**Australia responses to questionnaire**

***Human Rights Council resolution 29/10 on ‘Human rights and the regulation of civilian acquisition, possession and use of firearms’***

**Introduction**

Australia has a whole-of-government approach to the ownership, possession, carriage, use, registration, storage, transfer, manufacture, importation and exportation of firearms, all of which are heavily regulated. Under Australia’s Constitutional arrangements, State and Territory Governments are responsible for the licensing, possession and manufacture of firearms, while the Commonwealth Government controls the importation and exportation of firearms.

**History of regulation**

Prior to 1996, the rules pertaining to firearms varied considerably between the States and Territories. The inconsistencies between the jurisdictions extended to many discrete areas of regulation, for example the ability for minors to be licensed firearm owners, the types of firearms able to be possessed by collectors, whether safety training was a prerequisite to gun-ownership, and the requirement for firearms to be registered.

One of the most significant consequences of the lack of a uniform approach to gun control in Australia was the opportunity for firearms to be diverted to the illicit market. This was facilitated to an extent by loopholes in legislation and regulation, lack of oversight, and low penalties applied to firearms offences.

In an initial step to rectify this, and specifically in response to a number of mass shootings in the 1980s, numerous recommendations relating to gun reform were made by the National Committee on Violence (NVC) in its final report in 1990. One of the primary recommendations was for the establishment of a national strategy on firearms control.

*Firearms Agreements*

Though the NVC recommendations relating to firearms were not implemented at the time they were released, since 1996 there has been a move to a more consistent national approach to the regulation of firearms, driven largely by three national agreements.

1. National Firearms Agreement

In 1996, the Australasian Police Ministers’ Council (APMC) agreed to implement the first national plan for the regulation of firearms. The impetus for the national plan was a mass shooting in Tasmania’s Port Arthur earlier that year, in which a gunman used two semi-automatic rifles to shoot and kill 35 people and wound 23 others.

Using the NVC’s recommendations as a foundation, the APMC developed a set of 10 resolutions which later collectively formed the National Firearms Agreement (NFA) (**Attachment A**). The key elements of the NFA are:

* requiring people to have both a ‘genuine reason’ and ‘genuine need’ for owning, possessing or using a firearm, depending on the firearm’s categorisation (noting that personal protection is explicitly excluded as a genuine reason)
* requiring the nationwide registration of all firearms
* meeting uniform storage and security arrangements as a precondition to the issuing of a firearms licence, and
* requiring all firearm sales to be conducted by or through licenced firearm dealers, who should follow specified principles regarding the recording of firearm transactions.

In response to the NFA, Commonwealth, State and Territory governments made legislative, regulatory and policy amendments to ensure compliance with the resolutions.

The technical elements of the NFA are currently being updated in response to a recommendation made in the Martin Place Siege Joint Commonwealth – New Sales Wales review. The review was commissioned after an incident in Sydney’s Martin Place in December 2014, in which a gunman used a pump action shotgun to hold 18 people hostage in a café. The incident resulted in the deaths of two hostages and the gunman.

1. 1996 Firearms Buyback

A significant implication of the NFA was the 1996 National Buyback Program under which firearm owners were compelled to hand-in firearms which they were no longer able to legally possess. As part of the Program, which ran from 1 October 1996 to 30 September 1997 in all States and Territories, approximately 640,000 firearms were surrendered to the government. Owners who relinquished guns received financial compensation.

1. 2002 Agreements

The National Firearms Trafficking Policy Agreement, drafted and agreed to by the APMC in 2002, committed jurisdictions to putting in place additional controls to address the illegal firearms trade, including the introduction of nationally consistent rules for the legal manufacture of firearms and tighter recording and reporting provisions for dealer transactions involving firearms and major firearm parts.

The National Handgun Agreement (NHA) was prompted by the death of two students in a handgun shooting at Melbourne’s Monash University in October 2002. The NHA’s 28 resolutions committed jurisdictions to restricting the use and availability of handguns through such measures as restricting the possession of handguns based on calibre, barrel length and magazine capacity.

As with the NFA, the NHA was complemented by a handgun buyback scheme, running from 1 July to 31 December 2003. Under the scheme, people were provided financial compensation for the surrender of handguns and handgun parts and accessories.

**Ownership, possession or use of firearms**

Under the NFA, individuals must demonstrate a genuine reason for owning, possessing or using a firearm. These genuine reasons are:

* military purposes, police or other government purposes
* sports shooting
* recreational shooting and hunting
* primary production
* vertebrate pest control
* employment as a security guard
* collecting, and
* firearm dealing and manufacturing.

Personal protection is not a genuine reason for owning, possessing or using a firearm, and civilians are not permitted to carry firearms in public places unless for an authorised purpose (for example the extermination of animals)

Firearms are classified (from Category A (least controlled) to Category D (most highly controlled)) to ensure only individuals who have a genuine reason for particular firearms are able to have access to them. In general, firearms that are more ‘powerful’, fast-firing or have a larger magazine capacity have a higher classification and therefore greater restrictions on importation and ownership. A table setting out the firearm categories and broad genuine reasons (an example from New South Wales is at **Attachment B**).

