

WA Firearms Act Reform

Submission

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The [Shooting Industry of Australia](#) (SIFA) welcomes the opportunity to comment on the Western Australian Police Force consultation paper on the proposed reform of firearms laws in Western Australia.

SIFA is the peak body representing the major importers, wholesalers and retailers of firearms, ammunition, and related accessories in Australia.

Although a niche industry in relative terms, Australia's shooting industry generates many triple bottom-line benefits for Australia.

- Social
 - Enabling Australia's security by supplying Defence, Law enforcement and other government agencies.
 - Supplying Australia's ~1,000,000 licensed firearm owners and shooting clubs.

- Economic
 - Contributing \$2.4 Billion to Australia's GDP.
 - Supporting an estimated 19,500 jobs.

- Environmental.
 - Firearms are the most common and most humane method of controlling over abundant wildlife populations, protecting our ecology.
 - Firearms are frequently used by farmers to satisfy their biosecurity obligations and to mitigate the impact of pests, protecting the viability of their crops and our food security.

Table of Contents

Methodology	8
WA's regulatory landscape.....	8
Evaluation of the stated success measures.....	11
1) Improve public safety by ensuring the safe and responsible possession and use of firearms.	11
2) Specify the purposes for which a person can be authorised to possess or use a firearm.	15
3) Minimise the risk of persons becoming victims of crimes that involve the misuse of firearms.....	16
4) Prevent persons from having access to firearms for criminal purposes.	17
5) Prevent access to firearms by persons who pose a risk of violence or misuse of firearms, and,	18
6) Minimise the risk of persons causing harm, including psychological harm, to themselves or others by the misuse of firearms.	18
7) Reduce the number of firearms unlawfully possessed in the community.	19
8) Facilitate a nationally consistent approach to the control of firearms.	22
The effects of the proposed reforms upon the shooting industry.....	27
1. Artificial barriers to trade.	27
2. Economic and employment impacts.	27
3. Regulatory uncertainty.....	29
4. Related impacts.....	29
SIFA recommendations	31
References (in order of first reference).....	32

Methodology

The consultation paper lists eight objectives or success measures for the proposed legislation and regulation.

This submission first considered the overall reform exercise at the macro level.

It then considered each of the proposed changes and attempted to map each change back to one or more of the stated objectives or success measures.

The commentary provided is within the context of “how sound is this proposed action, what does the data say, and how likely is this action to deliver on its stated objective?”

This submission also articulates some anticipated impacts upon the shooting industry, which are unique to those of all other stakeholders.

WA’s regulatory landscape.

Policing literature such as the Australian New Zealand Policing Advisory Agency (ANZPAA) [Trust in Police Compendium 2021](#) confirms and stresses the importance of public co-operation, trust and support necessary for successful policing.

On matters as significant as public safety and the criminal misuse of firearms, the public would expect to see close collaboration between police and the lawful firearms community, united in the common goals of enhancing public safety and the elimination of the criminal misuse of firearms in WA.

Indeed, “Partnerships” are one of three priority areas in [WAPol’s current strategic plan](#) and is seen as vital to “*enhance our capability to deliver community safety outcomes*”.

It is disappointing therefore to observe a distinct air of “us V’s them” and distrust throughout the consultation paper. Anecdotally, we understand that this adversarial relationship has been a feature of firearms regulation in Western Australia for some time.

[SIFA’s Insight 2022 industry survey](#) showed that WA and SA were the states which had the highest percentages of dissatisfaction with the performance and behaviour of their firearm regulators.

The core of the regulatory challenges facing the Australian shooting industry in WA is that “firearms” are viewed as an operational law enforcement matter rather than a matter of sensible and impartial industry regulation. This myopic approach shapes the regulators style and attitudes towards “consultation”.

Peak bodies such as SIFA form their expectations of Governments from each governments own published policies, procedures, guidelines, etc. as well as the stated objects of any relevant legislation.

We expect to see the same levels of professionalism, process compliance and good faith that our regulators expect of us.

These expectations are expanded upon in [SIFA's published position statements](#) on Firearms regulation and regulator performance, Shooting industry stakeholder consultation, and Data driven firearms policy.

Like many similar proposals we see, this consultation paper makes vague, sweeping statements about motivations and aspirational outcomes, without ever really joining the dots between the measures proposed and the measurable public safety benefits which can actually be realised.

Counter to best practice, the paper does not set out the alternative approaches considered towards the same goals, and the reasons why those alternatives were discounted. Nor does it provide sufficient quality data to substantiate the problems it seeks to mitigate, and the expected impact.

Had the Ministers staff diligently followed the [WA Cabinet Handbook](#) and WAPol the [WA Treasury's better regulation guidelines](#) around problem definition, impact assessment, consultations, and a Regulatory Impact Statement (RIS), SIFA would expect to see and to independently validate the resulting artifacts included in the consultation pack, along with the draft legislation and regulations. None of these have been made available. SIFA has not had the courtesy of a response from WAPol to legitimate questions about the full consultation process and the data sources referred to by them.

As public sector employees, WAPol members are bound by the same obligations and expectations as all other WA public servants. This includes the [Public Sector Commissions Code of Conduct](#), broader WA Government directives relating to administrative law, and the WA [Ombudsman's Guidelines and Information for Public Authorities](#).

Equally applicable to the [Law Reform Commissions project 105](#) is their earlier project 95, [Judicial Review of Administrative Decisions](#).

That review recommended that WA adopt provisions similar to the Commonwealth Administrative Decisions (Judicial Review) Act 1977 relating to the improper exercise of a power including:

- (a) taking an irrelevant consideration into account in the exercise of a power.
- (b) failing to take a relevant consideration into account in the exercise of a power.
- (c) an exercise of a power for a purpose other than a purpose for which the power is conferred.
- (d) an exercise of a discretionary power in bad faith.
- (e) an exercise of a personal discretionary power at the direction or behest of another person.
- (f) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of the particular case.
- (g) an exercise of a power that is so unreasonable that no reasonable person could have so exercised the power.
- (h) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and
- (j) any other exercise of a power in a way that constitutes abuse of the power.

