

SUMMARY OF REASONS FOR DECISION

Under the Films, Videos, and Publications Classification Act 1993 (FVPC Act)

HEADNOTE

Title of publication:	Far Cry 4
Other known title(s):	Not stated
OFLC ref:	1400753.000
Medium:	Console Game
Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.
Descriptive note:	Contains violence and offensive language.
Display conditions:	None

The publication is a console game formatted for play on the PlayStation 4 console.

The game is the fourth in a series of first-person “shooter” games by Ubisoft featuring attractive open world gaming environments and military-themed action game play. *Far Cry 4* is set in Kyrat, a politically-troubled region in the Himalayas that is set to descend into civil war. The player character is Ajay, an English-speaking Nepalese native who returns to Kyrat to scatter his mother’s ashes, and gets caught up in the conflict between the despotic regime led by King Pagan Min, and the freedom fighters known as Golden Path.

As the game progresses Ajay acquires an ever greater arsenal of weapons which he uses against the government forces in a range of missions, which include rescuing hostages, object retrieval and sabotage. Kyra is a large open world that outside of story missions can be explored at will using land based vehicles and even hang gliders.

The publication deals with matters of crime, cruelty and violence in terms of s3(1) of the FVPC Act. The game contains references to drugs, in that Ajay can search the bodies of his opponents and sometimes recover heroin or “Trucker Speed”. The drugs cannot be used however and can only be traded for weapons or health packs in villages. The extent and degree to which, and the manner in which, the publication depicts the infliction of serious physical harm and acts of significant cruelty are discussed in relation to s3(3)(a)(i).

The publication does not promote or support, or tend to promote or support, any s3(2) matters.

The game depicts the infliction of serious physical harm to a high extent and moderate degree. Significant cruelty occurs only infrequently. While the game play involves a number of different elements such as building up relationships with characters and exploring the vast landscape, most of the playing time is spent killing adversaries in frenetic shootouts. Enemies can be shot with a variety of advanced weaponry; revolvers, sniper rifles, grenades, shotguns and rocket launchers are just some of the weapons that are available. Despite the different kinds of weapons that may

be employed the results are the same – a brief blood burst followed by a short-lived death throes. Enemies can also be killed in close-range attacks with weapons such as machetes and knives. This results in slightly bloodier kills, although the blood disappears from the environment quickly. One of the crueller depictions occurs during a cinematic cut scene that unfolds at the beginning of the game. Ajay watches as Pagan Min stabs a henchman in the face repeatedly with a pen. Most of the stabs are obscured by the men's bodies but Pagan's face does end up being spattered in very realistic-looking blood sprays.

The violence and cruelty in the game are balanced to some extent by virtue of the overall lack of realism – opponents are uniformly one-dimensional and react in unintelligent ways when fired upon. The violence is restrained in comparison with some games of the first-person genre, in that there are only small amounts of blood from enemy kills, and the player cannot inflict post-mortem damage.

Under s3A the game contains frequent use of the word "fuck" and its derivatives. The language is likely to cause serious harm to younger viewers, as it may encourage emulation and inappropriate use by normalising this kind of language.

The dominant effect of the publication as a whole is of an expansive free-roaming first-person shooter. The environments are richly detailed and immersive, and the game play most often revolves around repetitive violent armed confrontation.

The unrestricted availability of the publication would be injurious to the public good. The game's depictions of violence and cruelty would be disturbing to children or younger persons, and for some would trivialise violence by presenting it as entertaining and exciting. Constant exposure to the game's killings of human beings, in which the player is an active participant, has the potential to desensitise some towards violent behaviour in real life. The widespread use of highly offensive language further supports an age restriction. Likelihood of injury to the public good is reduced by restricting this publication to audiences that have attained the age of 16 years. This classification interferes with the freedom of expression contained in the New Zealand Bill of Rights Act 1990 but is consistent with s3 of the FVPC Act to limit the availability of publications likely to be injurious to the public good.

Note:

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CONSIDERATION SHEET

OFLC ref: 1400753.000

Submission channel: s12(1)

Title of publication: Far Cry 4

Other known title: Not stated

Medium: Console Game

Distributor: Fiveight Distribution Ltd


Country of origin: Canada

Language: English

Applicant: Film & Video Labelling Body

Examination transcript No: 632, p205

Examination date: 03 September 2014

Classification Officer(s): 

Other identifying information:

COMPONENTS OF FILM**Components of film originally examined:**

	Components	Running time
Game:	Far Cry 4	
Total running time:		

Components of film excised:

EXAMINATION

Section 23 Examination and classification –

...the Classification Office shall examine the publication to determine the classification of the publication.