In addition to demonstrating a genuine reason to own, possess or use a firearm, individuals must establish a genuine *need* for each firearm (excluding Category A firearms) for each new firearm they wish to possess. There is no limit on how many firearms an individual is legally able to possess, as long as they are able to establish a genuine need for each firearm (excluding Category A firearms).

Under the NFA, a firearms licence applicant is required to:

1. be aged 18 or over
2. be a fit and proper person
3. be able to prove identity through a 100 point system requiring a passport or multiple types of identification, and
4. undertake adequate safety training.

Additional licence requirements in relation to the ownership, possession or use of handguns for sporting purposes are set out in the NHA. Under the NHA, States and Territories have a system for graduated access to handguns for legitimate sporting shooters based on training, experience and event participation.

The system is based on graduated access to handguns over a period of 12 months and incorporates the following principles:

1. a person is required to obtain a police check and submit this with their application to join a shooting club
2. during the first six months a person will not be permitted to own a handgun, must satisfactorily complete a firearm safety training course and meet minimum participation rates, and
3. if a club certifies that a person has satisfactorily complied with the conditions attached to the first six months’ probation, then during the second six months a person will only be permitted to own one .22” calibre pistol and .177” air pistol or one centre fire pistol and .177” calibre air pistol.

After the initial period of 12 months, acquisition of additional handguns is subject to demonstration of genuine need, confirmation that the licensee has adequate storage arrangements in place, and specification of the competition shooting discipline for which the handgun is required.

*Fit and proper person*

As noted above, a firearms licence applicant is required to satisfy the licensing authority in their State or Territory that they are a fit and proper person. This provision is interpreted and applied by each jurisdiction in different ways under their respective legislative and regulatory frameworks. Two examples (Victoria and Queensland) are provided below to demonstrate the types of factors taken into account in determining whether a prospective or current firearms licensee is a fit and proper person.

1. Victoria

Under the *Firearms Act 1996 (Vic)*, you are not considered to be fit and proper if you have:

* a history of irresponsible handling of firearms
* been deemed to be a 'prohibited person'
* findings of guilt for crimes of violence
* not proven to be of good character
* a criminal history associated with firearms (e.g. armed robbery, assault with a weapon, attempted murder and murder)
* provided false or misleading information to the police in a firearms matter
* a record of physical or mental illness which medical evidence suggests bars you from owning or using firearms
* a record of drug or alcohol misuse which medical advice suggests bars you from owning or using a firearm, or
* failed to possess sufficient knowledge and competency in the carriage and use of firearms (e.g. you have not completed or failed the Victorian Firearms Safety Course).

The Victorian licensing authority is also able to consider additional criteria on a case by case basis.

1. Queensland

Under the *Weapons Act 1990 (Qld)*, a person is generally not fit and proper if:

* the person has been convicted of or discharged from custody on sentence, within five years immediately before the day the person applies for the issue or renewal of the licence, an offence relating or involving the following:
	+ i) the misuse of drugs
	ii) the use or threatened use of violence
	iii) the use, carriage, discharge or possession of a weapon

or

* a domestic violence order, other than a temporary protection order, has been made against the person within five (5) years immediately before the day the person applies for the issue or renewal of the licence.

Additionally, in determining a person’s ‘fit and proper’ status for the issue, renewal, suspension or revocation of a licence, the Queensland licensing authority must also consider:

* the mental and physical fitness of the person
* whether a domestic violence order has been made against the person
* whether the person has stated anything false or misleading on or in
connection with an application or renewal of application
* whether there is any criminal intelligence or other information to which
the authorised officer has access, and
* the public interest.

**Record keeping**

Australia has robust firearms record keeping practices in place. Documentation pertaining to imports and exports – including the number of articles and their serial numbers where relevant – is held by the Department of Immigration and Border Protection, while States and Territories also keep records of firearms coming into their jurisdictions. Australia’s record keeping will soon be bolstered by the introduction of the National Firearms Interface (NFI), which will provide a complete history about a firearm from point of importation to destruction or export. The NFI, which is due to be launched mid-2016, will replace the current National Firearms Licensing and Registration System.

Data uploaded to the NFI will be compiled from Commonwealth and State and Territory firearms records. The system will streamline regulatory processes, increase opportunities to identify the movement of firearms to the illicit market, and help improve the ability of police to solve firearm crimes.

**Importation and exportation**

Australia requires parties to apply for and be granted import or export permission when moving firearms and firearm-related articles across Australia’s external borders. Relevant import provisions are contained in:

* Part IV *Customs Act 1901 (Cth)*
* Schedule 6 *Customs (Prohibited Imports) Regulations 1956 (Cth)*

Import applications can be made under a nominated import test, and importers may be required to submit a range of supporting documentation as evidence that they meet the requirements of that test. The criteria for each test differ according to the reason for import, though in all cases importers must be licensed or authorised to possess the article/s in their State or Territory.