Whether legislated within WA or not, the principles recommended by the WA LRC are a clear test of the professionalism being brought to the task at hand by those exercising delegated power in WA.

It could readily be argued that there are many examples of noncompliance with these principles in the way firearms are regulated in WA, and in the way this policy development exercise has been conducted.

Cherry-picking Law Reform Commission recommendations and omitting other relevant information which ought to have been considered in full when developing the proposed amendments (such as the Office of the [Auditor General's audit report](#) and the [ACIC report on illicit firearms in Australia](#)) does not instil confidence in the objectivity and regulatory trade craft followed during the development of these policy proposals.

We are regrettably left with the impression that the proposed changes are more of a WAPol wish list than a carefully considered attempt to improve public safety.

Because of their relative rigidity and permanence, heavy reliance on regulations to solve complex problems (such as public safety) needs to be seriously questioned. SIFA would argue that a rethink of the regulatory approach along more contemporary lines could contribute as much (if not more) to the shared goal of public safety in WA as the proposed reforms of the current firearms laws and regulations.

We call on the Premier and the Minister to honour the [2022 WA Labor election platform](#) in full, including;

P68. Creating a partnership between Government, industry stakeholders and the wider community, recognising the broad support necessary for a successful industry policy.

P215. As part of a Smart on Crime approach, WA Labor will:

- a. ensure all relevant agencies work collaboratively to develop and implement evidence based crime prevention strategies.
- e. deliver a targeted approach to the various causes of crime.

P204. Law reform should be based on sound research, evidence, and community consultation, which can be facilitated through bodies such as the WA Law Reform Commission.

p218. All aspects of crime prevention and the criminal justice system need to be adequately resourced with appropriate accountability to successfully achieve these objectives.

Evaluation of the stated success measures.

1) Improve public safety by ensuring the safe and responsible possession and use of firearms.

It is clear to us that "Public Safety" has been defined far too narrowly in this exercise.

This submission shows that any public safety gains achieved via the proposed amendments (if any) will be marginal at best and could in fact contribute to a reduction in public safety by diverting attention from the most significant drivers of public safety related offences to the disproportionate and officious over regulation of a legitimate industry.

Other avenues which demand urgent action are.

Information security.

On March 22, 2022, the front page of The West Australian newspaper published a map showing the location of WA households where legal firearms were stored.



The same day that this image was published, SIFA watched on as that image was digitally converted into an accurate list of physical street addresses. We were appalled at what we saw.

As inappropriate and ill-advised as that piece of journalism was, the real scandal was that someone with trusted access to classified WA firearms registry data (and from there, potentially to nationally classified data via the Australian Firearms Information Network (AFIN)), had breached their privileged access conditions and passed the private and confidential information of licensed firearm owners onto unauthorised recipients.

Damningly, these (now proven and realised) vulnerabilities were specifically called out in the [Auditor General's report](#) (see below), as was the inability to audit who had accessed what information and when so that disciplinary action could be taken, and remedial action commenced for the data spill.

Criminal organisations are known to target and exploit weaknesses such as these.

Proportionality.

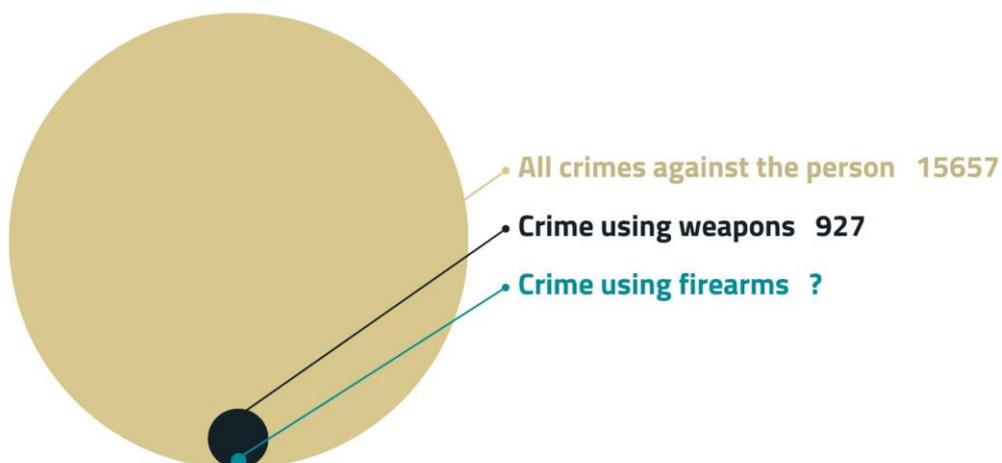
"Public safety" is a difficult concept to define and measure in academic terms. We all want it, but it is difficult to get a sense of exactly what it is and how best to achieve it.

Data which might guide us here is disjointed and inconclusive. The best available information we have which we can use as a proxy measure for "public safety" are the time series [WA crime statistics for crimes against the person](#). These data tell us that there were 15,657 crimes against the person in WA between July and September 2023. There were also 8 murders recorded in the same period*.

The offence categories which public safety incidents involving a firearm would fall into are *Possess Weapon to Cause Fear (Family)* = 340 offences and *Possess Weapon to Cause Fear (Non-Family)* = 587 offences.

It should be noted that a weapon is loosely defined as "*any dangerous or offensive weapon or instrument in circumstances that are likely to cause fear to any person.*" A brick, a kitchen knife, etc.

Even if we take an extreme worst-case scenario where every "weapon" used to commit those offences was a firearm (legal or not), that still equates to less than 5.92% of all "public safety" related offences. $((340+587)/15,657=0.0592)$.



Data quality.

Refer to commentary on success measure 5 below.

* Highlighting the challenges facing industry when contributing to the firearm policy debate is the paucity of consistent, relevant, reliable data.

For example, this [very recent data published by the ABS](#) shows firearms related deaths in WA in 2022.

