



28th July, 2017

Firearms Submissions
Office for Police, Department of Justice
GPO Box 5434
SYDNEY NSW 2001
firearms@mpes.nsw.gov.au

Dear Sir/Madam,

Thank you for the opportunity to comment on the proposed Firearms Regulation 2017 and Weapons Prohibition Regulation 2017 which are to be remade on 1st September 2017.

The Alannah & Madeline Foundation (the Foundation) arose after the tragic events at Port Arthur which resulted in 35 deaths, including two children aged six and three. We support the National Firearms Agreement which we believe has helped keep our community safe. We strongly support the harmonising of state and territory government firearm laws and regulations, a key feature of the 2017 National Firearms Agreement 2017 (NFA 2017).

The Foundation is deeply committed to reducing the risk of death and harm from firearms in our community and we are concerned that the changes being put forward by the NSW Government will mean that the state will adopt a number of different standards and conditions for firearm regulations, putting at risk a true "national agreement" and national approach to community safety.

The Foundation believes that firearms laws and regulations should be assessed against a key question – how well does this protect our children? Our duty of care to keep our children safe should be the main principle from which we assess proposed changes.

Accordingly, the Foundation supports full implementation of the 2017 NFA and, in that context, supports the objectives of the NSW Government's review of the current firearms regulation to be in plain English, reduce red tape wherever possible, and protect public safety.

The attached comments made by the Foundation are based on our current understanding of the proposals, how they would operate and how they affect the safety of children.

- Attachment A identifies and comments on those proposals which the Foundation explicitly supports, in some cases conditionally.
- Attachment B identifies and comments on those proposals which the Foundation does not support and/or is recommending be modified.

The Foundation would like to draw particular attention to a number of matters which it considers to be critical to the full implementation of the 2017 NFA. Further details on these matters are in Attachment B.



They include the need to:

- remove provisions allowing “minor’s permits” for children as young as 12 years of age. The Foundation believes government has an explicit duty of care to ensure that we create a safe environment for all children. We oppose the issuing of “minor’s permits” for children, allowing them access to firearms with the concomitant increased risk of higher rates of homicide and injury. We believe our duty of care to vulnerable people, particularly children, is paramount and maintaining and strengthening our regulation of access to firearms is fundamental to keeping children safe. An arrangement to introduce “minor’s permits” to children effectively circumvents the 2017 NFA decision that licences not be issued to people under 18 years of age;
- remove provisions for arms fairs which are held essentially to encourage and promote purchase, trade and ownership of firearms. The public safety objectives of the NFA are based on a fundamental principle that gun ownership and use should be based on genuine reasons and need;
- ensure clubs perform those basic duties necessary to support the licensing arrangements outlined in the 2017 NFA, in particular those concerning sporting shooters access to handguns; and
- remove the provisions enabling unlicensed people to possess and use guns at approved shooting ranges.

The Foundation believes that the requirement to remake the Firearms Regulation 2017 provides an ideal opportunity for the NSW Government to ensure that it fully complies with the 2017 NFA and to remove any identified inconsistencies.

Thank you again for providing the Foundation with the draft regulations and the invitation to provide comments on their provisions.

Yours sincerely

Lesley Podesta
Chief Executive Officer



Attachment A

Proposals which the Foundation explicitly supports

FR Clause 5: Offences that disqualify applicants – additional offences

The Foundation fully supports the four proposals identified in the Regulatory Impact Statement (RIS) under this heading. These are:

- the inclusion of additional offences that would disqualify applicants for a firearms licence;
- the recognition of Community Service orders as a penalty for the prescribed offences disqualifying an applicant for a firearms licence;
- the recognition of good behaviour bonds as a penalty disqualifying a person from a firearms licence; and
- lowering the penalty thresholds disqualifying a person from a firearms licence for offences involving drugs and violence.

FR Clause 18: Requirement to notify Commissioner of address where firearms are kept

The Foundation supports the proposal to reduce red tape and improve the clarity of requirements for those purchasing a firearm. The Foundation understands that the application for a 'permit to acquire' will be modified to require notification of the address at which the firearm is to be stored and to require the applicant to certify that the premises will comply with the safe storage requirements of the Firearms Act 1996 (the Act) and its regulations.