The tests under which firearms can be imported are:

* the official purposes test—for articles supplied to government agencies, demonstrated to government agencies or tested/evaluated by government agencies
* the specified purposes test—for a range of purposes including use in television/film production, research and development and by foreign military and law enforcement personnel
* the specified person test—for importers whose occupation is partly or wholly the business of controlling vertebrate pest animals
* the sports shooter test—for importers who require a semi-automatic shotgun to compete in clay target events due to a lack of strength or dexterity, or who owned a semi-automatic shotgun on 15 November 1996
* the international sports shooter test—for people who are not Australian citizens or permanent visa holders competing in certain clay target events in Australia
* the dealer test—category C and category D articles— for firearms dealers importing goods for on-sale to certified buyers, and
* the returned goods test—for articles previously in Australia that have been legally exported and are being returned.

Import tests and certifications administered by the relevant state or territory police services are:

* dealer test—category H articles—for firearms dealers importing handguns for on-sale to certified buyers
* certification as a:
	+ sports shooter for Category H articles (handguns)
	+ international sports shooter for Category H articles (handguns)
	+ primary producer (for Category A, B and C firearms)
	+ business or occupational purposes for Category H articles (handguns), and
	+ collector for Category H articles (handguns).

These tests are generally consistent with the genuine reasons for owning firearms that are set out in the NFA.

Legislation and regulation which detail export provisions are:

* Part VI *Customs Act 1901 (Cth)*
* Regulation 13E *Customs (Prohibited Exports) Regulations 1958 (Cth)*
* *Custom Amendment (Military End-Use) Act 2012*
* *Defence Trade Controls Act 2012*

Criteria against which export applications are assessed include international obligations, human rights considerations, regional security, national security and foreign policy. Applications to export firearms and firearm-related articles may require supporting documentation, including end-use assurances, international import certificates, purchase orders, or other evidence of transfer of ownership.

**What did the Agreements achieve in Australia?**

Australia’s national approach to firearms regulation aims to strike a balance between the interests of licensed gun owners and the need of the broader community to live safely and securely. Data from the Australian Bureau of Statistics and the Australian Institute of Criminology demonstrates that firearm reforms have had a significant impact on the level of firearm misuse in Australia. Statistics include that:

* firearms homicides decreased from 99 victims and 31.7% of all murder victims in 1996 to 41 victims and 16.9% of all murder victims in 2011.
* firearm-related deaths decreased from 521 in 1996 to 231 in 2010. Deaths include accidental death, intentional self-harm, assault, undetermined intent and other intent.
* in 2009-10, only 13% of all firearm homicides were committed with a handgun. This is a significant decrease from 2005-06, where 55% of all firearm homicides were committed with a handgun.

These statistics indicate that while there was a spike in 1996 due to the Port Arthur massacre, there has been an ongoing gradual decrease in firearm misuse in Australia. In addition, while firearm murders still occur, Australia has not had a mass shooting since the Monash University shooting, or a massacre involving semi-automatic firearms since the Port Arthur Massacre in 1996.

Research in 2010 found that the firearms buyback undertaken by the Australian Government in 1997 cut firearm suicides by 74%, equating to 200 lives a year.

While previous studies of gun buybacks have generally found that they have minimal impact on death rates or violent crime, research highlights that the Australian gun buyback had three major advantages:

1. the scale of the buyback was much larger than other reported buybacks. For example, five times as many firearms were handed in under the Australian buyback than the United Kingdom’s buyback in the same year. The larger scale could have been because Australia’s buyback covered a wider range of gun types.
2. the policy was applied nationwide, meaning that firearm owners could not travel to another State or Territory to purchase a replacement firearm.
3. Australia’s isolation as an island country allowed it to restrict firearm imports, which complemented the absence of domestic gun manufacturing.

**Penalties**

It is the responsibility of each jurisdiction to ensure that appropriate penalties are enforced for the misuse of firearms. The Commonwealth and the States and Territories enforce penalties relating to the illegal possession, use, sale and transfer of firearms, including where transfer occurs across internal and external borders. Depending on the circumstances of the offence, penalties can include fines, or imprisonment, or both.

Australia also coordinates national measures across agencies and jurisdictions to constrain the illegal arms trade. In practice, these efforts are conducted within a broad-based, whole‑of‑government framework, and involve various Australian government agencies. These include the Australian Crime Commission, Australian Federal Police, Attorney-General’s Department, CrimTrac, Department of Defence, Department of Immigration and Border Protection, and State and Territory police forces.