Table 6.1 Underlying cause of death, All causes, Western Australia, 2022

Cause of death and ICD-10 code	Number		
	Males	Females	Persons
Total deaths	9,218	8,081	17,299
(Accidental) Handgun discharge (W32)	0	0	0
(Accidental) Rifle, shotgun and larger firearm discharge (W33)	0	0	0
(Accidental) Discharge from other and unspecified firearms (W34)	0	0	0
Intentional self-harm by handgun discharge (X72)	1	0	1
Intentional self-harm by rifle, shotgun and larger firearm discharge (X73)	11	3	13
Intentional self-harm by other and unspecified firearm discharge (X74)	4	0	1
Assault by handgun discharge (X93)	0	2	2
Assault by rifle, shotgun and larger firearm discharge (X94)	3	0	3
Assault by other and unspecified firearm discharge (X95)	3	0	2
Handgun discharge, undetermined intent (Y22)	0	0	0
Rifle, shotgun and larger firearm discharge, undetermined intent (Y23)	0	0	0
Other and unspecified firearm discharge, undetermined intent (Y24)	0	0	0
All firearm related deaths			22

This data is derived from medical data, not law enforcement data.

The ABS have advised SIFA that for statistically insignificant data such as these, "We are required to apply confidentialisation procedures to protect the identity of individuals in all the data that ABS releases. In our causes of death data, this means randomly adjusting small numbers and substituting them with other small numbers in a similar range. We don't identify what that range is as one of our protective measures. As a result, there may be some differences in tables (eg table 6.1 and 6.2 will have slightly different numbers) and totals won't always match."

Before we can begin to understand if our firearm laws make a difference, we first need to understand whether the shooter was licensed or not, and if the firearm was registered or not.

This data is not captured anywhere that we are aware of and is certainly not publicly available.

If the answers to those two questions are yes, then we can consider ways to improve the effectiveness of our current regulations.

If the answer to those questions is no, then by definition they are out of scope for the regulations and are criminal matters, not regulatory matters.

Good Governance.

Public safety within the context of this consultation is predicated upon a wide range of things,

- effective law enforcement with respect to criminality,
- the effective regulation of the firearms trade, clubs, and individuals,
- the wilful compliance of firearms license holders.

In 2018-19, the Office of the Auditor General undertook an objective assessment of [WA Firearm Controls](#). In the Auditor General's overview, she noted that *"This Office has previously reported 4 times since 2000 on WA Police's regulation and oversight of firearms. These reports consistently highlighted issues with Police's firearm application and inspection policies, procedures and activities, and weaknesses in the information systems used to carry out its regulatory responsibilities"*.

"It was disappointing to find that Police still has significant weaknesses in its regulatory controls and information systems, particularly given that this office in its 2009 and 2013 audits had previously reported many of these weaknesses."

For context and completeness, the key findings of the most recent audit were,

- ❖ Licence assessment procedures are not sufficient and transparent.
 - Procedures and guidance are inadequate.
 - Procedures are out of date and not used.
 - Formal guidance is lacking.
 - Documentation and oversight of decisions is poor.
- ❖ Monitoring and compliance activities do not address risks.
 - Regulatory compliance activities are not risk-based.
 - Inspection procedures and processes need improvement.
 - Police is slow to recover firearms.
 - Deceased estates
 - Expired licences
- ❖ Information systems do not support effective regulation of firearms.
 - Weak data input controls and missing information
 - No logging and monitoring of system access
 - Weak controls over licence approval
 - Excessive user privileges
 - There is limited reporting functionality.
- ❖ Our previous audit recommendations have not been addressed.

2) Specify the purposes for which a person can be authorised to possess or use a firearm.

One of the fundamentals of good regulatory design is that if a risk must be treated, it is treated once at the most appropriate point.

The primary regulatory tool with respect to the possession and use of a firearm is a firearms license.

The [National Firearms Agreement 2017](#) specifies the nationally agreed purposes which support the issuance of a personal firearms license.

Before being granted a firearms license, each applicant must be assessed by police and confirmed as being a fit and proper person. Licenses are only granted to responsible, low risk individuals.

A license ensures that secondary / imaginary concerns around the risk of inappropriate use of firearms or failing to comply with the safe storage conditions of that license are effectively mitigated.

There is zero data to suggest widespread noncompliance with legislated and regulatory requirements by licensed firearms owners. To the contrary, data which SIFA is aware of following safe keeping audits in other jurisdictions and by the Commonwealth Attorney General confirm exceptionally high compliance rates by SIFA stakeholders and licensed firearm owners.

Secondary measures such as permits to acquire, property letters and attendance reporting are largely administrative. They add very little to public safety beyond that afforded by a firearm license but add substantially to the cost and complexity of administering the overall regulatory framework.

Misalignment with the NFA and the practices in common use across other jurisdictions (detailed elsewhere) increases opportunities for diversion and complicates the production of the data necessary to assess and improve the effectiveness of both national and WA regulations.

[NSW](#) lead the pack in terms of firearm data transparency. WA should aspire to an equivalent standard or better before looking to introduce regulatory reforms which they cannot measure.

The public safety environments in other states are no worse and are often better than that currently enjoyed in WA. It is illogical to believe that stepping further away from national consistency and norms will reverse that performance gap and is more likely to make it worse.

We found that whilst the consultation paper does attempt to address the proposed purposes for which a person can be authorised to possess or use a firearm in WA, it is inconsistent with the NFA and most other states of Australia.

It also introduces a broad range of punitive, unnecessary, and misdirected measures which will have zero effect on the most obvious risks to public safety, that being substandard regulation, the presence of a black market in WA, and criminal behaviour by non-license holders.

3) Minimise the risk of persons becoming victims of crimes that involve the misuse of firearms.

The prevention of firearm-related crimes and the minimisation of persons becoming victims of such crimes are critical concerns for the shooting industry.