FR Clause 40 – Requirements for storage of firearms on residential premises

The Foundation supports the proposal to require licence holders to store their firearms at their primary property. This proposal seeks to reduce the risk of theft of firearms from unattended properties. While there will be risks associated with additional transportation of firearms, the proposal would appear to offer a net benefit to public safety.

FR Clause 45: Requirement for public liability insurance

The Foundation supports the proposal for a dealer to be required to demonstrate that they have public liability insurance for the activities to be carried on under the dealer's licence/permit and that they are operating a genuine commercial enterprise.

FR Clause 60: Permit to acquire non-prohibited firearms on leaving Australia

The Foundation supports this proposal to remove a potential gap in the ability of law enforcement to track firearms and weapons. The change seeks to reduce the opportunity for firearms to be diverted into the illicit market by amending this clause to clarify that a firearm which is to be exported should be delivered to Customs by a licenced dealer.

FR Clause 62: Museum firearms permit

Comments have been sought on a number of questions concerning the operation of this clause. These include:

- whether the provisions are sufficient to allow items surrendered for destruction to be held for a museum if they were of significant historical interest;



- should museum firearms be registered (before or after being donated to a museum) and are permits to acquire required for acquisition of firearms by a museum?; and
- are there any further amendments needed to this clause to ensure that museums can acquire firearms appropriately?

The Foundation does not object to provisions allowing ownership of firearms of significant historical interest to be permanently transferred to a public museum. The definition of public museum appears sufficiently rigorous, as do the provisions requiring pistols and Category C and D firearms to be rendered permanently inoperable and other firearms to be rendered temporarily inoperable.

The Foundation would generally support arrangements to reduce costs and administrative burdens for museums and to facilitate the movement of firearms of historical interest into a more secure environment than a private residence. However, those arrangements should ensure:

- there are no gaps in the tracking of firearms. The arrangements should support the nationwide registration and tracking of all firearms; and
- any person handling a firearm that has not been rendered permanently inoperable should be at least 18 years of age.

Part 10 Participation requirements for club members

The Foundation supports the proposed clarification of participation requirements, including in relation to events that count towards meeting those requirements. It would not support any further modification of participation requirements, particularly changes that would relax those requirements.

Part 14 Amnesties

The Foundation supports the National Firearms Amnesty.



Attachment B

Proposals which the Foundation recommends be not supported or modified

FR Clause 38 – Firearms collections

The proposed change to this clause is to ensure there is clear authority for firearms collectors to take their firearms to a collector club meeting or to an arms fair.

The Foundation does not support provisions allowing the Commissioner to issue arms fair permits. More detail on this matter is provided in comments on Clause 74 below.

FR Clause 43: Authority conferred by firearms dealer extends to certain employees

The proposed change amends this clause to require that where a minor is employed, that they must not be the sole employee in the dealership.

The Foundation does not support people under age 18 being allowed to work in a firearms dealership. As the RIS notes, employees managing firearms and potentially exposed to difficult (or threatening situations in an attempted theft) require a level of maturity to cope with the environment.

The Foundation notes that the arrangements in respect of minors working in firearms dealerships are more liberal than those which generally apply to alcohol licensed premises and alcohol licenced premises with gaming machines throughout Australia.

The Foundation urges the NSW Government to preclude minors from working in firearms dealerships.

Part 5 Minor's firearms permits – special provisions

The Foundation does not support the provisions allowing a minor in NSW to have a firearms permit.

The 1996 National Firearms Agreement and the 2017 NFA clearly state that firearms licences are not to be issued to people under 18 years of age. The Foundation considers that the creation of a system of 'permits' for children as young as 12 years of age undermines our duty of care to keep children safe and effectively circumvents the agreed minimum age specified in the National Firearms Agreement.

The Foundation urges the NSW Government to repeal the legislative and regulatory provisions allowing for minor's firearms permits. The NSW Government should ensure the safety, welfare and wellbeing of children and young people is paramount, consistent with the over-riding principle in section 9 of the Children and Young Persons (Care and Protection) Act 1998.

The Foundation believes that allowing children as young as 12 year olds to use firearms places them at significant risk of physical harm.

FR Clause 74: Arms Fair Permits

The Foundation does not support provisions allowing the Commissioner to issue arms fair permits. These permits appear to authorise any licensed firearms dealer or ammunition permit holder to display and supply the firearms, firearm parts and ammunition to which their license / permit applies at an approved arms fair. The Foundation urges the NSW Government to remove the regulatory provisions allowing arms fairs. These events are designed to promote and encourage gun ownership and use. This type of activity is against the spirit of the 2017 NFA.



