

# *Should the government regulate to control weapons?*

*Prepared for the  
Victorian Department  
of Justice*

*September 2011*

## Regulatory Impact Statement: Control of Weapons Regulations

**pwc**

*What would  
you like to grow?*



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## Abbreviations

ABS	Australian Bureau of Statistics
DOJ	Department of Justice
NPV	Net present value
p.a.	per annum
RIS	Regulatory Impact Statement
VCEC	Victorian Competition and Efficiency Commission
GIC	Governor in Council
LRD	Licensing and Regulation Division of Victoria Police
LARS	Victoria Police licensing and registrations system

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## Executive summary

### Purpose of the regulatory impact statement

This document is a regulatory impact statement (RIS) analysing the regulation of weapons in Victoria, currently contained in the *Control of Weapons Regulations 2000* ('the Regulations'). Its purpose is to examine the problems relating to weapons (other than firearms), and based on this, draw conclusions on whether continued regulation is necessary, or if alternative options would be more efficient and effective.

The reason for preparing this RIS is that the regulations have been in place for just over 10 years and will sunset on 11 December 2011, meaning they will expire and all provisions will no longer apply. The renewal of sun-setting regulations is treated as new legislation and as such, the impacts of the regulations must be analysed through the RIS process.

### Why regulate weapons?

In Victoria, the *Control of Weapons Act 1990* provides the framework for controlling the sale, possession, carriage, and use of weapons (other than firearms) and body armour. The Act divides weapons into four basic categories:

- **prohibited weapons**, which cannot be purchased, carried or used unless the owner/user falls into an exemption category specified by the Governor in Council or has an explicit approval from the Chief Commissioner of Police
- **controlled weapons**, which require a lawful excuse to be purchased, carried or used
- **dangerous articles**, which are any items that are modified so as to be a weapon or carried with the intent to be used as a weapon
- **body armour**, which is regulated in a similar way to prohibited weapons.

The Act provides for the appropriate regulation of weapons based on the danger they pose if used inappropriately.

The Regulations effectively put into practice the provisions of the Act by providing:

- clarity about what constitutes a prohibited or controlled weapon. That is, the regulations provide a prescribed list of weapons defined as prohibited or controlled
- an avenue (via exemptions, approvals and lawful excuse) for individuals and organisations to use weapons for legitimate purposes. These include for sporting (e.g. martial arts, fencing), historical (e.g. collectors, museums), entertainment (e.g. props in theatrical productions) and employment (e.g. knives are tools of the trade for chefs) purposes.

There can be serious consequences resulting from weapons misuse; it is these consequences that weapons regulations seek to mitigate. Academic literature suggests that access to weapons increases the likelihood of crime (and conversely, reducing opportunities to access weapons can prevent crime) and the potential severity of harm when crimes occur. When crimes involving the illegitimate use of weapons do occur, they impose costs on:

- victims (e.g. injury, pain and suffering, and medical expenses)
- governments (e.g. costs of court and police), and
- the general community (e.g. fear of crime, avoidance and security costs).

These costs can be significant. Based on 2009/10 crime data and taking into account the prevalence of unreported crime, the estimated cost of weapons related crime in Victoria is approximately \$230 million per annum.

At the same time, regulating for the illegitimate use of weapons impacts on those who would like to use weapons for legitimate purposes. For example: those who use nunchaku as part of their martial arts practice; those who use swords in historical re-enactments; and law enforcement staff who carry batons as part of their job.

While the law can define what constitutes legitimate and illegitimate uses, it is unable to differentiate which weapons will be used for legitimate or illegitimate means. It is for this reason that all weapons are regulated under the one regulatory regime but one which provides for legitimate uses. Effectively, the costs imposed from regulation are borne by legitimate weapons users.

When considering the control of weapons, it is therefore necessary to consider the trade-offs involved. Ideally, a control mechanism would minimise the harm caused when weapons are misused whilst allowing the potential for legitimate and appropriate weapons use.

## Options analysis

There are three feasible options considered in this RIS, all of which are regulatory. These have been formulated by aggregating weapons into groups or classes to avoid undertaking analysis on an individual weapon basis (which would be difficult given the limitations of available data) while still allowing differentiation between each option.

The three options considered are:

### Option 1: Proposed regulations

Under the proposed regulations, the existing regulations would be re-made with some minor amendments.

### Option 2: Alignment with other jurisdictions

Under Option 2, the differences between Victoria and other jurisdictions would be reduced to increase national consistency. The current regulations would be re-made, but with changes that remove or reduce controls on weapons that are not regulated in the same way in other States and Territories. This option would result in 11 weapons being removed from the regulations and two weapons being moved from the 'prohibited' category to the 'controlled' category.

### Option 3: Lower the burden of regulation

Option 3 involves re-making the current regulations, but with certain weapons being re-defined as 'controlled' weapons rather than 'prohibited'. This would allow any person other than a child to *purchase* these weapons, and allow any person (including a child) to *possess, carry or use* such weapons with a lawful excuse (which does not include self-defence). To identify which weapons should be moved under this option, we have considered the level of exemptions and approvals currently in place. Under this option, 12 currently prohibited weapons would be moved to the 'controlled' weapons category.

## Cost benefit analysis

In accordance with the Victorian Guide to Regulation, each of the options is considered relative to the base case of allowing the current regulations to lapse – that is, comparing options to a zero regulation base case.

For each option, there are regulatory costs imposed on individuals, businesses and government, including:

- the time taken by business and individuals to complete an application for an approval to legitimately possess, carry or use a prohibited weapon
- membership fees paid by individuals joining exempt organisations
- the time taken for business to record the sale of prohibited weapons
- administration associated with the processing and assessment of approval applications by the regulator
- compliance and enforcement activities undertaken by the regulator.

The key benefit of regulation is the crime that is avoided by restricting access to weapons. Because of the difficulties in being able to quantify the benefits of crime prevented by type of weapon, we have assessed the options using two approaches:

1. break even analysis – an analytical technique which allows us to understand how much crime must be avoided by each option to offset the costs of regulation. A comparison of the break even point for each option demonstrates the magnitude of change needed for one option to result in a greater net benefit than another.
2. multi-criteria analysis – a technique enabling a comparative assessment of options against the objectives of the regulations. This allows us to understand which option is more likely to contribute to government and regulatory objectives. The criteria or objectives against which each option was assessed were:
  - a. Reduce violent and weapons-related crime
  - b. Restore public safety and make people feel safe and secure
  - c. Allow lawful weapons use in a safe manner
  - d. Reduce the costs from inconsistencies with other Australian jurisdictions
  - e. Costs of regulation and enforcement.

Table 1 summarises the regulatory cost burden associated with each option, the corresponding break even point and rating resulting from the multi-criteria assessment.

Under Option 1, the regulatory costs are estimated to be approximately \$6.4 million (net present value (NPV) over 10 years) and relate mainly to the compliance and administrative costs to those persons who seek to use weapons for legitimate purposes. The avoided cost of weapons related offences needed for this option to break even is low. When comparing the regulatory cost to the current total cost of weapons related offences in Victoria under the current regulations, it becomes clear that only a fraction of incidents relative to the current problem would need to be avoided to justify making the regulatory proposal under Option 1. Moreover, any change that led to an increase in confusion as to what is or is not a weapon is likely to increase the adverse consequences of weapons misuse.

Not surprisingly (given that Options 2 and 3 provide for lower regulatory controls), the regulatory costs and break even point are lower for Options 2 and 3 than for Option 1. The trade off with lower regulatory options is that they are less likely to contribute to the objectives of the regulation (based on the multi-criteria assessment).



**Table 1 Summary of the assessment of each option**

<b>Option</b>	<b>Estimated regulatory cost burden (10 year NPV)</b>	<b>Required number of avoided offences involving a weapon to break even</b>	<b>Cost as a proportion of the current costs of crime</b>	<b>Overall rating from the multi-criteria analysis</b>
<b>Option 1: Proposed regulation</b>	\$6,398,289	<ul style="list-style-type: none"> <li>one homicide every two to three years OR</li> <li>156 robberies per year OR</li> <li>343 assaults per year</li> </ul>	0.34%	0.54
<b>Option 2: Alignment with other jurisdictions</b>	\$5,528,410	<ul style="list-style-type: none"> <li>one homicide every three years OR</li> <li>135 robberies per year OR</li> <li>296 assaults per year</li> </ul>	0.29%	0.49
<b>Option 3: Lower regulatory burden</b>	\$5,253,712	<ul style="list-style-type: none"> <li>one homicide every three years OR</li> <li>128 robberies per year OR</li> <li>281 assaults per year</li> </ul>	0.27%	0.29

\* Note: multi-criteria analysis based on a -10 to +10 scale, whereby +10 means significant positive impact in addressing the regulatory objective.

## The preferred option

The three regulatory options considered vary in their degree of regulatory burden placed on society, as well as the degree to which they contribute to government objectives. While on the one hand the high regulation option (Option 1) imposes a higher regulatory cost, it does so with the intent of reducing the potential risks and harm inflicted by the misuse of weapons. Because of the stricter preventative measures under the high regulation option, it has the advantage of potentially having a greater influence on government objectives (hence, receiving a strong rating under the multi-criteria analysis). On the other hand, the lower regulation options (Options 2 and 3) impose a lower regulatory burden on society but increase the risk of weapons misuse and decrease the potential impact on government objectives.

Given the serious consequences that may result from weapons misuse and the fact that only a small amount of crime needs to be avoided (relative to no regulations) to offset the cost of higher regulation, then it is reasonable to expect that mitigating for the potential risks will outweigh the benefit from reducing the regulatory costs. We also know from academic studies that access to weapons increases the likelihood of crime, so higher regulatory restrictions can only serve to mitigate the illegitimate use of weapons. In addition, as shown by the multi-criteria analysis, a higher regulatory option is more likely to contribute to the regulation's objectives than lower regulatory options.

In the absence of regulations, the number of offences is likely to be higher. Each of the options is expected to address this to some extent by reducing weapons related crime and therefore avoiding the costs of that crime. Compared to Option 1, the lower regulation options would need to avoid less crime to reach their break even points. While this is true, the break even points do not tell us the level of crime that would actually eventuate under these options. What it does demonstrate is that the avoided costs of crime required to break even are very similar under each option. As noted above, a comparison of the break even point for each option can be used to determine the magnitude of change needed for one option to result in a greater net benefit than another. Option 1 would only need to prevent 21 robberies compared with Option 2 and 28 robberies compared with Option 3 for that option to have the highest net benefits.

Compared to the total current cost of weapons related offences with regulation in place, the cost of these robberies represent only 0.05 and 0.07 per cent respectively. Therefore, the Department of Justice believes that the incremental benefits of Option 1 would be at least this large.

Based on this comparison and the results of the multi-criteria analysis, the Department of Justice believes Option 1 is most likely to result in the highest net benefit to society and is therefore the preferred option.

## Fees

Remaking the regulations using the preferred option (i.e. proposed regulations) imposes fees for a Chief Commissioner's approval. As discussed above, approvals allow for the legitimate use of weapons. These proposed fees would not fully recover the costs to Victoria Police of administering and enforcing approvals. Therefore, the alternative approach to fees would be full cost recovery. The proposed fees, with a comparison of the fees under full cost recovery, are shown in Table 2.

**Table 2 Proposed fees and a comparison to fees under full cost recovery<sup>1</sup>**

Description	Proposed fees		Full cost recovery fees	
	Fee units	\$ 2011/12	Fee units	\$ 2011/12
<b>Without firearms licence</b>	13.5	\$165.00	90.9	\$1,110.40
<b>With firearms licence</b>	11.5	\$140.50	77.4	\$945.20
<b>Variations</b>	5	\$61.10	33.7	\$411.30
<b>With firearms dealers licence (selling imitation firearms only)</b>	0	\$0	0	\$0

Given there were 285 approvals in 2009/10 and 359 in 2010/11, the proposed fees would generate about \$43,000 to \$56,000 per annum. In comparison, based on the average number of approvals per annum, full cost recovery fees would generate about \$330,000 per annum (which is the estimated annual cost of administering and enforcing approvals to Victoria Police).

The Government is proposing that application fees should be maintained at their current level, when expressed in fee units. The Department of Justice has estimated this will result in the recovery of less than 20 per cent of the costs of administering and enforcing the Regulations. It is the Department's view that such a low level of cost recovery is justified in this case, to help avoid discouraging people from partaking in legitimate uses of weapons and concern about the impact of higher fees on the effectiveness of the regulations.

As noted in the Cost Recovery Guidelines, however, '[i]ncorporating the costs of administering government regulation into the prices of regulated products and services ensures ... that activities that require high levels of regulation are not favoured over activities that require low levels of regulation'.<sup>2</sup> Thus, setting the fees at less than 20 per cent of the full cost recovery level, as proposed, may

<sup>1</sup> Based on the fee unit set for 2010/11, being \$11.95.

<sup>2</sup> Department of Treasury and Finance (2010) 'Cost Recovery Guidelines', Melbourne, Page 6.

result in greater ownership and legitimate use of controlled weapons than is 'optimal' from society's perspective. There is, moreover, no evidence of there being broader spill over benefits to society of legitimate weapons use that would justify this level of under-recovery of costs.

# 1 Introduction

## 1.1 Purpose of the regulatory impact statement

This document is a regulatory impact statement (RIS) analysing the regulation of weapons in Victoria, currently contained in the *Control of Weapons Regulations 2000* ('the Regulations'). Its purpose is to examine the problems relating to weapons (other than firearms), and based on this, draw conclusions on whether continued regulation is necessary. In doing so, the RIS assesses a draft set of regulations, the proposed *Control of Weapons Regulations 2011*, against other options.

The *Subordinate Legislation Act 1994* specifies that all regulations covered by the Act will expire or 'sunset' after 10 years. In accordance with this, the *Control of Weapons Regulations 2000* were set to sunset in December 2010, however this date was extended by the *Subordinate Legislation (Control of Weapons Regulations 2000 - Extension of Operation) Regulations 2010* to 11 December 2011. After that date, the control of weapons regulations will expire and its provisions will no longer apply.

The renewal of sunseting regulations are equivalently treated as new legislation, and hence require appropriate demonstration that each restriction imposed by regulation is still required and in the best interests of society. The *Subordinate Legislation Act 1994* specifies that a RIS needs to be prepared where a proposed statutory rule imposes an appreciable burden on any sector of the public.<sup>3</sup>

The review process imposed by the requirement for a RIS ensures that the regulation is still required and that adjustments are considered to better achieve the desired benefits and/or reduce the cost it imposes.

This RIS considers the most efficient and effective approach, taking into account relevant academic literature, the effectiveness of the current regulations and an analysis of the costs and benefits of each approach or option. The cost benefit analysis is informed by consultation with a select number of stakeholders.

Throughout this report, when reference is made to 'weapons', it includes all weapons other than firearms. Firearms are regulated by the *Firearms Act 1996* and are therefore outside the scope of this RIS.

## 1.2 About the current regulation

The scope of the weapons regulations is effectively specified by the *Control of Weapons Act 1990* (the 'Act'), which states that its purpose is to regulate 'weapons other than firearms' and 'body armour'. Firearms are regulated under the 'Firearms Act 1996' and subsequent amendments, and therefore are not considered in this RIS.

The Regulations effectively put into practice the provisions of the Act by prescribing which weapons are controlled and prohibited. For prohibited weapons, unless the owner/user falls into an exemption category specified by

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<sup>3</sup> Although there are exemptions and exceptions to this requirement.

the Governor in Council or has an explicit approval from the Chief Commissioner of Police, they cannot purchase, carry or use the weapon.<sup>4</sup>

The Regulations support the Act, meaning many of the Act's provisions will become inoperable if the regulations are not replaced. For more details on the current regulatory environment, including both the Act and the Regulations, see section 3.2 and Appendix A.

## 1.3 Report outline

The remainder of the RIS is structured as follows:

- Chapter 2 details the nature and extent of the problem.
- Chapter 3 outlines the current policy environment, including the weapons related policy objectives of the government.
- Chapter 4 describes the potential options for addressing the problem identified in Chapter 2.
- Chapter 5 provides a cost benefit analysis to assess the options from Chapter 4.
- Chapter 6 evaluates each option using a multi-criteria analysis to form a view on the preferred regulatory option.
- Chapter 7 discusses the principles for setting fees in the proposed regulations.
- Chapter 8 recommends the most effective and efficient option as the preferred option to address the problem identified in Chapter 2. Based on the preferred option, this chapter also provides details regarding:
  - implementation
  - enforcement
  - the impact on competition
  - evaluation.

The RIS is also supported by a number of appendices:

- Appendix A provides details on the government's current approach to weapons control, including both regulatory and non regulatory measures.
- Appendix B lists all of the weapons prescribed by the *Control of Weapons Regulations 2000*.
- Appendix C demonstrates the jurisdictional differences in relation to the control of weapons across Australia, including a comparison table of prescribed weapons.
- Appendix D analyses the potential for market based mechanisms in relation to weapons control.
- Appendix E demonstrates the recent trends in weapon related offences.
- Appendix F lists the assumptions of the cost benefit analysis utilised in Chapter 5.
- Appendix G lists the assumptions of the sensitivity analysis utilised in Chapter 5.

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<sup>4</sup> Under the *Control of Weapons Act 1990*, someone can be exempt from certain provisions of the Act through either an approval or an exemption. While there are certain provisions that a person cannot be exempt from, the exemption or approval would essentially allow that person to purchase and use a prohibited weapon or body armour. For further details, see Appendix A.

## 2 The nature and extent of the problem

Weapons have historically played an important role in society for thousands of years for activities like hunting, fighting and self-defence. In modern society, additional uses like sporting activities, acting and collection have increased in popularity. These latter activities have an important place in society and are considered to be legitimate uses. Using weapons in this way provides net benefits to society.

The use of weapons for causing threat or harm, however, are considered to be illegitimate uses and are not conducive to today's societal norms. Using weapons in this way creates net costs for society as a whole.

The term 'weapons' includes a wide variety of different items from swords and knives, to a baton and even a broken bottle used in an inappropriate way. The one general point of similarity between all of these is their potential to cause harm if used inappropriately.

It is this potential that leads to a problem for society. While the existence or carriage of these weapons is not a problem in itself, when accompanied with possible misuse, a problem arises.

### 2.1 The misuse of weapons imposes net costs on society

Given the potential for the misuse of weapons, the accessibility of weapons in society may lead to a problem that imposes a significant net cost because:

- access to weapons increases the likelihood of crime
- access to weapons increases the potential severity of harm when crimes occur
- the cost of weapons related offences for society as a whole is high.

#### 2.1.1 *Access to weapons increases the likelihood of crime*

Access to weapons increases the opportunity to use a weapon in committing a crime, even if it is not pre-meditated. The "mere presence of a weapon can elicit an increase in aggressive behaviour in individuals".<sup>5</sup>

Research identifies a causal link between the level of weapons access and the frequency of crimes. Felson and Clarke state that opportunity plays a role in causing all crimes.<sup>6</sup> If people are given the opportunity to possess and carry weapons, they have a greater opportunity to use them inappropriately to assist in committing a crime. A weapon could be used to threaten or to physically

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<sup>5</sup> Berkowitz & LePage (1967), cited in Brennan, I. & Moore, S. (2009) 'Weapons and violence: A review of theory and research', *Aggression and Violent Behaviour*, 14, pp. 215-225.

<sup>6</sup> Felson, M & Clarke, R (1998) 'Opportunity Makes the Thief: Practical theory for crime prevention', *Policing and Reducing Crime Unit – Research, Development and Statistics Directorate, Policy Research Series, Paper 98.*

harm or incapacitate somebody, or alternatively facilitate other crimes such as robbery.

In essence, access to weapons increases opportunity crime, defined here as occurrences of crime that would not otherwise take place were it not for the access to a weapon. Access is driven by both the ability to possess weapons and the increased carriage of these weapons.

### **Ability to possess weapons**

Just as the existence of opportunities can lead to crime, reducing opportunities can prevent crime.<sup>7</sup> One of the opportunity reducing techniques identified by Felson and Clarke was to increase the perceived effort of crime by controlling crime facilitators.<sup>8</sup> As a weapon is a crime facilitator, controlling weapons could prevent crime.<sup>9</sup>

### **Carriage of weapons**

People carry weapons for a variety of reasons that are considered illegitimate. Reasons include for self-protection, to protect others or to intentionally threaten or injure others. Some media also report that younger generations are carrying knives because they think it is 'cool'.<sup>10</sup>

Frequent carriage of weapons essentially increases access to use these weapons at any given point in time. Some literature suggests that the presence of a weapon during an altercation could decrease the likelihood of actual violence occurring because the threat of violence plays a coercive role.<sup>11</sup> The threat of serious injury that would result from this situation however, still represents a crime which has been facilitated by the carriage of a weapon.

A UK based study found that around 10 per cent of those who carried a knife did so to threaten or to injure someone.<sup>12</sup> A much larger 85 per cent did so for protection,<sup>13</sup> however even given this defensive intent, the potential for opportunity crime nevertheless increases.

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<sup>7</sup> Felson, M & Clarke, R (1998) 'Opportunity Makes the Thief: Practical theory for crime prevention', *Policing and Reducing Crime Unit – Research, Development and Statistics Directorate*, Policy Research Series, Paper 98.

<sup>8</sup> Felson, M & Clarke, R (1998) 'Opportunity Makes the Thief: Practical theory for crime prevention', *Policing and Reducing Crime Unit – Research, Development and Statistics Directorate*, Policy Research Series, Paper 98.

<sup>9</sup> Clarke, R (1995), 'Situational Crime Prevention', *Crime and Justice*, Vol. 19, Building a Safer Society: Strategic Approaches to Crime Prevention, pp. 91-150.

<sup>10</sup> For example, Overland, S. (2010), 'Death in your pocket', *The Age*, January 10 and Silvester, J (2009), 'Children in knife-point robberies', *The Age*, September 14.

<sup>11</sup> Brennan, I. & Moore, S. (2009) 'Weapons and violence: A review of theory and research', *Aggression and Violent Behaviour*, 14, pp. 215-225.

<sup>12</sup> Eades, C, Grimshaw, R, Silvestri, A & Solomon, E (2007), 'Knife Crime: A Review of evidence and policy', 2<sup>nd</sup> Edition, Whose Justice Series, *Centre for Crime and Justice Studies*.

<sup>13</sup> Eades, C, Grimshaw, R, Silvestri, A & Solomon, E (2007), 'Knife Crime: A Review of evidence and policy', 2<sup>nd</sup> Edition, Whose Justice Series, *Centre for Crime and Justice Studies*.

### 2.1.2 *Access to weapons increases the severity of crime*

Weapons offences include altercations between two people where a weapon is used to threaten or harm the other person, armed robberies and criminal damage with the use of a weapon. Such offences generally fall into two categories: premeditated or opportunistic.

Premeditated weapons related offences occur when the offence is planned and a weapon is carried primarily for the purposes of carrying out that offence.

An example of an opportunistic weapons crime however might be where someone gets into an altercation and the individual pulls out a weapon that they carry on them. The altercation would have taken place regardless of whether that person was carrying a weapon.

Literature on weapons and crime supports this conclusion. In general, in a violent situation the use of a weapon is found to be associated with an increase in the severity of injuries incurred.<sup>14</sup> When an injury is incurred from the use of a weapon, the probability of death is higher compared to an injury incurred without the use of a weapon.<sup>15</sup> In particular, using a knife in an assault increases the likelihood of death by four times compared to similar assaults without weapons.<sup>16</sup>

Of all of the offences using a weapon in Victoria in 2009/10, over half led to a physical injury and almost 20 per cent led to emotional trauma.<sup>17</sup> If weapons are not 'at hand' during altercations, the resulting injuries may be less severe or could be avoided all together.

### 2.1.3 *The high cost to society of weapons related offences*

Use of weapons to commit criminal offences are 'welfare reducing' events and their occurrence results in a net cost to society (referred to as the 'cost of illegal weapons use'). Illegal weapons use refers to the use of weapons to threaten, harm or coerce another person. That is, using a weapon to assist in committing a criminal offence such as assault, robbery, rape or homicide.

#### **Types of cost incurred due to weapons crime**

Illegal weapons use imposes costs on victims (e.g. pain and medical expenses), governments (e.g. costs of court and police), and the general community (e.g. fear of crime, avoidance and security costs). Figure 1 shows how the costs can be

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<sup>14</sup> Felson & Mesner (1996) & Brennan, Moore & Shepard (2006), cited in Brennan, I. & Moore, S. (2009) 'Weapons and violence: A review of theory and research', *Aggression and Violent Behaviour*, 14, pp. 215-225.