**Relevant Commonwealth, state and territory legislation**

* *Customs (Prohibited Imports) Regulations 1956 (Cth)*
* *Customs (Prohibited Exports) Regulations 1958 (Cth)*
* *Firearms Act 1996 (ACT)*
* *Firearms Act 1996 (NSW)*
* *Firearms Act 1997 (NT)*
* *Weapons Regulation 1996 (Qld)*
* *Firearms Act 1997 (SA)*
* *Firearms Act 1996 (Vic)*
* *Firearms Act 1996 (Tas)*
* *Firearms Act 1973 (WA)*

**International cooperation**

Australia was heavily involved in encouraging the widest participation in the UN Arms Trade Treaty (ATT) negotiations. Australia supported regional workshops in the Pacific, the Caribbean and Africa focussed on the ATT, and provided financial support for officials from these regions to attend negotiations in New York. Australian continues to support its regional partners in meeting the objectives of the ATT; for example in 2014 the Attorney-General’s Department presented on Australia’s firearms regulatory framework at a workshop in Cambodia which was hosted by the UN Regional Centre for Peace and Disarmament in Asia and the Pacific.

Australia supports the UN Register of Conventional Arms (UNCAR) by submitting annual information on Australia’s arms imports and exports. Australia also voluntarily provides information to the Register on exports of small arms and light weapons.

While Australia has not ratified the UN Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Australia believes that the national approach taken to the sale, transfer, possession, manufacture, import and export of firearms and firearm-related articles achieves the Protocol’s objectives.

**Attachment A – National Firearms Agreement**

# AUSTRALASIAN POLICE MINISTERS’ COUNCIL

# SPECIAL FIREARMS MEETING

# CANBERRA

# 10 MAY 1996

## RESOLUTIONS

### 1. **Bans on Specific Types of Firearms**

#### RESOLUTION

Council resolved:

1. that all jurisdictions ban the sale, resale, transfer, ownership, possession, manufacture and use of those firearms banned or proposed to be banned from import other than in the exceptional circumstances listed in paragraph 1.2 of the Commonwealth proposal (*see below*).

*para 1.2 The only need for the use of an automatic or semi-automatic longarm would be:*

* *military;*
* *police or other government purposes; and*
* *occupational categories of shooters who have been licensed for a specified purpose (eg extermination of feral animals).*
1. that all jurisdictions ban competitive shooting involving those firearms banned or proposed to be banned from import.

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** to ban the sale, resale, transfer, ownership, possession, manufacture and use of those firearms banned or to be banned from import other than in the following exceptional circumstances:
* military use;
* police or other government purposes; and
* occupational categories of shooters who have been licensed for a specified purpose (eg extermination of feral animals).
1. **All jurisdictions** to ban competitive shooting involving those firearms banned or proposed to be banned from import.
2. **The Commonwealth** to ban the importation of all semi-automatic self-loading and pump action longarms, and all parts, including magazines, for such firearms, included in Licence Category D, and control the importation of those firearms included in Licence Category C.

### **2. Effective Nationwide Registration of All Firearms**

#### RESOLUTION

Council resolved:

1. that New South Wales, Queensland and Tasmania immediately establish an integrated licence and firearms registration system and that all other jurisdictions review their existing registration systems to ensure that all systems are compatible.
2. that these databases be linked through the National Exchange of Police Information (NEPI) to ensure effective nationwide registration of all firearms.

Council noted that there is an urgent need for funds to upgrade NEPI and for additional recurrent funding

Council resolved to implement its resolution via the following action plan:

1. **New South Wales**, **Queensland** and **Tasmania** to immediately establish a registration system for all firearms in consultation with NEPI.
2. **Victoria**, **ACT**, **South Australia**, **Western Australia** and **Northern Territory** to work with NEPI in reviewing existing systems to ensure compatibility.
3. **All jurisdictions** to link their registration systems to NEPI.
4. **New South Wales, Tasmania, Victoria** and **Western Australia** to immediately place the names of all firearms licence holders in their States on NEPI’s Police Reference System.

### **3. Genuine Reason for Owning, Possessing or Using a Firearm**

#### RESOLUTION

Council resolved:

1. that personal protection not be regarded as a genuine reason for owning, possessing or using a firearm.
2. that the following classifications be used to define the “genuine reason” an applicant must show for owning, possessing or using a firearm:
* sporting shooters with valid membership of an approved club (defined as participants in shooting sports recognised in the charters of such major sporting events as the Commonwealth Games, Olympic Games or World Championships);
* recreational shooters/hunters who produce proof of permission from a landowner;
* persons with an occupational requirement, eg primary producers, other rural purposes, security employees and professional shooters for nominated purposes;
* bona fide collectors of lawful firearms; and
* persons having other limited purposes authorised by legislation or Ministerial approval in writing (for example, firearms used in film production).
1. that over and above satisfaction of the “genuine reason” test, an applicant for a licence for the categories B, C, D and H must demonstrate a genuine need for the particular type of firearm.

