However, many licence holders may fail to notify address changes as required or may believe that details of their address changes are passed to the Registry when they update their driver's licence record. Another limitation on data accuracy is that there is no requirement for licence holders to provide supporting evidence when notifying the Registry of a change of address, unlike for a name change.

The Registry is not proactive in ensuring that address details in the register are up-to-date if licence holders fail to notify it of address changes when required. The Registry finds out about address changes from other sources, which may be received well after the change has occurred. This includes when licence holders apply for a permit to acquire a firearm; when police attend events or conduct safe storage inspections; or when licence renewal notices are returned due to an incorrect address. Over the three years to October 2018, an average of around seven per cent (200) per month of licence renewal notices were returned to the Registry due to incorrect addresses. This does not include letters mailed to wrong addresses not returned, but discarded by recipients.

### **A lack of up-to-date address information reduces the ability to monitor status changes and recover firearms from owners with expired licences**

Given that most licences are valid for five years, the Registry's processes are not timely in detecting status changes and means that the register's address details for these licence holders may be out-of-date for up to five years. The Registry then spends time and resources tracking down the licence holders.

In October 2018, there were 1,270 firearms listed as being in possession of persons whose licence had expired. Police could not recover a quarter of these firearms due to incorrect addresses in the Registry's database.

### **Information for licensees on how to update their addresses should be more prominent and accessible on relevant websites**

The Registry advised us that it has responded to ministerial representations where people have indicated that when they changed their driver's licence address through Service NSW, they assumed that this process would also change their address records at the Registry. This is not the case. The Registry publishes the requirements for licence holders to advise it of address changes on the Registry and Service NSW websites, as well as on firearms licence cards.

Online systems are available to licence holders to update their details on both the Registry and Service NSW websites. While one can find the link using a search engine, it is not prominent on the Registry website and difficult to find on the Service NSW website when firearms licence holders change their driver's licence address details.

In developing a more proactive approach to identifying address changes, the Registry should consider the following steps:

- improve the prominence of the online update system on its website, and work with Service NSW to make its online update form for firearms licence details more prominent
- arrange for Roads and Maritime Services to provide the Registry with regular updates of driver's licence address changes and for the Registry to use a matching process of name and date of birth to identify firearms licence holders
- implement a risk-based approach to target licence holders with large numbers of firearms in possession and check their address details regularly
- initiate a proportionate and consistent policy for taking enforcement action, including issuing penalty notices for failure to notify change of address.

### **The Registry is not effectively retrieving firearms held by deceased estates**

Under the Act, executors can be responsible for the disposal or safe storage of the firearms in a deceased estate for up to six months. The Registry promptly cancels licences and tracks firearms in a deceased estate when it becomes aware that a licence holder has died. After the six-months statutory period, and where firearms remain in possession of the deceased estate, the Registry creates a COPS event for police to seize the firearms.

The Registry receives and analyses information on potential deceased licence holders through a weekly COPS report, and fortnightly through a report from the Registry of Births, Deaths and Marriages. This information is supplemented by notifications from estate executors, administrators or next-of-kin.

In early January 2019, there were 2,402 firearms in possession of deceased estates, with 1,214 of these held for more than the six-month statutory period.

## **2.2 Data integrity**

### **The Registry's processes do not ensure all data is accurate when added to the register**

The register is the primary database used by the Registry to administer the Act and Regulation. In addition to our finding that address details are not up-to-date, we also found that the Registry does not validate all data that is added to the register, and that data cleansing programs have been discontinued.

The register is based on outdated technology and is heavily reliant on manual data entry and processes, which can be prone to data entry errors.

The Registry has some controls to ensure that data is accurate before being added to the register. These include manual checking when data comes from scanned or other source documents, such as online address change requests and applications for a permit to acquire a firearm. In June 2016, the Registry started using firearm descriptions based on a national standard for all new firearm records added to the register. This enables integration with the Australian Firearms Information Network and allows other states and territories to access information on the register.

However, the Registry does not validate critical data, such as address changes, before adding it to the register. There is no check on the validity of addresses provided when licence holders update their details through the NSW Police call centre and a limited check when updated online. While the online system confirms the existence of an address through a geolocation validator operated by Australia Post, this by itself does not validate whether the actual address provided is correct.

### **Inconsistencies in how some data is added to the register has reduced the Registry's ability to carry out some of its regulatory responses**

The Registry needs accurate and consistent data to ensure it can properly administer the requirements of the Act and Regulation for deceased estates, however inconsistencies in how data is entered and formatted reduces the overall accuracy of the register.

The Registry does not ensure that it records dates in a consistent format for deceased estates. Some records have deceased dates recorded as year-month-day (Dec 180722), others have day-month-year (Dec 201117), and there are some with no deceased date recorded. The Registry must track and initiate the recovery of firearms that have not been lawfully disposed of from executors of deceased estates after six months. However, due to the inconsistent or missing date records, it is not able to effectively monitor this and initiate recovery actions.

We also found an anomaly where the database allows the inclusion of interstate residential addresses for licence holders, even though only NSW residents can hold a NSW firearms licence. While the Regulation allows a very limited number of licence holders (such as some defence force personnel) to have an interstate residential address, as a general rule, licence holders must reside in NSW. The Registry should manage this situation via exceptions authorised to be added to the register. Without this restriction, the Registry must regularly run a report that lists all licence holders with interstate residential addresses for review. In mid-December 2018, the Registry advised there were 51 interstate address entries which it had to manually check to confirm legitimacy.

### **The Registry has various programs for checking data integrity in the register, but there are backlogs in identifying and updating incorrect data**

We examined how the Registry performs data integrity checks for data already in the register, including whether it actively checks for data errors.

The Registry is aware that data in the register is not accurate and up-to-date. It sought to manage this risk through regular data integrity reports, as well as manual processes to check for, and correct, discrepancies. For example, internal management reports from July to September 2017 listed various data errors in the register. This included a list of firearms with incorrect descriptions of firearm make, model, serial number and calibre recorded prior to June 2016. While the Registry had a program to correct these firearms records, this program stopped in July 2017 with only 50 per cent of the previous firearms records corrected.

This means that there are still some firearms descriptions in the register that do not conform to the national standard, and do not integrate with the Australian Firearms Information Network as required.

The Registry also uses a range of exception reports to identify potential anomalies in the register. It regularly runs these exception reports either automatically or manually. Registry staff then investigate and resolve the potential anomalies. Examples of these reports include:

- interstate addresses
- suspended licences where the suspension has exceeded a predetermined period
- incomplete incident reports from police via COPS
- firearms from deceased estates not accounted for
- expired licences shown with an incorrect status
- discrepancies between Roads and Maritime Services and Registry records
- duplicate identities
- firearms from expired licences not accounted for.

The Registry also uses reactive mechanisms to detect data errors in the register. These include address details discussed in Section 2.1, but also can include data errors, such as the number and type of firearms in possession of licence holders, identified by police during safe storage inspections or while attending incidents. Users also report system deficiencies they encounter when using the register.

We found the Registry has a backlog of work to action these data integrity and exception reports. The Registry advised that this is because it gives priority to processing daily COPS notifications, transactions such as permits to acquire firearms and licence applications. The backlog also includes updating details confirming that licence holders maintain their club membership or have met club participation requirements. Both are prerequisites for holding a firearms licence. This is further evidence that the register is out-of-date.

**Most Registry staff have full edit rights for the registry database, meaning some have edit rights over functions outside their roles**

There are three levels of access rights to the register by Registry staff: read only, edit and administrator access. Police officers also have read-only access to relevant information in the register via COPS to support their operations.

The Registry advised that most of its staff have full edit rights to the register. This is because, due to the age of the technology, access to the register cannot be customised to a user's role beyond the three levels of access rights. By enabling Registry personnel to have edit rights over functions outside of their roles creates a risk of improper access and erroneous or inappropriate changes to the register.

To mitigate this risk, NSW Police has a policy to audit staff use of, and access to, police systems, software and data. The policy requires mandatory computer access audits of all staff annually. The Registry is not conducting all of the audits required by the policy. The Registry Commander has recently established a new position of Executive Officer with responsibility for quality assurance across the Registry. Duties will include undertaking data access audits, as well as managing policy on conflicts of interest, declarations of secondary employment and associations, and managing complaints.



## 3. Administering the Act and Regulation

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### 3.1 Risk-based safe storage inspections

#### **Safe storage is central to firearm safety, and is a key requirement of licence holders**

Licence holders must have safe storage arrangements that comply with the requirements of the Act for the firearms in their possession. Due to the risks that firearms pose if not safely stored, failure to have safe storage arrangements can result in significant monetary penalties, as well as imprisonment for up to two years. Licence holders acquiring firearms (other than pistols) only need to self-certify that they have safe storage arrangements that comply with the Act when they apply for a permit to acquire a firearm.