<sup>15</sup> Hleck & McElrath (1991) cited in Brennan, I. & Moore, S. (2009) 'Weapons and violence: A review of theory and research', *Aggression and Violent Behaviour*, 14, pp. 215-225.

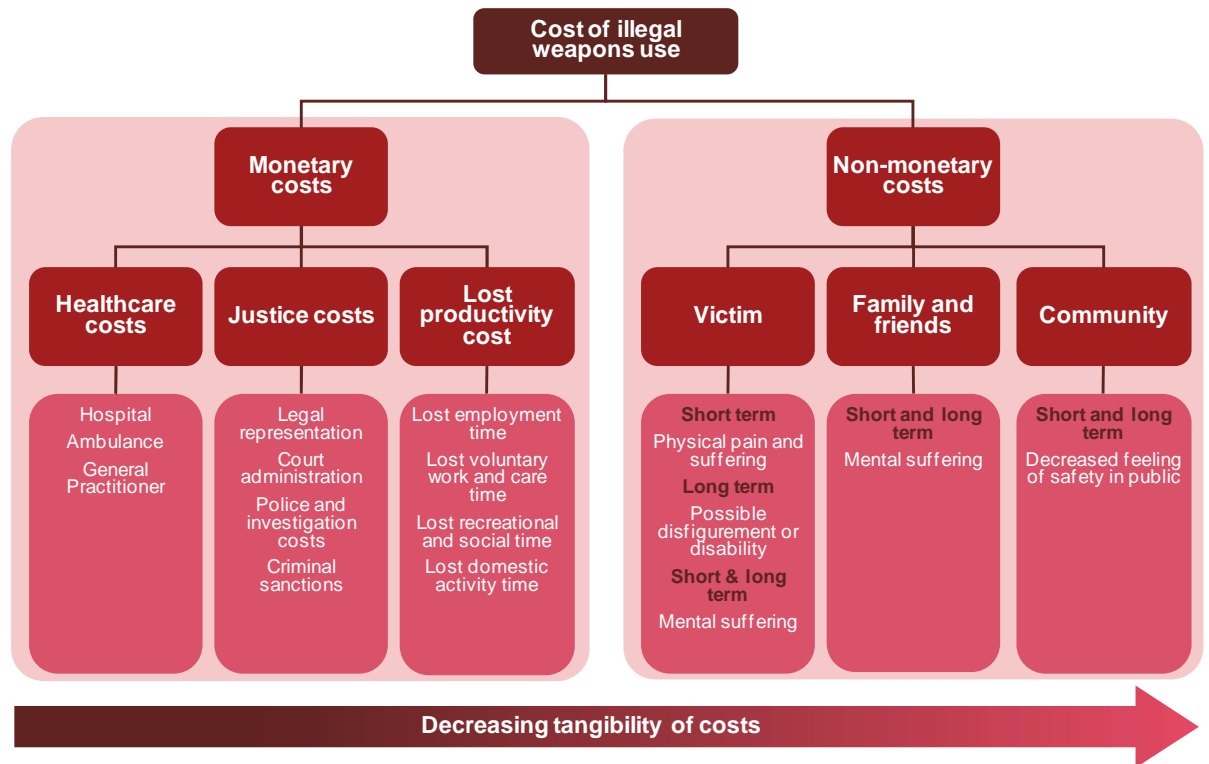
<sup>16</sup> Felson & Mesner (1996), cited in Brennan, I. & Moore, S. (2009) 'Weapons and violence: A review of theory and research', *Aggression and Violent Behaviour*, 14, pp. 215-225.

<sup>17</sup> Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence together with multiple injuries that may have been sustained by the victim. The total of each category may not coincide with the actual number of offences recorded.



categorised in terms of tangibility and categorised as either monetary or non-monetary costs.

**Figure 1 Costs of weapons use**



**Monetary costs**

Monetary costs incurred from illegal weapons use can include healthcare costs, legal and investigation costs and lost productivity costs.

Healthcare costs can include the cost of ambulance attendance and transport costs, and emergency admission and inpatient admission costs at hospital. Justice costs involve costs related to court administration and legal representation, police and investigation costs and the costs of imposing criminal sanctions like imprisonment. The costs due to lost productivity can include lost time in employment, voluntary or carer’s time, recreational time and domestic activity time.

**Non-monetary costs**

In addition to this, and often more significantly, the non-monetary costs are categorised as those incurred by the victim, the victim’s family and friends, and the general community.

The victim is imposed with the costs of short and long term physical pain and suffering, as well as the mental suffering from their experience. The family and friends can also experience mental suffering due to their relationship with and care for the victim.

In general, the community becomes more and more fearful for its safety with every incremental incident that is brought to its attention. Fear and avoidance costs, while not easy to monetise, also represent significant costs incurred by the community.

Estimates of these types of costs are discussed in the next section below.

### The cost of weapons related crime per incident

Considerable effort would be required to accurately estimate the various costs incurred due to weapons related offences. While cost estimates specific to offences involving a weapon are not currently available, existing research estimates the costs of crime in relation to each offence type as a whole. For example, estimates are available for the cost of an assault, but not for an assault involving a weapon. Given that weapons increase the severity of harm, the available estimates will likely underestimate the true cost of weapons related crime. The estimates will therefore be conservative, but do represent the best available information.

For Victoria, the estimated costs of six different offences are shown in Table 3. These offences include all those relevant for weapons use as reported by Victoria Police. The estimated cost for a particular offence includes medical costs, lost output, intangible costs and property losses.<sup>18</sup> It is clear that the cost of a homicide is significant (\$1.68 million in 2003 dollars), especially compared to each of the other offences shown.

Other international and Australian studies value the cost of a homicide or the premature loss of life at around \$3.5 million.<sup>19</sup> For the purposes of our analysis later in this report, the values in Table 3 have been used, as these figures have been derived from Victorian specific data. These estimates are likely to underestimate the cost of homicides compared to other studies.

**Table 3 Estimated costs of crime in Victoria<sup>20</sup>**

Type	Estimated cost per offence (2003)	Estimated cost per offence (in 2010 dollars) <sup>21</sup>
Assault	\$1,860	\$2,244
Robbery	\$4,076	\$4,919
Rape	\$2,607	\$3,146
Homicide	\$1.68 million	\$2.03 million

<sup>18</sup> Walker, J. (2003) 'Measuring the costs of crime', *John Walker Crime Trends Analysis*.

<sup>19</sup> Office of Best Practice Regulation, Best Practice Regulation Guidance Note, Value of statistical life, 2008.

<sup>20</sup> Walker, J. (2003) 'Measuring the costs of crime', *John Walker Crime Trends Analysis*. Note that the cost of a rape is based on estimates for rape and non rape sex and the cost of aggravated burglary is based on estimates made for all types of burglary. There are several pieces of literature that estimate the costs of crime, each with varying estimates. For example, see Walker (2003 cited above); Rollings, K., Australian Institute of Criminology (2005) 'Counting the costs of crime in Australia: a 2005 update', *Research and Public Policy Series*, No. 91; 'The economics and social costs of crime against individuals and households', *Home Office*, Online report 30/05, UK; McCollister, K. (2004), 'The cost of crime to society: New Crime-specific estimates for policy and program evaluation', *University of Miami*; Roper, T. & Thompson, A. (2006), 'Estimating the costs of crime in New Zealand in 2003/04', *New Zealand Treasury*, Working Paper 06/04.

For the purposes of this RIS, we have drawn on the estimates produced by Walker in 2003. These estimates are specific to Victoria and estimates are provided for all of the offences for which weapons are used (based on Victoria Police data and offence categories). For more detail on this study, see Appendix F. The costs of crime in Victoria were also estimated by PwC in 2009 as part of some work undertaken for Victoria Police. PwC's estimates were specific to incidents occurring in Melbourne's Central Business District (CBD) on Friday and Saturday nights, meaning they are drawn from offences likely to have more serious outcomes and therefore higher costs. The estimates presented in this RIS represent offences across the whole state of Victoria and are conservative or comparable to some of the other literature in this area.

<sup>21</sup> The cost per offence in 2010 dollars has been indexed from December 2003 to December 2010 based on Melbourne's Consumer Price Index. Australian Bureau of Statistics, (2010) 'Consumer Price Index, Australia: 6401.0'.

Type	Estimated cost per offence (2003)	Estimated cost per offence (in 2010 dollars) <sup>21</sup>
Abduction / Kidnap	\$2,018	\$2,436
Burglary (aggravated)	\$2,576	\$3,108

### Non-commensurable costs

Not only are many parties burdened with costs imposed from the injuries inflicted due to weapons related offences; many of the costs are not able to be compensated for.

As discussed above, the victim, friends, family and the general public all suffer from the costs of weapons offences. It is not possible to compensate the entire community for their additional feeling of fear, or to remedy the injuries of the victim in the instance of death or permanent disfigurement or disability.

If a victim is permanently disfigured or disabled from the use of a weapon, there is often no way to remedy the situation and medical methods can only partly remedy the injury. Financial compensation can only ever partly remedy these types of injuries and the majority of the cost is borne by the victim, who has no recourse.

The common adage related to disease in the medical field that 'prevention is better than cure' also holds true of weapons related deaths and injuries.

## 2.1.4 Frequency of weapons related offences

### Reported offences

In the 2009/10 financial year, Victoria Police recorded 5,110 offences where weapons were used, threatened, or displayed. The main two offences for which a weapon is used are assault and robbery, which represented 73 and 19 per cent respectively of all offences involving a weapon in 2009/10.<sup>22</sup> The number of offences involving a weapon for each offence type is shown in Table 4. The numbers in that table demonstrate the extent to which weapons related offences are occurring within the current regulatory environment. Table 4 also provides these figures as a percentage of the total number of offences. For example, 45 per cent of homicides involve the use of a weapon. Similarly, a weapon was used in 32 per cent of all robberies reported in Victoria.

<sup>22</sup> Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence and recorded as such. The total for each offence category may not coincide with the actual total number of offences.

**Table 4 Number of reported offences using a weapon in Victoria in 2009/10<sup>23</sup>**

Offence type	Number of offences using a weapon reported	Offences using a weapon as a % of the total number of offences of that type
Assault	3,733	11%
Robbery	987	32%
Rape	36	2%
Homicide	92	45%
Abduction / Kidnap	57	13%
Burglary (aggravated)	205	9%

### Actual offences

The number of reported offences does not represent all offences that occur in society. It is likely that some offences occur but are not reported to the police and are therefore not captured by the data provided in Table 4.

Research by the Australian Bureau of Statistics (ABS) shows that on average nearly two thirds of offences go unreported. Only 31 per cent of assault victims and 38 per cent of robbery victims report the offence to police.<sup>24</sup> This suggests that reported crime statistics are likely to underestimate the true extent of some criminal activity.

ABS Crime and Safety survey results suggest victims do not report crime to police because they:

- believe the incident was too trivial or unimportant (21 per cent for assault / 18 per cent for robbery)
- would take care of the matter themselves (16 per cent for assault)
- feel there was nothing the police could do (9 per cent for assault / 30 per cent for robbery).<sup>25</sup>

Indeed, the difficulties in analysing reported crime data are widely acknowledged, including in the Victorian Parliament Drugs and Crime Prevention Committee's 2001 report – *Reporting Crime in the Melbourne CBD*.

This infers that the actual number of offences will be much higher than the number of reported offences shown in Table 4. To account for the likelihood that many crimes are not reported to police, the number of offences should be grossed up to estimate the actual number of offences. This adjustment has been made for offences using a weapon and is shown in Table 5.

<sup>23</sup> Victoria Police (2010) Crime Statistics; Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence and recorded as such. The total for each offence category may not coincide with the actual total number of offences.

<sup>24</sup> Australian Bureau of Statistics (2005), Crime and Safety, Australia.

<sup>25</sup> Australian Bureau of Statistics (2005), Crime and Safety, Australia.

**Table 5 Estimated actual number of offences (reported and unreported) using a weapon per annum**

Offence type	Number reported in 2009/10 <sup>26</sup>	Reporting rate	Gross up factor <sup>27</sup>	Estimate of actual offences
Assault	3,733	31%	3.23	12,042
Robbery	987	38%	2.63	2,597
Rape	36	19%	5.2	187
Homicide	92	100%	1	92
Abduction / Kidnap	57	23%	4.31	246
Burglary (aggravated)	205	29%	3.4	697

### 2.1.5 The total cost of weapons related offences

Given the total estimated number of actual weapons related offences and the cost per offence, we are able to estimate the total cost of weapons related offences across Victoria. This cost comes to a total of \$230 million per annum. The cost associated with an individual offence depends on the offence type. As such, a breakdown of the total estimated cost is provided in Table 6 to show the estimated cost by offence type.

The cost of weapons related offences will be conservative because costs reflect the average cost of a particular offence type (i.e. includes costs of weapons and non-weapons related offences) and not the cost of an offence involving a weapon only (which is likely to have more severe outcomes).

**Table 6 Estimated total cost of weapons related offences in Victoria per annum**

Type	Estimate of actual offences involving a weapon <sup>28</sup>	Estimated cost per offence <sup>29</sup>	Estimated total cost
Assault	12,042	\$2,244	\$27.03 million
Robbery	2,597	\$4,919	\$12.77 million
Rape	187	\$3,146	\$588,291
Homicide	92	\$2.03 million	\$186.71 million

<sup>26</sup> Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence and recorded as such. The total for each offence category may not coincide with the actual total number of offences.

<sup>27</sup> Robbery and Assault: Australian Bureau of Statistics (2005), Crime and Safety, Australia. Rape, Homicide and Burglary: Rollings, K., Australian Institute of Criminology (2005) 'Counting the costs of crime in Australia: a 2005 update', *Research and Public Policy Series*, No. 91. Note that the gross up factor for rape is based on the factor for 'sexual assault' and the factor for aggravated burglary it is based on the factor for 'burglary'. More specific categories were not provided by Rollings. Abduction/Kidnap and Homicide: Walker, J. (2003) 'Measuring the costs of crime'.

<sup>28</sup> Based on the information provided in Table 5.

<sup>29</sup> In 2010 dollars, based on the information provided in Table 3.

Type	Estimate of actual offences involving a weapon <sup>28</sup>	Estimated cost per offence <sup>29</sup>	Estimated total cost
Abduction / Kidnap	246	\$2,436	\$599,186
Burglary (aggravated)	697	\$3,108	\$2.17 million
<b>Total</b>			<b>\$230 million</b>

While the most recent year's figures have been used to outline the extent of the problem associated with weapons, the quantum of weapons related crime does vary over time. To give some further context, see Appendix E for some weapons related offence trends.

While illegitimate use of weapons imposes significant costs on society, the benefits of legitimate weapons use should not be ignored.

## 2.2 Legitimate use of weapons

While the problem associated with weapons comes from their misuse for illegitimate purposes, it is important to recognise that weapons are also used in appropriate ways to undertake legitimate activities.

Despite the significant media attention relating to the costs of weapons in society in recent times, we cannot ignore the benefits of allowing possession and use of weapons for specific purposes for which society derives net benefits.

Legitimate uses of weapons in today's society generally fall into the following broad categories:

- collectors / interest groups
- sporting and other activity groups
- use as props for actors and various media production
- workplace tools and equipment
- domestic use.

### Collectors and interest groups

Some examples of interest groups include medieval societies, historical groups, antique societies and collectors clubs. Weapons may be used by these societies in role plays, re-enactments or simply as collections for study or display.

There are a number of collector clubs in Victoria for various weapons like knives and swords. These serve a number of functions including to:

- encourage responsible ownership and usage
- maintain registers of makers and collectors
- research history and establish archives
- protect the interest of enthusiasts
- produce publications
- cater for the needs of bona fide collectors.

Another form of a collectors' or interest group is a museum. All types of weapons may be collected and displayed by museums for historical or public interest purposes.

### **Sporting and other activity groups**

Victoria has a significant number of sporting and activity groups that use various types of weapons like swords for use in competitive sports or activities like role plays.

The martial arts involve the use of many different weapons. While it is not appropriate to be using martial arts skills in a public arena, many people legitimately learn and practice martial arts and compete in competitions through organised groups. Some of the weapons used in martial arts include a nunchaku, a sai or jitte, a tonfa and a samurai sword.

A more commonly used weapon is a knife. Legitimate activities likely to require a knife include camping and fishing.

### **Use as props for acting and other media**

To undertake a high quality media or theatre production, it is necessary to have real life props on set or on stage. This could include a wide array of weapons such as a sword, a cross bow, a baton or a mace. For this to be possible, the parties involved in the production (i.e. actors and other relevant employees) need to purchase, possess, carry and use such weapons.

### **Workplace tools and equipment**

Some weapons are also used in society for enforcement activities. For example, Police carry extendable batons and capsicum spray to ensure they have appropriate avenues of enforcement against people undertaking criminal behaviour. Similar weapons may also be carried by prison staff and security guards.

To enable people to use weapons for legitimate purposes, it is necessary for them to be sold in retail stores. It is therefore legitimate for someone to possess a weapon if they are employed in a weapons store. Other relevant workplaces may be in the construction, agriculture and food industries.

### **Domestic use**

In a domestic environment, the most commonly used weapon is a knife. In particular, kitchen knives are found in almost all homes, being predominantly used to prepare and eat food.

## **2.3 Conclusion**

There are clearly problems associated with public access to weapons, as it can increase the frequency and severity of crime and the cost of that crime is significant. This problem arises due to the misuse of weapons, mostly by people who possess and carry weapons for illegitimate purposes.

While it is desirable to reduce access to weapons so as to minimise the problem, society still has the desire and need to access weapons for legitimate purposes. The appropriate use of weapons brings benefits to society that should not be discounted.

When considering the control of weapons, it is therefore necessary to take a balanced approach. Ideally, a control mechanism would minimise the problem of weapons whilst allowing the potential for legitimate and appropriate weapons use.

## 3 Policy and objectives

The Victorian Government's approach to addressing the problems identified in Chapter 2 is to develop legislation that controls the sale, possession, carriage, and use of weapons. This includes both the Act and supporting Regulations.

While this RIS focuses on the control of weapons, it is important to recognise the Government's broader public safety policy context. The control of weapons is only one small segment of a strategy to improve public safety and protect Victorian communities.

### 3.1 Broad public safety policy

The Government's approach to public safety can be seen by looking at its law and order policies. Behind these policies is the idea that crime, violence or anti-social behaviour will not be tolerated.<sup>30</sup>

Broadly, the Government is committed to making Victoria's streets safe. The aim of the Government's law and order policies is to restore public safety in Victorian communities, making people feel safe and secure, and to protect people from violent crime. Some examples of the policies that aim to make Victoria a safer place include:

- increasing the number of frontline police
- abolishing suspended sentences
- banning violent drunks from licensed premises
- a safer transport network.<sup>31</sup>

Additionally, there are a number of policies dealing specifically with weapons control, including:

- removing the seven-day notice period for random knife searches
- ensuring a knife amnesty program is extended and promoted into schools
- enforcing mandatory reporting by hospitals of stabbings.<sup>32</sup>

These policies to improve public safety combine a mix of legislative and non-legislative measures. For example, the knife amnesty program seeks to address the public safety objective through an education campaign, and increasing the number of frontline police provides greater capacity to enforce existing regulations. Banning violent drunks from licensed premises and mandatory reporting of stabbings requires legislation changes.

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<sup>30</sup> Victorian Liberal Nationals Coalition (2010), Media Release 6 April, 'Coalition announces 1,600 additional police to make our streets safe again'.

<sup>31</sup> *Ibid.*

<sup>32</sup> Ryan, P. (2010), 'VIC Coalition Plan to Reduce Knife Threat', *Victorian Liberal Nationals Coalition Media Release*, 25 February.



## 3.2 The current regulatory approach to controlling weapons use

In Victoria, the *Control of Weapons Act 1990* provides the framework for controlling the sale, possession, carriage, and use of weapons (other than firearms) and body armour. The Act divides weapons into four basic categories:

- prohibited weapons
- controlled weapons
- dangerous articles
- body armour.

The Act provides for the appropriate regulation of weapons based on the danger they pose if used inappropriately.

### 3.2.1 *Prohibited weapons*

Prohibited weapons are considered inappropriate for general possession and use. It is only lawful to use, possess, carry, manufacture, import or sell a prohibited weapon if a person has the appropriate approval from the Chief Commissioner of Police, or is included in a class of persons subject to a Governor in Council Exemption Order. Prohibited weapons are prescribed in Schedule 2 of the Control of Weapons Regulations and include weapons such as swords, crossbows, flick knives, daggers, knuckle dusters and blow guns. In addition, from 1 July 2011, the definition of prohibited weapon in the Act will include imitation firearms. Under the Act prohibited weapons cannot be sold to or purchased by persons under the age of 18 years. See Appendix A for more detail on exemptions and approvals for prohibited weapons.

### 3.2.2 *Controlled weapons*

Controlled weapons are weapons that play a useful and lawful purpose in the Victorian community. To ensure these weapons are not used in an irresponsible or dangerous way there are legal restrictions on who can use a controlled weapon and under what circumstances. A person may only possess, carry or use a controlled weapon if they have a 'lawful excuse' to do so, which includes for sporting, recreational, collection or employment-related activities. A person cannot carry a controlled weapon for self-defence. Controlled weapons include all knives, except for those knives that are prescribed as prohibited weapons, and a small number of articles prescribed in Schedule 3 of the Control of Weapons Regulations, including spear guns and batons. Under the Act, controlled weapons cannot be sold to or purchased by persons under the age of 18 years.

### 3.2.3 *Dangerous articles*

Dangerous articles are any other articles that either:

- have been adapted or modified so as to be capable of being used as a weapon, or
- are carried with the intention of being used as a weapon.

Examples include a baseball bat fitted with nails or a screwdriver carried for use as a weapon. Dangerous articles are defined in the Act and are not prescribed by regulations. A person may possess or carry a dangerous article in a public place provided that they have a 'lawful excuse' for doing so, which includes for sporting, recreational, collection or employment-related activities, or using the

article for the purpose for which it was designed. A person cannot carry a dangerous article for self defence.

### 3.2.4 *Body armour*

Body armour is a garment or item, as defined in the Act and prescribed in the regulations, that is designed, intended, or adapted for the purpose of protecting the body from the effects of a weapon, including a firearm. It is only lawful to use, possess, carry, manufacture, import or sell body armour if a person has the appropriate approval from the Chief Commissioner of Police, or is included in a Governor in Council Exemption Order.

### 3.2.5 *The Control of Weapons Regulations*

The *Control of Weapons Regulations 2000* support the operation of the Act (in particular, the weapons categories) by prescribing:

- certain articles as prohibited weapons
- certain articles as controlled weapons
- certain garments or items as body armour
- which documents that purchasers of prohibited weapons must produce as evidence when purchasing a prohibited weapon
- the form of records and the particulars to be recorded for every sale of a prohibited weapon
- a fee for applications for Chief Commissioner approvals under the Act
- the particulars to be included in police records of weapons searches undertaken without a warrant.

See Appendix A for further information on the Government's current approach to weapons control (including both regulatory and non regulatory measures).

## 3.3 Policy objectives

As noted in section 2.1.4 of this document, in the 2009/10 financial year, Victoria Police recorded that weapons were used in the commission of over 5,000 offences. In particular, weapons were utilised in 32 per cent of robberies and 11 per cent of assaults. The Government is therefore committed to the reduction of weapons related crime, particularly to reducing the incidence of knife related crimes. To this end, the Government's objectives in relation to weapons are to:

- reduce knife crime in Victoria
- make the streets of Victoria safe from weapons related crime
- restore public safety in Victorian communities, making people feel safe and secure
- protect people from violent crime
- ensure that people who wish to use weapons for lawful recreational or professional purposes do so in a manner which protects public safety.

These objectives reflect the key outcomes that Government wants to achieve and the end results that would be expected from government intervention. Any option to address the problem identified in Chapter 2 should aim to achieve these objectives.

At the national level, each state and territory maintains its own legislative regime to control the possession and use of weapons. Most jurisdictions include in their regimes the key categories of prohibited weapons and controlled/restricted weapons (or equivalent categories). The Government believes it is important that Victoria remain in step with the general approach adopted in respect of weapons control across jurisdictions, and maintain certain minimum standards of control. More information about jurisdictional regimes is contained in Appendix C.

## 4 Options to address the problem

This chapter outlines the feasible options for addressing the problem identified in Chapter 2. In developing these options, we have taken into consideration both state jurisdictional differences and the appropriateness of market based mechanisms. The analysis pertaining to these topics is provided in Appendix C and Appendix D.

In addition to the base case, there are three feasible options considered in this RIS. These have been formulated by aggregating weapons into groups or classes. This avoids undertaking analysis on an individual weapon basis (which would be difficult given the limitations of available data) while still allowing differentiation between each option.