For Licence Category C:

* application will be limited to primary producers;
* the applicant must satisfy the licensing authority that there is a genuine need for the use of the firearm that pertains to the applicant’s occupation, which cannot be achieved by some other means, and that the need cannot be satisfied by a firearm under Category A or B;
* a Category C licence holder will be limited to the maximum of one rifle and one shotgun of the types covered by Category C;
* the application is to be approved by the Commissioner of the Police, who may impose conditions as to the use of the firearm, including as to the geographical location of its use; and
* licensing authorities will develop uniform guidelines to be approved by Council.
1. that firearms collectors should be regulated by means of a licence and permit system designed to test their bona fides. The licensing process should include a provision for an initial inspection of storage facilities and for subsequent mutually arranged inspections. All such inspections will be subject to the recognition of the individual’s right to privacy. The onus of defining “bona fide firearms collector” rests with each State and Territory. However, the following principles should underpin the regulation of bona fide firearms collectors:
* the firearms which are the subject of the collection should be of or above a defined age;
* firearms in a collection which have been manufactured after 1 January 1946 must be rendered inoperable;
* collectors may not possess ammunition for a collection firearm;
* no prohibited firearm may be included in a collection;
* any attempt to restore firearms in the collection to usable condition should be regarded as a serious offence and subject to severe penalties; and
* all operating firearms which are owned by the collector should be subject to the same level of regulation as any other operating firearm.

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** confirm that personal protection is not a genuine reason for owning , possessing or using a firearm.
2. **All jurisdictions** to immediately implement a uniform system of testing applicants for firearms licences such that each applicant must establish, to the satisfaction of the licensing authority in the relevant jurisdiction, that he or she has a “genuine reason” for owning, possessing or using a firearm. The classifications used to define “genuine reason” are as follows:
3. sporting shooters with valid membership of an approved club (defined as participants in shooting sports recognised in the charters of such major sporting events as the Commonwealth Games, Olympic Games or World Championships);
4. recreational shooters/hunters who produce proof of permission from a landowner;
5. persons with an occupational requirement, eg primary producers, their licensed employees, other rural purposes, security employees and professional shooters for nominated purposes;
6. bona fide collectors of lawful firearms; and
7. persons having other limited purposes authorised by legislation or Ministerial approval in writing (for example, firearms used in film production).
8. **All jurisdictions** to immediately implement a uniform system of testing applicants for firearms licences of categories B, C, D and H such that each applicant must establish, to the satisfaction of the licensing authority in the relevant jurisdiction, that he or she has a “genuine need” for owning, possessing or using a firearm of the nominated type.

For Licence Category C:

* application will be limited to primary producers;
* the applicant must satisfy the licensing authority that there is a genuine need for the use of the firearm that pertains to the applicant’s occupation, which cannot be achieved by some other means, and that the need cannot be satisfied by a firearm under Category A or B;
* a Category C licence holder will be limited to the maximum of one rifle and one shotgun of the types covered by Category C;
* the application is to be approved by the Commissioner of the Police, who may impose conditions as to the use of the firearm, including as to the geographical location of its use; and
* licensing authorities will develop uniform guidelines to be approved by Council.
1. **All jurisdictions** to immediately implement a uniform system for regulating firearms collectors by means of the licence and permit system as follows:
2. the firearms which are the subject of the collection should be of or above a defined age;
3. firearms in a collection which have been manufactured after
1 January 1946 must be rendered inoperable;
4. collectors may not possess ammunition for a collection firearm;
5. no prohibited firearm may be included in a collection;
6. any attempt to restore firearms in the collection to usable condition should be regarded as a serious offence and subject to severe penalties; and
7. all operating firearms which are owned by the collector (ie those not forming part of the collection) should be subject to the same level of regulation as any other operating firearm.

### **4. Basic Licence Requirements**

#### RESOLUTION

Council resolved:

1. that in addition to the demonstration of “genuine reason”, a licence applicant should be required to:
* be aged 18 years or over;
* be a fit and proper person;
* be able to prove identity through a system similar to that required to open a bank account, that is, a 100 point system requiring a passport or multiple types of identification; and
* undertake adequate safety training.
1. that the licence:
* bear a photograph of the licensee;
* be endorsed with the category of the firearm;
* be endorsed with the holder’s address;
* be issued after a waiting period of not less than 28 days;
* be issued for a period of no more than 5 years;
* contain a reminder of safe storage responsibilities;
* be issued subject to undertakings to comply with storage requirements, to provide details of proposed storage provisions at the time of licensing, and submit to a mutually arranged (with due recognition of privacy) inspection by licensing authorities of storage facilities;
* be subject to immediate withdrawal of licence and confiscation of firearms in certain circumstances. (Jurisdictions may wish to consider appropriate penalties - additional to withdrawal or confiscation - for the failure to comply with security and storage conditions.)
1. that, within a regime of uniform firearms legislation, all States and Territories recognise, for visiting gun owners, licences issued in other Australian jurisdictions in order to facilitate the lawful pursuit of sporting and other purposes.
2. that jurisdictions recognise, for a period of no longer than 3 months, a category A or B firearm licence issued in another jurisdiction to an individual who moves permanently to a new jurisdiction for such an individual with a licence categories C, D and H, a period of recognition will not exceed 7 days.
3. that the following categories be used in the licensing of firearms:

##### Licence Category A:

* air rifles;
* rimfire rifles (excluding self-loading);
* single and double barrel shotguns.