Several Registry and police-led storage inspection initiatives have been implemented since 2009:

- Between 2009 and 2013, the Registry administered a NSW Government initiative for local police to conduct a 100 per cent state-wide safe storage audit.
- Between 2013 and October 2015, local police initiated and conducted safe storage inspections, including determining the locations and the extent of inspections.
- In October 2015, to supplement the safe storage inspections initiated by local police, the Registry introduced a risk-based safe storage inspection program to better target these inspections. As part of this program, the Registry provided local police with extensive guidance on how and where to conduct these inspections.

#### **The Registry's risk-based inspection program targets higher risk firearm holdings**

The objectives of the Registry's risk-based storage inspection program are to:

- implement a cost effective and efficient safe storage inspection program that targets higher risk firearm holdings
- develop and implement a communications strategy for operational police, including internal and external resources with emphasis on breaches
- collect and analyse compliance data to support development of risk-based approaches for other firearms regulatory outcomes.

The Registry's risk-based approach identified three key risk factors:

- the number of firearms stored
- the category of firearms stored
- the time since police last inspected the location.

The Registry initially determined that it would direct inspections to premises that stored pistols and where police had not inspected in the past five years, or ever. It identified the premises meeting these initial requirements, and which had the largest number of pistols stored. It then distributed the inspection work evenly among the various police districts. To enhance this process, the Registry advised it was looking at incorporating the additional risk factor of local crime rates.

The individual police commands continued to conduct their own targeted inspections, based on their local knowledge and intelligence. We consider that the program is well designed to achieve its stated objectives.

**Since January 2017 the Registry has reduced the risk-based inspections it initiates, and there have been no inspections initiated since July 2018**

The Registry began to curtail the risk-based program at the end of 2016. Since then, the Registry has been assisting local police to develop their own inspection schedules on request. This has reduced the number of annual safe storage inspections from 4,377 in the year beginning October 2015, to 3,750 in the year beginning October 2017. The number of risk-based inspections initiated annually by the Registry fell from 2,497 to 150 over the same period, with no inspections initiated in the six months from July 2018.

**There may be inconsistencies in how breaches of safe storage requirements are dealt with**

In relation to breaches of safe storage requirements, individual police commands determine whether to initiate enforcement actions, and their severity. The Registry advised that when local police undertake enforcement actions under the Act, to their knowledge it is variable across the police commands. The Registry also advised it provides training to general duties and specialist police, and attends licensing conferences to provide information and guidance about firearms administration and enforcement. However, these initiatives are general and not targeted to enforcement of safe storage requirements. To improve consistency in this area, the Registry should provide specific guidance to local police on proportionate application of enforcement actions.

## 3.2 Enforcement policies and procedures

**The Act and Regulation provides for a wide range of discretions for suspending or revoking licences**

The Act and Regulation provide a wide range of discretions in deciding whether to suspend or revoke existing licences. Discretionary reasons include:

- the Commissioner believing a licence holder is no longer a fit and proper person to hold a licence
- the licence holder is convicted (or subject to a good behaviour bond) for one of a range of offences prescribed in the Regulation. An applicant is not eligible for a new licence if they had been convicted of one of these offences in the past ten years
- the licence holder not meeting safe storage requirements
- the Commissioner satisfied that it is not in the public interest for the licence holder to hold the licence
- the licence holder, through negligence or fraud, has caused firearms to be lost or stolen
- the licence holder contravened any condition of their licence, or any provision of the Act or Regulation.

For very serious offences, the Registry does not have discretion. A licence is immediately revoked if police issue a Firearms Prohibition Order or Apprehended Violence Order (AVO) to a licence holder. A licence is immediately suspended if a licence holder is subject to an interim AVO, or when the Commissioner is aware that police have charged a licence holder with a domestic violence offence. The Commissioner can also suspend a licence if he has reasonable cause to believe that a licence holder has committed, or has threatened to commit, a domestic violence offence. See Appendix two for a full list of discretionary, automatic or mandatory reasons for suspending or revoking licences.

**The Registry does not support its staff with adequate policies, guidance and supervision to support their decision-making**

The Registry does not have adequate policies, guidance and supervision to support staff to make sound and consistent decisions when responding to breaches of the Act or Regulation by licence holders. The Registry must correctly and promptly suspend or revoke a firearms licence, and have police seize any firearms in possession, if a licence holder commits prescribed breaches of licence conditions.



The Registry has a policy for making revocation or suspension decisions. However, it was issued in 2007 and it predates the current Regulation, issued in 2017. We found there was little detailed specific guidance in the policy on how staff should exercise discretion. For example, it does not indicate whether staff should revoke a licence if a licence holder is convicted of an offence that would bar applicants from obtaining a firearms licence. There is also no guidance about what staff should do if a licence holder is charged with one of these offences.

Registry staff advised us that in the example given above, they would revoke the licence if a licence holder was convicted, and suspend the licence if a charge was laid. However, the Registry has no specific policy or guidance for even these clear-cut cases.

Relatively junior staff (3/4 clerical officers) make suspension or revocation decisions. While they can seek advice, they are not required to refer their decisions to a supervisor for review. There is a high risk of inconsistent or potentially unsound decisions in the situation where there is wide-ranging discretion, limited guidance to decision makers and optional supervisory review.

### **Nearly 14 per cent of discretionary licence revocation decisions are appealed, and over a quarter of these appeals are upheld**

Under the Act and the *Administrative Decisions Review Act 1997*, a licence holder may request an internal review of a revocation decision within 28 days. An internal review may affirm, set aside or vary a revocation decision.

We found licence holders have sought an internal review for 13.7 per cent of the 2,739 revocation decisions made over the three years from January 2016. Of these, more than a quarter (27 per cent) were ultimately overturned. For some of these, the original decision was correct when based on information available at the time, but additional information provided during the review process changed the outcome. However, we found that in most cases where the Registry's decision was overturned, this resulted from inconsistency in decision making.

The Registry does not analyse the results of successful appeals to determine trends and potential weaknesses in the initial decision and to provide additional guidance to staff making these decisions. An additional and greater risk to public and police safety is that, due to the limited supervisory review, staff may make unsound decisions not to suspend or revoke licences, but these will not be tested by an appeal. The Registry does not have a policy to quality-review these decisions.

### **The Registry has implemented some processes to learn from internal reviews of appeals, but better guidance is needed**

An internal review may be held prior to an appeal heard by the NSW Civil and Administrative Tribunal (NCAT). The Registry has advised it does analyse briefings provided by the Police General Counsel on NCAT decisions to determine trends and weaknesses in the initial decision or potential anomalies in the legislation.

That said, the internal review unit in the Registry relies on extensive case law when conducting internal reviews, and has developed a summary document which mostly consists of legalistic extracts of decisions made either by the courts or NCAT.

Internal reviews can be time and resource consuming for the Registry. Improving the consistency of initial revocation decisions through better guidance and supervision should result in a more efficient use of Registry resources.

### **Lack of specificity in delegations has reduced the effective supervision of staff decisions**

The Registry Commander has delegated all powers available under the Act or Regulation to all Registry staff down to 3/4 clerical officer level. The delegation instrument does not delegate specific powers to designated positions in the Registry. This approach has reduced the effective supervision of staff decisions, including decisions on suspensions and revocations.



The Registry Commander has acknowledged our concerns about the limited guidance, supervisory review and the current delegations. He advised us that he has initiated a review and update of delegations to clearly delegate powers under the Act and Regulation to specific positions and address issues with the current limited supervision of decisions. He also advised he proposes to upgrade specific guidance to decision makers and implement a training program.

### **The Registry suspends or revokes licences but takes no other enforcement action**

In addition to suspending or revoking licences, the Act and Regulation include a suite of sanctions if licence holders breach other conditions of their licences, or provisions of the Act or Regulation. These start with penalty notices for lower level offences, up to court-imposed fines and / or imprisonment. These breaches include:

- giving possession of a firearm to an unauthorised person
- failing to notify the Registry of changes in their details, such as address and genuine reasons, within specific timeframes
- failing to safely store firearms
- failing to notify the Registry of supply or purchase of a firearm, theft or loss of a firearm.

Apart from issuing suspension or revocation notices, the Registry has no policy on using its powers to apply penalty notices or recommend court proceedings for breaches. For breaches such as failure to notify address changes, to pass safe storage inspections, or to notify supply or purchase of firearms, the Registry appears best placed to identify when these occur, their severity and initiate enforcement actions which are consistent and proportionate.

Over the five years from January 2014, local police issued 111 enforcement actions, including penalty notices, where a licence holder failed to notify an address change. The Registry did not issue any in the same period.