Every time a person becomes the victim of a crime involving a firearm, the shooting industry pays a price, whether that be reputational damage, or an increased appetite to enact yet more regulation (mis)directed towards lawful firearm traders and owners.

The foundations of gun control are grounded in the belief that regulations and policies should be established to manage the ownership, possession, and use of firearms in order to promote public safety, reduce gun-related violence, and protect individual and community well-being.

Australia has already adopted as law, all three pillars of gun control – licensing the gun owner, registering each of their firearms, and treating private gun ownership as a conditional privilege, not a right. [The NFA](#) achieved all this and is widely praised as “gold standard” or “world’s best”.

If we seek a further reduction in the risk of persons becoming victims of crimes that involve the misuse of firearms, then we need to look elsewhere, given the NFA is doing its job for lawful firearms.

Illicit firearms and organised crime are inextricably linked. The [ACIC illicit firearms in Australia](#) report confirms that an increasing number of organised crime groups, including outlaw motorcycle gangs are trafficking illicit firearms.

- Inadequate enforcement and loopholes often undermine the effectiveness of firearm policies.
- The existence of a significant number of illegal firearms makes it possible for criminals to obtain guns outside the legal system.
- Stricter sentencing and mandatory minimums for firearm-related offenses can serve as deterrents.

Public safety strategies need to address both the illicit supply chain for firearms and the underlying activities of organised crime groups.

The proposed reforms do not do this.

4) Prevent persons from having access to firearms for criminal purposes.

Any serious attempt to suppress the criminal misuse of firearms must seek to understand and prioritise the most significant enablers of criminal access to firearms, and the drivers.

The proposals fail to do that. Instead, they seek to add more burden to a group which the data shows are not the problem.

WA Hansard for Tuesday, 11 October 2022 informs us that "*The Western Australia Police Force does not distinguish between crimes involving registered and unregistered firearms.*"

This astonishing admission goes a long way towards explaining the confused and confusing nature of many of the proposals in this consultation paper.

How is it possible to design and implement effective regulation when (by your own admission) you are largely ignorant of the actual problem you are seeking to solve?

How is it possible to justify the regulatory intrusions being proposed when you lack data to define the problem needing to be addressed, to shape and validate the proposal, or to evaluate the impact of your policy once it is implemented?

How is this in any way a risk-based and data driven policy proposal as the [WA Better Regulation guidelines](#) call for?

Regulations without sufficient supporting data carry several potential dangers and drawbacks, and often fail to achieve their intended goals. This results in wasted resources, time, and effort, with little or no positive impact on the issues they aim to address and divert attention from the real causes.

It should not fall to small NFP industry associations such as SIFA to expose the paucity of facts, the knowledge gaps, and the erroneous assumptions evident in these proposed amendments.

"Tough" does not equal "good" when "tough" misses the main target altogether.

SIFA respectfully suggests that WAPol has enough on its hands in fully addressing the issues identified in the [Auditor General's report](#), in uplifting their IT support systems to allow for the more secure and effective administration of existing legislation, and in preparing to play their part in the proposed National Firearms Register (NFR).

- 5) Prevent access to firearms by persons who pose a risk of violence or misuse of firearms, and,
- 6) Minimise the risk of persons causing harm, including psychological harm, to themselves or others by the misuse of firearms.

There is ample literature available to support the assertion that persons who pose a risk of violence or other anti-social tendencies have displayed clear indicators of this earlier in their lives, including throughout adolescence. Past behaviour predicts future behaviour.

WA Health for example, publishes an [Explanation of High-Risk Factors in Family and Domestic Violence](#). It identifies those high-risk factors as including a history of family and domestic violence, non-fatal strangulation, stalking and threats to kill, prior (inappropriate) use of weapons, escalation in frequency and severity of violence over time, suicide attempts, misuse of drugs or excessive alcohol consumption.

The absence of all these historical indicators and not having a criminal record is a very solid risk-based foundation to support the issue of a firearms license, and conversely the possession of a firearms license is a very strong indicator that the individual license holder does not pose a risk to public safety.

The Commonwealth Senate Committee's 2015 report entitled [Ability of Australian law enforcement authorities to eliminate gun-related violence in the community](#) was also a deep dive look into things that might improve law enforcement's ability to address issues around the misuse of firearms.

What is interesting to note is that eight years later we are still vacillating around the same key points, and that none of them are directed towards firearm license holders.

Clearly, this success measure is achieved through the diligent assessment of firearms license applications, as already occurs in every Australian jurisdiction.

This evidence shows that the proposal for additional mandatory vetting following the issue of a license is unlikely to discover any fundamental shifts to the risk profile of that individual and are therefore unnecessary. That is not to say that additional vetting is not appropriate should one of those risk indicators come to WAPol's attention after a license is issued.

The proposals in the consultation paper will do nothing to address these risks for unlicensed persons with access to black market firearms.

Instead, the proposal for things like mandatory mental health checks will further strain an already under resourced WA health system and will deprive Western Australians in real need of mental health support from the help they so desperately need.

7) [Reduce the number of firearms unlawfully possessed in the community.](#)

When considering how this success measure might be objectively assessed, SIFA must assume that this objective is limited to the theft and diversion of lawful firearms to the illicit market since they do nothing to address illegal firearms.

The inconvenient truth is that a black market for firearms exists in WA and that the wilfully non-compliant (WA criminals) are not affected by nor influenced by legislation. No amount of regulation will influence the public safety considerations of those who routinely operate outside the law.

It should not be assumed that stolen firearms are retained with the express intent of committing public safety related offences. Often, stolen firearms live long and dusty lives in rural woolsheds and the like for very practical reasons. Whilst illegal, it is a stretch to argue that these farm guns represent an equivalent threat to public safety compared to illegally imported handguns and sub machine guns.

Whilst somewhat dated now, the Australian Criminal Intelligence Commission (ACIC) report [Illicit Firearms in Australia 2016](#) has greatly informed SIFA's assessment of this success measure.