### Base case: Operation of the Act without supporting regulation

The base case is the situation that would prevail if no regulatory action was taken to address the problems identified in Chapter 2. The base case is used as a base from which to compare the options identified below. Each of the options for addressing the problem is assessed relative to the base case.

Under the base case, the current regulations would sunset on 11 December 2011 and no further regulation would be put into place. Under this scenario, only the Act would remain to control weapons. With no supporting regulations, the only weapons controlled under the Act would be those prescribed by the Act. This would affect the classification of weapons that are currently prescribed by the regulations.

With no supporting regulations, the only 'prohibited' weapon would be an imitation firearm, as all other prohibited weapons are prescribed by the regulations and hence would cease to be prohibited weapons. This may have the effect of undermining the government's policy objective of reducing crime and ensuring public safety. Except in relation to imitation firearms, this would then negate all exemptions and approvals, as these are only provided in relation to prohibited weapons. This would certainly reduce the burden on those using weapons for legitimate purposes.

In relation to controlled weapons, the Act specifically prescribes a knife as a controlled weapon. Any knife that was prescribed as a prohibited weapon in the regulations would now come under the catch all of 'a knife' and be a controlled weapon under the Act. Other items currently prescribed as controlled weapons (spear guns, batons/cudgels, bayonets and cattle prods) would cease to be controlled weapons.

The definition of a dangerous article would not change under the base case. However, weapons (other than knives) that were previously prescribed by the regulations would now only be controlled, in appropriate circumstances, via the dangerous article provisions of the Act. To be classified as a 'dangerous article', the article must either:

- have been adapted or modified so as to be capable of being used as a weapon
- be carried with the intention of being used as a weapon.

As such, police would still have limited powers under the Act to deal with people carrying or possessing without a lawful excuse, articles considered dangerous if:

- they are able to prove intent to use the article as a weapon, *and*
- the dangerous article is possessed or carried in a public place.

Under the base case, Police would continue to exercise powers relating to specific crimes involving offensive weapons such as armed robbery or aggravated burglary under the Crimes Act 1958 or aggravated assault under the Summary Offences Act 1966. Aside from such circumstances and in the absence of regulations, no other legislated powers would be available to police to control the general possession, carriage or use of the prohibited weapons described in the Regulations.

While body armour is defined in the Act, its current definition means that it would not be covered unless it is prescribed. In essence, the base case would not include body armour.

The absence of regulations would give individuals more freedom to carry, possess, sell and use weapons. With no regulations, the requirements in the Act for sellers of prohibited weapons to require evidence of a purchaser's identity and to record the sales of prohibited weapons would only apply to imitation firearms as the sole class of prohibited weapon mandated by the Act. All articles other than an imitation firearm could be possessed, carried or used by a person if they have a lawful excuse, as defined in the Act. This would undermine the Government's policy objective of ensuring public safety.

As well as prescribing the type of weapons controlled by the Act, the regulations also prescribe:

- the form and information contained in sales records
- the application fee for approvals
- the particulars to be included in police search records.

If there were no regulations, these details would not be prescribed and the Act would be ambiguous on these points. Sellers of imitation firearms (the only remaining class of prohibited weapon) would not have to meet requirements as to the format and content of their sales records. While on the one hand, not having to keep sales records would reduce the administrative burden for sellers, on the other hand, it eliminates a potential source of evidence for police investigating weapons related crime. For example, Victoria Police may use sales records to track the owner of weapons used in criminal activity.

Victoria Police would not be able to charge application fees for approvals for imitation firearms, which means that the cost of administering approvals would need to be absorbed from other sources. In terms of police search records, section 10A(1) of the Act states that a written record must be made for searches conducted by police without a warrant, but the particulars to be included in that record would not be prescribed and the requirements would not be clear.

## Option 1: Proposed regulations

This option would involve re-making the existing regulations with some minor amendments.

The proposed regulations support the operation of key provisions of the Act. In particular, the proposed regulations prescribe certain articles as either prohibited or controlled weapons in Victoria. In relation to prohibited weapons, the proposed regulations categorise 47 articles, considered to be the most dangerous to the community, as prohibited items. This includes items such as daggers, flick knives and push knives. The articles prescribed as prohibited weapons in the proposed regulations remain consistent with those set out in the existing regulations and no additional items would be prescribed in this category.

In relation to controlled weapons, under the proposed regulations, there would continue to be four items prescribed as controlled weapons: spear-gun, baton or cudgel, bayonet and cattle prod. No additional items would be prescribed in this category.

In respect of body armour, the proposed regulations also provide that a garment or item that is designed or adapted for the purpose of protecting the body from the effects of a firearm is prescribed as body armour for the purposes of the Act. This provision is also consistent with the existing regulations for these items.

The Act requires a person attempting to purchase a prohibited weapon to produce evidence of their identity.<sup>33</sup> Consistent with the existing regulations, the proposed regulations prescribe additional categories of documents that may be used to evidence identity in these circumstances. In the case of natural persons, this includes for example, full birth certificates, extracts of birth, certifications of Australian citizenship and marriage certificates. Under the proposed regulations, the wording in section 9(a) (iv) will change slightly to clarify the type of identification cards being referred to. This will not change the meaning of the section, which will remain consistent with the existing regulations.

The Act also requires a person who sells prohibited weapons to maintain a record of all sales of these items.<sup>34</sup> In order to support this provision, the proposed regulations re-instate the existing regulations to set out the form of records and particulars of information to be recorded for every sale of a prohibited weapon. In particular, the seller must maintain a bound record book or operate and maintain a computerised record-keeping system in place of a bound book. This record must include information such as a description of the item sold, contact details, and details of identification provided by the purchaser. The keeping of these records is important to ensure that details of sales transactions are available for inspection by police members for law enforcement purposes.

In relation to the objectives of the regulations, the existing regulations prescribe “the manner in which searches without a warrant under the Act are to be conducted”.<sup>35</sup> Since 2000, changes to the Control of Weapons Act have made this redundant, as the manner in which searches are conducted are now prescribed in the Act. Hence, under the proposed regulations, the objectives will be amended to remove this objective.

In accordance with relevant provisions of the Act, Victoria Police is required to record details of certain searches conducted without warrant.<sup>36</sup> The proposed regulations would continue to specify the particulars to be included in these records, including for example, the date, time and place of the search, details of the member of the police force who conducted the search and the details of the person searched.

Finally, the proposed regulations continue to prescribe the fees required to lodge an application for a Chief Commissioner of Police Approval under section 8C of the Act.<sup>37</sup> Consistent with the existing regulations, an applicant who is not the holder of a current licence issued under the *Firearms Act 1996* is required to pay 13.5 fee units (around \$165) and a person who does hold such a licence is subject to a lower fee of 11.5 fee units (around \$141). An application to change or vary an

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<sup>33</sup> Section 5A(1)(a) *Control of Weapons Act 1990* (Vic).

<sup>34</sup> Section 5B *Control of Weapons Act 1990* (Vic).

<sup>35</sup> Section 1(g) *Control of Weapons Regulations 2000* (Vic.).

<sup>36</sup> Section 10A(1) *Control of Weapons Act 1990* (Vic).

<sup>37</sup> Section 8C of the *Control of Weapons Act 1990*, provides that the Chief Commissioner of Police may grant an approval to a person to do anything that is otherwise prohibited by any provision of section 5 or 8A of the Act (except section 5(1AC) or (1AD)). In other words, a person who is granted a Chief Commissioner Approval may bring into Victoria, cause to be bought into Victoria, manufacture, display, advertise for sale or possess, use or carry a prohibited weapon. Conditions may apply to this approval.

approval will attract a fee of 5 fee units (around \$61). Dealers wishing to sell imitation firearms will not be charged a fee for the approval application. Where an application is not approved, Victoria Police returns the total fee.

In these ways, the proposed regulations support the primary purpose of the Act to regulate body armour and weapons other than firearms in the Victorian community.

## Option 2: Alignment with other jurisdictions

Under this option, the differences between Victoria and other jurisdictions would be reduced to increase national consistency. The current regulations would be re-made, but with changes that remove or reduce controls on weapons that are not regulated in the same way in other States and Territories.

This option has been included because it is necessary to consider lower regulatory options that are being used in other jurisdictions and assess whether they are appropriate for Victoria.

Table C.1 in Appendix C shows that there are several weapons that are only regulated by one or two other states/territories (other than Victoria). This option would remove all of those weapons from the schedules in the new regulations. In addition, this option would re-define a dagger and a chain with baton attached at each end (a Kusari-Fundo or Manrikiguisari) as 'controlled' weapons rather than 'prohibited' because they are defined in this way in other jurisdictions. As can be identified in Table C.1 in Appendix C, these weapons are subject to lower controls in other states, meaning a re-definition would increase national consistency.

To summarise this option, the following weapons would be:

- changed from 'prohibited' to 'controlled' weapons:
  - daggers
  - a chain with baton attached at each end (a Kusari-Fundo or Manrikiguisari).
- removed from the schedules in the regulations:
  - dart (designed for blow gun)<sup>^</sup>
  - butterfly sword<sup>^</sup>
  - bayonet\*
  - undetectable knife (ceramic/non-metal)<sup>^</sup>
  - handle and edged blade joined by a chain (Chinese whip)<sup>^</sup>
  - sword<sup>^</sup>
  - blades with cord to enable blade to be thrown and retrieved (shoge)<sup>^</sup>
  - pressure point weapons (kubotan)<sup>^</sup>
  - a sickle/scythe/kama<sup>^</sup>
  - cattle prod\*
  - sai or jitte<sup>^</sup>

\* denotes weapon is defined as controlled in current regulations

<sup>^</sup> denotes weapon is defined as prohibited in current regulations

In effect this option would impose a lower regulatory burden relative to the preferred option.

## Option 3: Lower the burden of regulation

This option involves re-making the current regulations, but with certain weapons being re-defined as 'controlled' weapons rather than 'prohibited'. This would allow any person (other than a child) to *purchase* these weapons, and allow any person (including a child) to *possess, carry or use* such weapons with a lawful excuse (which does not include self-defence). To identify which

weapons should be moved under this option, we have considered the level of exemptions and approvals currently in place.

For some prohibited weapons, there are exemptions issued by the Governor in Council under section 8B of the Act that allow certain classes or groups of people to purchase, carry and use the weapon. The weapons for which exemptions have been issued by the Governor in Council are:

- a sword
- a cross bow
- a blow gun
- a dart (designed for blow gun)
- an extendable baton
- capsicum spray
- tear gas
- a taser.

To remove the administrative burden of prohibiting these weapons and then exempting people from them, an option would be to 'downgrade' them to controlled weapons. This option proposes moving the first four weapons listed above (sword, cross bow, blow gun, dart) from the 'prohibited weapons' schedule to the 'controlled weapons' schedule in the new regulations. Exemptions for the last four weapons listed above are only provided to law enforcement officers (i.e. Police, Prison Officers, South Australian Fisheries Officers), security guards and government officials, rather than members of the general public. Therefore, it would be more appropriate for these weapons to be kept as prohibited weapons. The rest however would be defined as 'controlled' weapons under this option.

There are also several weapons for which Victoria Police issues a substantial number of Chief Commissioner of Police approvals under section 8C of the Act. Instead of relying on the provision of individual approvals, these weapons could be classified as controlled, meaning anyone can carry them if they have a lawful excuse. Approvals are most common (i.e. over 100 approvals in 2009/10 and over 700 since 2000/01) for the following weapons (in order of popularity):

- swords
- daggers
- nunchaku
- sai or jitte.

The following weapons are also common for approvals:

- tonfa
- karma
- throwing stars
- kubotan
- throwing blade.<sup>38</sup>

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<sup>38</sup> Common for this list means there were over 65 approvals given in 2009/10 and/or over 450 approvals since 2000/01.



Under this option, all of the commonly approved weapons listed above would be re-defined as 'controlled weapons' under the new regulations.

Combining the exemptions and approvals, the full list of weapons that would be downgraded to 'controlled weapons' would be:

- sword
- dart (designed for blow gun)
- sai or jitte
- throwing stars
- cross bow
- daggers
- tonfa
- kubotan
- blow gun
- nunchaku
- karma
- throwing blade.

This includes 12 weapons, meaning there would still be 35 remaining prohibited weapons.

## Options not further considered

The Office of Best Practice Regulation states that regulation should be considered where:

- the problem is high risk and/or of high impact/significance, for example, a major public health and safety issue
- the government requires the certainty provided by legal sanctions
- universal application is required (or at least where the coverage of an entire industry sector or more than one industry sector is judged as necessary)
- there is a systemic compliance problem with a history of intractable disputes and repeated or flagrant breaches of fair trading principles, and no possibility of effective sanctions being applied.<sup>39</sup>

Weapons regulations fall into the category of protective regulation (a particular form of social regulation) that seeks to reduce the risk of harm to health, safety or welfare of the community. The Victorian Guide to Regulation provides the following examples of protective regulations:

- **Measures to promote public health and safety** – Examples include occupational health and safety regulations, which seek to reduce the incidence of injuries and deaths in the workplace; and regulation of product and home safety (e.g. electrical safety standards), which seeks to reduce the risk of accidents causing injury.
- **Reducing the risk of harm to vulnerable sections of the community** – Examples include regulation of minimum quality standards in childcare and

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<sup>39</sup> Office of Best Practice Regulation, Best Practice Regulation Handbook, June 2010.

supported residential services, which seeks to protect children and aged care residents from poor care.

- **Restrictions on the practice of certain occupations and professions** – such as health services, which seek to protect consumers from risky practitioners.<sup>40</sup>

While it is common to have regulation in this area to restrict access to the general public, non-regulatory options should always be considered as an alternative to government regulation.

Awareness and education campaigns on the television or in schools are a popular method used to change community attitude or public perceptions towards violence and the carriage of weapons. The Government's knife amnesty program in schools is an example of using a non-regulatory option. These non-regulatory options are considered to be effective complementary tools to use alongside regulation.

There is no evidence however, that a non-regulatory option would be more effective on its own or generate greater net benefits for society. There are no states in Australia where the government does not regulate weapons in some way, and it is quite clear that without the government restricting access to weapons, the cost of weapons related offences has the potential to increase significantly.

Also, in order for the Control of Weapons Act to function in the way it was intended, it requires supporting regulations to specify details on matters like the definition of 'prohibited' and 'controlled' weapons, application fees and requirements for the sale of weapons.

Non-regulatory options are therefore not further considered as part of this RIS. This is not to say that they should not be used to complement government regulation, but rather that they would not be effective in place of explicit government regulation itself. For a detailed discussion on market based mechanisms, and why they are not appropriate for the control of weapons, see Appendix D.

While several regulatory options are considered in this RIS, the option of increasing the regulatory burden (that is, prescribing additional weapons over and above those already in the current regulations) has not explicitly been considered as an alternative option.

Compared to other States and Territories in Australia, Victoria's regulations are fairly comprehensive. There are very few weapons that are regulated by several others jurisdictions and not regulated in Victoria.

The main weapons that could be considered in an 'increased regulatory burden' option would be warfare items and fantasy knives. Warfare items (such as a bomb, grenade, or rocket) are the only items that are regulated by most other States and Territories, but are not currently regulated in Victoria. As mentioned previously, these items are regulated by other areas of legislation (i.e. dangerous goods).

The other weapon worth considering is fantasy knives, which are not specifically prescribed in the current regulations. While adding such weapons could strengthen the regulations, the change may actually be quite minimal. Currently, all knives are already classified as 'controlled' weapons and all swords are already prescribed as 'prohibited' weapons. In addition, some fantasy knives may already fall within the definition of specific prohibited knives as prescribed in the regulations. The potential benefit of including these items would be to

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<sup>40</sup> Government of Victoria (2011), 'Victorian Guide to Regulation', Edition 2.1, Department of Treasury and Finance, Melbourne.

## Options to address the problem

make interpretations easier when deciding on whether a fantasy knife is controlled or prohibited, as they would be specifically prescribed in the regulations. It may be difficult however to define fantasy knives, as they are so varied in their design.

Based on this discussion, increasing the regulatory burden is not considered as a material option for this RIS.

## 5 Cost benefit analysis of the options

While regulation can be beneficial, it also imposes costs related to compliance and the administration, enforcement and review of the regulations. Therefore regulation should only exist where the benefits of regulation in overcoming externalities or market failures outweighs these costs of regulation.

This section focuses on assessing the cost and benefits of those options and determining the most beneficial option in order to best regulate weapons in Victoria. It also seeks feedback from stakeholders regarding data inputs for the cost benefit analysis, to enable a more robust assessment of the regulatory costs imposed to individuals and businesses.

### Option 1: Proposed regulations

Costs are discussed in terms of costs to individuals, costs to organisations and associations, and costs to the Victoria Government.

#### 5.1.1 *Costs: Individuals*

The proposed regulatory option imposes costs on individuals who wish to use weapons for legitimate purposes like participating in sporting, collecting or acting activities.

In order to use, carry or purchase prohibited category weapons, individuals must either successfully apply for an approval from the Chief Commissioner of Police or become a member of an organisation that has an approval or exemption. Despite these costs, the proposed regulations do allow for the legitimate and safe use of weapons, and this contributes to some extent to government objectives.

#### **Approval application time costs**

In 2009-10, a total of 38 individuals successfully sought approval to purchase and possess prohibited weapons in Victoria, and for 2010-11, it is anticipated that there will be 39 approvals.<sup>41</sup> This process costs individual applicants their leisure time because if an individual was not filling out an approval application, they would be spending that time as leisure time. This time has been valued at half a person's average weekly earnings. This value is based on academic literature that estimates the value of a person's free time, which is valued at less than their wage because people derive benefit from non-wage activities undertaken in their free time (as such, the value of non-work activities should be discounted to reflect this).<sup>42</sup> An estimate of the average time taken to complete and submit an approval application is around 30 minutes.<sup>43</sup>

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<sup>41</sup> The 2010-11 estimate of 39 is based on grossing up the number of approvals between July 2010 and April 2011 to a full year.

<sup>42</sup> Australian Bureau of Statistics, 6302.0 Average Weekly Earnings, Australia. TABLE 11B. Average Weekly Earnings, Victoria (Dollars) – Trend. 'Free time' is valued at about half a person's wage. Brown, E. (1999) 'Assessing the value of volunteer activity', Non-profit and Voluntary Sector Quarterly, 28, 3, page 12. Our analysis is using the value of free time as the opportunity cost of filling out an approval form.

<sup>43</sup> The time taken to complete an application would vary significantly depending on an individual's circumstances, reasons for application and requirements. This estimate was based on an estimate of the time to complete a Private Security Licence application, which has similar requirements to the

The total cost of all individuals completing approvals is therefore estimated to be around \$329 per annum.

Under the proposed regulations, firearms dealers will have a nil application fee when applying for an approval for an imitation firearm. However, they will still have to incur the time cost of applying for an approval.

**Table 7 Costs to individuals associated with approval applications**

Estimated number of approvals per annum (based on average of 2009-2011 approvals)	Estimated time taken to complete approval application	Value of applicant's time	Estimated cost of approval process per annum
38.3	30 minutes	\$17.10 per hour	\$329

### Approval application fees (not included in model)

Successful weapons approval applicants are required to pay \$140.50 or \$165.00 (2011/12 dollars) for an application, depending on whether they already possess a firearms licence or not. The only exception is firearms dealers, who will have a nil application fee when applying for an approval to sell imitation firearms. In 2009/10, total application fees paid by individuals amounted to an estimated \$5,923.<sup>44</sup>

These fees are required to recover some of the costs incurred by Victoria Police in processing applications. This cost to individuals has not been included in the modelling because it is transferred to Victoria Police as revenue, effectively offsetting each other. Furthermore, the fees paid by individuals have been excluded to avoid double counting – that is, the purpose of the approval application fees is to help recover the costs incurred by Victoria Police in administering the approval process. As such, the costs of Victoria Police administration are a better reflection of the true costs and have been included as part of our analysis.

### Membership fee costs

Individuals that wish to possess weapons for legitimate purposes for sporting, educational, entertainment or collection purposes may join an organisation that has been given an exemption to the weapons regulations.<sup>45</sup> This requirement may induce individuals to become a member of an organisation, such as a collection association, primarily for the purpose of allowing that individual to gain lawful access to a weapon or weapons.

Views gathered through consultation suggest that the only instance where members would join an association primarily as a result of the restrictions imposed by the weapons regulations would be in relation to collectors associations. This appears intuitive, given that if someone wanted to possess a weapon without joining a club, becoming a member of a collection club rather

Control of Weapons approval application. The time estimate to complete a Private Security Licence application is taken from Department of Justice (2005), *Private Security Regulations 2005: Regulatory Impact Statement*, page 29.

<sup>44</sup> This figure represents the value in 2011/12 dollars. The nominal value based on 2009/10 fee units is \$5,681.

<sup>45</sup> Exemptions are subject to a number of terms and conditions around what is considered to be allowable by members or employees of that organisation.

than a weapons re-enactment, martial arts or sporting club would be more suited to their requirements and at a lower cost.<sup>46</sup>

Through consultation, it is estimated that around one in eight (12.5%) would join a collection society primarily due to the restrictions put in place by the Weapons Act and Regulations.

The average cost of joining a collection association is estimated to be around \$42.50. The Government Gazette that publishes all exemptions given to weapons collections associations lists around 16 in Victoria. If it is assumed that the average collection association has around 85 members, this equates to a cost of around \$7,225 per annum to all individuals that join primarily due to the restrictions put in place by Weapons Regulations.

**Table 8 Costs associated with membership**

<b>Number of collector associations</b>	<b>Estimated average number of members</b>	<b>Proportion of members who join because of the Regulations</b>	<b>Estimated average membership cost per annum</b>	<b>Estimated cost of membership per annum</b>
16	85	1/8 (12.5%)	\$42.50	\$7,225

### Market behaviour

Consultation with businesses has indicated that the current weapons regulations are having an impact on both business and individual behaviour. Some businesses suggested that the regulations have acted as a catalyst for both businesses no longer selling weapons and consumers no longer buying weapons, as they do not want to go through the processes necessary to gain the correct approval or exemption. While this is beneficial for society in decreasing the circulation of weapons, it also decreases the market for weapons for individuals that use weapons in a legitimate way. This would represent a potential cost of regulating weapons and hence of this option. The cost also depends on the individual benefit derived from the use of weapons, which varied greatly between users, and as such it cannot be quantified as part of this analysis.

#### 5.1.2 Costs: Businesses and associations

The proposed regulatory option imposes administration costs on businesses and associations that wish to partake in the use of weapons for legitimate purposes (e.g. sporting associations, knife retailers, collecting associations or acting organisations).

In order to sell, use, carry or purchase prohibited category weapons, organisations must either successfully apply for an approval from the Chief Commissioner of Police or seek an exemption. Despite these costs, these regulations put in place mechanisms to minimise risks and increase public safety, thereby contributing to government policy objectives.

#### Approval application time costs

In 2009-10, a total of 247 businesses successfully sought approvals to undertake various activities involving weapons in Victoria like selling, purchasing or

<sup>46</sup> Sporting clubs for instance are likely to have fees that are intended to recover other costs not incurred by collection associations like sporting equipment and facilities.

disposing. In 2010-11, it is anticipated that there will be 320 approvals.<sup>47</sup> This process costs organisations time, which has been valued equal to average weekly earnings,<sup>48</sup> and an estimate of the average time taken to complete and submit an approval application of around 30 minutes.<sup>49</sup>

The total cost to businesses of completing approvals is therefore estimated to be around \$4,861 per annum.

**Table 9 Costs to business associated with approval applications**

<b>Estimated number of approvals per annum (based on average of 2009-2011 approvals)</b>	<b>Estimated time taken to complete approval application</b>	<b>Value of applicant's time</b>	<b>Estimated cost of approval process per annum</b>
283.4	30 minutes	\$34.30 per hour	\$4,861

### Sales recording time costs

The proposed regulations also specify that all sales of prohibited weapons must be recorded, including evidence of the purchaser's approval or exemption. While the recording of this information does not take a significant amount of time for one sale, the amount of time spent for a business that sells hundreds of prohibited weapons can be significant.

During consultation it was estimated that the average time spent recording the required details from the sale of a prohibited weapon was about five minutes. Data collected from weapons retailers during consultation suggested that the average number of weapons sales per business might be about 278 per annum.

When multiplied by the number of businesses with approvals to sell weapons in Victoria and the average weekly earnings, the annual cost to business of recording the required sales information is estimated to be \$423,573 per annum (see Table 10 below).

<sup>47</sup> The 2010-11 estimate of 320 is based on grossing up the number of approvals between July 2010 and April 2011 to a full year.