Section 24 Soundtrack to be considered -

Where a film is intended to be viewed with an accompanying soundtrack (whether or not the soundtrack is an integral part of the film), an examination of the film under s23 of the Act shall also take into account the content of the soundtrack and its relationship to the film.

Description of Publication:

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As the game progresses Ajay acquires an ever greater arsenal of weapons which he uses against the government forces in a range of missions, which include rescuing hostages, object retrieval and sabotage. Kyrat is a large open world that outside of story missions can be explored at will using land based vehicles and even hang gliders.

Statutory Submissions

Section 20 – Synopsis of Written Submissions

Not Applicable	X
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Section 21 Other Assistance

None Requested	X
See Record of Assistance	

Other Relevant Information

None Considered	<input type="checkbox"/>
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In reaching a classification decision the Classification Office may consider a variety of information including **previous decisions** of the Classification Office or other **ensorship bodies, research, books, articles, reviews**, and information obtained from the **Internet**. If you have used any of this information please record this below.

Previous decisions				
Classification Body	OFLC	<input type="checkbox"/>	VRA	<input type="checkbox"/>
	Chief Censor of Film	<input type="checkbox"/>	IPT	<input type="checkbox"/>
Title: Previous versions of Far Cry				
Publication/Certificate/Decision No.				

Other Sources (please specify and reference):

CLASSIFICATION

Section 3 Meaning of “objectionable”-

s3(1) ... a publication is objectionable if it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

Subject Matter Gateway

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570; (2000) 6 HRNZ 28, must also be taken in to account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the question is whether or not it deals with the following:

Matters such as sex

Included as a "matter such as sex" is any publication that in terms of s3(1A) –

- (a) ... is or contains 1 or more visual images of 1 or more children or young persons who are nude or partially nude; and
- (b) those 1 or more visual images are, alone, or together with any other contents of the publication, reasonably capable of being regarded as sexual in nature.

N/A

Matters such as horror

N/A

Matters such as crime

The publication deals with matters of crime in so far as the storyline involves murder. There are also references to drugs, in that Ajay can search the bodies of his opponents and sometimes recover heroin or “Trucker Speed”. The drugs cannot be used however and can only be traded for weapons or health packs in villages.

Matters such as cruelty
See violence

Matters such as violence

The publication deals with matters of cruelty and violence in terms of s3(1) of the FVPC Act. The extent and degree to which, and the manner in which, the publication depicts the infliction of serious physical harm and acts of significant cruelty are discussed in relation to s3(3)(a)(i).

Or – The content of the publication does not bring it within any "subject matter gateway".

For publications that fall outside the "subject matter gateway" go to s3A and s3B

Section 3(2) Certain publications are deemed to be objectionable –

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"¹ in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.²

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

s3(2)(a) The exploitation of children, or young persons, or both, for sexual purposes.

In *Moonen v Film and Literature Board of Review (Moonen II)* [2002] 2 NZLR 754, the Court of Appeal stated that the absence of definitions of "young persons" and "children" in s3(2)(a) was deliberate. The provision does not require proof of the models' ages; it requires an assessment of whether or not the publication in which the models appear promotes or supports the exploitation of children or young persons for sexual purposes:

¹ *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

² Above n2 at para 29.

The legislation is concerned with the vulnerability of young people and with the corrosive injury to the public good of depicting persons perceived to be children or young people as subjects for exploitation. The Board properly assessed whether the publication of the photographs would tend to promote or support the exploitation of children or young persons, not limited to the impact on the particular persons photographed. The inquiry under s3 does not require the ascertainment of the precise age of the person photographed.³

It was Parliament's intention therefore that s3(2)(a) should apply to any publication as defined in the Act, that promotes, supports, or tends to promote or support, the exploitation of children or young persons for sexual purposes. As long as a publication at least tends to promote or support such exploitation, whether or not it depicts underage models, no underage models or no models at all is irrelevant to the proper application of s3(2)(a). The issue is whether, on the evidence presented by the publication itself, the publication at least tends to promote or support the exploitation of children or young persons for sexual purposes.