The ACIC report tells us that there is an estimated pool of some 250,000 illicit long arms in Australia, and an estimated pool of some 10,000 illicit handguns. That number has remained unchanged since it was first published in 2016 and remains in widespread use, suggesting that the illicit firearm market is being refreshed at roughly the same rate that police are removing illicit firearms from the community through confiscations, amnesties, etc.

The [ACIC's National Firearm Trace Program](#) (FTP) is used to determine the history of seized firearms referred to the ACIC by police agencies and, where possible, to determine the method of diversion to the illicit market through the collection and use of serial number, importation data and dealer records.

The FTP has found that theft accounts for the diversion of just 8.5 per cent of firearms traced.

The Minister has claimed that 1768 firearms were stolen in WA over the last five years (~354 per year).

Whilst that number is clearly unacceptable, we lack the data to determine if each of those thefts were of legal or illegal firearms, government or civilian, were due to non-compliance by firearm license holders, a failure of WA police to detect, deter and disrupt crime, or other causal factors.

The ACIC report on [Firearm theft in Australia 2018](#) tells us that, WAPol recovered 22% of all firearms stolen in WA that year.

We do know that in the first year of operation of the [National Firearms Amnesty](#), WA was overrepresented in the number of unregistered firearms surrendered (10.79% of the [national population](#), [11.96% of firearms surrendered](#)).

We also know that in contrast to most other jurisdictions, the WA amnesty included two very powerful disincentives for surrender, being the exclusion of licensed firearm dealers as drop off points, and the inability to legitimise surrendered firearms (i.e., mandatory destruction).

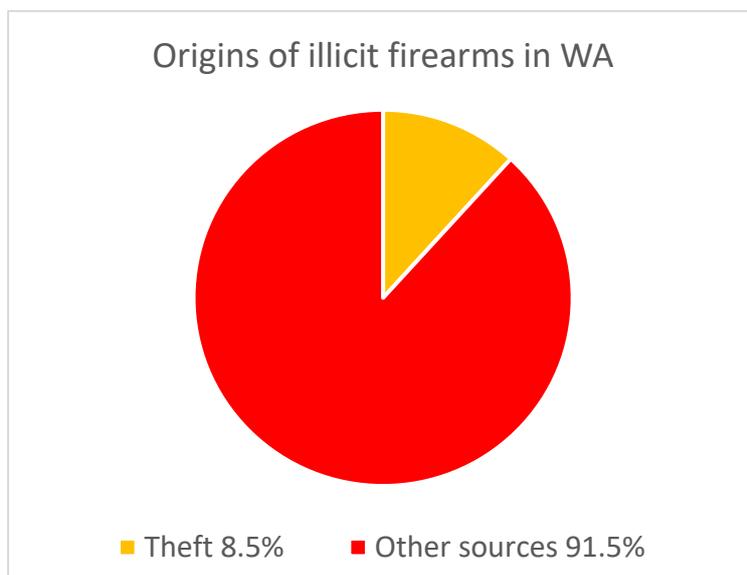
Evaluating this objective or success measure from a purely statistical perspective, the proposed reforms are estimated to remove 13,000 lawfully held firearms from the WA licensed firearm community, from a current total of 361,000 ($13,000/361,000=3.6\%$ of all current firearm permissions).

We currently have ~354 firearms per year stolen from a fleet of 361,000 which equates to a theft rate of 0.979 per thousand registered firearms ($354/361,000=0.0979501$).

If the theft per thousand figures remains the same, these proposed reforms can be expected to reduce those theft figures to ~ 341 firearms per annum from a reduced fleet of 348,000 registered firearms. ($348,000 / 1000 \times 0.979 \approx 341$).

This is a difference of just 13 thefts per year ($354-341=13$) of which we can expect WAPol to recover 3 ($13 \times 22\% = 2.8$) leaving 10 firearms stolen and unrecovered.

Using those same ACIC statistics referenced above, we know what proportions of the black-market firearms entering WA each year were stolen, and how many come from other sources.



Using those known ratios, we can logically conclude that a staggering 20,800 ($=1768/8.5 \times 100$) firearms entered the illicit firearm market in WA from all sources over the same 5-year period.

This equates to ~3006 per year, or more than 8 a day, only 1 of which was stolen.

Casting further doubt upon the effectiveness of the proposed reforms, Hansard from 11 October 2022 informs us of the number of incidents where one or more firearms were reported stolen from a residential home in calendar years 2019, 2020, 2021 and 2022 YTD*, by number of firearms stolen per incident.

In 92.1% of cases (2019), 93.2% (2020), 90.2% (2021) and 91.5% (2022 YTD) there were 5 or fewer firearms stolen per theft incident.

Presumably, if more firearms were present at the time then they too would have been stolen.

We can be confident that the arbitrary limit of 5 firearms proposed in the consultation paper will make zero difference to the overall number of firearms stolen in over 90% of all theft incidents.

Once again, this proposal is not data driven. Reforms must focus on reducing the number of thefts, not on the number of firearms capable of being accessed per theft incident.

To quote the Commonwealth Attorney General in the [Permanent National Firearms Amnesty annual report 2022-2023](#), "*law enforcement response strategies must address both illicit firearms supply routes and the criminal activities that drive firearms use.*"

It is axiomatic where the public safety focus needs to be, and it is not licensed shooters.

It is also logical to conclude that the case for change is not substantiated by available data and that this success measure will therefore not be achieved by the proposed amendments.

8) Facilitate a nationally consistent approach to the control of firearms.

The foundational premise of the [National Firearm Agreement](#) (NFA) was to reduce inconsistencies and loopholes which were being exploited by criminals to divert legal firearms to the black market.

The NFA, whilst a non-binding agreement, sets out a common approach and minimum standards which all jurisdictions agreed to adopt. The NFA's strength is derived from national uniformity.

The [Commonwealths Firearm Information Booklet](#) provides a broad overview of the Australian Government's approach to the regulation of firearms and the intent and purpose of the National Firearms Agreement.