The requirement for a genuine reason for possessing and using a firearm is a fundamental principle of the NFA. People who have a genuine reason to own a firearm are readily able to obtain information on firearms and acquire one without the need for arms fairs.

The 2017 NFA affirms gun ownership is a privilege that is conditional on the overriding need to ensure public safety and that public safety is improved by the safe and responsible possession, use, registration, storage and transfer of firearms. Arms fairs are about increasing the acceptance of, and normalising ownership of, guns within our community. They also aim to increase commercial returns for vendors by promoting greater levels of gun ownership and encouraging current licence holders to own a greater number of guns.

These objectives of arms fairs are antithetical to the public safety objectives of the NFA and to its fundamental principle that gun ownership and use should be based on genuine reasons.

FR Clause 66 – Permits relating to open days

This clause is being removed on the basis that permits for open days are no longer required as Section 6B of the Act provides an exemption for unlicensed persons shooting on an approved shooting range.

The Foundation does not support retention of Section 6B of the Act which allows unlicensed people to shoot on approved ranges. It believes that this arrangement is an unnecessary risk to public safety. More detail on this matter is provided in comments on Clauses 128 and 129 below.

FR Clause 79: Large calibre pistol permit

This regulation is being amended to ensure that a single permit can cover multiple large calibre pistols. The Foundation does not support any arrangement which facilitates people having a number of firearms above that required to fulfil the genuine reason/need of the person to possess that category of firearm.

In general, no more than two firearms of any category should be required and no more than two firearms should be covered by a single permit.

FR Clause 103: Conditions of approval of club

The changes to this clause seek to reduce the administrative burden on clubs.

The Foundation notes that there is no substantive difference associated with requiring the club to certify the compliance of club members with participation requirements and requiring a club to report non-compliance of a club member with participation requirements. In either case, the club needs to check whether all of its members have complied with participation requirements prior to filing its annual report.

The Foundation supports retention of the current provision requiring clubs to certify the compliance of club members with participation requirements. This general certification should be accompanied with a simply notification procedure for any non-compliance by particular members. This approach reinforces the need for clubs to keep proper records of the participation of its members.

The Foundation is not familiar with the current form of the annual report required of a club. The RIS implies that clubs must submit details on the mandatory shoots of each of its club members and appears to be proposing that this requirement be removed to reduce red tape and administrative burdens. If this is the intention, the Foundation does not oppose this aspect of the proposal provided it is clear that clubs are required to keep appropriate records of member participation, make them available for inspection by an appropriate authority and provide the certification discussed above.



FR Clause 128: Exemption for unlicensed persons shooting on approved ranges

and

FR Clause 129: Requirements relating to exemption for unlicensed persons shooting on approved ranges

The Foundation does not support retention of Section 6B of the Act which allows unlicensed people to shoot on approved ranges. It believes that this arrangement is an unnecessary risk to public safety.

The Foundation does accept that Clause 129 is attempting to put in place a set of clear and workable arrangements to ensure that only suitable unlicensed persons are able to shoot on approved range. The Foundation supports the approach on the basis that it is appropriate until such time as Section 6B of the Act is repealed.

The Foundation strongly recommends that the proposal be modified to clarify that:

- the questions outlined in subclause 129(2) should be answered on each occasion on which a person possesses or uses a firearm on the approved range; and
- the records to be kept by the club or range official under subclause 129(4) (b) should include the date on which the person possessed/used the firearm.

The Foundation is not familiar with requirements for the operation of armouries at shooting ranges and gun clubs, which may form part of the conditions related to the control, administration and management of a club specified by the Commissioner. The second of the above dot points may be encompassed in such requirements. It is not clear why these do not appear to be covered in the regulations. The Foundation would support such requirements being included in the regulations, given the greater transparency of requirements that it provides.

FR Clause 135: Exemptions relating to international visitors

The Foundation does not support the promotion of safaris in NSW as such activities would appear to pose an unnecessary risk to public safety. Consequently, it does not support NSW recognising permits issued in other states and territories in respect of safari activities. It does not object to recognition of such permits for participation in appropriately authorised competitions.