N/A

s3(2)(b) *The use of violence or coercion to compel any person to participate in, or submit to, sexual conduct.*

N/A

s3(2)(c) *Sexual conduct with or upon the body of a dead person.*

N/A

s3(2)(d) *The use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct.*

N/A

s3(2)(e) *Bestiality.*

N/A

s3(2)(f) *Acts of torture or the infliction of extreme violence or extreme cruelty.*

N/A

If the publication promotes and supports, or tends to promote and support, any of the 3(2) provisions above and is deemed objectionable go to the Bill of Rights section.

However, section 32 of the FVPC Act directs the Classification Office to consider whether it would classify the publication differently if the material falling under s3(2) were excised or altered. If an excision were made, the publication would no longer fall under 3(2) of the FVPC Act. If the publication contains material that falls under 3(2) which can be excised or altered, go the Excisions section and then return to s3(3) and 3(4) below.

Otherwise, if the publication does not fall under s3(2) consider the following matters:

Section 3(3) Matters to be given particular weight –

In determining, for the purposes of the Act, whether or not any publication (other than a publication to which subsection 3(2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable, the following matters shall also be considered:

³ *Moonen v Film and Literature Board of Review* [2002] 2 NZLR 754 at para 40.

...particular weight shall be given to the **extent** and **degree** to which, and the **manner** in which, the publication describes, depicts, or otherwise deals with...

s3(3)(a)(i) Acts of torture, the infliction of serious physical harm, or acts of significant cruelty.

The game depicts the infliction of serious physical harm to a high extent and moderate degree. While the game play involves a number of different elements, such as building up relationships with characters and exploring the vast landscape, most of the playing time is spent killing adversaries in frenetic shootouts. Enemies can be shot with a variety of advanced weaponry. Revolvers, sniper rifles, grenades, shotguns and rocket launchers are just some of the weapons that are available. Despite the different kinds of weapons that may be employed the results are the same -- a brief blood burst followed by a short-lived death throe. Enemies can also be killed in close-range attacks with weapons such as machetes and knives. This results in slightly bloodier kills, although the blood disappears from the environment quickly. One of the crueller depictions occurs during a cinematic cut scene that unfolds at the beginning of the game. Ajay watches as Pagan Min stabs a henchman in the face with a pen. Most of the stabs are shielded by the men's bodies but Pagan's face does end up being splattered in very realistic-looking blood sprays.

The violence and cruelty are balanced to some extent by virtue of the fact that opponents are uniformly one-dimensional and react in unintelligent ways when fired upon. The violence is restrained in comparison with some games of the first-person genre, in that there are only small amounts of blood from enemy kills, and the player cannot inflict post-mortem damage.

s3(3)(a)(ii) Sexual violence or sexual coercion, or violence or coercion in association with sexual conduct.

N/A

s3(3)(a)(iii) Other sexual or physical conduct of a degrading or dehumanising or demeaning nature.

N/A

s3(3)(a)(iv) Sexual conduct with or by children, or young persons, or both.

N/A

s3(3)(a)(v) Physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain.

N/A

...particular weight shall be given to the **extent** and **degree** to which, and the **manner** in which, the publication

s3(3)(b) Exploits the nudity of children or young persons, or both.

N/A

s3(3)(c) Degrades, dehumanises or demeans any person.

N/A

s3(3)(d) Promotes or encourages criminal acts or acts of terrorism.

N/A

s3(3)(e) Represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.⁴

⁴ The grounds of discrimination prohibited by s21(1) of the Human Rights Act 1993 are sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.

N/A

3A Publication may be age-restricted if it contains highly offensive language likely to cause serious harm

3A(1) A publication to which subsection 3A(2) applies may be classified as a restricted publication under section 23(2)(c)(i).

3A(2) *This subsection applies to a publication that contains highly offensive language to such an extent or degree that the availability of the publication would be likely, if not restricted to persons who have attained a specified age, to cause serious harm to persons under that age.*

3A(3) *In this section, **highly offensive language** means language that is highly offensive to the public in general.*

Under s3A the game contains frequent use of the word "fuck" and its derivatives. The language is likely to cause serious harm to younger viewers, as it may encourage emulation and inappropriate use by normalising this kind of language.