<sup>48</sup> Australian Bureau of Statistics, 6302.0 Average Weekly Earnings, Australia. TABLE 11B. Average Weekly Earnings, Victoria (Dollars) – Trend.

<sup>49</sup> This time taken to complete an approval application will vary from business to business, but we assume the time taken to complete business approval applications is the same as for an individual. It is acknowledged however, that in instances where businesses did not possess a business plan for example, the completion of an application would take significantly longer. This has been taken into consideration when undertaking the sensitivity analysis.

**Table 10 Costs to business associated with recording sales**

<b>Number of businesses with an approval to buy or sell</b>	<b>Estimated average number of sales per annum</b>	<b>Estimated time taken to record each sale</b>	<b>Value of business time</b>	<b>Estimated cost of recording sales per annum</b>
546	278	5 minutes	\$34.30 per hour	\$423,573

### **Approval application fees (not included in model)**

Successful weapons approval applicants are required to pay \$140.50 or \$165.00 (2011/12 dollars) for an application, depending on whether or not they already possess a firearms licence. In 2009-10, total application fees paid by organisations/businesses amounted to an estimated \$43,616.<sup>50</sup>

These fees are required to recover some of the costs incurred by Victoria Police in processing approval applications. This cost to organisations has not been included in the modelling to avoid double counting. This is because the costs incurred (over and above those recovered through fees) by Victoria Police to administer the approvals process have been included in the modelling.

### **Compliance costs**

Organisations such as sporting clubs, theatres or television production companies may have significant costs imposed on them in order to comply with the exemption and approval requirements. The Regulations do not prescribe what organisations must demonstrate in order to comply (except for businesses that buy and sell weapons), as such organisations may differ in their interpretation; the procedures and processes put in place to comply with exemptions and approvals are likely to vary considerably. For example, organisations may issue membership cards or hold regular meetings because of their interpretation of compliance with the Regulations. This cost was not able to be quantified as part of the cost benefit analysis because of the difficulties in obtaining accurate data on compliance burden.

The Governor in Council Order related to imitation firearms requires exempt organisations and their members to abide by certain conditions. These include for historical re-enactment organisations and collectors' organisations to:

- be satisfied that their members are not a prohibited person
- provide a membership number or other form of unique identifier to each member of the organisation
- collect and store contact and residential address information about their members
- arrange a meeting of its members at least once annually.

We are uncertain about the extent to which historical re-enactment organisations and collectors' organisations undertake these activities as a part of their normal operations. If these organisations undertake these activities, then the estimated compliance burden would be as follows:

- being satisfied that a member is not a prohibited person would be at least \$33 per member. The current fee for a national name check is \$33 and for a name and fingerprint search is \$137.

<sup>50</sup> This figure represents the value in 2011/12 dollars. The nominal value based on 2009/10 fee units is \$35,795.



- providing members with a membership number or unique identifier would equate to the administrative time to do so. On a per member basis, we assume that this time would not be significant (say, two minutes). If the average organisation has 85 members, this equates to almost three hours of administration time and costs.
- collecting and storing member contact and residential address information would equate to the time taken for a member to provide such detail and then for the organisation to keep appropriate records of member details. On a per member basis, we assume that this time would not be significant. It is likely that members would already provide such detail to the organisation upon joining.
- arranging a meeting of its members would equate to the time taken to arrange the meeting and actual attendance at the meeting. We assume that the time taken to arrange the meeting would not be significant and that the meeting would take up approximately one hour of member's time.

### 5.1.3 Costs: Government

#### Victoria Police approvals administration time costs

Victoria Police administers the assessment and awarding of approvals in Victoria. This requires a team of employees to receive the application, ensure the application is compliant, enter applicants' details into the database, obtain further information from the applicant (if required), and process the application. In practice, these tasks are undertaken by the Handguns, Weapons and Compliance Assurance Section of Victoria Police who (as the name suggests) undertakes tasks related to the regulation of firearms, weapons, private security and customs related matters. Assumptions regarding approval administration costs have been based on advice from Victoria Police. The total staff salary and on-costs of this team have been multiplied by a factor that reflects the assumption that 50 per cent of the work of this team is estimated to be spent on weapons related matters. The cost of this team is estimated to be \$189,709 per annum.

Also, the policy and publications team is estimated to spend around 33 per cent of its time on weapons related activities such as educating police members, or communicating with the public. The cost of this team is estimated to be \$80,352 per annum. Assumptions have been based on advice from Victoria Police.

**Table 11 Costs to Victoria Police associated with administration of approval applications**

Victoria Police unit/team	Staff cost per annum	Oncosts (excluding overheads)	Proportion of unit/team time spent on weapons regulations	Estimated cost of approval administration
Handguns, Weapons and Compliance Assurance Section	\$316,181	20% of staff costs	50%	\$189,709
Policy and publications team	\$202,910	20% of staff costs	33%	\$80,352
<b>Total</b>				<b>\$270,061</b>

#### Victoria Police compliance time costs

Victoria Police undertakes activities to ensure compliance with the weapons regulations in Victoria. This requires a team of sworn officers to undertake compliance related activities (e.g. check that businesses have appropriate approvals and are recording all required sales data). In practice, these tasks are

undertaken by the Regulatory Support Services (Enforcement and Training) Team. Assumptions regarding compliance costs have been based on advice from Victoria Police. The total staff salary and on-costs of this team have been multiplied by a factor that reflects the assumption that 33 per cent of the work of this team is estimated to be spent on weapons related matters. The cost of this team is estimated to be \$63,290 per annum.

**Table 12 Costs to Victoria Police associated with compliance**

Victoria Police unit/team	Staff cost per annum	Oncosts (excluding overheads)	Proportion of unit/team time spent on weapons regulations	Estimated cost of approval administration
Regulatory Support Services (Enforcement and Training) Team	\$159,822	20% of staff costs	33%	\$63,290

### Total costs

The total costs associated with the regulation of weapons are estimated at about \$770,000 per annum, as shown in Table 13.

**Table 13 Summary of costs, per annum**

Group	Cost type	Cost (pa)
<b>Individuals</b>	Approval application time	\$329
	Membership fees	\$7,225
<b>Businesses and associations</b>	Approval application time	\$4,861
	Sales recording time	\$423,573
<b>Government</b>	Approvals (Victoria Police)	\$270,061
	Compliance (Victoria Police)	\$63,290
<b>Total</b>		<b>\$769,339</b>

### 5.1.4 Benefits

In the absence of regulations, it is expected that weapons related crime would still occur but at a higher level. The benefits of the proposed regulations include the avoided level of weapons related offences and the associated costs to society. The amount avoided is difficult to determine given that weapons have been regulated in Victoria for many years.

Without any counterfactual information (i.e. observation data of the number of actual weapons related offences that take place in the absence of the regulations), it is not possible to reliably estimate what the impact of taking away the regulations would be. Available data shows that between 2002 and 2010 there has been a decline in the proportion of reported assaults and robberies involving weapons (see Figure E.2 and Figure E.3). While many reasons may explain this trend, the presence of the regulations (and subsequent enforcement and public awareness of its existence) may be a contributing factor. Intuitively however, given that the absence of regulations would increase the accessibility to all prohibited weapons and relax sales restrictions, it is not unrealistic that weapons related violence might increase.

As discussed earlier in this report (see Chapter 2), academic literature suggests that the likelihood of crime occurring increases when offenders have access to

weapons. That is, use of weapons in criminal activity occurs because there is an opportunity to do so. Academic literature also suggests that if an offence is committed with a weapon, the consequence is likely to be more serious. Thus any measures restricting access and the opportunity to misuse weapons will reduce the risk that offences will occur or reduce the severity of offences committed.

As the likely number of weapons related offences in the absence of regulation is not able to be estimated, a break even analysis has been undertaken to determine how many weapons related offences would need to be avoided to create net benefits for society in Victoria.

### 5.1.5 Break even analysis

Break even analysis is a technique used to determine when costs equal benefits – in the case of weapons regulation, the point at which the costs imposed by the regulations are the same as the costs avoided by mitigating weapons related crime.

The total regulatory costs to individuals, businesses and associations, and the government are estimated to be around \$6.4 million (NPV over ten years) summarised in Table 14.

**Table 14 Summary of estimated regulatory costs under Option 1, 10 year NPV**

Group	Cost type	Value (10 year NPV)
Individuals	Approval application time	\$2,733
	Membership fees	\$60,087
Businesses and associations	Approval application	\$40,431
	Sales recording time	\$3,522,693
Government	Approvals (Victoria Police)	\$2,245,990
	Compliance (Victoria Police)	\$526,354
<b>Total</b>		<b>\$6,398,289</b>

The costs of weapon related crimes were discussed in Chapter 2 and estimates are provided in Table 3. Based on these costs, compared to the base case of no regulation, Option 1 would need to reduce the costs of weapons related crime by at least \$6.4 million (NPV over ten years) to create a net benefit to society. Assuming there are no reductions in any other offence types, this would mean the regulation would have to prevent either:

- one homicide every two to three years
- 156 robberies per year
- 343 assaults per year.

This represents the break even point for this option. In assessing the merit of this option, we would need to ask how reasonable it is to expect these reductions in crime to eventuate as a result of the regulation when comparing to a no regulation state. To do so, we could compare these results to the current level of weapons related crime.

As discussed in Chapter 2, the total cost of weapons related offences in Victoria is estimated to be \$230 million per annum, or \$1.9 billion (NPV over 10 years). This occurrence of weapons related offences takes place with the existing weapons regulations in place. Based on the literature drawn on in Chapter 2, we would expect the cost of weapon related offences to be higher under a no

regulation environment. The precise extent of that increase is unknown without a proxy or a trial of no regulation.

What can be observed is that the cost of crime under the current regulations significantly exceeds the costs of this proposal relative to a no regulation base case. In fact, the cost of this proposal (and therefore the avoided costs of crime required to break even) represents only 0.34 per cent of the current total cost of weapons related offences in Victoria under the existing regulatory framework. Whilst this percentage is not a break even ratio, it highlights that only a fraction of incidents relative to the current problem need to be avoided to justify making the regulatory proposal under Option 1.

### 5.1.6 Scenario analysis

In completing the break even analysis, we have used the best information available gathered from publicly available data sets, research, academic literature and stakeholder consultation. As with any situation where assumptions are applied, there is a degree of uncertainty around some of the assumptions we have used to complete the break even analysis. To understand the extent of variability of results, we have undertaken a scenario analysis. The scenarios investigate what the regulatory costs would be assuming a maximum and minimum level of regulatory burden – that is, for every instance where the regulatory burden could be higher or lower than that applied in the break even analysis (e.g. the time taken to complete an approval application), we have assumed a lower and upper limit of what the burden is likely to be. The assumptions underpinning the minimum and maximum levels can be found in Appendix G.

#### High regulatory burden scenario

Our analysis of the high regulatory burden scenario suggests that the total costs to individuals, businesses and associations, and the government is estimated to be around \$21.1 million (NPV over ten years) summarised in Table 15.

**Table 15 Summary of estimated costs under Option 1, 10 year NPV**

Group	Cost type	Value (10 year NPV)
<b>Individuals</b>	Approval application time	\$8,747
	Membership fees	\$1,160,166
<b>Businesses and associations</b>	Approval application	\$80,862
	Sales recording time	\$17,113,578
<b>Government</b>	Approvals (Victoria Police)	\$2,245,990
	Compliance (Victoria Police)	\$526,354
<b>Total</b>		<b>\$21,135,697</b>

Under this scenario, the costs of regulation would be significantly higher. Therefore, the number of avoided weapons related offences needed to break even would also be higher. Even with the higher costs under this scenario, the cost of weapon related crime under the current regulations still significantly exceeds the costs of this proposal relative to a no regulation base case. The cost of Option 1 under this scenario would represent 1.11 per cent of the current total cost of weapons related offences under the existing regulatory framework. As above, this percentage is not a break even ratio, but does highlight that under this scenario, it is still only a fraction of incidents relative to the current problem that need to be avoided to justify Option 1 under this scenario.

### Low regulatory burden scenario

Our analysis of the low regulatory burden scenario suggests that the total costs to individuals, businesses and associations, and the government is estimated to be around \$2.8 million (NPV over ten years) summarised in Table 16.

**Table 16 Summary of estimated costs under Option 1, 10 year NPV**

Group	Cost type	Value (10 year NPV)
Individuals	Approval application time	\$328
	Membership fees	\$3,188
Businesses and associations	Approval application	\$8,086
	Sales recording time	\$47,538
Government	Approvals (Victoria Police)	\$2,245,990
	Compliance (Victoria Police)	\$526,354
<b>Total</b>		<b>\$2,831,484</b>

Under this scenario, the costs of regulation would be lower and therefore, the number of avoided weapons related offences needed to break even would also be lower. Under this scenario therefore, the cost of weapon related crime under the current regulations would significantly exceed the costs of this proposal relative to a no regulation base case. The regulatory cost of Option 1 under this scenario would represent an even smaller proportion (in fact, only 0.15 per cent) of the current total cost of weapons related offences under the existing regulatory framework. As above, this percentage is not a break even ratio, but does highlight that under this scenario, only a small fraction of incidents relative to the current problem need to be avoided to justify Option 1 under this scenario.

### 5.1.7 Sensitivity analysis

In terms of the sensitivity of the results to various inputs used in the modelling, Table 17 shows the change in the total cost of regulation for a one per cent change in the each of the stated inputs.

**Table 17 Sensitivity analysis results**

Inputs	Change in cost of regulation
Time taken to submit an approval application (number of hours)	0.0065%
Opportunity cost of applicant's time (i.e. hourly rate for leisure/recreational time)	0.0004%
Number of businesses holding a weapons approval to purchase or sell	0.5345%
Annual sales per business	0.5345%
Time taken to make the sales record (minutes)	0.5345%
Number of associations	0.0090%
Number of members	0.0090%

Inputs	Change in cost of regulation
Reason for joining	0.0090%
Membership costs	0.0026%

This shows that the sales data inputs are the most sensitive, meaning that a change in sales related data (i.e. the time taken to record a sale, the number of weapons sales, and number of businesses with approval to sell or buy weapons) will alter the estimated costs associated with weapons regulations the most, compared to other data inputs.

## Option 2: Alignment with other jurisdictions

While harmonisation may be a worthy goal as a general concept, there are some areas of regulation where the benefits of reducing inconsistencies are likely to be greater than others. The Productivity Commission maintains that support for a national regulatory system is more likely when:

- “there are significant inter-jurisdictional spillovers associated with the provision of a good or service at the sub-national level (for example, interstate transport systems)”
- “there are readily identifiable areas of shared or common interest or sizeable economies of scale and scope arising from central provision or organisation (for example, defence, international or external affairs and social welfare support)”
- “a diversity in rules or regulations is likely to give rise to high transaction costs with insufficient offsetting benefits (for example, regulation of companies, transport, the financial sector and trading provisions covering weights and measures)”
- “there is scope for mobility of capital and people across jurisdictions to undermine the fiscal strength of the sub-national level of government (for example, as arises with the income, capital gains and corporate tax bases; or with welfare entitlements).”<sup>51</sup>

Most of the points raised by the Productivity Commission are not relevant for the control of weapons. Despite this, it could still be beneficial to have a nationally consistent approach to the control of weapons for retailers, collectors, and other associations. In particular, retailers operating across multiple States and Territories would have a lower cost of understanding and adhering to several different requirements across jurisdictions.

### 5.1.8 Costs

As Option 2 is a regulatory option, the types of regulatory costs outlined under Option 1 would also apply for Option 2. Compared to Option 1 however, Option 2 would mean fewer weapons in the ‘prohibited’ category as some of these weapons would be removed from the regulations and others would become ‘controlled’. Therefore, the quantum of costs associated with prohibiting a weapon would be lower under Option 2 compared to Option 1. To demonstrate, compared to Option 1, the direction of change for each cost of regulation is shown in Table 18.

<sup>51</sup> Productivity Commission (2005), *Annual Report 2004-05*, Canberra.

**Table 18 Change in estimated costs under Option 2, compared to Option 1, 10 year NPV**

Group	Cost type	Cost (pa)
<b>Individuals</b>	Approval application time	↓
	Membership fees	↓
<b>Businesses and associations</b>	Approval application time	↓
	Sales recording time	↓
<b>Government</b>	Approvals (Victoria Police)	↓
	Compliance (Victoria Police)	–
<b>Total</b>		<b>↓</b>

For each of the weapons that would no longer be prohibited under Option 2, the following costs would no longer be incurred:

- for individuals and businesses, a Chief Commissioner of Police Approval would no longer be required, meaning the ‘approval application time’ would be saved
- for government, less approval applications would mean lower approval administration costs
- for individuals, an ‘exemption’ would no longer be required, meaning no one would pay membership fees simply to gain a weapons exemption through a club or society
- for businesses, no sales records would be needed, so the time to record sales would be saved.

There is limited weapons related information segregated by the individual weapons that this option would remove from the regulations or move to ‘controlled’ weapons. The only data that is available on a per weapon basis relates to Chief Commissioner of Police Approvals. This data shows that in 2009/10, 38 per cent of approvals included at least one of the weapons that would no longer be prohibited under Option 2.<sup>52</sup> This suggests that under Option 2, the number of Chief Commissioner Approvals would be 38 per cent lower than under Option 1.

This data has limitations however, and does not accurately represent weapons approvals. Given that individuals and businesses may seek approval for several weapons in the one application, approvals data separated by weapon type overestimates the number of approvals. Therefore, 38 per cent may overstate the reduction in approvals because some people may still need to make an application for other weapons that are still prohibited under this option.

While the data is limited, it has been used here to provide an indication of the potential magnitude of costs under this option. Using 38 per cent to estimate the reduction in approval related costs compared to Option 1, the total regulatory cost of Option 2 would be approximately \$5.5 million (NPV over 10 years). This is the cost compared to the base case. A breakdown is shown in Table 19.

<sup>52</sup> Victoria Police (2011) Custom data provided to PwC. Individual counts of the weapons are not recorded. The count is only recorded at individual application level and the type of weapons applied. Abandoned, discarded applications are excluded.



**Table 19 Summary of estimated costs and benefits under Option 2, 10 year NPV**

Group	Cost type	Cost (pa)
<b>Individuals</b>	Approval application time	\$1,695
	Membership fees	\$60,087 (↓)
<b>Businesses and associations</b>	Approval application time	\$25,067
	Sales recording time	\$3,522,693 (↓)
<b>Government</b>	Approvals (Victoria Police)	\$1,392,514
	Compliance (Victoria Police)	\$526,354
<b>Total</b>		<b>\$5,528,410</b>

Costs with a (↓) have been carried over from Option 1, as the lower cost could not be estimated.

### Safety outcomes

As well as the direct costs of regulation, there may also be indirect costs in terms of safety outcomes because Option 2 represents a softer approach to the control of weapons than is currently in place. Under this option, certain weapons are less restricted and therefore more accessible to the community. This would be a decrease in regulation for several weapons that are currently prohibited or controlled. This could have a two-fold effect. Firstly, removing or reducing controls would increase access to these weapons and potentially increase their carriage in society. This access could lead to the illegitimate use of these weapons (and is indeed, supported by academic research (refer to Chapter 2)).

Secondly, softening the control of weapons regulations could have an impact on community perceptions. Decreasing regulations may send the wrong message to the community. It may undermine the government’s policy of being ‘tough on crime’ and could also be seen as an endorsement for the carriage and use of those weapons that are no longer regulated. These impacts may then flow through to the public’s perception of safety in society.

Under Option 2, increasing access and impacting community perceptions could lead to an increase in the incidence of weapons related crime. Some examples of weapons related crimes that have occurred with the current regulations in place are outlined below. These examples relate to weapons that would become ‘controlled’ or be removed from the regulations under this option. If the regulations around these weapons were softened, these types of incidents could increase.

One example of the illegitimate use of a sword, for instance, in Victoria was the 2002 Salt Nightclub incident whereby one young man was killed with a sword and another two were driven to jump in the Yarra river, in which they drowned as a result of trying to escape from another man with a samurai sword. This cost of losing a life can reasonably be valued at between \$1.7 million (cost to society of a homicide) and \$3.5 million (the Office of Best Practice Regulation recommended value of a life estimate).

In the last five years, many incidents have been reported to the public including “Man to face trial accused of samurai sword murder”<sup>53</sup> and “Man attacked with

<sup>53</sup> ABC News (2009), *Man to face trial accused of samurai sword murder*, 3 March 2009, <http://www.abc.net.au/news/stories/2009/03/03/2506294.htm>



cattle prod”,<sup>54</sup> “Man stabbed, police find dumped weapons cache [including a Samurai sword]”,<sup>55</sup> “Machete man jailed over Vic road attack”,<sup>56</sup> “Melbourne police are looking for two men who attacked a man with a baseball bat and sword”.<sup>57</sup> While we have not provided an exhaustive list of incidents, these examples do demonstrate that weapons related crime captures media attention and may therefore influence public perception of crime and safety within the community.

### 5.1.9 Benefits

The benefit from this option is similar to that of Option 1. Compared to the base case of no regulation, regulating weapons is expected to avoid the level of weapons related offences and the associated costs to society. As for Option 1, it is difficult to calculate the potential increase in weapons related offences that might result in the absence of regulation. As this cannot be estimated, a break even analysis has been undertaken to determine what the required reduction in actual weapons related offences would need to be as a result of the regulations for them to create net benefits for society in Victoria.

An additional benefit arising from this option is increased definitional consistency across jurisdictions because controlled and prohibited weapons under this option are more aligned with that in other jurisdictions. This means that it is more likely for a person with an exemption or approval in Victoria to meet the regulatory requirements in another jurisdiction. Having said this, there are still subtle differences in the weapons regulatory regimes across all jurisdictions. On a practical level, those with exemptions or approvals in Victoria would still need to seek permission to possess or use a weapon in another jurisdiction.

### 5.1.10 Break even analysis

As the analysis of the previous option showed, relative to the costs of weapons related offences in Victoria under the current regulations, the costs of regulating weapons in Victoria is very small. This break even analysis has been conducted in the same way as for Option 1.

The total cost of Option 2 to individuals, businesses and associations, and the government is estimated to be around \$5.5 million (NPV over ten years). Compared to the base case of no regulation, this means that Option 2 would need to reduce the costs of weapons related crime by at least \$5.5 million (NPV over ten years) to create a net benefit to society. Assuming there are no reductions in any other offence types, to create a net benefit Option 2 would have to prevent either:

- one homicide every three years
- 135 robberies per year

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<sup>54</sup> ABC News (2009), *Man attacked with a cattle prod*, 22 June 2009, <http://www.abc.net.au/news/stories/2009/06/22/2604372.htm>

<sup>55</sup> AAP General News (Australia) (2007), *Man stabbed, police find dumped weapons cache*, 13 October 2007, <http://www.highbeam.com/doc/1P1-144891347.html>

<sup>56</sup> 9 News (2011), *Machete man jailed over Vic road attack*, 10 May 2011, <http://news.ninemsn.com.au/national/8247242/machete-man-jailed-over-road-attack>

<sup>57</sup> ABC News (2007), *Police search for men after Braybrook attack*, 15 November 2007, <http://www.abc.net.au/news/stories/2007/11/15/2091188.htm?site=melbourne>

- 296 assaults per year.

This represents the break even point for this option. In assessing the merit of this option, we would need to ask how reasonable it is to expect these reductions in crime to eventuate as a result of the regulation when comparing to a no regulation state. To do so, we could compare these results to the current level of weapons related crime.

As discussed in Chapter 2, the total cost of weapons related offences in Victoria is estimated to be \$230 million per annum, or \$1.9 billion (NPV over 10 years). This occurrence of weapons related offences takes place with the existing weapons regulations in place. Based on the literature drawn on in Chapter 2, we would expect the cost of weapon related offences to be higher under a no regulation environment. The precise extent of that increase is unknown without a proxy or a trial of no regulation.

What can be observed is that the cost of crime under the current regulations significantly exceeds the costs of this proposal relative to a no regulation base case. In fact, the cost of this proposal (and therefore the avoided costs of crime required to break even) represents only 0.29 per cent of the current total cost of weapons related offences in Victoria under the existing regulatory framework. Whilst this percentage is not a break even ratio, it highlights that only a fraction of incidents relative to the current problem needs to be avoided to justify making the regulatory proposal under Option 2.

## Option 3: Lower the burden of regulation

Compared with Option 1 (proposed regulations), this option represents a decrease in the strength of the regulations, but also lowers the regulatory burden. For weapons that would be 'controlled' rather than 'prohibited' under this option, no approvals would need to be processed. Similarly, an exemption for these weapons would not be necessary.