Over three years to October 2018, an average of, around 200 licence renewal notices each month were returned to the Registry due to incorrect addresses. Registry staff spend time tracking down correct addresses and reissuing the renewal notices. To reduce the risk of the Registry losing track of licence holders and their firearms, it should have a policy for taking proportionate and consistent enforcement action for this non-compliance.

## **3.3 Administrative policies and procedures**

### **The Registry is not adequately assessing the validity of reasons provided by licence holders for acquiring firearms**

When licence holders apply for a permit to acquire a firearm, they must give a 'good' reason as part of their application. Under the Act, the Registry must be satisfied that the licence holder has demonstrated a 'good' reason. Nothing in the Act outlines or explains what a good reason is, but it is a different legal test than the 'genuine' reason test to qualify for a firearms licence.

Up until November 2018, the Registry did not assess whether the applicant had a 'good' reason to acquire the firearm. Applicants signed the application form to declare they had a 'good' reason. This was a form of self-assessment that is contrary to the principle of the Registry, as the Commissioner's delegate, to be satisfied that applicants had demonstrated a 'good' reason.

In November 2018, the Registry introduced an online permit to acquire application form, which requires the applicant to mark one of a range of 'good' reasons listed on a drop-down menu.

The Registry only assesses 'good' reasons provided by applicants for category C, D and H firearms (see Appendix four for an explanation of the firearms in these categories). In assessing these applications, the Registry advised that it took some account of the types of firearms already acquired by the licence holder. However, the Registry has no guidance on how staff should assess whether the applicant has provided a 'good' reason, increasing the risk of inconsistent decisions.

For category A and B firearms, such as non-self-loading rifles, the Registry cannot demonstrate that it is effectively administering this requirement of the Act because it does not check the 'good' reason provided. The Registry advised us that this was because it considered these were low risk firearms.

Without considering the number of firearms held by a licence holder, as well as the types, it is difficult to see how the Registry can make a proper assessment of the 'good' reason given by applicants.

**It is unclear what the 'good' reason is for some licence holders who have in excess of 50 or 100 firearms**

Under the Act, storage requirements for firearms do not limit the number that licence holders can store at any one location. Large numbers of firearms stored in one location can present an increased risk as a target for theft - particularly if they do not have safe storage arrangements.

By early November 2018, for the three licence types subject to this audit, there were 81 locations with over 100 firearms, and 287 locations with between 50 and 100 firearms stored by individual licence holders. While all these licence holders may have 'good' reasons for accumulating large numbers of firearms, the Registry cannot assure that some of these licence holders are not collectors seeking to avoid taking out a firearm collectors licence, which has more stringent storage and firearm disablement requirements.

**The Registry provides inappropriate guidance to pistol clubs that they can accept members' self-assessment of their safe storage arrangements**

In 2003, the NSW Government introduced handgun reforms by amending the Act. The Act requires applicants for a permit to acquire a pistol to have their pistol club confirm in writing that the licence holder has adequate storage arrangements. The licence holder presents this certificate with their application. This requirement is more stringent than the self-certification required from applicants for rifles. As such, we consider that for a pistol club to confirm safe storage for pistols not stored at the club, it would either need to inspect the storage arrangements, or rely on a responsible third party to carry out an inspection. However, the Registry does not provide guidance to this effect.

The Registry, when assessing an application for a permit to acquire a pistol, does not question whether the pistol club had inspected the licence holder's storage arrangements. This is consistent with the Registry's 2003 (still current) guidance to pistol clubs that advised there was no requirement for clubs to physically inspect members' safe storage facilities. The guidance also advised clubs that verbal or written confirmation by members, a receipt for a pistol safe showing delivery address, or a current inspection certificate appropriate for storage of pistols, would satisfy the club's requirements to provide such a confirmation.

The Registry's advice that pistol clubs can accept members' self-assessment of their safe storage arrangements is not appropriate. It negates the clear distinction made by the 2003 amendment to the Act that licence holders should not self-certify their safe storage arrangements for pistols. The use of a receipt for a pistol safe with delivery address provided by an applicant is still a form of self-certification.

The Registry should revise its guidance to pistol clubs about this responsibility. This should be similar to the Registry's guidance to police about how to conduct safe storage inspections. In particular, it should not allow clubs to accept a member's self-certification of their storage arrangements. Updating this guidance to clubs is consistent with the Registry's regulatory responsibilities under the NSW Government framework for better regulation.

## 3.4 Performance information

### **The Registry executive does not receive adequate information on the performance of key Registry operations**

Up until September 2017, the Registry produced a detailed monthly report to the executives of the Registry and NSW Police. The report included details of all the main Registry transactions, including:

- licence applications and reapplications
- permits to acquire firearms received and processed
- number of firearms currently held in unauthorised possession
- number of prohibition orders served
- various proactive data cleansing activities
- number of suspension and revocation notices served
- internal reviews of appealed revocation decisions
- firearms seized
- mail room statistics.

The report included graphs of key data showing trends over a four-year period.

In November 2017, the Registry changed the content of the monthly report, making it less detailed to better suit the needs of the NSW Police executive. However, this excluded most of the transactional, performance and trend information from the previous style of report. While the Registry advised that its executive can still access this information, it is not in a form that reports on operational performance against expected outcomes and trends over time.

The available information lacks performance-based indicators that would assist the Registry executive to more effectively manage its operations and performance. For example, measuring the number of firearms safe storage inspections undertaken against those that failed the inspection, or measuring the number of licence revocations issued against the number referred for internal review, would provide meaningful measures of performance.

## **Section two**

### Appendices





## Appendix one – Response from agency

21 February 2019



**NSW Police Force**

**OFFICE OF THE COMMISSIONER**

D/2019/148686

Ms Margaret Crawford  
Auditor-General  
Audit Office of NSW  
GPO Box 12  
SYDNEY NSW 2001

Dear Ms Crawford

I welcome the opportunity to respond to the Performance Audit on NSW Police Force Firearms Regulation and consider recommendations to build on the better regulation strategies already being developed and implemented by the Firearms Registry.

### Context

Firearms regulation is challenging and dynamic, made more complex by the co-regulatory nature of the Firearms Act 1996 (the Act) and the Firearms Regulation 2017 (the Regulation).

Multiple legislations – in NSW, other states and territories, and the Commonwealth – control firearm ownership, licensing, movement, importation, trade, compliance, misuse, and reporting, and many of these do so under the umbrella of the National Firearms Agreement.

While the Firearms Registry, a unit of the NSW Police Force, is responsible for administering aspects of the Act and Regulation in a manner which upholds the prescribed principles and objects of the Act, the Firearms Registry is necessarily reliant on police and other NSW, state and territory and Commonwealth government agencies for administrative support, auditing, information exchange, and system support, and for compliance and enforcement efforts.

Also, firearms regulation is co-regulatory in that the firearms industry - being approved clubs, dealers, ranges and instructors - are vested with the responsibility to administer and oversight aspects of the Act and Regulation. The co-regulatory nature of the scheme, whereby approved industry third parties support regulator activities, is intended to increase oversight and, resultantly, compliance.

There are regulatory obligations placed on firearm licence holders, such as maintaining currency of data with the Firearms Registry and approved clubs, such as providing confirmation that the club member meets the requisite safe storage requirements. The onus for compliance with these activities rests with those parties and not with the Firearms Registry.

The Performance Audit findings do not sufficiently acknowledge that they mainly arise from the co-regulatory nature of the scheme. The NSW Police Force Firearms Registry appears to



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have been assessed against activities that are performed or intended to be performed by approved third parties or are activities that fall outside the prescribed functions as codified. Yet, the report highlights these activities as shortcomings of the Firearms Registry. This is a clear misunderstanding of the legislation and a misdirection of accountability.

The Firearms Registry continues to implement improved regulatory practices, guided by the principles of Better Regulation. Overall, we accept the main part of the Audit Office recommendations to improve Firearms Registry processes and will implement further initiatives as outlined below. However, the NSW Police Force raises concerns with the following key findings in the report. The findings are highlighted below together with explanatory material from NSW Police Force.

These comments and explanatory material are important to a balanced understanding of co-regulatory nature of firearms industry and the related NSW Police Force obligations.

### **Findings**

#### **Address details in the register are not up to date**

The obligation rests with the licence holder to maintain currency of information with the regulator, for example, change of address. The Registry immediately responds when advised of detail changes and updates the register accordingly.

The Act and Regulation clearly place the onus on the licence holder to supply information relating to change of address details. Section 69 of the Act articulates that it is the responsibility of the licence holder to provide the Commissioner with the particulars of a change of address within 7 days after the change occurs. Clause 17(3) of the Regulation requires the licence holder to notify the Commissioner within 14 days of the change of premises where a firearm is kept. The Act and Regulation have prescribed penalties for non-compliance.

The passive nature of the legislative requirements for change of address particulars is reflected in the Registry's practices.