##### Licence Category B:

* muzzle-loading firearms;
* single shot, double barrel and repeating centre fire rifles;
* break action shotguns/rifle combinations;

##### Licence Category C (prohibited except for occupational purposes)

* semi automatic rimfire rifles with a magazine capacity no greater than 10 rounds;
* semi automatic shotguns with a magazine capacity no greater than 5 rounds;
* pump action shotguns with a magazine capacity no greater than 5 rounds.

##### Licence Category D (Prohibited, except for official purposes)

* self-loading centre fire rifles designed or adapted for military purposes or a firearm which substantially duplicates those rifles in design, function or appearance.
* non-military style self-loading centre fire rifles with either an integral or detachable magazine;
* self-loading shotguns with either an integral or detachable magazine and pump action shotguns with a capacity of more than 5 rounds;
* self-loading rim-fire rifles with a magazine capacity greater than 10 rounds.

##### Licence Category H: (Restricted)

* all handguns, including air pistols

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** to establish the following licensing requirements:
2. that in addition to the demonstration of “genuine reason”, a licence applicant should be required to :
* be aged 18 years or over;
* be a fit and proper person;
* be able to prove identity through a system similar to that required to open a bank account, that is, a 100 point system requiring a passport or multiple types of identification; and
* undertake adequate safety training; and
1. that the licence:
* bear a photograph of the licensee;
* be endorsed with the category of the firearm;
* be endorsed with the holder’s address;
* be issued after a waiting period of not less than 28 days;
* be issued for a period of no more than 5 years;
* contain a reminder of safe storage responsibilities;
* be issued subject to undertakings to comply with storage requirements, to provide details of proposed storage provisions at the time of licensing, and submit to a mutually arranged (with due recognition of privacy) inspection by licensing authorities of storage facilities;
* be subject to immediate withdrawal of licence and confiscation of firearms in certain circumstances. (Jurisdictions may wish to consider appropriate penalties - additional to withdrawal or confiscation - for the failure to comply with security and storage conditions.)
1. **All jurisdictions** to consider appropriate penalties - additional to withdrawal of licence or confiscation of firearms - for failing to comply with security and storage conditions.
2. **All jurisdictions** to recognise visiting licensees for sporting purposes and (other than licence categories C, D and H and for a limited period) for individuals moving permanently to a new jurisdiction, as outlined in the following:
3. that, within a regime of uniform firearms legislation, all States and Territories recognise, for visiting gun owners, licences issued in other Australian jurisdictions in order to facilitate the lawful pursuit of sporting and other purposes.
4. that jurisdictions recognise, for a period of no longer than 3 months, a category A or B firearm licence issued in another jurisdiction to an individual who moves permanently to a new jurisdiction for such an individual with a licence categories C, D and H, a period of recognition will not exceed 7 days.
5. **All jurisdictions** to adopt the categories proposed by Council for the licensing of firearms as follows:

###### Licence Category A:

* air rifles;
* rimfire rifles (excluding self-loading);
* single and double barrel shotguns.

###### Licence Category B:

* muzzle-loading firearms;
* single shot, double barrel and repeating centre fire rifles;
* break action shotguns/rifle combinations;

###### Licence Category C (prohibited except for occupational purposes)

* semi automatic rimfire rifles with a magazine capacity no greater than 10 rounds;
* semi automatic shotguns with a magazine capacity no greater than 5 rounds;
* pump action shotguns with a magazine capacity no greater than 5 rounds.

###### Licence Category D (Prohibited, except for official purposes)

* self-loading centre fire rifles designed or adapted for military purposes or a firearm which substantially duplicates those rifles in design, function or appearance.
* non-military style self-loading centre fire rifles with either an integral or detachable magazine;
* self-loading shotguns with either an integral or detachable magazine and pump action shotguns with a capacity of more than 5 rounds;
* self-loading rim-fire rifles with a magazine capacity greater than 10 rounds.

###### Licence Category H: (Restricted)

* all handguns, including air pistols

### **5. Training as a Prerequisite for Licensing**

#### RESOLUTION

Council resolved:

1. that all jurisdictions require the completion of an accredited course in safety training for firearms for all first time licence applicants.

The course should be:

* comprehensive and standardised across Australia for all licence categories;
* subject to accreditation of the course syllabus, by an appropriate authority, and a system of accredited instructors to bring prospective licensees to the required standard with a focus on firearms law, firearms safety and firearms competency;
* outlined in a Firearms Safety Code which emphasises both safety and storage issues and is distributed to all new licence applicants prior to attending the course of instruction;
* monitored as to content of courses and the skills of instructors by firearms regulatory authorities;
1. that a specialised course should be established for training of persons employed in the security industry.

Council agreed to implement its resolution via the following action plan:

1. **The Commonwealth** to chair a Working Party, to include representatives of firearms interest groups, to develop an accredited course for safety training in firearms.
2. **All jurisdictions** to introduce a requirement for the completion of an accredited course in safety training for firearms for all new licence applicants
3. **All jurisdictions** to establish a specialised course for training of persons employed in the security industry.