This option also has implications for the level of control placed on the weapons being downgraded. Controlled weapons have no sales requirements, other than a prohibition on sales to persons under 18 years of age, meaning anyone other than a child would now be able to purchase them and no record of the sale would be made.

This option moves away from requiring the individual to gain an approval or ensure they are subject to an exemption, towards relying on the individual having a lawful excuse.

### 5.1.11 Costs

As for Option 2, this option would lead to the same types of regulatory costs as Option 1, but the magnitude of these costs under Option 3 would be different as shown in Table 20 below.

**Table 20 Summary of estimated costs under Option 3, 10 year NPV**

Group	Cost type	Cost (pa)
<b>Individuals</b>	Approval application time	↓
	Membership fees	↓
<b>Businesses and associations</b>	Approval application time	↓
	Sales recording time	↓
<b>Government</b>	Approvals (Victoria Police)	↓
	Compliance (Victoria Police)	–
<b>Total</b>		<b>↓</b>

As for Option 2, there is limited weapons related information separated by the individual weapons that this option suggests moving to the 'controlled' category. To indicate the potential costs under Option 3, approvals data separated by weapon type has been utilised. As explained above in section 5.1.8, this data is limited and is only used for indicative purposes. This data shows that in 2009/10, 50 per cent of approvals included at least one of the weapons that would be downgraded to the 'controlled' category.<sup>58</sup> This suggests that under Option 3, the number of Chief Commissioner of Police approvals would be 50 per cent lower than under Option 1. Using that estimate, the total regulatory cost associated with Option 3 would be approximately \$5.3 million (NPV over 10 years). This cost is relative to the base case. A breakdown is shown in Table 21.

**Table 21 Summary of estimated costs and benefits under Option 3, 10 year NPV**

Group	Cost type	Cost (pa)
<b>Individuals</b>	Approval application time	\$1,367
	Membership fees	\$60,087 (↓)
<b>Businesses and associations</b>	Approval application time	\$20,215
	Sales recording time	\$3,522,693 (↓)
<b>Government</b>	Approvals (Victoria Police)	\$1,122,995
	Compliance (Victoria Police)	\$526,354
<b>Total</b>		<b>\$5,253,712</b>

Costs with a (↓) have been carried over from Option 1, as the lower cost could not be estimated.

### Safety outcomes

While the costs above are in relation to the base case, it is also important to note that Option 3 has the potential to increase the incidence of weapons related crime when compared to the current regulations. This option would decrease the level of control on weapons and therefore:

- increase access to certain weapons, and

<sup>58</sup> Victoria Police (2011) Custom data provided to PwC. Individual counts of the weapons are not recorded. The count is only recorded at individual application level and the type of weapons applied. Abandoned, discarded applications are excluded.

- impact on community perceptions of crime prevention.

This could increase the incidence of crime and lead to a diminution of public safety perceptions. The extent of this impact is difficult to quantify, but must be considered when comparing the options.

### *5.1.12 Benefits*

The benefit from this option is similar to that of Option 1. Compared to the base case of no regulation, regulating weapons is expected to reduce the level of weapons related offences and the associated costs to society. As for Option 1, it is difficult to calculate the potential increase in weapons related offences that might result in the absence of regulation. As this cannot be estimated, a break even analysis has been undertaken to determine what the required reduction in actual weapons related offences would need to be as a result of the regulations for them to create net benefits for society in Victoria.

### *5.1.13 Break even analysis*

As the analysis of Option 1 showed, relative to the costs of weapons related offences in Victoria under the current regulations, the costs of regulating weapons in Victoria is very small. This break even analysis has been conducted in the same way as for Option 1.

The total cost of Option 3 to individuals, businesses and associations, and the government is estimated to be around \$5.3 million (NPV over ten years). Compared to the base case of no regulation, this means that Option 3 would need to reduce the costs of weapons related crime by at least \$5.3 million (NPV over ten years) to create a net benefit to society. Assuming there are no reductions in any other offence types, to create a net benefit Option 3 would have to prevent either:

- one homicide every three years
- 128 robberies per year
- 281 assaults per year.

This represents the break even point for this option. In assessing the merit of this option, we would need to ask how reasonable it is to expect these reductions in crime to eventuate as a result of the regulation when comparing to a no regulation state. To do so, we could compare these results to the current level of weapons related crime.

As discussed in Chapter 2, the total cost of weapons related offences in Victoria is estimated to be \$230 million per annum, or \$1.9 billion (NPV over 10 years). This occurrence of weapons related offences takes place with the existing weapons regulations in place. Based on the literature drawn on in Chapter 2, we would expect the cost of weapon related offences to be higher under a no regulation environment. The precise extent of that increase is unknown without a proxy or a trial of no regulation.

What can be observed is that the cost of crime under the current regulations significantly exceeds the costs of this proposal relative to a no regulation base case. In fact, the cost of this proposal (and therefore the avoided costs of crime required to break even) represents only 0.27 per cent of the current total cost of weapons related offences in Victoria under the existing regulatory framework. Whilst this percentage is not a break even ratio, it highlights that only a fraction of incidents relative to the current problem need to be avoided to justify making the regulatory proposal under Option 3.

## 6 Evaluation of options

We have not been able to quantify the main benefit of each option (being an avoidance of crime) because weapons have been regulated in Victoria for many years and crime rates under the base case cannot be observed. The break even analysis performed in the previous chapter provides one possible basis for comparing the proposed options and identifying the best approach. A qualitative assessment has also been undertaken below to capture all impacts, including those impacts that have not been quantified, as well as the full suite of policy objectives set out in Chapter 3.

### 6.1 Multi-criteria analysis

In order to consider the benefits and costs in a qualitative sense, we have used a multi-criteria analysis as a decision tool to support the break even analysis. In the absence of definitive estimates of costs and benefits, a multi-criteria analysis is a transparent mechanism for assessing different approaches against clearly defined assessment criteria.

We have identified five assessment criteria based on the Government's policy objectives for the control of weapons and the costs identified in the cost benefit analysis. Each option is assigned a score against each assessment criteria. These scores reflect the extent to which the options satisfy the various assessment criteria, relative to the base case, which would be the operation of the Act with no supporting regulations.

The assessment criteria and their associated weightings are shown below in Table 22.

**Table 22 Criteria used in the multi-criteria analysis**

<b>Criteria</b>	<b>Weighting</b>
<b>Benefits</b>	<b>Total of 50%</b>
1. <b>Reduce violent and weapons-related crime</b>	20%
2. <b>Restore public safety and make people feel safe and secure</b>	20%
3. <b>Allow legitimate weapons use in a safe manner</b>	6%
4. <b>Reduce the costs from inconsistencies with other Australian jurisdictions</b>	4%
<b>Costs</b>	<b>Total of 50%</b>
5. <b>Costs of enforcement and compliance</b>	50%

According to the Victorian Guide to Regulation, equal weightings should be given to costs and benefits.<sup>59</sup> This means a total of 50 per cent for cost-related criteria and 50 per cent for benefit related criteria. Given that criteria five is the only cost related criteria, this is given a weighting of 50 per cent.

Of the benefit related criteria, the first two criteria represent the two key objectives of the Government and are therefore given the highest weighting in

<sup>59</sup> Department of Treasury and Finance (Victoria) (2011), *Victorian Guide to Regulation*, Edition 2.1, Melbourne.

the analysis of 20 per cent each. The third criterion represents another important objective when considering options for the control of weapons, however allowing lawful use must come secondary to public safety outcomes. Hence, this is given a lower weighting of 6 per cent.

The final benefit criterion is a minor objective of the Government and is only given a weighting of four per cent. Reducing inconsistencies across jurisdictions is within the policy objectives of the Department of Justice and has therefore been included through criterion four in the multi-criteria analysis. However, it is a minor objective of the Government in the context of these regulations and is only given a weighting of four per cent. Despite the low weighting assigned to this criterion, it has the potential to influence the result of the multi-criteria analysis and therefore should not be discounted as an insignificant criterion.

While this weighting will reduce the prominence of the harmonisation option, the harmonisation option is still relevant in the multi-criteria analysis because it is important to consider lower regulatory options that are being used in other jurisdictions and assess whether they are appropriate for Victoria.

The allocation of scores to each option for each assessment criterion generates a weighted score, where the assigned scores range from -10 for negative outcomes to +10 for positive outcomes and a neutral outcome receives a score of zero. Each score should be based on comparing the option to the base case of no regulation. A score of zero reflects no change from the outcomes in a no regulation base case scenario and a positive (negative) score reflects a better (worse) outcome compared to the no regulation base case. The average score for each option then becomes the basis for comparison between the options. Table 23 provides a description of the basis upon which scores are allocated to each criterion.

**Table 23 Description of the basis for allocating scores to each criterion**

Criteria	Rating				
	-10	-5	0	5	10
<b>1. Reduce violent and weapons-related crime</b>	Significant increase in crime expected	Moderate increase in crime expected	The level of crime will not change	Moderate reduction in crime expected	Significant reduction in crime expected
<b>2. Restore public safety and make people feel safe and secure</b>	Very low public safety outcomes and very significant negative safety perceptions	Low public safety outcomes and significant negative safety perceptions	Moderate public safety outcomes and strong negative safety perceptions	Strong public safety outcomes and moderate negative safety perceptions	Very strong public safety outcomes and no negative safety perceptions
<b>3. Allow legitimate weapons use in a safe manner</b>	Legitimate use is entirely prohibited or the limitations and barrier to use are significant	Legitimate use is allowed, but there are moderate limitations or barriers to use	Legitimate use is allowed and there are minor limitations and barriers to use	Legitimate use is allowed and there are only very minor limitations and barriers to use	Legitimate use is allowed with no restrictions or barriers to use
<b>4. Reduce the costs from inconsistencies with other Australian jurisdictions</b>	There is a significant increase in the level of inconsistency	There is a moderate increase in the level of inconsistency	No impact on the extent of jurisdictional inconsistencies	There is a moderate improvement in consistency	There is a significant improvement in consistency
<b>5. Costs of enforcement and compliance</b>	Significant enforcement and compliance savings	Enforcement and compliance savings	No costs of enforcement and compliance	Moderate costs of enforcement and compliance	Significant costs of enforcement and compliance

## 6.1.1 Rationale for ratings

### Reduce violent and weapons-related crime

Under all three options, the Act would be supported by regulations. Compared to the base case of no regulations, this should decrease the level of access to weapons in society. According to the literature that was drawn on in Chapter 2, decreasing access should lead to a reduction in violent and weapon related crime. Hence, all three options should receive a positive rating for this criterion. Imposing regulation also increases clarity for Victoria Police by specifying the exact weapons that are covered by the Act and enabling them to better enforce the provisions of the Act. Consultation with Victoria Police suggests that this too would assist in reducing violent and weapon related crime.

Option 1 is the highest regulatory option proposed and is therefore expected to avoid the greatest level of crime, meaning it receives a high rating for this criterion. Compared to Option 1, the lower regulatory options (Options 2 and 3) would have a slightly lower rating because while they would also reduce violent and weapon related crime, they would lead to higher levels of access than Option 1 because a lower number of weapons would be regulated. While Options 2 and 3 are similar, Option 3 also receives a slightly lower rating because it would deregulate the most popular weapons that are more commonly used in society.

While a wider variance in the ratings could have been used for this criterion, it is very difficult to accurately identify the extent to which these options would actually impact crime rates in practice. While we can draw on the literature to support the argument, there is little quantifiable evidence that we can draw on to differentiate the options. To reflect this, these options have been given very similar ratings.

While trend data over the last 10 years suggests that crime rates have been falling, we cannot assume that this is a direct result of the regulations because there are too many other factors that could be affecting crime rates (for weapons related crime trends, see Appendix E). One information source that may provide some insight is a comparison of weapons related offences in different Australian jurisdictions, as each state has a slightly different level of regulation in place. Unfortunately, this information is not publically available and would involve considerable research to be undertaken. While this has not been undertaken for this RIS, it could be an area for further research in the future.

### Restore public safety and make people feel safe and secure

Even with regulations in place (as is currently the case), there are people who feel unsafe in the community. For example, the media report that 'Aussie youngsters too frightened to go past the front door'<sup>60</sup> and that 'Survey finds more Victorians live in fear of violent attack'.<sup>61</sup> However, other data show that feelings of safety have increased in selected situations (although the proportion of those who feel unsafe is greater than those who feel safe). In 2005:

- 15 per cent of women felt safe using public transport alone after dark (compared to 10 per cent in 1999)

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<sup>60</sup> The Daily Telegraph (2009), Aussie youngsters too frightened to go past the front door, 26 November 2009

<sup>61</sup> Herald Sun (2009), Survey find more Victorians live in fear of violent attacks, 27 October 2009



- 29 per cent of women felt safe walking alone in local area after dark (compared to 22 per cent in 1999).<sup>62</sup>

Given that there appears to be low perceptions of safety in the current regulatory environment, it is reasonable to expect that these perceptions may worsen in the absence of regulations to control weapons.

Under the base case, most weapons would be unregulated. This would have a strong negative impact on people's perceptions of public safety, as it may send the message to society that it is acceptable to carry weapons. It would also allow greater circulation of weapons in society, which would pose a risk to society and may lead to only moderate public safety outcomes.

Compared to the base case, the other three options would improve public safety by decreasing access to weapons and demonstrating that inappropriate use of weapons is not tolerated.

Option 1 is expected to have strong public safety outcomes compared to a no regulation scenario and would not be expected to lead to any negative perceptions of public safety. This is based on a strong regulatory response that is expected to reduce access to weapons. This option also represents little change from the current regulations, meaning the public is unlikely to see this proposal as a fall in safety levels.

Options 2 and 3 would mean a slightly lower regulatory response. This may change people's perceptions of public safety in a negative fashion because some weapons would become more accessible. This may also reduce actual levels of safety if the carriage of these weapons becomes more common. Therefore, while they would still represent an improvement on the base case, these two options receive a much lower score than Option 1. While Options 2 and 3 are similar, Option 3 also receives a slightly lower rating because it would deregulate the most popular weapons that are more commonly used in society.

### **Allow legitimate weapons use in a safe manner**

Under the no regulation base case and under all three options, legitimate use of weapons is allowed in a safe manner. The main difference between each option is in the ease by which people can use weapons and the number of weapons for which an approval would be needed.

Under the base case, all legitimate weapons use would be allowed and there would only be minor restrictions or barriers to that use because only a very small number of weapons would be regulated under the Act. Under Option 1, while legitimate weapons use would be allowed, there would be stronger restrictions and barriers to that use compared to the base case, meaning it receives a negative rating. A large number of weapons would be regulated under Option 1 and legitimate use would require an approval or exemption to be sought for each of these weapons. This is not a large barrier however, as the fees for an approval would not be excessive.

The impact under Options 2 and 3 would be very similar to Option 1, but some weapons would become unregulated and have no limitations and barriers to use. While these options are still negative compared to the base case, this difference would mean they receive a more positive rating than Option 1.

Option 3 receives the best rating because this option specifically focuses on reducing the regulatory burden by deregulating weapons that are very popular for legitimate use. Hence, the barriers to use would be much lower under this option.

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<sup>62</sup> ABS (2005), Personal Safety survey, Australia, Cat No 4906.,0, Reissued 2006



**To further inform this analysis, we are seeking information from stakeholders regarding the costs imposed on legitimate users of regulated weapons. Specifically:**

- **Do the requirements to gain an exemption or an approval from Victoria Police discourage legitimate use?**
- **How reasonable is the cost of complying with the regulations?**

### **Reduce the costs from inconsistencies with other Australian jurisdictions**

The base case of no regulation would actually mean significant inconsistencies with other jurisdictions. Given that most Australian states have regulation in place and explicitly list several weapons, no regulation would be a significant departure from this. In comparison, the three options proposed would represent at least a moderate improvement in the level of jurisdictional consistency.

Option 2 clearly received the highest rating, as this option has been designed to minimise inconsistencies across Australian jurisdictions and therefore reduce the associated costs. Compared to the base case, the level of inconsistency would be significantly reduced. The difference between Option 1 and 2 is fairly small however, as Option 2 represents only minor differences to Option 1 when comparing the two options to the base case.

Option 3 would represent a much lower level of consistency, as it would deregulate some weapons that are highly regulated by most jurisdictions (i.e. a nunchaku). Hence, this option receives a lower rating than the other options.

**To further inform this analysis, we are seeking information from stakeholders regarding the costs associated with the inconsistencies across jurisdictions. Specifically:**

- **Do the inconsistencies between Victorian weapons regulations and the weapons regulations in other Australian jurisdictions lead to costs for legitimate weapons users? If so, how extensive are these costs?**

### **Costs of enforcement and compliance**

The analysis in Chapter 5 has been used to reflect the regulatory costs of enforcement and compliance that would result under each of the options. To reflect the variation in these costs under the different options, the direct dollar figure estimated in Chapter 5 has been used to indicate the magnitude of the impact. For example, under Option 1 the net costs would be approximately \$6.4 million (NPV over 10 years), meaning it gains a rating of - 6.4.

#### *6.1.2 Multi-criteria analysis ratings*

Based on the above discussion, the multi-criteria analysis is shown below in Table 24.

When reviewing the results of the multi-criteria analysis, the numbers -10 through to 10 do not represent an exact scale of costs or benefits under the options. For example, if Option 1 received a score of five compared to another that received a score of one, it is meant to indicate that the anticipated benefits under Option 1 are approximately five times those under Option 2. However, given that the exact costs and benefits cannot be quantified, these scores are designed to indicate some potential relativity between options, rather than exact comparisons.

**Table 24 Multi-criteria analysis ratings**

Criteria	Weighting	Option 1 Proposed Regulations		Option 2 Harmonisation		Option 3 Lower burden	
		AS	WS	AS	WS	AS	WS
1. Reduce violent and weapons-related crime	20%	9	<b>1.80</b>	8	<b>1.60</b>	7.5	<b>1.50</b>
2. Restore public safety and make people feel safe and secure	20%	9	<b>1.80</b>	7	<b>1.40</b>	6.5	<b>1.30</b>
3. Allow lawful weapons use in a safe manner	6%	- 3	<b>- 0.18</b>	-2	<b>- 0.12</b>	- 1	<b>- 0.06</b>
4. Reduce the costs from inconsistencies with other Australian jurisdictions	4%	8	<b>0.32</b>	9	<b>0.36</b>	5	<b>0.20</b>
5. Costs of enforcement and compliance	50%	- 6.6	<b>- 3.20</b>	-5.5	<b>- 2.75</b>	- 5.3	<b>- 2.65</b>
<b>Overall Ratings</b>			<b>0.54</b>		<b>0.49</b>		<b>0.29</b>

AS – Assigned Score      WS – Weighted Score

## 6.2 Summary of analysis

Table 25 summarises the results of the break even analysis and multi-criteria analysis for each regulatory option considered as part of this RIS. The results indicate that Option 1 appears to be the better option under the multi-criteria analysis but the least best option under the break even analysis. On the other end of the spectrum, Option 3 appears to be the better option under the break even analysis but the least best under the multi-criteria analysis.

**Table 25 Summary of the assessment of each option**

Option	Estimated regulatory cost burden (10 year NPV)	Required number of avoided offences involving a weapon to break even	Cost as a proportion of the current costs of crime	Overall rating from the multi-criteria analysis
<b>Option 1: Proposed regulation</b>	\$6,398,289	<ul style="list-style-type: none"> <li>one homicide every two to three years OR</li> <li>156 robberies per year OR</li> <li>343 assaults per year</li> </ul>	0.34%	0.54
<b>Option 2: Alignment with other jurisdictions</b>	\$5,528,410	<ul style="list-style-type: none"> <li>one homicide every three years OR</li> <li>135 robberies per year OR</li> <li>296 assaults per year</li> </ul>	0.29%	0.49
<b>Option 3: Lower regulatory burden</b>	\$5,253,712	<ul style="list-style-type: none"> <li>one homicide every three years OR</li> <li>128 robberies per year OR</li> <li>281 assaults per year</li> </ul>	0.27%	0.29

## 6.3 Conclusion

The regulatory options considered in the previous sections vary in the degree of regulatory burden placed on society, as well as the degree to which they contribute to government objectives. While on the one hand the high regulation option (Option 1) imposes a higher regulatory cost, it does so with the intent of reducing the potential risks and harm inflicted by the misuse of weapons. Because of the stricter preventative measures under the high regulation option, it has the advantage of potentially having a greater influence on government objectives (hence, receiving a strong rating under the multi-criteria analysis). On the other hand, the lower regulation options (Options 2 and 3) impose a lower regulatory burden on society but increase the risk of weapons misuse and decrease the potential impact on government objectives.

Given the serious consequences (i.e. mortality, permanent disability etc) that may result from weapons misuse and the fact that only a small amount of crime needs to be avoided (relative to no regulations) to offset the cost of higher regulation, then it is reasonable to expect that mitigating for the potential risks will outweigh the benefit from reducing the regulatory costs. We also know from academic studies that access to weapons increases the likelihood of crime, so higher regulatory restrictions can only serve to mitigate the illegitimate use of weapons. In addition, as the multi-criteria assessment outlines, a higher regulatory option is more likely to contribute to the regulation's objectives than lower regulatory options.

In the absence of regulations, the number of offences is likely to be higher. Each of the options is expected to address this to some extent by reducing weapons related crime and therefore avoiding the costs of that crime. Compared to Option 1, the lower regulation options would need to avoid less crime to reach their break even points. While this is true, the break even points do not tell us the level of crime that would actually eventuate under these options. What it does demonstrate is that the avoided costs of crime required to break even are very similar under each option. As noted above, a comparison of the break even point for each option can be used to determine the magnitude of change needed for one option to result in a greater net benefit than another. Option 1 would only need to prevent 21 robberies compared with Option 2 and 28 robberies compared with Option 3 for that option to have the highest net benefits. Compared to the total current cost of weapons related offences with regulation in place, the cost of these robberies represent only 0.05 and 0.07 per cent respectively. Therefore, the Department of Justice believes that the incremental benefits of Option 1 would be at least this large.

Based on this comparison and the results of the multi-criteria analysis, the Department of Justice believes Option 1 is most likely to result in the highest net benefit to society.

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## 7 Fees

Under each of the options outlined above, the Control of Weapons Regulations would set fees for those applying for a Chief Commissioner's approval. This section assesses whether the proposed fees are appropriate and whether the objective of the fees aligns with the principles set out in the Cost Recovery guidelines produced by the Department of Treasury and Finance.<sup>63</sup>

### 7.1.1 Proposed fees

The proposed regulations impose fees to those applying for a Chief Commissioner's approval. The fees are equivalent to:

- 13.5 fee units (or \$165.00 in 2011-12 dollars) for an applicant without a current licence under the *Firearms Act*
- 11.5 fee units (or \$140.50 in 2011-12 dollars) for an applicant with a current licence under the *Firearms Act*
- five fee units (or \$61.10 in 2011-12 dollars) for a variation to an approval
- zero fee units (a 'nil' fee) for an applicant with a current firearms dealers licence under the *Firearms Act*, who applies for approval to acquire and sell imitation firearms only as part of conducting their business as a firearms dealer.

A Chief Commissioner's approval is required for an individual or business that wishes to carry, possess, sell, purchase, or use it in any other way a prohibited weapon or body armour. Some examples include:

- an individual wishing to purchase and use a nunchaku for martial arts
- a business selling prohibited weapons such as swords.

There are however some groups of people that are exempt from this requirement. Under section 8B of the Act, the Governor in Council (GIC) can, by Order published in the Government Gazette, exempt a class of persons from the prohibition on the possession, use and carriage of prohibited weapons or body armour in Victoria. See A.1 in Appendix A for more information on exemptions. Exempt persons are not required to pay fees since they derive the exemption by virtue of being a member of an exempt class of persons, rather than an individual application requiring processing. We note, however, that this difference in approach is beyond the scope of this RIS because exemptions fall under the Act rather than the regulations.

### 7.1.2 Fees reflect related activities

The fees charged for an approval reflect the following activities undertaken by Victoria Police:

- the effort required to assess approval applications, such as processing forms and issuing the approval
- monitoring and enforcement of compliance with the approval requirements, such as retail spot checks

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<sup>63</sup> Department of Treasury and Finance, 'Cost Recovery Guidelines', Melbourne, 2010.

The variation in fees reflects differing levels of effort required to assess approval applications – that is, a higher fee is charged for new applicants who are not already in the Victoria Police licensing and registrations system (LARS) because it requires more time and effort to process the application and undertake the required probity checks (see section A.1 of Appendix A for more information on the approvals process). For those with a firearms licence, the lower fee reflects the fact that probity checks have already been undertaken as part of the firearms application process. The cost for a variation reflects the time taken to update an existing record.