It states that "Prior to 1996, there was no overarching framework promoting the consistent regulation of firearms between the states and territories. One consequence of the lack of a uniform approach to firearms management in Australia was that it provided an opportunity for firearms to be diverted to the illicit market. This diversion was facilitated by jurisdictional loopholes in legislation and regulation, lack of oversight, and low penalties that were applied to firearms offences. The lack of a uniform approach to firearms management also created ambiguity around what constituted firearms misuse."

WA is at odds with the rest of Australia in its approach to firearms regulation. Those differences run the full spectrum from license categories and conditions which are not agreed in the NFA, onerous and costly transport requirements, to simple things like different definitions being used within legislation.

Many of the proposals contained within the consultation paper exacerbate those preexisting inconsistencies. Every slightly different definition, legal expression, or condition adds to that ambiguity around firearms misuse, and creates confusion for everyone.

Genuine Reason and Genuine Need.

In all other jurisdictions, a genuine reason only needs to be established once, per license category. The onus is then upon the license holder to ensure their genuine reason remains valid.

The licensing regime is decoupled from the permit to acquire (PTA) regime except that the issue of a PTA is contingent upon the applicant holding the appropriate license for that class of firearm.

In other jurisdictions, licensed shooters are more at liberty to use their firearms as long as it is safe, lawful, and consistent with the owner's license conditions.

It is perfectly fine to use a hunting rifle on an approved range for sighting in or load development. It is perfectly fine to use a target rifle to euthanise a sick horse on the rural property next door.

The NFA does not seek genuine need for category A firearms.

Individual Licence

Western Australia's differentiation between competition and target shooting is inconsistent with the rest of Australia.

There are no conditions such as arbitrary limits to the number of firearms which may be held by a licensee. Adding such conditions works against the uniformity of Australia's regulatory framework and devalues the principles of "need" and "reason".

Precedents exist (e.g., [Q v REGISTRAR OF FIREARMS](#) (Administrative Review) [2015] ACAT 84 (8 December 2015)) where the ACT firearms regulator sought to limit an individual to the 77 firearms he possessed at that time. The Tribunal found that there is no real or direct public safety risk solely attributable to the number of firearms held by a licensed individual.

Some states have recently introduced additional measures to address an observed increase in the theft of firearms from rural and remote locations. The [ACIC](#) states that "the largest proportion of thefts occurred in regional parts of Australia, indicating a shift from major cities as the primary site of theft incidents".

Whilst SIFA is firmly of the view that permissions should be issued based upon reason and need alone (consistent with the NFA) there is a fundamental design flaw with the limits proposed in that they allow for just as many (if not more) firearms to be held in rural and remote locations (primary producers) than in more closely settled areas (club shooters).

Land permission for shooting (Property Letters).

The broad principle that permission of the land manager must be obtained before shooting is allowed is not in dispute and is consistent across the country. That permission is often verbal.

Where WA is inconsistent is that it links that permission to individual firearms, constrains those firearms to that specific property and exposes WAPol to a significant record keeping overhead.

This overreach has led to the situation we see today where poorly considered regulation has seen permission letters become a monetised commodity. WAPol's refusal to recognise interstate hunting permissions has added to that situation.

In other states, membership of a hunting club is an alternative to land manager permission. The permission is often between the land manager and the club, not the individual members.

Many interstate hunting club members volunteer their time, skills, and equipment to help landholders meet their biosecurity obligations and conservation objectives, without the need to re-document their firearms each time. The public safety records for these arrangements are remarkably good.

If we consider the arrangements proposed in the consultation paper and apply them to very successful volunteer programs such as the [NSW supplementary pest control program](#) (SPC) overseen

by the NSW National Parks and Wildlife Service, we quickly realise that the proposed arrangements get very messy, very quickly. A volunteer might be asked to shoot over 3 different NPWS locations one weekend and be directed to a different national park the following weekend, and then be invited to have a hunt on an adjoining private property the weekend after that.

The whole construct as described in the consultation paper is bureaucratically excessive, practically unworkable, and largely unenforceable. Rationalising this proposal to a far more sensible level (consistent with other jurisdictions) would avoid large swathes of unnecessary red tape, without any detrimental effect upon public safety.

The only applicable tests required to achieve national consistency should be that the owner is licensed, the firearm is registered, and that the landholder has given their consent for the license holder to use firearms (plural, and unspecified) on their properties.

Business Licence

See comments elsewhere regarding defence industry and the wholesale market, and [automatic mutual recognition](#).

Prescribed number of events

The NFA suggests 6 mandatory attendances per year for handguns and none for longarms. The proposals are inconsistent with the NFA.

Aside from WA, only NSW and the ACT currently require mandatory attendances for longarms.

During COVID, NSW and ACT attendance requirements were waved due to ranges being closed and shooters being restricted in how far they could travel to attend a range.

There were no reported degradations to public safety outcomes arising from these requirements being waved, confirming the ineffectual nature of the requirement.

Based on the COVID experience, proposals are now being put forward to do away with this requirement permanently in NSW and the ACT, since it adds no value.

Target Shooting

This is another area where WA is inconsistent with the rest of the country. Target and competition should be combined as they are really two ends of the same continuum. Only the degree of formality differs. Top end competitors need to start somewhere. Often, that is plinking at tin cans in a paddock.

Prescribed target requirements

No other state seeks to specify what targets can be used as part of the licensing regime. The regulations are silent for field shooting (plinking and hunting) and are addressed at the macro level in the competition rules and range approvals for range-based situations.

Club Licence

It is simply inappropriate for police to seek to set out the baseline requirements for a person to become a club member and the circumstances in which the club must suspend or cancel club membership.

Club Reporting Obligations

This transfer of responsibility from the regulator to the regulated is unacceptable. It is nothing more than a lazy, scatter gun approach to intel gathering and in all likelihood the data generated will never be used. We can contrast this proposal to the privacy protections in place for law enforcements interception of telephone calls, which require a warrant in each instance and annual reporting to ensure that innocent people are not exposed to unnecessary intrusions. If there is a justifiable need to question a license holders bona fides, then the firearms registrar can simply place an enquiry with the club concerned as other states do now.