The Registry immediately responds to failure by licence holders to notify address changes when notified. The Registry takes a proactive approach to contact licence holders on reapplication for a firearm licence to minimise licences expiring.

The new online renewal and permit to acquire applications require the applicant to provide up-to-date residential, mailing and safe storage information. Online systems are available to licence holders to update their details on both the Registry and Service NSW websites.

Whilst a mailing address may not be current, it does not follow that the Registry is not aware of the current location of firearms as a clear legislative distinction is made between a residential (mailing) address and a safe storage address (location of firearm).

The Performance Audit report notes that there is an inherent risk to police officers attending events without knowing whether there are firearms present. This is always a risk as movement of firearms is common. Accordingly, all police officers attend events with the assumption that firearms may be present.



**The Registry's processes do not ensure sound and consistent decisions for licence suspensions and revocations**

The Registry accepts that it has outdated adjudication guidelines and that a quality review mechanism can be formally built into the adjudication process. However, it does not accept the level of risk that the Report suggests may result. The staff of the Registry are highly experienced and escalate complex or contentious matters on an ad hoc basis which they identify need review by a more senior adjudicator or manager.

The Registry has an internal review process, which is communicated to all applicants who receive an unfavourable decision. Approximately 30% of refusal and revocation decisions are overturned on internal review. An internal sample was conducted that revealed 30% of decisions were overturned or amended due to new information coming to light. This statistic is not indicative of an erroneous original decision; rather, changes in circumstances such as an appeal against a conviction or additional information being supplied by the applicant. Simply put, setting aside an original decision on review does not necessarily mean that the original decision was wrong at the time it was made with the information available to the decision maker at that time. The Registry's track record also demonstrates procedural fairness is being afforded to the applicant.

Once a matter has been finalised through the courts, the Registry receives a briefing from the NSW Police Force Office of the General Counsel following the hearing of matters before NSW Civil and Administrative Tribunal (NCAT) which are analysed (along with the decision itself) by senior staff at the Registry to determine trends and weaknesses in the initial decision. This analysis sometimes leads to advising the supervisor of the original decision maker for consideration, review and action as may be required. Alternatively, an NCAT decision may highlight a legislative anomaly which may result in the drafting of a ministerial recommending legislative amendment to correct the anomaly or to respond to emerging issues. Likewise, a decision may highlight the need to either draft or amend a pre-existing policy decision.

**The Registry's processes do not ensure all data is accurate when added to the register**

**The Registry is aware that data in the register is not accurate and up-to-date**

The Firearms Registry employs a proactive approach to identifying data integrity issues by reporting on and analysing data idiosyncrasies as they arise. The Registry generates regular data integrity reports that identify potential anomalies in the register. These reports are prioritised according to risk. Key risk areas, such as suitability to continue to hold a licence and information as to the whereabouts of firearms are considered high risk and so effort is deployed to these areas to ensure as close to real time data is available to operational police.

The Registry has various programs to check for and correct data errors, such as the firearms description cleansing program. Firearms make and calibre are locked down through a table in the Register so the firearm descriptor data of this nature cannot be modified unless via an approval system involving the NSW Police Force Forensic Ballistics Unit or national subject matter experts who generate firearm identification templates.

The Registry led a national initiative to prepare firearm data held by all Australian firearms registries for integration with the Australian Firearms Information Network (AFIN) through a national data cleansing project. This program, supported by the Australian Criminal



Intelligence Commission, was promoted as a success at the Commonwealth Senate Estimates in 2017 and saw almost half of NSW's firearms data cleansed to align the records to a national standard, and to ensure completeness and accuracy. This was facilitated through the introduction of the National Firearm Identification Database (NFID), which was a Minister's Council directive and solution to provide a single reference point of firearm descriptor values. NFID was developed to assist with firearm identification and to facilitate a consistent national approach to recording firearm descriptors by each law enforcement agency so that like-for-like descriptors of firearms are employed nationally. The different ways of reporting firearm data between states and territories does not reflect poor or inaccurate data; rather, the different firearm nomenclature came about because of: i) different IT controls constraints; ii) legislative characteristics that arise due to different drafting norms across the jurisdictions' parliamentary counsels' offices; iii) descriptors employed by firearms dealers and other third parties involved in the naming conventions of firearms.

The data quality strategy proposed a multi-modal approach to improve firearm data held within firearm management systems, including a targeted data cleansing effort, which was conducted by NSW, leveraging current business process to cleanse existing firearm records (ongoing) and leveraging current business process to implement an improved baseline for new firearm records (ongoing). These approaches have been and continue to be employed by NSW. Any new firearm that does not conform is subject to a rigorous process whereby information is sought, and confirmation obtained through NSW Police Force Forensic Ballistics Unit or subject matter experts nationally. Checks are also done by operational police when they attend a safe storage inspection and firearm data is updated when the dissemination of those inspections is received by the Registry. The Performance Report does not acknowledge the ongoing efforts by the Registry, and that the Registry's approach complied with the multi-modal data quality strategy.

The Report identified that another limitation on data accuracy is that there is no requirement for licence holders to provide supporting evidence when notifying the Registry of change of address, unlike for a change of name. This is incorrect as addresses are allocated a unique location reference number and there are validation processes in place to ensure that there are no duplicate locations created. This is enhanced by the online application processes whereby addresses are auto-populated by an address look up function through Australia Post. Adjudicators use maps to see the land size for primary producers and for recreational hunters using permission to shoot to validate the address. Other ancillary documentation may be sought, such as rates notices, for the adjudication process. Also, it should be noted that this process is the same as changing of address details for a driver's licence.

As a further identity check, when a firearm licence holder attends Service NSW a three-way authentication is performed by the Customer Service Representative. The licence holder's identity documents are sighted and checked against the photo advice letter which precipitates their attendance at Service NSW. This letter includes name and address identification details that must be matched by Service NSW staff. The identity of the individual is then validated by checking the photo identification matches the person who attends the Service NSW centre.

#### **The Registry has reduced its risk-based safe storage inspection program**

This program is a better practice initiative of the Registry; a proactive operation based on a risk-based approach for tasking operational police across the state to conduct safe storage inspections. These inspections are selected on risk-based criteria which include categories or numbers of firearms in possession, high risk locations and other identified trends. This is a

good program and is run in addition to existing safe storage inspection programs operating at a local level with the assistance of Registry data.

It should be noted that the initial push of the risk-based program closely followed the conclusion of a 4-year state-wide safe storage inspection program, which resulted in most safe storage locations throughout NSW being inspected. The commencement of the risk-based program saw a marked improvement in the quality of inspections and data received by the Firearms Registry. The purpose of the initial program was not to take over the tasking of safe storage inspections from local commands but rather provide commands with the guidance, information and tools to conduct more thorough inspections. These tools are now readily available on the intranet and in COPS (police follow a step-by-step process to assist them in conducting a thorough inspection) so the need to continue vigorously driving the operation from the Registry has reduced. State-wide inspection numbers have remained consistent throughout this period and police continue to rely on data provided by the Registry for this practice.

Criticism of the Registry's actions regarding the inspection program would appear incomplete - lacking the broader inspection details provided above.

#### **The Registry does not effectively administer important parts of the Act and Regulation**

The Report bases the deceased estate process to suggest that the administration of parts of the Act and Regulation are ineffective. This finding extends beyond the need to operate within existing policy and legislative settings as well as other parties involved in the administration of the Act and Regulation.

The Registry invokes a process to administer the requirements under section 82A of the Act, which relates to management of firearms held against deceased estates by enabling an administrator or executor to possess and be responsible for the safe storage of firearms in a deceased estate for up to six months. The Registry promptly cancels licences and records firearms to be retrieved from deceased estates when it becomes aware that a licence holder has died. The Registry receives information through a weekly COPS report and a fortnightly report from the NSW Registry of Births, Deaths and Marriages about recent deceased individuals. There is also a process whereby the Registry may be notified from executors, administrators, next-of-kin or club officials.

Once notified about a death by any of the sources identified above, the Registry sends a letter out to the last known address of the deceased seeking evidence that the person in possession of the firearms is either the administrator or executor and requests details confirming their capacity to comply with the safe storage arrangements of firearms and/or to advise of disposal options. At the end of the prescribed six-month period, and where firearms remain in possession of the deceased estate, the Registry creates a COPS event advising police to seize the firearms.

There are a small number of instances where the Registry may not have been aware of the death of the licence holder for some time, possibly only when the licence of the deceased comes up for renewal. This means in that instance the firearms may have been in possession of persons who did not know their obligations. Data confirms that the Registry is not notified within 14 days for 2% of all deceased licence holders.

### **Improvements**

Responses to the Report's recommendations, with time frames for implementation is attached. The Registry already fulfils many of the recommendations through existing business processes, has commenced activity to pursue the recommendations or has suggested appropriate initiatives to meet the recommendations.