For those who hold a firearms dealers licence and wish to hold an approval for selling imitation firearms, the 'nil' application fee reflects the fact that Victoria Police would have little or no further activities to undertake for that approval. The required processes and checks would already have been completed in processing the applicant's firearms dealers licence. Due to this efficiency, when an applicant applies for their firearms dealers licence Victoria Police would automatically issue an imitation firearms approval concurrently.

### 7.1.3 Fees reflect an efficient cost base

As discussed above, the fee structure reflects the effort or time required to assess approval applications. Victoria Police advises that the processing of a straightforward application takes about 45 minutes. Recognising that requirements are different depending on the licence/approval process, Table 27 provides a snapshot of the time taken to process applications across a range of areas. Compared to other types of applications processes, this suggests that the weapons approval application process is relatively efficient.

**Table 26 Time taken to process an application**

Licence / application	Time per licence	Complexity relative to weapons approval process
Weapons approval	45 minutes	n/a
Tour operators licence	8 hours	↑ There are more steps involved in the processing of tour operator licence applications
Approval to be an authorised media organisation	1 hour 50 minutes	↓ no probity checks are required
Private security individual licence	22 minutes	- Similar requirements
Private security business licence	242 minutes (4 hours 2 minutes)	- Similar requirements
Transfer or reallocation of a gambling licence	105 minutes (1 hour 45 minutes)	- Similar requirements

Sources: Tour Operators Licence Fees Regulations RIS 2011; Police Regulation (Agency Photographs Fees) Regulations RIS 2009; Private Security Regulations RIS 2005; Gambling Regulation Amendment (Fees) Regulations RIS 2009;

As shown in Table 11 and Table 12, the cost to Victoria Police of administering approvals and enforcing the regulations is about \$333,000 per annum. The revenue the Victoria Police recovers through fees is substantially lower than the cost of regulation and enforcement (see Table 27). This suggests that the regulatory costs are not being fully recovered through fees, even though the Cost Recovery Guidelines state that fees be set at a full (efficient) cost recovery basis.

**Table 27 Fees recovered through approval applications  
(based on fees in 2011/12 to show possible recovery in  
2011/12 and beyond)**

Description	2009/10		2010/11	
	Number of approvals	Fees recovered	Number of approvals	Fees recovered
Without firearms licence	184	\$ 30,354	235	\$ 38,713
With firearms licence	86	\$ 12,086	119	\$ 16,676
Variations	15	\$ 917	5	\$ 326
<b>Total</b>	<b>285</b>	<b>\$ 43,357</b>	<b>359</b>	<b>\$ 55,715</b>

While the financial data suggests that the cost of regulation and enforcement are not fully recovered through fees, there have been no recent reviews to suggest that there are any issues related to performance or efficiency of the Licensing and Regulation Division of Victoria Police (LRD). For example, LRD has not been the focus of any recent Victorian Auditor General Office performance reviews.

#### *7.1.4 Reason for departing from full cost recovery*

If fees were based on the costs incurred by Victoria Police and the average number of approval applications per annum, it would suggest that fees should be more than six times the proposed fees. This section will outline why such fees may not be appropriate.

To calculate the fees that would need to be imposed to apply full cost recovery for each application type, we have assumed that fees would be set at the same proportions as the proposed fees, meaning the fee for:

- an applicant with a firearms licence would be 85 per cent of the fee for an applicant without a firearms licence
- an application to vary an approval would be 37 per cent of the fee for an applicant without a firearms licence
- an applicant with a current firearms dealers licence under the *Firearms Act*, who applies for approval to sell imitation firearms only would remain at \$0.

The cost of administering and enforcing approvals is about \$333,350 per annum. Based on the assumptions above, to fully recover this amount, the fees would need to be more than six times the proposed fees levels. Table 28 compares the proposed fees to the fees under full cost recovery.

**Table 28 Fees under full cost recovery<sup>64</sup>**

Description	Proposed fees		Full cost recovery fees	
	Fee units	\$ 2011/12	Fee units	\$ 2011/12
Without firearms licence	13.5	\$165.00	90.9	\$1,110.41
With firearms licence	11.5	\$140.50	77.4	\$945.20
Variations	5	\$61.10	33.7	\$411.30
With firearms dealers licence (selling imitation firearms only)	0	\$0	0	\$0

Full cost recovery would result in a significantly higher burden on approval applicants. This would be undesirable from a public policy perspective because it may discourage legitimate users from applying for a Chief Commissioner's approval. Consultation with weapons retailers has suggested that the current requirement to obtain an approval and pay fees already discourages some individuals from engaging in legitimate weapons use. Therefore, the Department of Justice believes it is reasonable to assume that a substantial increase in fees could further discourage legitimate users.

In relation to fees, the public policy objective of the Department of Justice is to ensure an equitable outcome and maintain public safety. Discouraging weapons users from applying for an approval may have several negative consequences that would go against that objective.

Firstly, legitimate users would no longer benefit from their weapon-related activities and public interest sectors of society and the economy (such as martial arts) may diminish. Given that these users have a lawful and legitimate reason for wanting to use these weapons, on equity grounds the Department of Justice believes it is desirable to allow these activities without excessive regulatory price barriers.

In relation to imitation firearms, the Department of Justice also believes it is inequitable to impose an additional fee for firearms dealers given that these applicants have already paid for their firearms dealers licence and the additional processing of their approval would be almost negligible. This is particularly the case because of the very high degree of correlation between the business activities being authorised by the approval and those already licensed under the *Firearms Act 1996* (that is, to acquire and sell certain types of firearms or weapons that have the appearance of such firearms). In these circumstances, police do not need to seek additional information about the type, theme and nature of the proposed activities. Taking account of these factors, the Department of Justice feels that imposing an additional fee on these applicants would impose an additional and excessive financial burden on this group of stakeholders.

Another consequence from discouraging users to apply for an approval is the potential impact on the effectiveness of the regulations and the level of public safety. An approval sets clear guidelines around what activities the applicant can undertake with a weapon and the reasons that are deemed to be legitimate for weapons use. It therefore informs users of what is classed as legitimate use and how they should limit their use to ensure the safety of society. If an individual decides not to gain an approval because the fee is too high, they may not gain sufficient information to identify the limits of legitimate and safe use of their weapon. Such users may be more likely to carry a weapon in an inappropriate

<sup>64</sup> Based on the fee unit set for 2010/11, being \$11.95.

way, which according to literature may lead to a greater incidence and severity of crime. Weapons approvals also provide clarity and certainty for Victoria Police because they can easily identify a legitimate user compared to a criminal.

Setting fees at less than full cost recovery is therefore supported by the Department of Justice based on their public policy objective of ensuring an equitable outcome and maintaining public safety outcomes.

As can be seen in Table 29, it appears that fees charged for weapons applications in Victoria are also fairly comparable to other jurisdictions. If Victoria fully recovered their fees, it would also make their fees significantly inconsistent with fees charged in other jurisdictions. While this is not the primary reason for maintaining less than full cost recovery, the level of consistency with other jurisdictions may impact upon people's willingness to pay for an approval if such a comparison is made.

**Table 29 Comparison of weapons application fees in other jurisdictions (2010/11 prices)**

	<b>Term of licence</b>	<b>Without firearms licence</b>	<b>With firearms licence</b>	<b>Variation</b>
VIC	3 years	\$161.30	\$137.40	\$59.80
NSW	2 years		\$100	\$40
	5 years		\$200	
QLD		\$79.50 application fee plus \$11.45 – \$12.05 pa depending on the weapon approval sought		
SA	1 year		\$72	\$44
	3 years		\$187	
	5 years		\$297	

### 7.1.5 Fees avoid volatility

The proposed fees are indexed annually. The indexation rate is dependent upon the rate applied in a particular financial year consistent with the *Monetary Units Act 2004*. This allows for 'smoothing' of fluctuations in charges, acknowledges that costs rise from year to year and enables the forward planning of process in government.

### 7.1.6 Fees are simple to understand

There are only three fee options, with the options clearly differentiating when a particular fee option applies. The same fee applies regardless of the type of weapon for which approval is being sought. This structure avoids complexity, making it easy to understand. The only exception to this is the 'nil' fee set for holders of a firearms dealers licence who apply for an approval to sell imitation firearms.

In addition, the structure of the proposed fees is the same as those currently in place. So, it is unlikely that this will confuse those seeking renewals or have an awareness of the existing fees regime.

### 7.1.7 The preferred fees

The Government is proposing that application fees should be maintained at their current level, when expressed in fee units. The Department of Justice has



estimated this will result in the recovery of less than 20 per cent of the costs of administering and enforcing the Regulations. It is the Department's view that such a low level of cost recovery is justified in this case, to help avoid discouraging people from partaking in legitimate uses of weapons and concern about the impact of higher fees on the effectiveness of the regulations.

As noted in the Cost Recovery Guidelines, however, '[i]ncorporating the costs of administering government regulation into the prices of regulated products and services ensures ... that activities that require high levels of regulation are not favoured over activities that require low levels of regulation'.<sup>65</sup> Thus, setting the fees at less than 20 per cent of the full cost recovery level, as proposed, may result in greater ownership and legitimate use of controlled weapons than is 'optimal' from society's perspective. There is, moreover, no evidence of there being broader spill over benefits to society of legitimate weapons use that would justify this level of under-recovery of costs.

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<sup>65</sup> Department of Treasury and Finance (2010) 'Cost Recovery Guidelines', Melbourne, Page 6.

## 8 The preferred option

Based on our analysis in Chapter 6, the preferred option is the proposed regulations option. All of the options have been identified as representing an improvement over the base case situation when considered in light of the government's objectives. However, the proposed regulations are expected to lead to the greatest net benefit to society.

Remaking the regulations using the preferred option (i.e. proposed regulations) imposes fees for a Chief Commissioner's approval. As discussed earlier in this document, approvals allow for the legitimate use of weapons. The proposed fees are preferable to full cost recovery because they would better meet the public policy objective of the Department of Justice. That is, they would ensure an equitable outcome for legitimate users and maintain public safety.

### 8.1 Implementation

The proposed approach will require the government to arrange the making of the proposed regulations. Making the regulations will require resources and costs on behalf of government. While somewhat stylised, the process is likely to involve policy approval (policy officer time and departmental approval), drafting (policy officer time and Parliamentary Counsel's drafting time), legislative approval (the regulations to be read and approved by the Minister and the Governor in Council), and promulgation (printing, and information and promotional material about changes).

These costs would be one-off and are rarely costed. By way of example, though, of what this might cost:

- in Western Australia, the average cost of legislative amendments drafted in 2003-04 was in the order of \$52,000
- in the United Kingdom it was estimated that to implement regulatory changes relating to European Works Councils it would involve an administrative cost of amending legislation of approximately \$400,000.

The once-off costs of creating new regulations are therefore estimated to amount to around \$200,000 in the first year. The majority of this cost will already have been incurred by the Victorian Government when a decision must be made about this regulatory proposal. Therefore, this is a 'sunk' cost, meaning it has already been incurred and should not affect future decision making.

Responsibility for the implementation of the proposed regulations will continue to rest with Victoria Police. As the proposed regulations are not significantly different to those currently in place, it is unlikely that Victoria Police will require additional resources for implementation. This also applies to the processing of approvals and their associated fees.

For the stakeholders affected by the regulations (e.g. exempt person, those seeking approvals and approval holders), because the proposed regulations are similar to those currently in place, it is unlikely that its implementation will have a significant impact over and above existing requirements.

### 8.2 Enforcement and compliance

The implementation of best practice regulation is not effective in achieving the desired outcomes without adequate enforcement of the regulations.

Primarily, Victoria Police will be responsible for administration and enforcement of the proposed weapons regulations in much the same way that it currently administers and enforces the current weapons regulations in Victoria.

Victoria Police's enforcement and compliance activities include:

- undertaking targeted compliance audits of business and approval holders (e.g. to ensure that storage conditions are being met, sales records are kept, etc)
- monitoring online websites (such as ebay) through which weapons can be bought and sold to ensure that sellers and consumers are compliant with the regulations
- educating the public about changes to the legislation/regulations and how the changes affect them. Communication of changes may occur through the Victoria Police website and newsletters to clubs and members of the public.
- regularly checking the LEAP database and investigating any available intelligence information that comes to hand to identify those whose approvals should be revoked.

### 8.3 Impact on competition

Considerations of national competition policy include identifying any restrictions to competition in the preferred option, showing that the restriction is necessary to achieve the objective, and assessing whether the benefits of the restriction outweigh the costs in each particular case.

Any new regulations in Victoria must not restrict competition unless it can be demonstrated that:

- the benefits of the restriction, as a whole, outweigh the costs
- the objectives of the legislation can only be achieved by restricting competition.

A legislative amendment is considered to have an impact on competition if any of the following questions in the table below can be answered in the affirmative. The table shows the rationale and significance of those areas where there is an impact on competition.

**Table 30 Criteria for determining adverse competition impacts**

Question	Answer	Significance
<b>Is the proposed measure likely to affect the market structure of the affected sector(s) – i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms?</b>	Yes	The proposed regulations will require that individuals must show proof that they have an approval or appropriate membership, and are of appropriate age in order to purchase a prohibited weapon. This may decrease the size of the market for prohibited weapons. The proposed regulations also require sellers of prohibited weapons to gain an approval. This may act as a deterrent to businesses wishing to sell weapons.
<b>Would it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?</b>	Yes	The proposed regulations would require that businesses obtain an approval in order to sell, possess or purchase prohibited weapons. However, the fees for an approval would be set at below full cost recovery to avoid a significant impost on legitimate weapons dealers and other users.
<b>Would the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part-time participants in occupations, etc)?</b>	Yes	The proposed regulations impose fixed approval application costs which will be more significant for small businesses compared to larger businesses. This is however a once off payment to partially recover the costs of processing the approval by Victoria Police. To avoid an

		inequitable outcome, fees will be set at below full cost recovery.
<b>Would the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?</b>	Yes	The proposed regulations would restrict the number of people in the community that are able to purchase prohibited weapons and restrict the minimum purchasing age to 18. Without an approval, businesses wishing to sell prohibited weapon will not be able to do so. This would therefore limit the range of products that the business can sell to consumers.
<b>Would the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?</b>	No	N/A
<b>Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?</b>	No	N/A

Source: Government of Victoria (2011), 'Victorian Guide to Regulation', edition 2.1, Department of Treasury and Finance, Melbourne, page 88.

The preceding chapters and analysis have generally demonstrated that the proposed regulations represent a net benefit to society, and that the government's objectives can only be achieved by restricting competition in this way.

## 8.4 Evaluation strategy

Evaluation of the effectiveness of the Regulations will occur in an ongoing way as part of the work of the Department of Justice as a member of the national Firearms and Weapons Policy Working Group. This group considers policy options for firearms and weapons regulation across Australian jurisdictions and makes suggestions for minimum regulatory standards and other national policy initiatives. In considering recommendations of this group, the Department will be required to progressively evaluate the effectiveness of its own regulatory regime against policy proposals to determine if legislative or procedural changes are warranted.

Additionally, the opportunity for a more comprehensive evaluation will occur when Governor in Council Exemption Orders for prohibited weapons such as imitation firearms, swords and other edged weapons expire in five years time. At that time, the Department will review the effectiveness of the exemption system and its interaction with other elements of the regulatory scheme. This will involve consultation with Victoria Police and an analysis of trends in police crime statistics regarding breaches of weapons regulations and offences involving the illegal use of weapons, as well as the number of approval applications submitted by and granted to individuals and businesses. It may also involve research into trends in weapons-related crime in other Australian jurisdictions and published studies on crime trends and community perceptions of crime.

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# Appendix A The Government's approach to weapons control

## A.1 Control of Weapons Act 1990

The regulatory framework for the control of weapons in Victoria is outlined in section 3.2. As indicated in that section, the *Control of Weapons Act 1990* ('the Act') establishes four categories of weapons: prohibited weapons, controlled weapons, dangerous articles and body armour. Further details are provided below about the operation of the Act and the penalties applying to offences under the Act.

### Prohibited weapons

Prohibited weapons are considered inappropriate for general possession and use and hence under section 5 of the Act it is only lawful to use, possess, carry, manufacture, bring in or sell a prohibited weapon if a person is included in a class of persons subject to a Governor in Council Exemption Order issued under section 8B of the Act, or has an approval from the Chief Commissioner of Police issued under section 8C of the Act. Prohibited weapons cannot be sold to or purchased by children aged under 18 years. Exemptions and approvals cannot be granted to prohibited persons as defined in section 3 of the Act.

Prohibited weapons are listed in Schedule 2 to the Control of Weapons Regulations 2000. As of 1 July 2011, the definition of prohibited firearms includes not only the 47 items prescribed by regulation, but imitation firearms, which are included in the definition of 'prohibited weapon' in the Act.

The maximum penalty for using, possessing, carrying, manufacturing, importing or selling a prohibited weapon without an exemption or approval is 240 penalty units (around \$28,668) or imprisonment for up to two years. This penalty is doubled if a person is found possessing, carrying or using a prohibited weapon in or around licensed premises, to 480 penalty units (around \$57,336) or four years imprisonment.

### Controlled weapons

The Act defines controlled weapons as knives other than prohibited knives, and items prescribed in Schedule 3 to the Control of Weapons Regulations 2000, which are spear guns, batons/cudgels, bayonets and cattle prods. Under section 6 of the Act controlled weapons may be possessed, carried or used with a 'lawful excuse', but cannot be sold to or purchased by children aged under 18 years. A lawful excuse includes employment, sport, recreation or entertainment, or collection or exhibition, but does not include self defence.

The maximum penalty for possessing, carrying or using a controlled weapon without a lawful excuse is 120 penalty units (around \$14,334) or one year imprisonment. This penalty doubles if the offence occurs in or around a licensed premises, to 240 penalty units (around \$28,668) or two years imprisonment.

Police members may serve infringement notices in respect of certain controlled weapons offences. The infringement amounts payable are \$1,000 for possessing, carrying or using a controlled weapon without lawful excuse, two penalty units (around \$238) for a child purchasing a controlled weapon and \$2,000 for a person knowingly selling a controlled weapon to a child. A child is defined as a person under the age of 18 years.

## **Dangerous articles**

Dangerous Articles are defined in the Act as any article adapted or modified so as to be a weapon, or carried with the intent of being used as a weapon. A person may possess or carry a dangerous article in a public place provided that they have a 'lawful excuse' for doing so. Lawful excuse is defined as for controlled weapons, but also includes using the article for the purpose for which it was designed. As with controlled weapons, self-defence is not a lawful excuse.

The maximum penalty for possessing or carrying a dangerous article without lawful excuse is 60 penalty units (around \$7,167) or six months imprisonment. This penalty doubles if the offence occurs in or around a licensed premises, to 120 penalty units or one years imprisonment.

## **Body armour**

Body Armour is a garment or item, as defined in the Act and prescribed in the regulations, that is designed or adapted for the purpose of protecting the body from the effects of a firearm. Under section 8A of the Act, a person may only use, possess, carry, manufacture, import or sell body armour if a person has the appropriate approval from the Chief Commissioner of Police, or is included in a Governor in Council Exemption Order.

The maximum penalty for using, possessing, carrying, manufacturing, importing or selling a prohibited weapon without an exemption or approval is 240 penalty units (around \$28,668) or imprisonment for up to two years.

## *Legitimate weapons use under the regulations*

Under the Act, a person is able to purchase, carry and use a prohibited weapon or body armour if they have the appropriate approval from the Chief Commissioner of Police, or are included in a class of persons subject to a Governor in Council Exemption Order.

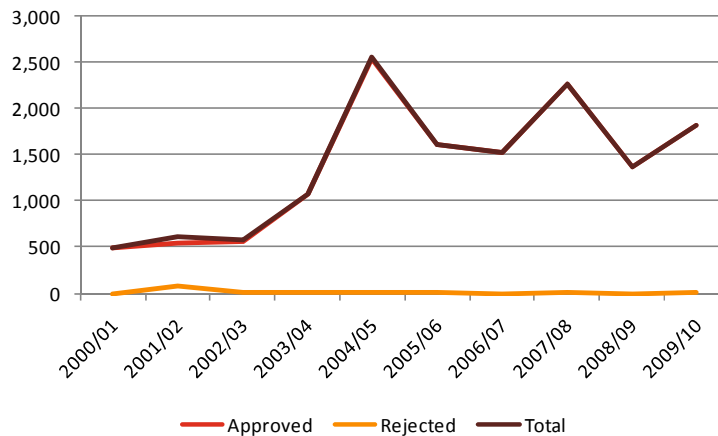
## **Approvals**

Section 8C of the Act states that the Chief Commissioner of Police may grant an approval to a person. A person can apply to the Chief Commissioner of Police for approval to use, possess, carry, sell or display prohibited weapons. Applications for approvals are made through the Licensing and Regulation Division of Victoria Police. Prohibited persons (as defined in section 3 of the Firearms Act 1996) may not obtain an approval from the Chief Commissioner of Police.

Applications to Victoria Police for Chief Commissioner approvals must contain such information as the required by Victoria Police and be accompanied by the prescribed fee. The Chief Commissioner may set conditions and limitations, grant an approval for a specified period or indefinitely, and may vary or revoke an approval at any time. Approvals are subject to a condition that the prohibited weapon or body armour is stored safely and securely.

The graph in Figure A.1 shows the trend in the number of weapon approvals over the last 10 years. Note that the number of approvals rose significantly in 2004/05, but has not risen above this point since that year.

**Figure A.1 Number of weapon approval applications<sup>66</sup>**



There are 49 different weapons that the Chief Commissioner provides approvals for. The most common of these is the sword, which represented 10 per cent of all approvals in 2010. Swords only became a common weapon for approvals in 2004/05. Other weapons that people commonly seek approvals for are:

- daggers
- nunchaku
- sai or jitte.

Each of those weapons represented six per cent of all approvals in 2010.

### **Approvals process**

The application approval process involves:

- 1 The applicant (individual or body corporate) submits an application form to the Licensing and Regulation Division attaching the relevant documentations and evidence (e.g. proof of identity, reasons for application, medical report, etc) and a cheque or money order for the application fee.
- 2 The delegate uploads the applicant's application and personal details into the LARS database and assesses the application to ensure that it is compliant and the necessary documentations, evidence and correct fee is provided. A probity check is undertaken to verify and identify whether the applicant may be a prohibited person and in addition to this whether there are any 'fit and proper' (character) concerns.
- 3 If the application is compliant after an assessment by the delegate, a recommendation for approval is provided by the delegate. Once approval has been granted by the delegate, a written approval notice is provided to the applicant. The approval is valid for a period of three years from the date of issue.
- 4 If the application is not compliant, the delegate can exercise two options:
  - a. The delegate can contact the applicant to obtain further information (if considered minor – e.g.: missing a membership card or birth certificate).

<sup>66</sup> Victoria Police (2011) Custom data provided to PwC. Individual counts of the weapons are not recorded. The count is only recorded at individual application level and the type of weapons applied. Abandoned, discarded applications are excluded.



- b. Where the delegate requires additional information or evidence to support the application, the delegate will send written request seeking further information or evidence. The applicant is provided with 21 days to respond to the information/evidence that is being requested. If the additional information or evidence is not received, the delegate will forward a refusal letter and their cheque or money order for the application fee.

### **Approval for import process**

The Australian Government (Customs) controls the importation of weapons into Australia. Individuals wishing to import prohibited weapons for private use or possession in Victoria are required to make application to Victoria Police who issue these import permits on behalf of Customs.

The application for import process involves:

- 1 The applicant submits an application form to the Licensing and Regulation Division
- 2 The delegate uploads the applicant's application into the LARS database and assesses the application to ensure that it is compliant and the necessary documentations and evidence is provided. A probity check is undertaken to verify and identify whether the applicant may be a prohibited person and in addition to this, whether there are any 'fit and proper' (character) concerns.
- 3 If the application is compliant after an assessment by the delegate, a recommendation for approval is provided by the delegate. Once approval has been granted by the delegate, a written confirmation is provided via a B709B Form – Importation of Weapons – Police Confirmation.
- 4 If the application is not compliant, the delegate can exercise two options:
  - a. The delegate can contact the applicant to obtain further information (if considered minor – e.g. missing a membership card or birth certificate).
  - b. Where the delegate requires additional information or evidence to support the application the delegate will send written request seeking further information or evidence. The applicant is provided with 21 days to respond to the information/evidence that is being requested. If the additional information or evidence is not received, the delegate will forward an abandonment letter.