Clubs exist to service their members. They do not exist to act as an extension of government. If WAPol is seeking to share their regulatory authority and accountability with the clubs, then that conversation needs to be all encompassing with everything being on the table. If that is not the intent, then the firearms regulator needs to keep doing its job, using its own resources.

It must be appreciated that some clubs, especially the larger ones, are not headquartered nor administered in WA and will not be capable of satisfying these requirements, which are unique to WA.

The cost of modifying national membership management software to produce the unique data being sought will not be affordable, and the volunteer or staff time demanded to administer that is prohibitive. Delegating that function to state branches in WA introduces a governance and compliance risk for the national body.

It is entirely feasible for an individual to seek membership of a club and not have an interest in firearms, for example family memberships. The Australian Deer Association has many members who do not use firearms at all but are instead interested in photography, bow hunting or cooking wild food.

There are many reasons why a person might not continue with a club membership, such as a relocation making another club more suited. What is important is that the genuine reason for a license is maintained in some form.

Such draconian and onerous provisions, if enacted, should never be delegated to regulation, which can be amended without parliamentary oversight.

A nationally consistent approach would be for the obligation being upon the license holder to maintain any club memberships relied upon to support either a license or a PTA.

Trade Licence

To achieve a nationally consistent approach to the control of firearms, the firearm repairers license should be abandoned since it is covered by a dealer's license in the NFA and in other jurisdictions.

Trade Licence Minimum Activity and Reporting Requirements

SIFA are uncomfortable with how problematic this might become given extended stock availability issues and the seasonality of some types of demand.

[Insight 2022](#) told us that 55% of firearm related businesses are mixed businesses. These businesses derive 58% of their income from shooting related trade. If these mixed businesses close, communities also lose their access to camping & fishing supplies, farm supplies, hardware, and mechanics, etc.

It would not serve the public interest for legitimate businesses to be closed due to externalities beyond their control.

Replacement and Additional Major Firearm Parts

This is another overreach which is unique to WA. A dealer's license facilitates such routine matters in other states, and a dealer's return advises the regulator of any material changes worth noting, such as a change in calibre.

Mandatory destruction of replaced parts is wasteful. It is not uncommon for a barrel which is no longer suited to the needs of a top end target competitor to be repurposed by fitting it to a hunting rifle.

Many of the items listed under "major firearm part" are not serialised and are not even registered in other jurisdictions. These items could readily be sold into those markets from WA if WAPol had not made transport out of WA so restrictive.

WAPol's ability to detect cross border movements and the possession of untraceable items is equally problematic. Hypothetically, the presence of a genuine factory replacement part in a lawful firearm is indistinguishable from the original part. As a law enforcement enabler, these provisions do not appear to be well thought out nor fit for purpose.

In the definitions under major firearm parts, the inclusion of *(h) any other thing prescribed by the regulations* is poor legislative drafting practice and should be revised.

In any case, illegally modifying a firearm is already illegal. The same risk is being addressed multiple times, which is poor regulatory design.

Deceased estates.

Noting that WAPol have been criticised by the [Auditor General](#) for not following their current processes regarding deceased estates, and in the interests of facilitating a nationally consistent approach to the control of firearms, WAPol should consider adopting the practices employed in other states such as [NSW](#), which authorises the executor or administrator of the estate to retain possession of the firearms for up to six months for the purposes of lawfully disposing of those firearms.

There are no notable public safety issues arising from these more logical (and far more compassionate given the circumstances) arrangements.

The effects of the proposed reforms upon the shooting industry.

1. Artificial barriers to trade.

As the Minister for Defence Industry, the Minister would be aware that Defence and other government agencies have increasingly been turning to the civilian sector to supply and support their small arms and ammunition needs for some time.

The companies stepping up to meet that demand all operate under the authority of a firearms dealer's license issued in the state they are headquartered in. As stated in the consultation paper, WA licenses are not available to non-residents of WA, and interstate licenses are not recognised by WA.

WA's approach to dealer's licenses (which naively assumes a civilian retail setting) hampers the ability of national suppliers to service and supply their WA clients, including WAPol and Defence. It also hampers WA dealers from servicing the national market.

Section 2.5. (Exemptions) needs to be updated to reflect contemporary government procurement arrangements by adding.

- *A proprietor, contractor, subcontractor, or employee of a service provider acting in accordance with a government contract or solicitation.*

This needs to be a permanent exemption codified in the legislation so as to not generate additional and unnecessary red tape. As it is an ongoing, often time critical requirement which may not see the same individual employee assigned to the contracted task each time, a permit is not appropriate.

The proposed regulations are also at odds with the national Automatic Mutual Recognition scheme, which WA are signatories to. WA should allow for the mutual recognition of occupational licenses as the AMR Act intended.

The proposed regulations must be deconflicted with all other related regulations before being enacted.

2. Economic and employment impacts.

Overly restrictive or unnecessary regulations can impose a significant economic burden on businesses and individuals. Compliance costs, administrative overheads, and reduced competitiveness can result from regulations that lack empirical support, as these do.

A less viable retail sector will directly result in increased prices and less physical access to essential ammunition and related supplies, especially for primary producers. This is further compounded by the proposal to consider ammunition limits. The proposed numerical limits will be meaningless if it becomes impractical for Western Australians to source both firearms and ammunition.

A less viable freight distribution network is likely to result as commercial carriers reevaluate the profitability of the carriage of firearms and ammunition within WA. The shooting industry fears it will be less able to service the regions of WA. Potentially, WA may also become completely isolated from the wider Australian market.

Inconsistencies create a more complicated compliance landscape for national wholesalers. The investment in expensive IT systems to guarantee compliance also adds to the wholesale costs to government and dealers.

Complexity constrains innovation. WA firearms business will be highly restricted in the things they can do to make up for the commercial impacts arising from this proposal. Smaller retailers in particular will struggle to adapt, but it is typically the smaller dealers who service non metro areas.