### 6. **Grounds for Licence Refusal or Cancellation and Seizure of Firearms**

#### RESOLUTION

Council resolved:

1. that jurisdictions set out in legislation circumstances in which licence applications are to be refused or licences are to be cancelled. The following minimum standards are proposed:
* *general reasons* - not of good character; conviction for an offence involving violence within the past five years; contravene firearm law; unsafe storage; no longer genuine reason; not in public interest due to (defined) circumstances; not notifying of change of address; licence obtained by deception;
* *specific reasons* - where applicant/licence holder has been the subject of an Apprehended Violence Order, Domestic Violence Order, restraining order or conviction for assault with a weapon/aggravated assault within the past five years;
* *mental or physical fitness -* reliable evidence of a mental or physical condition which would render the applicant unsuitable for owning, possessing or using a firearm.
1. that in regard to the latter point, a balance needs to be struck between the rights of the individual to privacy and fair treatment, and the responsibility of authorities, on behalf of the community, to prevent danger to the individual and the wider community.
2. that a Commonwealth/State working party, including health officials, police and medical representation, be established to examine possible criteria and systems for determining mental and physical fitness to own, possess or use a firearm. The working party should report to the second APMC meeting for 1996, but jurisdictions should not delay the introduction of necessary legislative changes while awaiting its report.
3. that jurisdictions will establish an appeal from a refusal of a licence application and the cancellation of a licence.

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** to immediately implement a uniform minimum standard of circumstances, to be set out in legislation, in which applications are to be refused or licences cancelled.
2. **All jurisdictions** to undertake a review of their legislation to ensure that it is consistent with the uniform, minimum standards as follows:
* *general reasons* - not of good character; conviction for an offence involving violence within the past five years; contravene firearm law; unsafe storage; no longer genuine reason; not in public interest due to (defined) circumstances; not notifying of change of address; licence obtained by deception;
* *specific reasons* - where applicant/licence holder has been the subject of an Apprehended Violence Order, Domestic Violence Order, restraining order or conviction for assault with a weapon/aggravated assault within the past five years;
* *mental or physical fitness -* reliable evidence of a mental or physical condition which would render the applicant unsuitable for owning, possessing or using a firearm.
1. **All jurisdictions** to establish a working party, including health officials, police and medical representation, to examine possible criteria and systems for determining mental and physical fitness to own, possess or use a firearm. The working party should report to APMC’s November 1996 meeting.
2. That jurisdictions will establish an appeal from a refusal of a licence application and the cancellation of a licence.

### **7. Permit to Acquire**

#### RESOLUTION

Council resolved:

1. that a separate permit be required for the acquisition of every firearm.
2. that the issue of a permit should be subject to a waiting period of at least 28 days to enable appropriate checks to be made on licensees in order to ascertain whether circumstances have occurred since the issuing of the original licence which would render the licensee unsuitable to possess the firearm or which would render the licensee ineligible for that type of firearm.

Council agreed to implement its resolution via the following action plan:

1. **New South Wales, Queensland, Tasmania, the ACT and the Northern Territory** to require a separate permit to be required for the purchase of every firearm.
2. **All jurisdictions** to require a separate permit for any other method of acquisition of every firearm.
3. **All jurisdictions** to establish a 28-day waiting period prior to the issuing of all firearms permits.

### **8. Uniform Standard for the Security and Storage of Firearms**

#### RESOLUTION

Council resolved that all firearms and ammunition be stored in secure conditions as follows:

* it should be a precondition to the issuing of a new firearms licence (and on each renewal of licence in respect of existing licence holders) that the licensing authority be satisfied as to the proposed storage and security arrangements;
* legislation should have the effect of making failure to store firearms in the manner required an offence as well as a matter that will lead to the cancellation of the licence and the confiscation of all firearms;
* measures should be indicated in legislation for the storage of firearms which are specific and clear so that firearm owners and possessors know their obligations and the following minimum basic standards should apply:
* *Licence Category A and B:* storage in a locked receptacle constructed of either hard wood or steel with a thickness to ensure it is not easily penetrable. If the weight is less than 150 kilograms the receptacle shall be fixed to the frame of the floor or wall so as to prevent easy removal. The locks fitted to these receptacles shall be of sturdy construction;
* *Licence Category C, D and H:* storage in a locked, steel safe with a thickness to ensure it is not easily penetrable, bolted to the structure of a building; and
* all ammunition must be stored in locked containers separate from any firearms.
* should a firearms owner or possessor wish to store firearms through measures other than those indicated in legislation, he or she would have the burden of persuading the firearms regulatory authority that he or she can provide the level of security not less than that required by the relevant approved practices;
* in order to govern safekeeping when firearms are temporarily away from their usual place of storage, legislation could provide a statement indicating reasonable precautions to take to ensure the safekeeping taking into consideration situations most likely to be encountered. A basic standard that should be included in the statement is that the holder of the licence "must take reasonable care to ensure that the firearm is not lost or stolen and must take reasonable care to ensure that the firearm does not fall into the hands of an unauthorised person";
* the firearms safety booklet to be distributed to all new licence applicants prior to attending for a course of instruction should also feature clear and precise information on the obligations as regards storage of firearms;
* a reminder of safe storage responsibilities should be on the licence itself;
* security at gun dealer premises will require the dealer meeting such additional requirements as the firearms regulatory authority deems appropriate having regard to the type of activity of the dealer;
* where approval has been given for the possession or use of a firearm for a limited purpose such as film production (see 3.3), the person authorised must meet such requirements as the firearms regulatory authority deems appropriate having regard to the type of activity for which possession has been authorised.