The following below should be noted:

The assessment and issuing of an import permit is not a part of the initial assessment for a Chief Commissioner's Weapons Approval and crucially, that an Approval holder can submit any number of applications for an import permit during the life of the Approval. Moreover, import permit applications are submitted by other individuals/organisation that do not require a Chief Commissioner of Police Approval (e.g. they may be covered under a Governor in Council (GIC) Exemption. Furthermore, the Licensing and Regulations Division also assess applications for the purpose of importing non-prohibited items in Victoria.

It should also be noted that there is no additional fee being charged by Victoria Police to applicants to gain this written confirmation, and the cost is absorbed as part of the approval application process.

### **Revocation process**

Those with a current approval to purchase, sell, display, carry and/or use a prohibited weapon/s may have it revoked if:

- the approval holder has committed a prohibited offence

- there is sufficient information and evidence to deem that the approval holder is no longer fit and proper
- an individual or organisation can no longer provide evidence that they possess a 'genuine reason' to hold the whole approval
- an individual or organisation can no longer prove that they possess a genuine reason to hold an approval.

Victoria Police identifies those whose approvals should be revoked by regularly checking the LEAP database, via the daily LEAP reports that are sent to the Licensing and Regulations Division and investigating any available intelligence information that comes to hand.

Once it has been identified that an approval should be revoked/suspended or cancelled, Victoria Police updates its LARS database and either sends a revocation/suspension or cancellation letter to the approval holder or serves the letter to the holder in person.

## Exemptions

Section 8B of the Act provides that the Governor in Council (GIC) can, by Order published in the Government Gazette, exempt a class of persons from the prohibition on the possession, use and carriage of prohibited weapons or body armour in Victoria.

The GIC has the power to specify conditions and limitations to which an exemption is subject and can vary or revoke the exemption and set a time limit on the operation of the exemption. The Act gives the GIC the power to impose a condition that the exemption does not apply to a person until that person has been a member of the relevant class for a minimum period of six months. The intention of this provision is to ensure that where appropriate, new members have to complete a specified waiting period before being able to purchase exempted weapons.

Under certain circumstances, the Act also prescribes an exemption for health service workers, which includes a health professional, a health service security guard and an ambulance officer. Prohibited persons (as defined in section 3 of the Firearms Act 1996) may not rely upon a Governor in Council Exemption Order under the Control of Weapons Act 1990.

There are currently exemptions in place for citizens and groups in relation to the possession, use and carriage of swords and crossbows. These exemptions apply to a wide range of organisations and include specified collectors and sporting clubs as well as certain historical re-enactment groups. In general (without giving the specific details and limitations of the exemption), the following list gives some examples of classes of persons that hold exemptions for particular weapons as specified in the Exemption Order:

- a participant in the sport of fencing, who is a member of certain fencing associations
- a member of the Sikh religion whose practices involve kirpans (swords)
- a former or current member of the armed forces
- a member of a Masons Lodge
- a member of an exempted collectors' club
- a member of an exempted historical re-enactment organisation
- a member of a club affiliated with the Australian Kendo Renmai
- a prison officer
- a bailiff
- a person who holds a licence to be a security guard or bodyguard under the *Private Securities Act 2004*

- a member of Victoria Police.

In the context of community concern over the carriage and use of prohibited weapons in public places and the introduction of imitation firearms into the prohibited weapons regime, the Government has undertaken a review of existing GIC exemptions and the conditions attached to these exemptions. The Government expects to re-issue the GIC class exemptions in 2011 with more streamlined and robust conditions. In particular, these conditions will impose safe storage requirements and stringent reporting and record keeping obligations on exempted classes of persons. These exemptions and conditions will give effect to the purpose of the Act to regulate prohibited weapons in the community, and are designed to ensure that only those groups with a legitimate purpose for possessing, using and carrying items such as swords, daggers and crossbows will be allowed to do so.

## A.2 Control of Weapons Regulations 2000

While the Act sets out the laws relating to weapons, it is the *Control of Weapons Regulations 2000* that puts the Act into operation by specifying the manner in which to carry out the sections of the Act. It primarily does this by defining prohibited and controlled weapons.

Specifically, the *Control of Weapons Regulations 2000* set out:

- certain articles as prohibited weapons (i.e. flick knife, dagger, crossbow, extendable baton, knuckle duster, sword etc)
- certain articles as controlled weapons (i.e. spear gun, baton, bayonet, cattle prod)
- the garments or items defined as body armour
- additional categories of identity documents that purchasers must produce when purchasing a prohibited weapon if they are unable to produce the identity documents specified in section 5A of the Act
- the form and detail of records to be recorded for every sale of a prohibited weapon (i.e. the regulations prescribe that a bound book or computerised record keeping system must be used to record details such as a description of the weapon, personal details of the purchaser, evidence of the purchaser's approval or exemption etc)
- a fee for applications for Chief Commissioner approvals (i.e. a specific fee is prescribed for applicants holding a firearms licence, non firearms licence holders and approval variations, and a 'nil' application fee is specified for licensed firearms dealers who seek approvals in relation to imitation firearms for the purpose of operating their businesses, as they have already paid an application fee for their firearms dealers licence under the Firearms Act)
- the details to be included by Victoria Police in records of searches conducted by police without warrant under the Act (including the date, time and place of the search, the names of the officer and person searched etc)

For a full list of the prescribed weapons in the regulations, see Appendix B.

## A.3 Non-regulatory measures

To support the regulatory framework outlined above, the government also undertakes some non-regulatory activities. For example, education and awareness campaigns are used by DOJ and Victoria Police to make people more aware of weapons related issues, which aims to change perceptions and behaviour in relation to weapons. For example, an anti-knives campaign conducted in 2010 – 'Knives Scar Lives' – involved a variety of advertising avenues, as well as getting the involvement of an AFL football club to get the message out.

Another mechanism used to decrease the possession of weapons in society is a weapons amnesty. During a weapons amnesty, people are allowed and encouraged to surrender any unwanted or illegal weapons to their local police station without penalty. A one month weapons amnesty was undertaken by Victoria Police in October 2008. This resulted in a variety of weapons being handed in including knives, swords and cross bows.<sup>67</sup> Further weapons amnesties were also held in October 2009 and April 2010.

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<sup>67</sup> Victoria Police (2008) 'Last week for weapons amnesty', Media Release, Monday 27 October, available at [http://www.police.vic.gov.au/content.asp?Document\\_ID=17613](http://www.police.vic.gov.au/content.asp?Document_ID=17613).

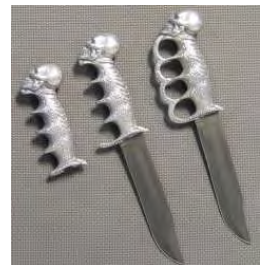
## Appendix B Prescribed weapons in the current regulations

The Control of Weapons Regulations in Victoria prescribes prohibited weapons in Schedule 2 and controlled weapons in Schedule 3. These schedules are provided below.

### Schedule 2

#### Prohibited Weapons

1. **Flick knife**, being a knife designed or adapted so that the blade is concealed when folded or recessed into the handle and which opens by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handle of the knife.
2. **Dagger**, being a sharp pointed stabbing instrument (other than an oyster knife), ordinarily capable of being concealed on the person and having—
  - (a) a flat blade with cutting edges (whether serrated or not serrated) along the length of both sides; or
  - (b) a needle-like blade, the cross section of which is elliptical or has 3 or more sides, but not including instruments such as swords or bayonets.
3. **Knuckle knife**, being an open or exposed blade or similar instrument attached to a handle that is designed or adapted to be held between the knuckles (including the device commonly known as the "Urban Pal Knife").



4. An article that is designed to include a concealed knife or sword blade, including but not limited to—
  - (a) a belt or similar article designed or adapted to hold a knife, dagger or similar instrument so that the presence of the knife, dagger or similar instrument is concealed or disguised as part of the belt or similar article when it is worn (for example an article known as the "Bowen Knife Belt");
  - (b) a **swordstick**, being a cane, stick or similar article designed or adapted to hold the blade of a sword so that it is concealed from view until withdrawn from the cane, stick or article;
  - (c) a riding crop designed or adapted to hold a blade or spike so that it is concealed from view until withdrawn from the crop.
5. **Butterfly knife**, being a knife with a 2 piece handle that folds together to cover both edges of the blade whether the blade is serrated or not serrated.
6. **Double-end knife**, being a knife that has the appearance of 2 overlapping curved blades joined together so as to form an ellipse shape.
7. A knife that is designed or adapted so that the blade is concealed by a plastic, wooden or metal sheath which retracts into the handle of the knife by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handle of the knife (including the knife commonly known as the "Black Eagle Knife").
8. **Push knife** or similar device designed as a weapon that consists of a single-edged or multi-edged blade or spike of any material that has a handle fitted transversely to the blade or spike and allows the blade or spike to be supported by the palm of the hand so that stabbing blows or slashes can be inflicted by a punching or pushing action.
9. **Trench knife** or similar device that consists of a single-edged or multi-edged blade or spike of any material that is fitted with a handle made of any hard substance that can be fitted over the knuckles of the hand of the user to protect the knuckles and increase the effect of a punch or blow, or that is adapted for such use.



10. **Throwing blade**, being a knife or axe of any material that is designed or modified to be thrown.



11. **Ballistic knife**, being a device or instrument designed or adapted to fire or discharge a knife, dagger or similar instrument by mechanical, percussive or explosive means.

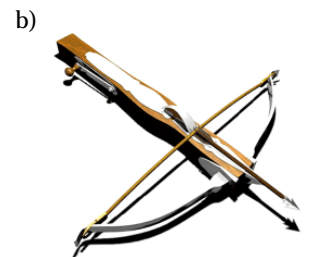


12. **Non-metal/ceramic knife**, being a knife, blade or spike of which no part is metallic, excluding plastic cutlery.



13. **Crossbow**, being a type of bow fixed transversely on a stock grooved to direct a dart, bolt or arrow and being, in particular—

- (a) a **Pistol Crossbow**, being a crossbow that is reasonably capable of being carried or concealed about the person and of being raised and discharged by one hand; and
- (b) a **General Category Crossbow**, being a crossbow that is not a pistol crossbow.



14. **Blow gun**, being a blow pipe or similar device or instrument designed to propel an arrow, dart or similar projectile by air expelled from the mouth.





15. A dart designed to be projected from a blow-gun or similar device.



16. A hunting sling or slingshot designed or adapted to be used with an arm brace which fits or rests on the forearm to support the wrist from the tension of the elastic material used to propel the projectile (including the device commonly known as the "Saunders Falcon Hunting Sling").



17. A catapult, shanghai or hunting sling (without arm brace described in item 15) that is manufactured and intended for commercial distribution.



18. A dart projector (for example, an article commonly known as the "Darchery Dartslinger") or any similar device that is manufactured and intended for commercial distribution.



19. A slingshot that is manufactured and intended for commercial distribution.



20. An article designed or adapted to discharge oleoresin capsicum spray.



21. An article designed or adapted to emit or discharge an offensive, noxious or irritant liquid, powder, gas or chemical so as to cause disability, incapacity or harm to another person.





22. An article designed or adapted to emit an electric current into a human body for the purposes of incapacitation or injury.



23. An acoustic anti-personnel device that is designed to cause permanent or temporary incapacity or disability, or to otherwise physically disorientate a person.

24. **Shark Dart** or any other similar device that is designed to expel, on or after contact, any gas or other substance capable of causing bodily harm.



25. **Extendable baton**, being a baton designed or adapted so that the length of the baton extends by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handle of the baton.



26. **Knuckle-duster**, being a device or instrument designed or adapted to be worn across a knuckle or knuckles of the hand, finger, fingers or thumb so as to—

- (a) increase the force or impact of a punch or blow when striking another person with that hand, finger, fingers or thumb; or
- (b) protect the knuckle or knuckles from injury when striking another person with that hand, finger, fingers or thumb.



27. **Weighted glove**, being a glove or any other similar article designed or constructed to be used as a weapon (including a fingerless glove) that has weighted material sown into it to increase the effect of a punch or blow.



28. **Studded glove**, being a glove or any other similar article designed or constructed to be used as a weapon (including a fingerless glove), that has a number of raised studs or spikes made of a hard substance and positioned over the back of the glove to increase the effect of a punch or blow.



29. A mace or any other similar article capable of causing injury that consists of a club or staff fitted with a flanged or spiked head, other than a ceremonial mace made for and used solely as a symbol of authority on ceremonial occasions.



30. A flail or any other similar article that consists of a staff or handle that has fitted to one end, by any means, a freely swinging striking part that is armed with spikes or studded with any protruding matter.



31. A whip with metal lashes.



32. A cat o'nine tails with knotted lashes.



33. A hand-held battery-operated article commonly known as a "laser pointer" designed or adapted to emit a laser beam with an accessible emission limit of greater than 1 mW.



34. An article that consists of a baton or stick constructed in such a way that it can be unscrewed or broken so as to form two or more parts joined by chain, rope or cord, including the martial arts weapons known as "Baton-chucks" or "Bo-chucks".



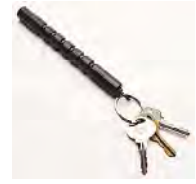
35. A scythe or sickle shaped article designed as a weapon that has a fixed or folding blade, and which may or may not have a chain attached, including the martial arts weapon known as "Kama".



36. An article consisting of a chain, rope or cord with a wooden or metal baton, stick or rod attached at each end, including the martial arts weapons known as "Kasari-Fundo", "Kusari-Fundo" and "Manrikigusari".



37. A stick or rod of any material designed as a weapon to be applied to the pressure points of the human body, including the martial arts weapon known as "Kubotan".



38. An article designed to be attached to, or worn on the hands or feet, that has claws attached, including the martial arts weapons known as "ninja climbing claws", "ninja hand claws" and "ninja foot claws".



39. An article that consists of two sticks, rods or batons joined by a cord, rope or chain including the martial arts weapon known as "Nunchaku".



40. **Sai** or **Jitte**, being a short, tapered, metal rod, dull at the point, with flared metal prongs guarding the handle.



41. An article consisting of a curved blade pointed at both ends with a handle attached to the middle, including the martial arts weapon known as "Suan Ywe Gou".



42. An article consisting of a blade or blades with cord, rope or chain attached for the purpose of enabling the blade to be thrown and retrieved, including the martial arts weapon known as "Shoge", "ninja Kyokeysu-Shoge" or "Kyotetsu Shoge".



43. **Throwing star**, being a sharpened star-shaped article designed for throwing, including the martial arts weapon known as "Surikan", "Suriken" or "Shaken" (including where the throwing star is attached to a belt-buckle).



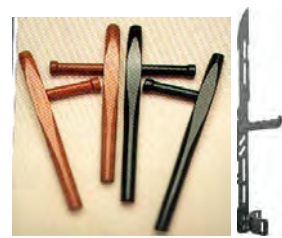
44. An article consisting of a handle and an edged blade, joined by chain or a combination of chain and metal pieces or steel rods, designed to be used as a whip, including the martial arts weapon commonly known as "Chinese whip", "whip spear", "7 piece iron chain", "9 piece iron chain", "Bian Tzu Chiang" or "Lien Tzu Chiang".



45. The martial arts weapon known as a "Butterfly Sword".



46. The martial arts weapon known as a "Tonfa".



47. **Sword**, being a thrusting, striking or cutting weapon with a long blade having 1 or 2 edges and a hilt or handle.



**Source for Pictures:** Victorian Department of Justice, 'Guide to Controlled and Prohibited Weapons' June 2010. The pictures are illustrative of the type of weapon described, but there may be a number of designs of each type of weapon, which may have a different appearance from those pictured.

## Schedule 3

### Controlled Weapons

2. \* \* \*  
Spear-gun.
3. **Baton** or **Cudgel**, being a short stout stick made of any material designed as a weapon, including the weapon commonly known as a "police nightstick".
4. **Bayonet**, being a thrusting, striking or cutting weapon designed to be attached to a firearm within the meaning of the **Firearms Act 1996**.



- \* \* \*
6. **Imitation firearm**, being a device within the meaning of paragraph (b) of the definition of **firearm** in the **Firearms Act 1996**. (Note: from 1 July 2011 imitation firearms will be classified as prohibited weapons.)
  7. Cattle prod.



**Source for Pictures:** Victorian Department of Justice, 'Guide to Controlled and Prohibited Weapons' June 2010. The pictures are illustrative of the type of weapon described, but there may be a number of designs of each type of weapon, which may have a different appearance from those pictured.

Note: under section 3(1) of the Control of Weapons Act 1990, controlled weapons also include all knives other than prohibited knives, including kitchen knives, pocket knives and swiss army knives.

## Appendix C Jurisdictional comparison

The control of weapons is under the jurisdiction of state and territory governments. Across Australia, each state and territory has enacted different legislation and associated regulations to address the problem of weapons. Common across all States and Territories is that regulations are used to prescribe the weapons that are controlled under the relevant Act. The specific weapons included in those regulations however, differ.

To demonstrate the current differences across States and Territories in terms of the type of weapons prescribed, a comparison table is provided in Table C.1. This lists all of the weapons included in regulations across the country and identifies which states prescribe them as either prohibited or controlled/restricted (or similar categorisations). There are some variations between jurisdictions in the levels of controls applied, the categories of weapons subject to controls and the definitions of particular weapons. These variations have developed over time as States and Territories respond to particular concerns or issues raised in their jurisdictions.

Table C.1 has been produced to provide an indication of the jurisdictional differences across Australia and has been developed at a point in time (March 2011). As such, it may not reflect any subsequent changes that have occurred. When interpreting this table it is important to note that there are several nuances in the definitions and classifications used by each jurisdiction that may not be entirely reflected. To offer a simple comparison that can easily be analysed, we have made some judgements to indicate the level of regulation in place for different weapons. The downside of simplifying in this way is that the table no longer reflects some of the detail inherent in the regulatory schemes and classifications used by each State and Territory.

If, at a national level, enforcement issues arise in respect of particular weapons, jurisdictions may discuss the extent to which jurisdictional controls should be consistent. It is important, however, to retain sufficient flexibility to enable States and Territories to respond appropriately to issues such as local trends in crime and perceptions of public safety.

There are some weapons that are commonly regulated in other states, but are not prescribed weapons in Victoria's regulations. These include:

- bomb, grenade, rocket, missile, mine
- launcher for bomb, grenade, rocket or missile
- silencer.

In Victoria, these items are covered by other areas of legislation and are therefore out of scope for this RIS.

**Table C.1 – Inter-jurisdictional comparison of regulated items**

Weapon	Vic	NSW	ACT	NT	QLD	WA	TAS	SA
Flick knife	●	●	●	●	●	●		●
Dagger	●		●	●		●		●
Butterfly knife	●	●	●	●		●		●
Double-end knife	●			●		●		○
Trench knife and/or knuckle knife	●	●	●	●		●		●
Throwing blade/knife	●		●	●		●		●
Ballistic knife	●	●	●	●	○	●		●
Non-metal/Ceramic knife	●			●				●
Knife/sword concealing item	●	●	●	●	●	●		●
Sheath knives	●	●	●	●				○
Push knife	●	●	●	●				●
Crossbow	●	●	●	●	●	●	●	●
Blow gun/pipe	●	●	●	●		●		●
Dart projector	●	●		●				●
Dart (designed for blow gun)	●	●		●				
Shark Dart	●	●	●	●		●		●
Hunting sling/slingshot/catapult	●	●	●	●		●		●
Spear gun	●	●	●	●		●		
Self protecting spray & dispenser (gas or liquid)	●	●	●	●	●	●		●
Electric shock weapon	●	●	●	●	●	●		●
Acoustic anti-personal device	●	●	●	●	●	●		●
Laser pointers	●	●	●	●		●		
Baton/Cudgel	●	●	●	●	●	●		
Extendable baton	●	●	●	●	●	●		●
Tonfa (like Japanese baton)	●			●		●		
Knuckle dusters	●	●	●	●	●	●		●
Weighted/sap glove	●	●	●	●	●			
Studded glove	●	●	●	●	●	●		
Mace	●	●	●	●	●			
Flail (or morning star)	●	●	●	●	●			●
Whip (with metal lashes)	●	●	●	●		●		
Cat o'nine tails	●	●	●	●				
Baton-chucks/bo-chucks	●			●		○		
Chain with baton attached at each end (Kusari-fundo)	●			●	●	●		
Nunchaku/kung-fu sticks	●	●	●	●	●	●		●
Sai or Jitte	●			●		●		
Curved blade pointed at both ends with a handle attached to the middle	●			●		●		○
Blades with cord to enable blade to be thrown and retrieved (shoge)	●			●				
Scythe/sickle/Kama	●			●		●		
Pressure point weapons	●			●		●		
Hand or foot claws	●		●	●		●		●



Weapon	Vic	NSW	ACT	NT	QLD	WA	TAS	SA
Throwing star/star knife	●	●	●	●	●	●		●
Handle and edged blade joined by a chain (i.e. Chinese whip)	●			●		●		
Sword	●			●		●		
Machete						●		
Butterfly sword	●			●		●		
Bayonet	●			●				●
Imitation firearm	●	●		●		●		
Cattle prod	●			●				
Body armour	●	●	●		●	●	●	
Flame thrower		●	●					
Handcuffs		●			●			
Firearm magazine		●	●					
Bomb, grenade, rocket, missile, mine		●	●		●			
Launcher for bomb, grenade, rocket or missile		●			●			
Any imitation of a bomb, grenade, rocket, missile or mine		●						
Silencer		●	●		●			
Brass catcher		●						
Tire deflating device		●						
Caltrop		●						
Equipment to make a smoke screen			●					
Trip flare			●					
A device to convert a firearm so it can fire in a fully automatic condition			●					
Folding, detachable, telescopic or collapsible stock			●					
Wasp injection knife				●				
Mortar					●			
All artillery and any incendiary or inflammable device					●			
Any clothing, apparel, adornment or accessory designed for use as a weapon or a cutting or piercing instrument capable of causing bodily harm					●			
Bow						●		
Spear						●		
Electromagnetic weapon						●		
Halberd						●		

- A prohibited weapon specifically covered in regulations
- A prohibited weapon covered as part of a broad category of weapons in regulations
- A controlled/restricted weapon specifically covered in regulations
- A controlled/restricted weapon covered as part of a broad category of weapons in regulations

As noted above, this table has been produced at a point in time and may not reflect the nuances of the different regulatory schemes and classifications used by each jurisdiction.



## Appendix D Market based mechanisms

There are several market mechanisms that could be relevant for weapons control. Some of these are already utilised by the Government to support the regulatory approach. When considered in isolation however (that is, without regulation), these approaches may not be sufficiently effective.

### Awareness and education campaigns

A common non regulatory measure is to undertake awareness and education campaigns. While this may be effective at reaching out to people and making them think about the issue, it may not give them sufficient incentives to change their behaviour. With no regulatory framework to support the campaign, there would be no consequences for individuals who do not adhere to the campaign.

Awareness campaigns are a suitable approach to address a problem under the following conditions:

- “when the problem or non-compliance results from misinformation or a lack of information
- when target audiences can be easily and economically reached
- when the virtues of a particular policy are not well understood
- when a light-handed approach would be more appropriate”.<sup>68</sup>

For the control of weapons, not all of these conditions are met. The problem identified in Chapter 2 does not arise due to a lack of information or understanding and a light-handed approach is unlikely to be more appropriate given the high risk and public safety concerns associated with weapons.

### Self or Co-regulation

Another approach to address the problem is to develop a self or co-regulatory approach. Self-regulation is where the government has no involvement, and “is generally characterised by industry-formulated rules and codes of conduct, with industry solely responsible for enforcement.”<sup>69</sup> Co-regulation follows the same concept, but has greater government involvement. Specifically, it “includes a wide range of rules or arrangements where governments influence businesses to comply, but which do not form part of explicit government regulation.”<sup>70</sup> It can take many forms “such as codes of practice, advisory notes, guidelines, and rules of conduct, issued by either non-government or government bodies.”<sup>71</sup>

In the case of weapons control, a self or co-regulatory approach could focus around the organisations that sell weapons and the clubs and societies based around weapon related sports, activities or interests. While conceptually, such organisations could develop codes of practice supported by government, this

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<sup>68</sup> Department of Treasury and Finance (Victoria) (2011), *Victorian Guide to Regulation*, Edition 2.1, Melbourne.

<sup>69</sup> Office of Best Practice Regulation (2007), ‘Best Practice Regulation Handbook’, <http://www.finance.gov.au/obpr/docs/handbook.pdf>. Accessed on: 22 March 2011.

<sup>70</sup> Office of Best Practice Regulation (2007), ‘Best Practice Regulation Handbook’, <http://www.finance.gov.au/obpr/docs/handbook.pdf>. Accessed on: 22 March 2011.