NSW Police Force does not propose to adopt recommendation for administrative staff to take enforcement action in the form of penalty notices as operational police have greater investigative capabilities and the function is more suited to that role. Further, we do not propose to pursue the recommendation in respect of pistol clubs and safe storage arrangements as the obligation currently sits with clubs and shifting responsibility to the regulator clearly changes the current policy setting.

I would like to extend my appreciation to your office and your staff for conducting the review, and to recognise the officers within the NSW Police Force who aided in this process.

I appreciate your consideration of the issues raised in this response.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MJ Fuller', with a stylized flourish at the end.

**M J Fuller APM**  
**Commissioner of Police**



## Sensitive – NSW Government

D/2018/ 148686

Recommendation		NSWP Force Response
To improve integrity of data in the register, NSW Police Force should ensure the Firearms Registry urgently:	1. addresses backlogs in identifying and updating incorrect data in the register	The Registry will continue to update data integrity issues as they arise.
	2. conducts computer access audits according to NSW Police Force policy.	<p><b>February 2019:</b> An Executive Officer was employed at the Registry, of which one of the employee's duties includes the coordination of computer access audits in accordance with NSW Police Force policies. This process has been commenced.</p> <p>Prior to the appointment of the Executive Officer the last audit was conducted in July 2018. The Registry will continue to comply with NSW Police corporate policies requiring regular, independent audits of staff access to information and transactions they conduct.</p>
By July 2019, to improve consistency of administrative decisions, NSW Police Force should ensure the Firearms Registry:	3. introduces updated delegations for all administrative functions that delegate functions to specific positions	The Registry Commander commenced the process of reviewing and updating existing delegations across the Registry in October 2018. Subject to legal advice from the Office of General Counsel, all delegations across the Registry will be confirmed and enacted by March 2019.
	4. introduces detailed guidance for assessing discretionary reasons when considering a licence suspension or revocation 5. introduces procedures to quality-review decisions about licence suspensions and revocations	<p>An independent internal review was conducted by the Office of General Counsel in early February 2019. Upon receipt of formal recommendations, the Registry will implement detailed guidelines for assessing discretionary reasons when considering a licence suspension or revocation, in accordance with advice arising from the review. Relevant training has been scheduled for April 2019 in support of the introduction of new guidelines.</p> <p><b>April 2019:</b> Review escalation process and update guidelines, implementation of checklists, update of adjudication guidelines and decision-making tool etc to assist with consistency.</p> <p><b>July 2019:</b> Develop a quality assurance strategy which will be reflected in any potential realignment of the existing organisational structure. This will include a risk-based work-flow, a quality review of decision making to improve sound decisions being made at the outset, the introduction of dip sampling of approved licences, continuous improvement strategies such as monthly feedback meetings covering case law and, an internal review of decisions made by the original decision maker solidified by training where necessary.</p> <p><b>April 2020:</b> Conduct a 12-month review of the risk-based work flows with adjustment to placement, functions, processes and gradings if necessary.</p>

## Sensitive – NSW Government

	6. introduces detailed guidance for assessing whether "good" reasons provided by licence holders for acquiring firearms are satisfactory	<p>In November 2018, the Registry introduced an online application for a PTA, which requires the applicant to mark one of a range of "good" reasons listed on a drop-down menu. In addition, the Registry will:</p> <p>Part of the review conducted by the Office of the General Counsel in February 2019 (refer to point 4) is to provide advice regarding the "good reason" test.</p>
	7. introduces a policy and procedures taking enforcement action	<p>NSW Police Force opposes the recommendation for Firearms Registry staff to issue penalty notices as, there are limited investigative routes for Registry staff to employ and there are impacts in terms of court attendance and other administrative requirements should the fine be challenged. Notwithstanding NSW Police Force opposition to the recommendation, the Registry will:</p> <p>Develop a communications strategy to remind customers of their obligations as outlined in legislation which is expected to be completed by March 2019.</p> <p><b>July 2019:</b> Strengthen operational police awareness of licence holder obligations to maintain currency of mailing and other details, with a view to police issuing penalty notices for non-compliance.</p>
	8. ensures pistol clubs actively confirm safe storage arrangements.	<p>This recommendation is opposed by NSW Police as it extends beyond the existing legislative arrangements. The legislation clearly places the obligation on the clubs to confirm safe storage arrangements. The report criticises the Registry for providing 'inappropriate guidance' for pistol clubs however the Registry provides them with a raft of options they may employ to be satisfied to certify the safe storage arrangements, including seeking a safe storage event number, which confirms that police have inspected the safe storage arrangements. Notwithstanding the opposition to the recommendation, the Registry has amended the Permit to Acquire form for Category H firearms to include a field to record the event number.</p>
By May 2019, to improve safety of the public and police, NSW Police Force should ensure the Firearms Registry:	9. restores the Firearms Registry initiated risk-based firearms safe storage inspection program	<p>The Registry will:</p> <p><b>May 2019:</b> The Registry is currently reviewing Risk-Based Safe Storage Inspection Program (aim, methodology, results, strategies etc) and will re-energise activities in this area and include greater visibility in the Corporate Reporting platform.</p> <p><b>July 2019:</b> Re-calibrate, if necessary, to accommodate for new and emerging risks with a view to amending or expanding the parameters for the locations targeted for inspection.</p>

	<p>10. implements strategies for timely reporting of address changes and prompt retrieval of firearms from deceased estates after expiry of the six-month statutory period.</p>	<p>The Registry will:</p> <p><b>February 2019:</b> The Registry has begun to make enquiries with other jurisdictions regarding potential strategies for prompt retrieval of firearms from deceased estates after expiry of the six-month statutory period.</p> <p><b>May 2019:</b> Conduct an analysis of other jurisdictions' deceased estate process to inform areas of potential process improvement. Consider and potentially implement policy, process or legislative amendment pending outcome of analysis.</p>
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## Appendix two – Reasons for firearms licences to be suspended or revoked

Decision to be made	Reasons	Relevant statutory provisions
<b>Revocation</b>		
<b>Automatic</b>	Licence holder subject to Firearms Prohibition Order (FPO)	Act s 24(1)
	Licence holder subject to Apprehended Violence Order (AVO)	Act s 24(1)
<b>Discretionary</b>	For any reason which licence holders would not have received the same licence in the first place:	Act s 24(2)(a)
	<ul style="list-style-type: none"> <li>Not fit and proper person + cannot be trusted to have possession of firearms without danger to public safety or to the peace.</li> </ul>	Act s 11(3)(a)
	<ul style="list-style-type: none"> <li>Not capable of meeting storage and safety requirements.</li> </ul>	Act s 11(3)(c)
	<ul style="list-style-type: none"> <li>Not a NSW resident or not about to become a NSW resident.</li> </ul>	Act s 11(3)(d)
	<ul style="list-style-type: none"> <li>Commissioner has reasonable cause to believe that the applicant may not personally exercise continuous and responsible control over firearms because of: applicant's way of living or domestic circumstances, any previous attempt to commit suicide or cause self-inflicted injury, applicant's intemperate habits or being of unsound mind.</li> </ul>	Act s 11(4)
	<ul style="list-style-type: none"> <li>Convicted of prescribed offences listed in cl 5(1) of the Regulation (see below).</li> </ul>	Act s 11(5)(b) Reg cl 5(1)
	<ul style="list-style-type: none"> <li>Subject to Good Behaviour Bond in relation to prescribed offences listed in cl 5(1) of the Regulation (see below).</li> </ul>	Act s 11(5)(d) Reg cl 5(2)
	<ul style="list-style-type: none"> <li>Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, that – (a) the person is a risk to public safety + (b) holding of licence would be contrary to public interest.</li> </ul>	Act s 11(5A)
	<ul style="list-style-type: none"> <li>Commissioner considers that it is contrary to public interest for a person to continue to be a licence holder.</li> </ul>	Act s 11(7)
	<ul style="list-style-type: none"> <li>Licence holder supplied information which was (to licence holders' knowledge) false or misleading in a material particular in, or in connection with, the application for the licence.</li> </ul>	Act s 24(2)(b)(i)
	<ul style="list-style-type: none"> <li>Licence holders contravene any provision in the Act or Regulations, regardless to whether licence holders were convicted of an offence for the contravention.</li> </ul>	Act s 24(2)(b)(ii)