3B Publication may be age-restricted if likely to be injurious to public good for specified reasons

3B(2) This subsection applies to a publication that contains material specified in subsection (3) to such an extent or degree that the availability of the publication would, if not restricted to persons who have attained a specified age, be likely to be injurious to the public good for any or all of the reasons specified in subsection (4).

3B(3) *The material referred to in subsection (2) is material that*

3B(3)(a) *describes, depicts, expresses, or otherwise deals with—*

3B(3)(a)(i) *Harm to a person's body whether it involves infliction of pain or not (for example, self-mutilation or similarly harmful body modification) or self-inflicted death.*

Discussed elsewhere

3B(3)(a)(ii) *Conduct that, if imitated, would pose a real risk of serious harm to self or others or both.*

N/A

3B(3)(a)(iii) *Physical conduct of a degrading or dehumanising or demeaning nature.*

N/A

3B(3)(b) *is or includes 1 or more visual images—*

3B(3)(b)(i) *of a person's body; and*

3B(3)(b)(ii) *that, alone, or together with any other contents of the publication, are of a degrading or dehumanising or demeaning nature.*

N/A

3B(4) The reasons referred to in subsection (2) are that the general levels of emotional and intellectual development and maturity of persons under the specified age mean that the availability of the publication to those persons would be likely to—

- 3B(4)(a) *Cause them to be greatly disturbed or shocked; or*
 3B(4)(b) *Increase significantly the risk of them killing, or causing serious harm to, themselves, others, or both; or*
 3B(4)(c) *Encourage them to treat or regard themselves, others, or both, as degraded or dehumanised or demeaned.*
- See conclusion

3C Procedure for classification under sections 3A and 3B

In determining whether to classify a publication as a restricted publication in accordance with section 3A or section 3B, the Classification Office must consider the matters specified in paragraphs (a) to (f) of section 3(4).

Section 3(4) Additional matters to be considered –

In determining, for the purposes of the Act, whether or not any publication (other than a publication to which subsection 3(2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable, the following matters shall also be considered:

s3(4)(a) *The dominant effect of the publication as a whole.*

The dominant effect of the publication as a whole is of an expansive free-roaming first-person shooter. The environments are richly detailed and immersive, while the game play most often revolves around repetitive violent armed confrontation.

s3(4)(b) *The impact of the medium in which the publication is presented.*

The PlayStation 4 console combines high definition graphics and sound to create an immersive gaming experience.

s3(4)(c) *The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.*

Publication has artistic and technical merit.

s3(4)(d) *The persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available.*

Older teens and adults

s3(4)(e) *The purpose for which the publication is intended to be used.*

Entertainment

s3(4)(f) *Any other relevant circumstances relating to the intended or likely use of the publication.*

None

BILL OF RIGHTS CONSIDERATIONS

New Zealand Bill of Rights Act 1990

Section 14 Freedom of expression -

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

Section 5 Justified limitations -

Subject to section 4 of this Bill of Rights, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Section 6 Interpretation consistent with Bill of Rights to be preferred -

Wherever an enactment can be given a meaning consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.

Discussion of Bill of Rights Considerations:

See below

CONCLUSION

Injury

If s3(1) applies to the publication the question is whether or not it deals with the matters discussed in a manner that **the availability of the publication is likely to be injurious to the public good**. In discussing injury consider the nature and severity of that injury, the likelihood of it occurring and who would be injured by the publication's availability. The classification recommended must remedy the injury identified.

If s3B applies to the publication, **the injury to the public good** must be explained in terms of s3B(4) of the FVPC Act.

If s3A applies to the publication, explain the age restriction in terms of **how the language is likely to cause serious harm to persons under the age of the restriction**.

Classification:

R16

The unrestricted availability of the publication would be injurious to the public good. The game's depictions of violence and cruelty would be disturbing to children or younger persons, and for some would trivialise violence by presenting it as entertaining and exciting. Constant exposure to the game's killings of human beings, in which the player is an active participant, has the potential to desensitise some towards violent behaviour in real life. The widespread use of highly offensive language further supports an age restriction. Likelihood of injury to the public good is reduced by restricting this publication to audiences that have attained the age of 16 years. This classification interferes with the freedom of expression contained in the New Zealand Bill of Rights Act 1990 but is consistent with s3 of the FVPC Act to limit the availability of publications likely to be injurious to the public good.