WAPOL have made it extremely difficult to ship firearms interstate and within WA. It is expected that this will result in a depressed local market since interstate sales are often uneconomical for anyone seeking to reduce their number of firearms.

SIFA expects that there will be a reluctance to surrender firearms. This is a multifactorial issue partly due to the trust issue outlined in the opening paragraphs, an inability to provide original receipts, and doubts about fair levels of compensation. SIFA is aware of reports that retailers in WA are already refusing to trade in or buy firearms due to the uncertainty of the whole situation.

We understand there will be no compensation for ammunition and accessories. [SIFA's Insight 2022](#) data tells us that the sale of firearms is roughly one third of the total revenue mix for firearm dealers, therefore it can rationally be argued that the firearm itself is only one third to one half of the total investment that a license holder has made per firearm.

The plan for compensation is short sighted and needs a rethink. What practical pathway exists for license holders to dispose of ammunition, major firearm parts and other product specific accessories that they will no longer be permitted to have, but are specific / unique to the firearm they are being asked to dispose of?

Compensation needs to reflect fair market value (the price a product would sell for on the open market assuming that both buyer and seller are reasonably knowledgeable about the asset, are behaving in their own best interests, are free of undue pressure, and are given a reasonable time period for completing the transaction).

License and permit fees in WA are already set at a level which appears inconsistent with [WA's Costing and Pricing Government Services policy \(2020\)](#) and are already far higher than all other jurisdictions. Additional (and in our opinion unnecessary) costs incurred when implementing and enforcing the proposed amendments will put further pressure on fees and charges.

3. Regulatory uncertainty.

The consultation paper asserts that “*Significant structural reform has not been made to the Act since it first came into operation nearly 50 years ago.*”

Whilst significance is a subjective term, the harsh reality for businesses operating within the shooting industry in WA is that there have been 31 consolidated amendments to the Firearms Act, 50 consolidated amendments to the Firearms Regulations and a total 85 Acts or pieces of subsidiary legislation in WA which mention firearms. Add to that a degree of duplication and misalignment with Commonwealth regulation. All need to be understood and complied with.

There have been no impediments and no shortage of opportunities to “get this right” over the last 50 years. The fact that the Ministers sole source of advice is from the same organisation that also advised each of his predecessors, and who have directly led us to the evidently sub optimal situation we have today, is not confidence inspiring.

The priority objective of any regulatory reform exercise in this space must first be the rationalisation and harmonisation of all regulatory instruments relating to firearms in WA. This exercise is not just about the Firearms Act 1973.

Vague terms within legislation coupled with a greater than necessary reliance upon regulation to provide the obligatory detail is poor regulatory practice. Legislation must articulate a clear statement of regulatory intent and constrain the actions of future regulators to the point where there is no room for interpretation and absolute predictability for industry.

As the WA LRC argues, any discretion afforded the regulator must be to allow them to not exercise a discretionary power in accordance with a rule or policy having considered the merits of the particular case, rather than allow a future regulator to invent new and innovative embuggerances which the regulated entities must endure.

Uncertainty suppresses business investment and employment. A typical firearms retailer employs 5 taxpayers. For every retailer forced to close because of these changes 5 Western Australian families will lose their livelihoods.

SIFA is concerned that there will not be sufficient resourcing made available to WAPol to facilitate the transition and to service recurring compliance overheads, without any degradation in customer service for regulated entities.

4. Related impacts.

The expected outcome of the proposed regulations is for many current license holders to join shooting clubs as a way of retaining their firearms licenses.

This will logically result in increased pressure on club facilities, given the finite nature of how many competitions and attendance sessions that can be made available to club members.

A (presumably) unintended consequence of this will be less opportunities for government users to use these club ranges, which is a common occurrence.

The Minister should consider the impact upon police operational budgets if (worst case) he is obliged to fly his officers to a suitable WAPol facility and back each year to complete their annual qualification shoots and other firearm related training.

The club environment is a more social setting compared to hunting, so it would not be unreasonable for those club members families to also become involved, leading to an increased number of licenses.

It would not surprise SIFA if in (say) 5 years' time the number of firearms licenses held and the average number of firearms per license have both increased in WA rather than decreased.

SIFA recommendations

- A. That numerical limits be abandoned, and that WA simply rely upon genuine reason and genuine need in line with the NFA, LRC recommendations and other jurisdictions.
- B. The Minister is strongly encouraged to convene a broadly representative firearms advisory body to guarantee the quality of the advice he receives.
- C. Public safety related reforms must be broadened to place significantly less emphasis upon the regulation of lawful firearms, and far more emphasis upon the use and possession of illicit firearms by criminals, and other more significant sources of public safety risks.
- D. The consultation paper proposes a range of amendments which cannot be mapped back to one or more of the stated objectives and which should therefore be removed from the draft legislation.
- E. Conversely, the Auditor General's report and the two LRC reports both contain recommendations which appear to have not been considered, and which must be incorporated within the draft legislation in the interests of public safety.
- F. That responsibility for this reform exercise be reassigned to the WA Law Reform Commission in line with the commitments made in the WA Labor election platform and started again.
- G. That WAPoI begin collecting the data necessary for them to discharge their regulatory functions objectively and professionally, and to self-evaluate and normalise their performance as a regulator against their peers in other jurisdictions.
- H. That WAPoI require any officers and employees involved in the regulation of firearms to undertake appropriate training such as the [Professional Regulator program](#) offered by the Australian New Zealand School of Government (ANZSOG), [Customer Journey Mapping](#) for the Public Sector and [Advancing Data Governance in the Public Sector](#) available through the Public Sector Network.
- I. That the Minister defers any significant regulatory amendments until work on the National Firearms Register (NFR) is concluded. This avoids the duplication of costs, rework and delays for government and multiple disruptions to industry and provides an opportunity to assess if the NFR makes a material difference to any of the concerns which WA are seeking to address.

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