Decision to be made	Reasons	Relevant statutory provisions
<b>Revocation</b>		
<b>Discretionary</b>	• Licence holders contravene any condition of their licences.	Act s 24(2)(b)(iii)
	• Commissioner is of the opinion that the licence holder is no longer a fit and proper person to hold a licence.	Act s 24(2)(c)
	• Commissioner is satisfied that the licence holder, through any negligence or fraud on the part of the licence holder, has caused firearm to be lost or stolen.	Act s 24(2)(c1)
	• Commissioner is satisfied that it is not in the public interest for the licence holder to continue to hold the licence.	Reg cl 20
<b>Suspension</b>		
<b>Automatic</b>	Interim Apprehended Violence Order (IAVO) is made against licence holder.	Act s 23(1)
<b>Discretionary</b>	Commissioner is satisfied that there may be grounds for revoking a licence (see licence revocation section above).	Act s 22(1)
<b>Mandatory</b>	Commissioner is aware that licence holder has been charged with domestic violence offence.	Act s 22(2)
	Commissioner has reasonable cause to believe that licence holder has committed or have threatened to commit domestic violence offence.	Act s 22(2)



## Firearms Regulation Clause 5 – Offences that disqualify licence applicants (but are discretionary for suspension or revocation)

Sub-clause	Offence	Offence details
(1)(a)	Offences relating to Firearms or Weapons	<p>Offence relating to possession or use of firearm or other weapon, or firearm part or ammunition, committed under:</p> <ul style="list-style-type: none"> <li>the law of any Australian jurisdiction</li> <li>the law of any overseas jurisdiction – if it would have been an offence under the law of an Australian jurisdiction had it been committed in Australia.</li> </ul>
(1)(b)	Offences relating to Prohibited Drugs etc	<p>Offences in respect of prohibited plant or prohibited drug or a prescribed restricted substance.</p> <p>Penalty including any term of imprisonment (whether or not suspended), community service order, good behaviour bond or penalty of ≥\$2,200.</p> <p>Committed under the law of any Australian jurisdiction or the law of any overseas jurisdiction (if it would have been an offence under the law of an Australian jurisdiction had it been committed in Australia).</p>
(1)(c)	Offences relating to Public Order or involving Assaults against Law Enforcement officers	
(1)(d)	Offences involving Violence	<p>Any offence committed under the law of any Australian or overseas jurisdiction, being:</p> <ol style="list-style-type: none"> <li>offence involving the infliction of actual bodily harm on a person, with penalty including any term of imprisonment (whether or not suspended), community service order, good behaviour bond or penalty of ≥\$550</li> <li>offence involving kidnapping or abduction</li> <li>offence involving stalking or intimidation</li> <li>offence of attempting to commit, threatening to commit or conspiring to commit any of the offences in (i)-(iii).</li> </ol>
(1)(e)	Offences of Sexual Nature	
(1)(f)	Offences involving Fraud, Dishonesty or Stealing	<p>Any offence under the law of any Australian or overseas jurisdiction involving fraud, dishonesty or stealing.</p> <p>Penalty including any term of imprisonment (whether or not suspended) for ≥3 months, community service order for ≥100 hours, or good behaviour bond.</p>
(1)(g)	Offences involving Robbery	Any offence under the law of any Australian or overseas jurisdiction involving robbery (whether armed or otherwise).
(1)(h)	Offences relating to Riot	Any offences under s 93B of the <i>Crimes Act 1900</i> or any similar offence under the law of any Australian jurisdiction or the law of any overseas jurisdiction (if it would have been an offence under the law of an Australian jurisdiction had it been committed in Australia).
(1)(i)	Offences relating to Affray	Any offence under s 93C of the <i>Crimes Act 1900</i> or any similar offence under the law of any Australian jurisdiction or the law of any overseas jurisdiction (if it would have been an offence under the law of an Australian jurisdiction had it been committed in Australia).

Sub-clause	Offence	Offence details
(1)(j)	Offences relating to Terrorism	<p>An offence relating to terrorism, being:</p> <ul style="list-style-type: none"> <li>An offence under Pt. 6B of the <i>Crimes Act 1900</i> or against Pt. 5.3 of the Criminal Code set out in the Schedule to the <i>Criminal Code Act 1995 (Cth)</i>; or</li> <li>An offence committed elsewhere than in NSW that, if committed in NSW, would be an offence under Pt. 6B of the <i>Crimes Act 1900</i> or against Pt. 5.3 of the Criminal Code set out in the Schedule to the <i>Criminal Code Act 1995 (Cth)</i>.</li> </ul>
(1)(k)	Offences involving Organised Crime Groups, Consorting and Recruitment	<p>An offence committed under ss 93T, 93X or 351A of the <i>Crimes Act 1900</i>, or committed elsewhere than in NSW that, if committed in NSW, would be an offence under the mentioned provision.</p>



## Appendix three – Licence holder obligations

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### List of self-reporting or compliance obligations imposed on firearms licence holders

- Notify the Registry of changes in details:
  - residential address of licence holders within seven days of the change
  - firearm safe-keeping address or arrangements within 14 days of the change
  - any particulars stated in the firearms licence (for example, the name of the licence holder) within 14 days of the change
  - genuine reason (including the removal of a genuine reason or the inclusion of additional genuine reason) within 14 days of the change.
- Take all reasonable precautions to ensure that firearms:
  - are kept in appropriate, secured safe-keeping facilities
  - are not stolen or lost
  - do not come into the possession of a person who is not authorised to possess the firearm.
- Advise the Registry of:
  - any loss or theft of firearms, including the date, circumstances and other particulars of the incident, within seven days of the incident
  - any acquisition or supply of firearms and the particulars of such transaction (including date of transaction; name, address and licence/permit of the other party; sufficient detail to identify the firearm involved; and identifying number of any spare barrel for the firearm) within seven days of the transaction
  - the fact that the licence holder has become a permanent resident of another state or territory within 14 days of moving interstate.
- Produce firearm for inspection by a police officer at any reasonable time when requested.
- Provide any supporting documentation if required by the Registry.