<sup>71</sup> Commonwealth Interdepartmental Committee on Quasi-regulation (1997), *Grey-letter law*, Canberra.

type of approach is unlikely to be appropriate for weapons control. The advantages and disadvantages of self and co-regulation are outlined in Table D.1. While these approaches may pose a viable solution for addressing certain problems, there are particular circumstances that should be met for these approaches to be considered appropriate. Also outlined in Table D.1 are the suitable conditions under which self and co-regulation could be used.

**Table D.1 Advantages, disadvantages and suitability of self and co-regulation<sup>72</sup>**

	Self-regulation	Co-regulation
<b>Advantages</b>	<ul style="list-style-type: none"> <li>• Lower administration costs for government and compliance costs for industry</li> <li>• Allows for innovative behaviour of industry participants</li> <li>• Improved credibility (and potentially greater compliance) because rules are developed by business, not imposed by governments</li> <li>• Utilises the expertise and experience of those in the targeted industry</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced resource burden on government to develop/administer the regulation</li> <li>• Utilises the expertise and experience of those in the targeted industry</li> <li>• Encourages industry or professional association to take greater responsibility for the behaviour of its members</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>• May be used to create restrictions on competition, or implicit barriers to entry and trade</li> <li>• Credibility of sanctions may be low in the absence of legislative backing</li> <li>• Imposes monitoring costs on industry or relevant professional association</li> </ul>	<ul style="list-style-type: none"> <li>• May be used to create restrictions on competition, or implicit barriers to entry and trade</li> <li>• Danger of regulatory 'capture', whereby government agencies promote the interests of the regulated parties at the expense of the community at large.</li> <li>• Can create confusion about regulatory requirements</li> <li>• Due to its general convenience and lack of scrutiny, sometimes used as 'backdoor regulation'</li> </ul>
<b>Suitable conditions for use</b>	<ul style="list-style-type: none"> <li>• The problem is a low risk event, of low impact or significance</li> <li>• The problem can be fixed by the market</li> <li>• There is no strong public interest concern – in particular, no major public health or safety concern</li> <li>• there is sufficient power and commonality of interest within an industry to deter non-compliance</li> <li>• a body with appropriate expertise and representation is available to develop an industry code or standard.</li> </ul>	<ul style="list-style-type: none"> <li>• There is public interest in government involvement, and the issue is unlikely to be addressed by self-regulation</li> <li>• There is need for an urgent, interim response</li> <li>• When there are advantages in the government engaging in a collaborative approach with industry, with industry having strong ownership of the scheme.</li> </ul>

It is clear from the conditions in Table D.1 that self-regulation would not be suitable for the control of weapons. The problem identified in Chapter 2 would have a high impact (i.e. there is a high cost from weapons related offences), meaning it represents a high risk to society and there is a strong public interest safety concern. In addition, the organisations involved with weapons are small and wide spread, meaning there is no large body to coordinate a scheme and encourage compliance.

Similarly, for co-regulation the suitable conditions for use do not seem to be apparent in relation to weapons. There is no need for an urgent or interim response to the problem as regulation can be enacted quickly and there is no body or organisation to take strong ownership of the scheme.

<sup>72</sup> Office of Best Practice Regulation (2007), 'Best Practice Regulation Handbook', <http://www.finance.gov.au/obpr/docs/handbook.pdf>. Accessed on: 22 March 2011; Department of Treasury and Finance (Victoria) (2011), *Victorian Guide to Regulation*, Edition 2.1, Melbourne.

Another major problem with these approaches is they will not target all parties relevant to weapons control. While those who are engaged in legitimate weapons related activities would be subject to some form of regulation (i.e. codes of conduct), individuals who are carrying weapons with no legitimate purpose would not be regulated. It is these people that are more likely to cause a problem by using their weapon in a harmful way. Therefore, this option would not target the appropriate groups of people and may not reduce the potential harm from weapons use.

## Appendix E Recent weapons related offence trends

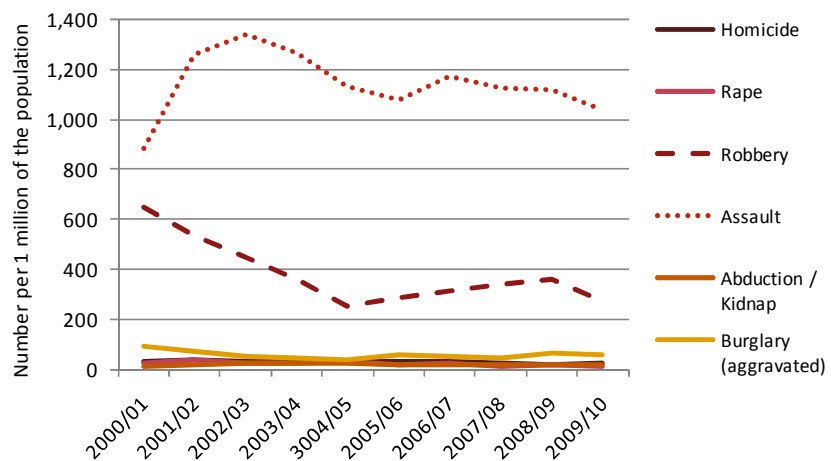
While we estimate that the yearly cost of weapons related crime in Victoria amounts to around \$230 million, based on the most recent data available, interestingly the weapons related crime statistics have fluctuated significantly over time.

Establishing the level of correlation between changes to regulations and fluctuation in weapons related crime statistics is extremely difficult. Therefore, we cannot assume that the trends highlighted in this appendix are directly attributable to the current control of weapons regulations. Despite this limitation, analysis of weapons related crime statistics does provide some interesting context.

### Weapon related crime

The trend in weapon related offences over the last 10 years is shown in Figure E.1.

**Figure E.1 Number of reported offences using a weapon in Victoria by weapon and offence type<sup>73</sup>**

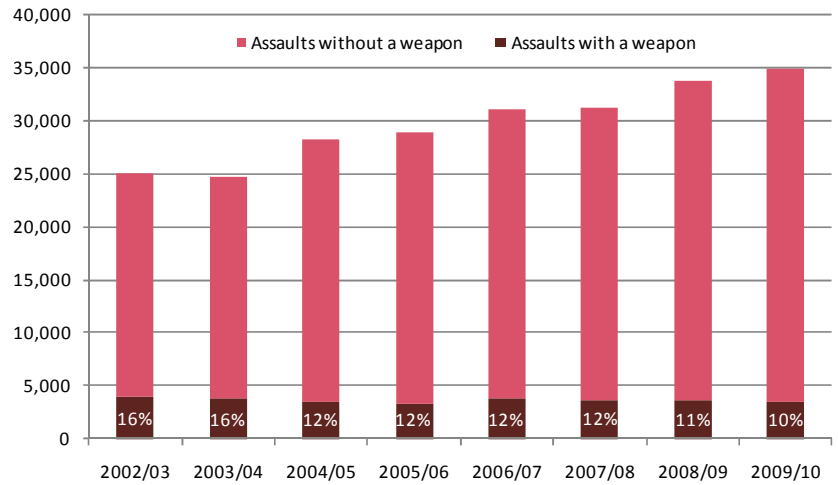


While the number of assaults using a weapon was increasing to 2002/03, there has generally been a downward trend in the number of offences using a weapon over recent years. This trend has also been true for the percentage of all assaults and robberies that have involved a weapon.

Figure E.2 shows that despite constant growth in the number of reported assaults over the last eight years, the proportion of these assaults that involve a weapon has significantly decreased from around 16 per cent to 10 per cent.

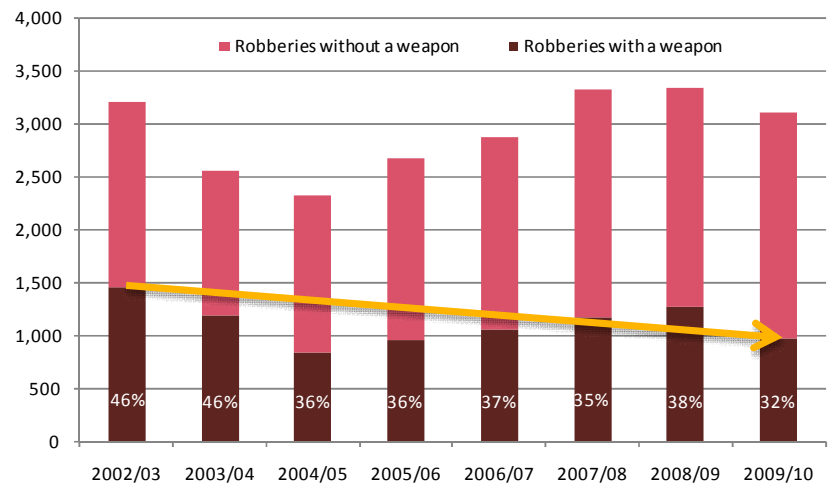
<sup>73</sup> Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence and recorded as such. The total for each offence category may not coincide with the actual total number of offences.

**Figure E.2 Proportion of reported assaults with a weapon over time<sup>74</sup>**



Similarly, Figure E.3 demonstrates that reported robberies with a weapon have decreased as a proportion of total reported robberies.

**Figure E.3 Proportion of reported robberies with a weapon over time<sup>75</sup>**



These trends suggest that weapons related crime is falling. It is difficult to ascertain the true reason behind the fall in offences using weapons. Weapons have been regulated for over a decade and many different campaigns have been targeted at crime and weapon related offences. The trend would be affected by varying levels of enforcement and the extent to which people report crimes.

<sup>74</sup> Victoria Police (2010) Crime Statistics; Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence and recorded as such. The total for each offence category may not coincide with the actual total number of offences.

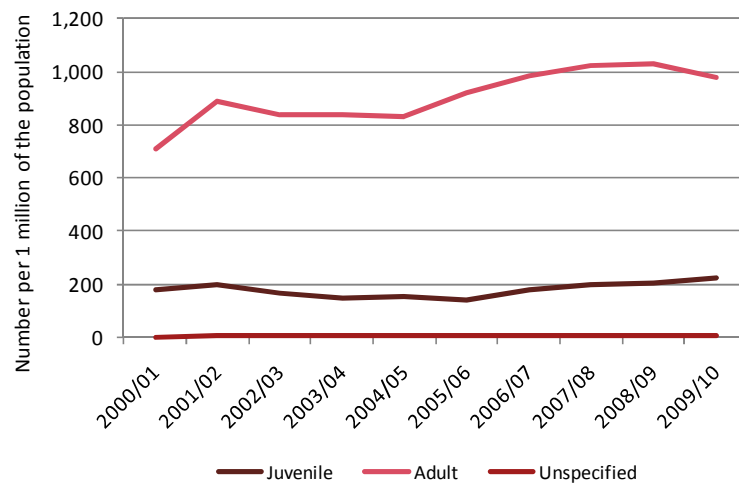
<sup>75</sup> Victoria Police (2010) Crime Statistics; Victoria Police (2011) Custom data provided to PwC. The custom data provided by Victoria Police is restricted to include offences where multiple weapons may be used, threatened and or displayed during the course of the offence and recorded as such. The total for each offence category may not coincide with the actual total number of offences.

Therefore, we cannot assume that these trends have been caused by the control of weapons regulations. While it is possible that the regulations were one factor affecting these trends, there are too many other factors surrounding the change to identify the exact impact of the regulations.

### Breaches of the Control of Weapons Act

The number of weapons and explosives offences recorded by Victoria Police has been increasing over the last 10 years. This suggests that the number of recorded offences under the Control of Weapons Act has increased. While this could represent an increase in the number of people carrying, selling or purchasing weapons unlawfully, it is difficult to estimate what impact the level of enforcement has had on these figures. Nevertheless the upward trend, which is shown in Figure E.4, does indicate the likelihood that such offences have gone up rather than down. This could indicate a rise in the circulation of weapons.

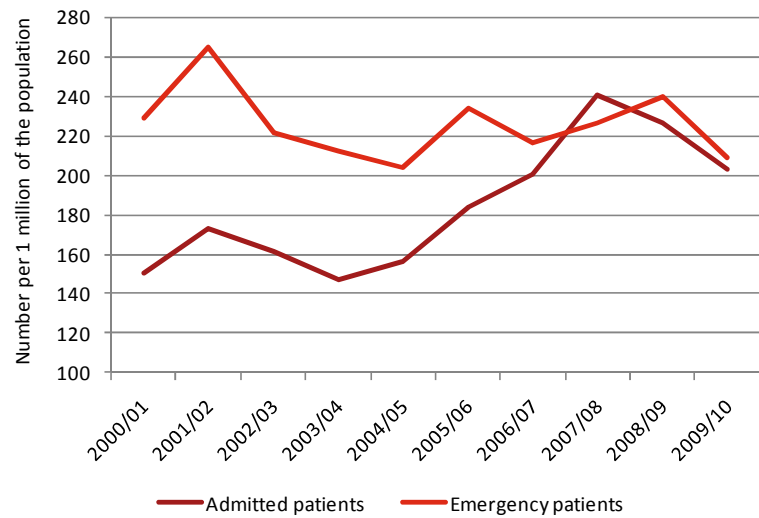
**Figure E.4 Weapons and explosives offences reported<sup>76</sup>**



While Victoria Police data indicates a downward trend in weapon related offences, data from the Department of Health indicates that the severity of harm is actually increasing. Figure E.5 shows the trend in the number of hospital patients that have been assaulted with a sharp (or cutting and piercing) object. While the number of patients arriving in emergency departments has fallen slightly, the number of admitted patients is now much higher.

<sup>76</sup> Victoria Police (2011) Custom data provided to PwC.

**Figure E.5 Number of patients assaulted with a sharp object<sup>77</sup>**



The reducing gap between the number of emergency and admitted patients could be indicating that more people being brought to the emergency room have a serious enough injury to be admitted into the hospital.

The statistics and trends above show the level of weapons related crime within the current status quo, being with regulations in place. If weapons related offences are occurring and the severity may be getting worse with the current regulations in place, withdrawing or diluting those regulations may make the extent of that problem worse. We note however that this conclusion does assume some causality between the regulations and the trends identified above. While at this stage we cannot make this claim definitively, further research into weapon related crime rates before the regulations or the Act were introduced could provide further insight.

<sup>77</sup> Department of Health (2011) Custom data provided to PwC. 'Emergency patients' data comes from the Victorian Emergency Minimum Dataset (VEMD), which includes representations at Victorian public hospitals with 24-hour Emergency Departments. 'Admitted patients' data comes from the Victorian Admitted Episodes Dataset (VAED), which includes admitted patients from Victorian public and private acute hospitals including rehabilitation centres, extended care facilities and day procedure centres.

## Appendix F Assumptions made in the cost benefit analysis

### 1 General assumptions

Assumption type	Amount	Source
<b>Discount rate</b>	3.5%	VCEC
<b>Timeframe for analysis</b>	10 years	PwC

### 2 Reported offence data

Assumption type	Amount	Source
<b>Assault</b>	3,733	2009-10 figure. Victoria Police data
<b>Robbery</b>	987	2009-10 figure. Victoria Police data
<b>Rape (+ non rape sex)</b>	36	2009-10 figure. Victoria Police data
<b>Homicide</b>	92	2009-10 figure. Victoria Police data
<b>Abduction / Kidnap</b>	57	2009-10 figure. Victoria Police data
<b>Burglary (aggravated) (+residential and other)</b>	205	2009-10 figure. Victoria Police data

### 3 Gross up factor (for estimating actual offences from reported offences data)

Assumption type	Amount	Source
<b>Assault</b>	3.23	ABS (2005) Crime and Safety
<b>Robbery</b>	2.63	ABS (2005) Crime and Safety
<b>Rape (+ non rape sex)</b>	5.20	Rollings, K., Australian Institute of Criminology (2005) 'Counting the costs of crime in Australia: a 2005 update', Research and Public Policy Series, No. 91.
<b>Homicide</b>	1.00	Rollings, K., Australian Institute of Criminology (2005) 'Counting the costs of crime in Australia: a 2005 update', Research and Public Policy Series, No. 91; Walker, J. (2003) 'Measuring the costs of crime'
<b>Abduction / Kidnap</b>	4.31	Walker, J. (2003) 'Measuring the costs of crime'
<b>Burglary (aggravated) (+residential and other)</b>	3.40	Rollings, K., Australian Institute of Criminology (2005) 'Counting the costs of crime in Australia: a 2005 update', Research and Public Policy Series, No. 91.

### 4 Weapons approvals

Table 31: 2009-10

Assumption type	Amount	Source
<b>Approved individuals</b>		
<b>New - did not have firearms licence</b>	26	Victoria Police custom data.
<b>New - had firearms licence</b>	5	Victoria Police custom data.
<b>Renewal - did not have firearms licence</b>	5	Victoria Police custom data.
<b>Renewal - had firearms licence</b>	0	Victoria Police custom data.
<b>Vary - did not have firearms licence</b>	2	Victoria Police custom data.



Assumption type	Amount	Source
Vary - had firearms licence	0	Victoria Police custom data.
<b>Approved organisations</b>		
New - did not have firearms licence	88	Victoria Police custom data.
New - had firearms licence	34	Victoria Police custom data.
Renewal - did not have firearms licence	65	Victoria Police custom data.
Renewal - had firearms licence	47	Victoria Police custom data.
Vary - did not have firearms licence	6	Victoria Police custom data.
Vary - had firearms licence	7	Victoria Police custom data.

**Table 32: 2010-11**

Assumption type	Amount	Source
<b>Approved individuals</b>		
New - did not have firearms licence	17	Victoria Police custom data.
New - had firearms licence	4	Victoria Police custom data.
Renewal - did not have firearms licence	4	Victoria Police custom data.
Renewal - had firearms licence	2	Victoria Police custom data.
Vary - did not have firearms licence	1	Victoria Police custom data.
Vary - had firearms licence	1	Victoria Police custom data.
<b>Approved organisations</b>		
New - did not have firearms licence	90	Victoria Police custom data.
New - had firearms licence	39	Victoria Police custom data.
Renewal - did not have firearms licence	65	Victoria Police custom data.
Renewal - had firearms licence	44	Victoria Police custom data.
Vary - did not have firearms licence	1	Victoria Police custom data.
Vary - had firearms licence	1	Victoria Police custom data.

Note: 2010-11 data is only captured until April 2011. An adjustment was made to this data in the model to add on the remaining three months of the year at the average monthly amount.

## 5 Cost of offences assumptions

Assumption type	Amount	Source
Assault	\$1,859.60	Walker, J (2003)
Robbery	\$4,075.62	Walker, J (2003)
Rape (+ non rape sex)	\$2,606.64	Walker, J (2003)
Homicide	\$1,681,564.25	Walker, J (2003)
Abduction / Kidnap	\$2,018.16	Walker, J (2003)
Burglary (aggravated) (+residential and other)	\$2,575.54	Walker, J (2003)
Index factor to bring figures into 2010 dollars	1.2069	1+% change in indices from December 2003 to December 2010 based on Melbourne's Consumer Price Index. Australian Bureau of Statistics, (2010) 'Consumer Price Index, Australia: 6401.0'

In measuring the cost of crime, the Walker study includes medical costs, lost output costs, intangible costs and property losses. Intangible costs reflect impacts such as fear, pain, suffering and lost quality of life.

## 6 Cost of regulation assumptions

Assumption type	Amount	Source
<b>On-costs gross up factor</b>	20%	Victoria Police
<b>Approval application fees</b>		
<b>Fee if already possess a firearms licence</b>	\$140.50	Victoria Police (Fees for 2011-12)
<b>Fee if do not possess a firearms licence</b>	\$165.00	Victoria Police (Fees for 2011-12)
<b>Application to vary an approval</b>	\$61.10	Victoria Police (Fees for 2011-12)
<b>Fee unit value</b>	\$12.22	Department of Treasury and Finance
<b>Approval application costs – individuals and organisations</b>		
<b>Time taken to submit an approval application (number of hours)</b>	30 minutes	Assumption based on Department of Justice (2005), <i>Private Security Regulations 2005: Regulatory Impact Statement</i> , as the application process and requirements are similar to that for the Control of Weapons Regulations
<b>Opportunity cost of applicant's time (i.e. hourly rate for leisure/recreational time)</b>		
<b>% of wage</b>	50%	Free time is valued at about half a person's wage. Brown, E. (1999) 'Assessing the value of volunteer activity', <i>Nonprofit and Voluntary Sector Quarterly</i> , 28, 3, page 11.
<b>Average Weekly Earnings</b>	\$1,286.10	Australia Bureau of Statistics
<b>Hours per week</b>	37.5	PwC
<b>Minutes per hour</b>	60	PwC
<b>Victoria Police approval costs</b>		
<b>Cost of handguns, weapons and compliance assurance section (including oncosts but excluding overheads)</b>	379,417	Victoria Police (LSD)
<b>Cost of policy and publication team (including oncosts but excluding overheads)</b>	243,492	Victoria Police (LSD)
<b>Cost of Regulatory Support Services (Enforcement and Training) Team (including oncosts but excluding overheads)</b>	191,786	Victoria Police (LSD)
<b>Weapons related work for the handguns, weapons and compliance assurance section</b>	50%	Victoria Police (LSD)
<b>Weapons related work for the policy and publication team</b>	33%	Victoria Police (LSD)
<b>Weapons related work of Regulatory Support Services (Enforcement and Training) Team</b>	33%	Victoria Police (LSD)
<b>Sales recording costs - businesses</b>		
<b>Number of businesses holding a weapons approval.</b>	135	
<b>Average annual sales per business</b>	188 sales	Consultation undertaken by PwC
<b>Time taken to make the sales record (minutes)</b>	7 mins	Consultation undertaken by PwC
<b>Weekly wage rate of person recording</b>	\$1,286.10	Australia Bureau of Static
<b>Membership costs</b>		
<b>Number of collection associations/societies</b>	16	List of exemptions - Government Gazette
<b>Members per collection association</b>	85	Consultation undertaken by PwC
<b>Reason for joining</b>		
<b>- Activity based groups</b>	0%	Consultation undertaken by PwC
<b>- Collectors (weapons)</b>	12.5%	Consultation undertaken by PwC
<b>- Martial Arts</b>	0%	Consultation undertaken by PwC

Assumptions made in the cost benefit analysis

Assumption type	Amount	Source
<b>Membership costs</b>		
<b>Collection association</b>	\$43	Consultation undertaken by PwC

## Appendix G Assumptions made in the sensitivity analysis

### 1 General assumptions

Assumption type	Lower bound	Upper bound
Time taken to submit an approval application (number of hours)	0.1	1.0
Opportunity cost of applicant's time (i.e. hourly rate for leisure/recreational time)	30%	80%
Number of businesses holding a weapons approval to purchase or sell	500	600
Annual sales per business	20	400
Time taken to make the sales record (minutes)	1	15
Number of associations	10	30
Number of members	20	300
Reason for joining	5%	30%
Membership costs	25	65

## Appendix H Consultation

To inform the assumptions and data points for the cost benefit analysis, we have consulted with:

- Victoria Police, Licensing and Regulations Division
- Representatives from the following traders:
  - Vector Trading
  - Chris's Knives
  - Tan's Martial Arts
  - Glen Drane knives
  - Global Gear
  - World Wide Martial Arts
  - Melbourne Archery Depot
- Representatives from the following clubs/societies:
  - Golden City Collectors' Club (Bendigo)
  - Geelong Military Re-enactment Society
  - Australian Kendo Renmai Incorporated

Victoria provided us with estimates of the costs of administration and enforcement of approvals, as well as data on weapon related offences in Victoria. From our consultation, it was clear that Victoria Police support a regulatory response to the control of weapons. The Control of Weapons Regulations provide clarity for Victoria Police, allowing them to more readily apply the provisions of the Act.

Our consultations with weapons businesses (i.e. traders) were mostly focused around understanding the compliance costs imposed by the regulations. For example, the time to fill in an approval form and the time spent recording transactions. Most, if not all, of these traders are small businesses. By focusing on the compliance costs, our consultation identified the administrative burden that these businesses face. These impacts have been included in the cost benefit analysis of the options. Other than this, one point that did come through in our discussions was that the current requirement to obtain an approval and pay fees discourages some individuals from purchasing a weapon and therefore engaging in legitimate weapons use.

Our consultation with clubs and societies was also focused on gathering information on compliance costs. Hence, we collected information on membership numbers and costs, rather than information on the effectiveness of the regulations. Beyond this, our consultation (while limited) did indicate that clubs with a special interest purpose (i.e. re-enactment or martial arts societies) tend to require their members to have minimum levels of involvement in the activities of the club. This may indicate that most members join because they gain benefit from the activities of the club, not simply to obtain the exemption from the regulations.

Further consultation will be undertaken by the Department of Justice in the second half of 2011.