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** to develop a standard approach to the storage of firearms and ammunition.

### **9. Recording of Sales**

#### RESOLUTION

Council resolved:

1. that firearms sales be conducted only by or through licensed firearms dealers.
2. that the following principles should underpin firearms dealer recording of firearms transactions:
* firearms dealers should continue to be obliged under penalty to ensure that purchasers are appropriately licensed for the firearm to be purchased;
* firearms dealers should be required to record and maintain details (type, make, calibre and serial number) of each weapon purchased or sold against the identity (name, address and licence number) of the seller or the purchaser;
* firearms dealers should be required to provide records to the National Register of Firearms through the State/Territory licensing authority;
* police personnel investigating a crime or checking the compliance of licensed gun dealers with recording responsibilities should have the right to inspect the records of licensed gun dealers without the need to give notice to the licensee; and
* special provisions may have to be put in place in those jurisdictions which have remote locations where licensed gun dealers may not be readily available (it may be possible, for instance, to authorise local police officers to certify sales/purchases in such circumstances).
1. that jurisdictions legislate to allow the sale of ammunition only for those firearms for which the purchaser is licensed and that there be limits on the quantity of ammunition that may be purchased in a given period.
2. on the purchase of ammunition, the relevant licence must be produced.

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** to legislate to ensure that firearms sales be conducted only by or through licensed firearms dealers.
2. **All jurisdictions** to adopt the following principles to underpin firearms dealer recording of firearms transactions:
* firearms dealers should continue to be obliged under penalty to ensure that purchasers are appropriately licensed for the firearm to be purchased;
* firearms dealers should be required to record and maintain details (type, make, calibre and serial number) of each weapon purchased or sold against the identity (name, address and licence number) of the seller or the purchaser;
* firearms dealers should be required to provide records to the National Register of Firearms through the State/Territory licensing authority;
* police personnel investigating a crime or checking the compliance of licensed gun dealers with recording responsibilities should have the right to inspect the records of licensed gun dealers without the need to give notice to the licensee; and
* special provisions may have to be put in place in those jurisdictions which have remote locations where licensed gun dealers may not be readily available (it may be possible, for instance, to authorise local police officers to certify sales/purchases in such circumstances).
1. **All jurisdictions** to legislate to allow the sale of ammunition only for those firearms for which the purchaser is licensed and to place limits on the quantity of ammunition that may be purchased in a given period.
2. On the purchase of ammunition, the relevant licence must be produced.

### 10. **Mail Order Sales Control**

#### RESOLUTION

Council resolved:

1. to adopt the following principles in relation to mail order firearms sales:
* mail order arrangements will apply strictly on a licensed gun dealer to licensed gun dealer basis;
* advertisement of firearms for sale will be prohibited unless the sale is to be conducted by or through a licensed gun dealer;
* the movement of firearms covered by Licence Categories C, D and H must be in accordance with prescribed safety requirements;
* the commercial transport of ammunition with firearms will be prohibited; and
1. that each jurisdiction pass the necessary legislation to enforce these principles within their borders.

Council agreed to implement its resolution via the following action plan:

1. **All jurisdictions** to develop and introduce legislation to ensure that, within their own borders, -
* mail order arrangements will apply strictly on a licensed gun dealer to licensed gun dealer basis;
* advertisement of firearms for sale will be prohibited unless the sale is to be conducted by or through a licensed gun dealer;
* the movement of firearms covered by Licence Categories C, D and H will be in accordance with prescribed safety requirements; and
* the commercial transport of ammunition with firearms will be prohibited.
1. **All jurisdictions** to consider whether they wish to put in place measures to provide for individuals living in remote locations where gun dealers are not readily available.

### **11. COMPENSATION/INCENTIVE ISSUES**

#### RESOLUTION

Council resolved:

1. that a common basis for fair and proper compensation, based on the value of each firearm as at March 1996, be agreed between jurisdictions to prevent gun owners from offering their firearms to the State/Territory which offers the ‘best price’.
2. that there be a public education campaign to highlight the firearms amnesty and compensation program.
3. to note that the Commonwealth will make a financial contribution to the public education campaign.
4. that a 12 month national amnesty be established, during which the public education campaign would persuade firearm owners to comply, and warn of severe penalties where firearms are not voluntarily surrendered.
5. that, after the amnesty has concluded, each jurisdiction have severe penalties, which to the extent practicable should be uniform, for breaches of the firearms control laws.