# Appendix four – Firearms licence categories

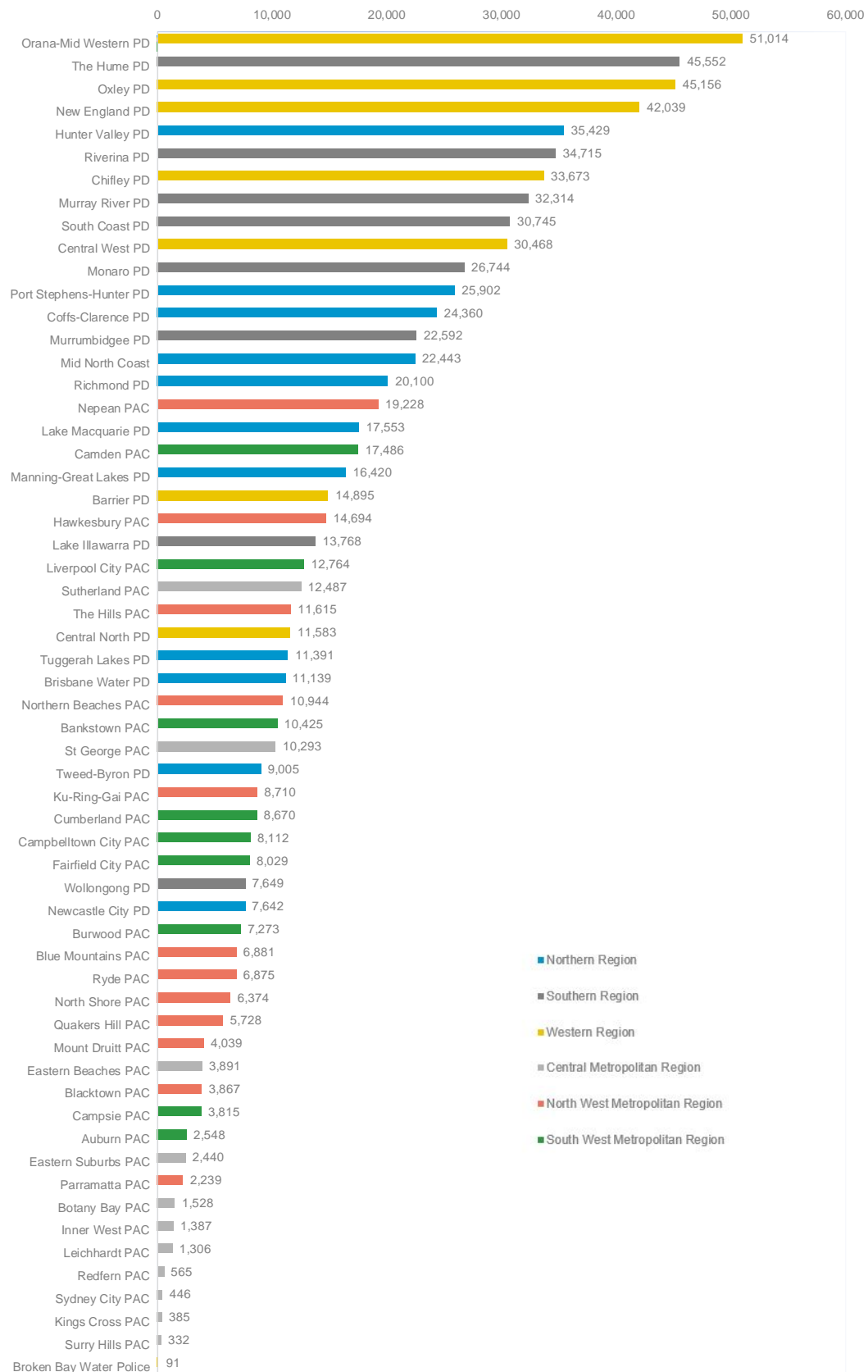
Licence categories and genuine reason table (Updated December 2018)	Category A Licence * Air rifles * Rimfire rifle (other than self-loading) * Shotgun/rimfire combinations * Shotgun (other than pump action, lever action or self-loading).	Category B Licence * Muzzle loading firearms (other than pistols) * Centre-fire rifles (other than self-loading) * Shotgun/centre-fire combinations * Lever action shotguns with a magazine capacity of no more than 5 rounds.	Category C Licence <b>Prohibited except for limited purposes</b> * Self-loading rimfire rifles with a magazine capacity of no more than 10 rounds * Self-loading shotguns with a magazine capacity of no more than 5 rounds * Pump action shotguns with a magazine capacity of no more than 5 rounds.	Category D Licence <b>Prohibited except for official purposes</b> * Self-loading centre-fire rifles * Self-loading rimfire rifles with a magazine capacity of more than 10 rounds * Self-loading shotguns with a magazine capacity of more than 5 rounds * Pump action shotguns with a magazine capacity of more than 5 rounds * Lever action shotguns with a magazine capacity of more than 5 rounds * Any firearm to which a Category C licence applies.	Category H Licence * Pistols including blank fire pistols and air pistols.
<b>Sport/Target Shooting</b>	<b>YES</b> Enter details of your principal target shooting club membership AND upload a copy of your membership card.	<b>YES</b> Enter details of your principal target shooting club membership AND upload a copy of your membership card Club membership satisfies special need.	<b>YES</b> Enter details of your clay target shooting club membership AND upload a copy of your certificate from a medical practitioner Club membership satisfies special need.	<b>NOT AVAILABLE</b>	<b>YES</b> Enter details of your pistol shooting club membership AND upload a copy of your membership card Club membership satisfies special need. First time applicants will be issued with a <b>Probationary Pistol Licence</b> for 1 year.
<b>Recreational Hunting/Vermin Control</b>	<b>YES</b> Select from the following options AND upload copies of supporting documents: * Hunting Club membership, or * Ownership/occupancy of rural land, or * Permission to shoot on rural land, or * Game hunting licence, or * Permission from prescribed government agency	<b>YES</b> Select from the following options AND upload copies of supporting documents: * Hunting Club membership, or * Ownership/occupancy of rural land, or * Permission to shoot on rural land, or * Game hunting licence, or * Permission from prescribed government agency <b>+ Demonstrate special need.</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>
<b>Primary Production</b>	<b>YES</b> Enter details of your primary production business AND upload your primary production certification plus proof of ownership or occupancy of rural land: * Occupation as a primary producer, or * Owner, lessee or manager of land used for primary production.	<b>YES</b> Enter details of your primary production business AND upload your primary production certification plus proof of ownership or occupancy of rural land: * Occupation as a primary producer, or * Owner, lessee or manager of land used for primary production. <b>+ Demonstrate special need.</b>	<b>YES</b> Enter details of your primary production business AND upload your primary production certification plus proof of ownership or occupancy of rural land: * Occupation as a primary producer, or * Owner, lessee or manager of land used for primary production. <b>+ Demonstrate special need.</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>
<b>Vertebrate Pest Animal Control</b>	<b>YES</b> Upload copies of supporting documents AND provide certification that you are: * Professional contract shooter, or * Employed or authorised by a government agency.	<b>YES</b> Upload copies of supporting documents AND provide certification that you are: * Professional contract shooter, or * Employed or authorised by a government agency. <b>+ Demonstrate special need.</b>	<b>NOT AVAILABLE</b> The firearm type authorised by a Category C licence for this genuine reason is covered by a Category D Licence.	<b>YES</b> Upload copies of supporting documents AND provide certification that you are: * Professional contract shooter, or * Employed or authorised by a government agency * Primary producer involved in an authorised eradication campaign. <b>+ Demonstrate special need.</b>	<b>NOT AVAILABLE</b>

Licence categories and genuine reason table (Updated December 2018)	Category A Licence * Air rifles * Rimfire rifle (other than self-loading) * Shotgun/rimfire combinations * Shotgun (other than pump action, lever action or self-loading).	Category B Licence * Muzzle loading firearms (other than pistols) * Centre-fire rifles (other than self-loading) * Shotgun/centre-fire combinations * Lever action shotguns with a magazine capacity of no more than 5 rounds.	Category C Licence Prohibited except for limited purposes * Self-loading rimfire rifles with a magazine capacity of no more than 10 rounds * Self-loading shotguns with a magazine capacity of no more than 5 rounds * Pump action shotguns with a magazine capacity of no more than 5 rounds.	Category D Licence Prohibited except for official purposes * Self-loading centre-fire rifles * Self-loading rimfire rifles with a magazine capacity of more than 10 rounds * Self-loading shotguns with a magazine capacity of more than 5 rounds * Pump action shotguns with a magazine capacity of more than 5 rounds * Lever action shotguns with a magazine capacity of more than 5 rounds * Any firearm to which a Category C licence applies.	Category H Licence * Pistols including blank fire pistols and air pistols.
<b>Business or Employment</b> Owner of business Employee of business	<b>YES</b> Upload proof that the use of firearms is necessary in your business or employment of: * Security Guard * Commercial Fishing * Business - Other Security guards shotgun only.	<b>YES</b> Upload proof that the use of firearms is necessary in your business or employment of: * Commercial Fishing * Business - Other <b>+ Demonstrate special need.</b> Not available to security guards.	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>	<b>YES</b> Upload proof that the use of firearms is necessary in your business or employment of: * Security Guard * Business - Other. <b>+ Demonstrate special need.</b> Security Guards will initially be issued with a <b>Provisional Pistol Licence</b> .
<b>Rural Occupation</b>	<b>YES</b> Upload proof of your employment or engagement in rural occupation requiring the use of firearms, e.g. letter from your employer on official letterhead.	<b>YES</b> Upload proof of your employment or engagement in rural occupation requiring the use of firearms, e.g. letter from your employer on official letterhead. <b>+ Demonstrate special need.</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>
<b>Animal Welfare</b>	<b>YES</b> Upload proof that the use of firearms is necessary for your animal welfare responsibilities as: * An officer of the RSPCA or Animal Welfare League, or * Veterinary practitioner, or * Employee of Department of Primary Industries or Local Land Services, or * Owner, transporter, drover or other handler of animals.	<b>YES</b> Upload proof that the use of firearms is necessary for your animal welfare responsibilities as: * An officer of the RSPCA or Animal Welfare League, or * Veterinary practitioner, or * Employee of Department of Primary Industries or Local Land Services, or * Owner, transporter, drover or other handler of animals. <b>+ Demonstrate special need.</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>	<b>NOT AVAILABLE</b>
<b>Firearms Collection</b> The collection must have a genuine commemorative, historical, thematic or financial value.	<b>YES</b> Enter details of your principal collecting club membership AND upload a letter of endorsement by your collecting club and proof of membership Firearms must be rendered temporarily inoperable.	<b>YES</b> Enter details of your principal collecting club membership AND upload a letter of endorsement by your collecting club and proof of membership Firearms must be rendered temporarily inoperable.	<b>YES</b> Enter details of your principal collecting club membership AND upload a letter of endorsement by your collecting club and proof of membership Firearms must be rendered temporarily inoperable.	<b>YES</b> Enter details of your principal collecting club membership AND upload a letter of endorsement by your collecting club and proof of membership Firearms must be rendered permanently inoperable.	<b>YES</b> Enter details of your principal collecting club membership AND upload a letter of endorsement by your collecting club and proof of membership Firearms must be rendered temporarily inoperable.



## Appendix five – Firearms distribution

### Firearms distribution by police area command (PAC) or police district (PD) - all firearms





## Appendix six – About the audit

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### Audit objective

This audit assessed how well the Firearms Registry (the Registry) administers the requirements of the *Firearms Act 1996 (NSW)* (the Act) and the *Firearms Regulation 2017 (NSW)* (Regulation) for existing licence holders.

The Firearms Registry, part of the NSW Police Force, is the appropriate administrative authority for the purposes of the Act and Regulation.