EXCISIONS/ ALTERATIONS

Section 32 - Excisions from and alterations to film –

In the case of a film submitted for classification under any part of the Act other than s29(1) and 41(3) (court referrals), if the Classification is of the opinion that it would classify the film differently according to whether any specified part or parts of the film are excised from or left in the film, it shall, before making a final determination in respect of the classification of the film, follow the procedure prescribed by section 33.

Section 33(1) directs the Classification Office to notify the authorised distributor of the film of the classification that would be given if part or parts of the film were excised or altered, and, the classification that would be given if the specified part or parts were not excised or altered.

Section 33(5) provides that, in deciding whether or not to propose excisions or alterations, the Classification Office may consider the effect that any such excision or alteration may have on the continuity of the film or on its overall effect.

EXCISIONS SUMMARY	
None (for non-moving image and s29(1) / 41(3) publications)	<input type="checkbox"/>
No excisions recommended (for all other moving image publications)	<input checked="" type="checkbox"/>
Excisions/alterations recommended	<input type="checkbox"/>
Number of Excisions/Alterations:	
Brief Description:	

PUBLIC DISPLAY CONDITIONS

Not Applicable	
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Section 27 Conditions relating to the display of restricted publications –

Where the Classification Office classifies any publication as restricted, the Office shall in every case consider whether or not to impose conditions on the public display of that publication, and may impose such conditions at the time of classifying the publication.

In determining whether or not conditions in respect of public display should be imposed, the Classification Office must have regard to:

s27(2)(a) The reasons for classifying the publication as a restricted publication.

Because of the treatment of cruelty, violence and offensive language.

s27(2)(b) The terms of the classification given to the publication.

R16

s27(2)(c) The likelihood that the public display of the publication, if not subject to conditions or, as the case may be, any particular condition, would cause offence to reasonable members of the public.

No likelihood.

Section 27(3) directs that where the Classification Office considers that the public display of the publication, if not subject to conditions under this section, would be likely to cause offence to reasonable members of the public, the Classification Office shall, at the time of classifying the publication, impose such conditions under this section in respect of the public display of that publication as it considers necessary to avoid the causing of such offence.

Date	3/9/14	OTLC Ref	1400753	VR	1
Applicant	DUB				
Employer	Bright Dist.				
Other	for 4				
Other names (if any)					
Occupation	CAREER				
Country (ies)	Canada	Grade	Grade (8)		
Language	English				

Classification	R16	Violence	9	Other language
Supervisor	/			
Employer	/			
Other information	/			
Other information	/			

Company
New Gene

Company
Crest maps
CO-op

Ishwarin mother's class

New Game

Opening cinematic

Ajay

- in bus, collect passports.
Guards check for bombs

- guards stop

Pagan man exits helicopter

- Stabs guard in back face of pen, gets
perforated in back

Far Cry 4

At dinner table w/ Pagan man, Paul &
other guy.

- Stabs man in back w/ fork.

- makes man cry for help. Lead away.

Game play begins. Explore monastery & sounds
of streams.

- See man tied up, given electric shocks
- asked about Ajay & the Golden Path
"Ajay looks like"

meet Sabar (Golden Path)

Run away through gun fighting

- "fuck"

Shoot gun in jeep making getaway.

- Drink's dead.
- Pick up rockete

- Cut guards neck w/ rockete
 Pick up guns.

Move up stream, kill more guards

Take bait from dead animal, use it to attract wild animals to attract enemies

- After village see snow leopard kill man
- Player attacked by snow leopard

Jump across chasms

Climb ledge, shoot "kinky" woman.

Defeat the Red Tent

- shoot incoming wave of enemies
- Use grenade launcher (marker) to bomb snipers
 = create avalanche.

Banapur

Cut scene - meet woman & daughter.

After stop - can't see faster speed (can stay awake or by any means)

- Sell items.
- Buy body armor, weapons.

Explore Village

- Cut scene: turn off that fishy radio.

Ambar - Bhadra Talk to them at
sloping range

Dir for wheel.

Can help old man whose place is marked
by notes
- shoot holes w/ arrows.

Wolves Done mission complete

Ajay has to check transmitter.

Popagada Machine

(can kill up to 2 entities, & they gone ed)

KM from guard of machine to reach. Get
return

- Hijack signal

Prabhu's farm - other locations discovered

- Deliver supplies to camp.

- Meet boys at his church - gun dealer

- Clear the village of any
- shoot every soldiers.