### Audit criteria

We addressed the audit objective with two lines of enquiry and criteria as follows:

1. Is Registry's database reliable?
  - Does the Registry's database (the register) support the firearms licensing and registration scheme by having readily accessible, accurate and up-to-date information regarding the status of firearms licence holders and their registered firearms?
2. Does the Registry monitor existing firearms licence holders in accordance with the Act and Regulation?
  - Does the Registry have, and comply with, appropriate risk-based policies and procedures for identifying and acting consistently on status changes of existing firearms licence holders?

### Audit scope and focus

In assessing the audit objective and criteria, we considered that to effectively administer the requirements of the Act and Regulation requires:

- the databases which support the firearms licensing and registration scheme to have readily accessible, accurate and up-to-date information regarding the status of licence holders and registered firearms
- the Registry has appropriate risk-based policies and procedures for its operations that are consistent with the Act and Regulation
- the Registry applies consistent administrative decisions.

The audited entity was the NSW Police Force, including the Firearms Registry.

We examined licences held for the following three 'genuine' reasons, which account for around 92 per cent of all firearms licences issued as at 30 June 2018:

- sport/target shooting (18 per cent)
- recreational hunting/vermin control (59 per cent)
- primary production (15 per cent).

The scope was limited to the Registry's administrative activities regarding existing firearms licence holders. This aspect can involve greater risks as licence holders must self-report status changes (for example, addresses, storage arrangements etc.).

There are many potential intervention points by Registry personnel in administering the Act and Regulation, and assessing performance across all these would not be feasible. For this reason, we examined a limited number of key areas such as requirements for firearms storage, issue of permits to acquire firearms including additional firearms, licence suspensions and revocations, licence expiry and changed 'criminal' status.

A key focus was on the reliability (complete, accurate and up-to-date) of information on licence holders and firearms in the firearms register and its interaction with other databases that hold the contemporary criminal records of licence holders. The register underpins the Registry's administrative activities by providing information on the status of licence holders and registered firearms. We also focused on the policies and procedures used by the Registry for ensuring administrative decisions made by Registry personnel are consistent, and accurately reflect the requirements in the Act and Regulation.

## Audit exclusions

The audit did not seek to:

- Assess the Registry's process in assessing and issuing firearms licences for new applicants or applications for licence renewals.
- Examine the administrative actions conducted by police officers who are not part of the Registry. However, we looked at what policies and procedures the Registry determines non-registry police officers must use in carrying out and reporting on these administrative activities.
- Examine various types of permits granted by the Commissioner under the Act and Regulation, with the exception of permits for acquiring firearms granted under s 28(a) of the Act.
- As this audit focussed on existing licence holders for three of the eight genuine reasons, it did not examine administrative activities carried out by the Registry for existing licence holders with the following other 'genuine' reasons for having a licence:
  - vertebrate pest animal control
  - business or employment
  - rural occupation
  - animal welfare
  - firearms collection.
- Assess the efficiency of the Registry's operations.

However, we commented on some of these issues where they affected our findings or to provide context.

## Audit approach

Our procedures included:

1. Interviewing key staff of the Firearms Registry and the NSW Police Force, particularly those involved in:
  - providing technical support to the Registry's database
  - making entries into the Registry's database, and accessing and using the various reports produced by the database
  - designing the reporting structure of the Registry's database
  - making judgments and decisions relating to the status changes of existing firearms licence holders
  - making judgments and decisions on the application of regulatory actions.



2. Examining:
  - the Registry's procedures and guidance for its personnel in relation to the management of the firearms licensing and registration scheme
  - relevant documents and reports used by the Registry to identify, amend as needed and monitor changes to the status of existing licence holders and their registered firearms, including:
    - policies and procedures to identify status changes
    - policies and procedures to incorporate those status changes in the database
    - policies and procedures to test the validity of the information in the database
  - relevant documents and reports used by the Registry in managing breaches of the Act or Regulation which may result in status changes of licence holders
  - relevant documents and reports used by the Registry in managing breaches of the Act or regulation which may result in enforcement actions being taken.
3. Understanding the relevant internal controls regarding:
  - data integrity checks and exception reports of the Registry's database
  - management review of judgments and key decisions made by the Registry personnel
  - evaluating outcomes of appeals for internal review and NSW Civil and Administrative Tribunal on initial decisions made by the Registry personnel to determine whether changes in practice or further staff training is required.

The audit approach was complemented by quality assurance processes within the Audit Office to ensure compliance with professional standards.

## **Audit methodology**

Our performance audit methodology is designed to satisfy Australian Audit Standard ASAE 3500 Performance Engagements and other professional standards. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance and draw a conclusion on the audit objective. Our processes have also been designed to comply with requirements specified in the *Public Finance and Audit Act 1983* and the *Local Government Act 1993*.

## **Acknowledgements**

We gratefully acknowledge the cooperation and assistance provided by the Firearms Registry and the NSW Police Force, as well as those stakeholders who participated in the discussions held during the audit. In particular, we wish to thank the staff of the Firearms Registry who contributed in interviews and provided materials relevant to the audit.

## **Audit cost**

Including staff costs and overheads, the estimated cost of the audit is \$226,000.



## Appendix seven – Performance auditing

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### What are performance audits?

Performance audits determine whether state or local government entities carry out their activities effectively, and do so economically and efficiently and in compliance with all relevant laws.

The activities examined by a performance audit may include a government program, all or part of an audited entity, or more than one entity. They can also consider particular issues which affect the whole public sector and/or the whole local government sector. They cannot question the merits of government policy objectives.

The Auditor-General's mandate to undertake performance audits is set out in section 38B of the *Public Finance and Audit Act 1983* for state government entities, and in section 421D of the *Local Government Act 1993* for local government entities.

### Why do we conduct performance audits?

Performance audits provide independent assurance to the NSW Parliament and the public.

Through their recommendations, performance audits seek to improve the value for money the community receives from government services.

Performance audits are selected at the discretion of the Auditor-General who seeks input from parliamentarians, state and local government entities, other interested stakeholders and Audit Office research.

### How are performance audits selected?

When selecting and scoping topics, we aim to choose topics that reflect the interests of parliament in holding the government to account. Performance audits are selected at the discretion of the Auditor-General based on our own research, suggestions from the public, and consultation with parliamentarians, agency heads and key government stakeholders. Our three-year performance audit program is published on the website and is reviewed annually to ensure it continues to address significant issues of interest to parliament, aligns with government priorities, and reflects contemporary thinking on public sector management. Our program is sufficiently flexible to allow us to respond readily to any emerging issues.

### What happens during the phases of a performance audit?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team develops an understanding of the audit topic and responsible entities and defines the objective and scope of the audit.

The planning phase also identifies the audit criteria. These are standards of performance against which the audited entity, program or activities are assessed. Criteria may be based on relevant legislation, internal policies and procedures, industry standards, best practice, government targets, benchmarks or published guidelines.

At the completion of fieldwork, the audit team meets with management representatives to discuss all significant matters arising out of the audit. Following this, a draft performance audit report is prepared.

The audit team then meets with management representatives to check that facts presented in the draft report are accurate and to seek input in developing practical recommendations on areas of improvement.

A final report is then provided to the head of the audited entity who is invited to formally respond to the report. The report presented to the NSW Parliament includes any response from the head of the audited entity. The relevant minister and the Treasurer are also provided with a copy of the final report. In performance audits that involve multiple entities, there may be responses from more than one audited entity or from a nominated coordinating entity.

## **Who checks to see if recommendations have been implemented?**

After the report is presented to the NSW Parliament, it is usual for the entity's audit committee to monitor progress with the implementation of recommendations.

In addition, it is the practice of Parliament's Public Accounts Committee to conduct reviews or hold inquiries into matters raised in performance audit reports. The reviews and inquiries are usually held 12 months after the report received by the NSW Parliament. These reports are available on the NSW Parliament website.

## **Who audits the auditors?**

Our performance audits are subject to internal and external quality reviews against relevant Australian and international standards.

The Public Accounts Committee appoints an independent reviewer to report on compliance with auditing practices and standards every four years. The reviewer's report is presented to the NSW Parliament and available on its website.

Periodic peer reviews by other Audit Offices test our activities against relevant standards and better practice.

Each audit is subject to internal review prior to its release.

## **Who pays for performance audits?**

No fee is charged for performance audits. Our performance audit services are funded by the NSW Parliament.

## **Further information and copies of reports**

For further information, including copies of performance audit reports and a list of audits currently in-progress, please see our website [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au) or contact us on 02 9275 7100.

## OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

## OUR PURPOSE

To help parliament hold government accountable for its use of public resources.

## OUR VALUES

**Purpose** – we have an impact, are accountable, and work as a team.

**People** – we trust and respect others and have a balanced approach to work.

**Professionalism** – we are recognised for our independence and integrity and the value we deliver.

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