

THE PARLIAMENTARY STANDING COMMITTEE ON SUBORDINATE LEGISLATION MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON THURSDAY 15 OCTOBER 2009.

DANGEROUS SUBSTANCES (SAFE HANDLING) REGULATIONS 2009

Ms CHERIDA PALMER AND Mr MICHAEL LESTER, BRIGHT STAR FIREWORKS, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Ms Forrest) - We have read the submission and a number of things you have sent through. We would like you to give us the points you really want to hammer home, what the issues are for you, what you see as the problems with the regulations and what can be done to address your issues, in your view.

Mr LESTER - Cherida has made some notes so that it doesn't take too long. Would you like a copy of those notes?

CHAIR - Yes, thank you.

Ms PALMER - We truly appreciate the opportunity to provide evidence in support of our submission. We ask for your patience and to bear with us because the topic is complex and has some difficult technicalities that are not always easy to understand initially.

The new fireworks regulations effectively will force Bright Star Fireworks out of business. It is not that the new regulations legally force us out of business, it is just that they totally undermine the commercial viability of the retail fireworks business in Tasmania. We are therefore seeking the committee's support to either disallow that part of the Dangerous Substances (Safe Handling) Regulations 2009 that relate to fireworks or to find some other mechanism to give us time to thrash out a more workable compromise. The new fireworks regulations come into force on 2 January 2010. It is our understanding that if the new regulations were to be disallowed, the current regulations would simply continue. This is what Workplace Standards promised would be the case if we could not reach a reasonable compromise, however they did not keep that promise. All we are asking for is a stay of execution because something has gone seriously amiss with the negotiations and we need to go back a few steps to find a compromise.

In our submission to the committee we have highlighted a number of instances of what we believe to be failure of due process. There has been a succession of ministers. A number of ministers have been very positive about their understanding of community support for fireworks and for the viability of our business and they have instructed Workplace Standards to look at ways the regulations could be amended to continue to support the community and to allow a business to remain viable, but this is not reflected in the new regulations. As mentioned, the head of Workplace Standards originally promised to reinsert the old regulations into the dangerous substance regulations but could not reach agreement before they were promulgated. Workplace Standards did not keep that promise.

More recently, at a meeting with the minister on 12 June, Workplace Standards was instructed to meet with us to explore possible amendments to the new regulations and to get back to Bright Star Fireworks with a response by the first week of August. There were two reasons for this. The first is that, given there is only a 15-sitting-day window of opportunity to seek parliamentary support to have regulations disallowed, we needed to know the outcome quickly. Secondly, Bright Star Fireworks needed to have some business certainty as orders would need to be placed by the end of August. I have now missed that opportunity. Workplace Standards failed to meet that deadline. In fact they failed to get back to us at all. It has been three months while I waited for a response from Workplace Standards. The minister's office only wrote to us two weeks ago with a response, which was effectively to say no to any further changes.

A person with a suspicious mind might think that there was a deliberate strategy in there to let the clock wind down so we would have no time to appeal to Parliament. Whether deliberate or not, the effect is the clock has wound down.

One of our proposals at the 12 June meeting was for a more streamlined model for permits. The minister's advice says that Workplace Standards consulted via police and local government. However we have no written advice or record of what specific proposal Workplace Standards put to them. We were not consulted on the alternative model. We are concerned that those agencies and local government were actually informed that Bright Star Fireworks proposed streamlined model would remove their power to veto permits. This is not the case. In fact the fireworks have already removed that power.

It is also worth noting that in public consultation earlier this year only one council put in a submission. Police were only concerned with the dangerous substances locations and Tas Fire were only concerned about the possibility of fireworks being used in periods of total fire ban.

The clear intention from the meeting with the minister and the subsequent meeting with Workplace Standards was that there would be a further follow-up meeting to discuss the outcome of the investigation of alternatives. This never happened. I waited three months for this meeting and it never happened.

In addition to these process issues I have already provided the committee with information of a number of actions by Workplace Standards which I believe to have been deliberately disruptive and vindictive, in effect punishing us for trying to protect our own business. One of those actions, an order just one week before cracker night this year regarding type 1 fireworks, cost Bright Star between \$100 000 and \$200 000 in sales.

To summarise, this whole process has had and continues to have unnecessary adverse effects on our business. There is no doubt the new fireworks regulations will destroy the viability of Bright Star Fireworks. We will be forced to shut down all retail stores and discontinue providing fireworks displays for major events from 1 January 2010. In fact the new regulations are already affecting our business. I have closed my Burnie and Devonport stores. Workplace Standards and government delays in meeting time lines for a response made it impossible to order new stock, even if a compromise had been

reached. Uncertainty about Bright Star's future caused us problems with the bank. We have been unable to renew some leases on premises beyond January.

I have prepared this document and you have a copy of it. I can continue to elaborate on the impact of specific regulations, if you would like.

Mr MARTIN - I think that it is important.

Ms PALMER - It should be noted that it is not just one specific regulation but it is the sum total of all of these regulations that affects the viability of the industry. Regulation 107 in Schedule 6 relates to the fact that we will lose 363 days of trading. We offered this compromise solution in exchange for a reasonable range of fireworks and a streamlined permit system but we got neither. Instead Workplace Standards adopted our suggestion for a two-days-a-year model and added more authority layers and more cost to the permit. A two-day selling model only works with an affordable and simplified permit system for all stakeholders.

On top of this, the type 3 professional display permits are now subject to approved purposes which means that Bright Star Fireworks potentially will lose up to \$50 000 in professional displays income. For example, a wedding or a business function is not an approved purpose.

Bob Jane T-Marts wants to employ us to do a display on the waterfront. It is a business function so it is not necessarily covered in the approved purposes so I would have to ask for special discretionary approval and I am not sure that I would necessarily get that. It makes it very difficult.

CHAIR - So you still sell to approved purposes in the meantime?

Ms PALMER - Yes.

CHAIR - But anything that falls outside of that - what percentage of your business would that be?

Ms PALMER - The professional display arm is a small percentage - maybe 10 per cent - so it would be difficult to say what percentage, but it represents up to \$50 000 worth of displays. The retail arm is the bulk of the business, but without all the pieces coming together it does not work.

Mr MARTIN - As an example there was a display at Morilla for one of the owner's -

Ms PALMER - It was his birthday.

Mr MARTIN - parent's birthday - extravagant. Is that still allowed or not?

Ms PALMER - Under the approved purposes, type 3 and type 2 are applied to them, so no. Moorilla came to us, it was his birthday and there is \$10 000. Technically, according to the approved purposes, a private celebration like that is not covered.

Mr MARTIN - It cannot be approved any more at all?

Ms PALMER - No, according to regulations - and I do not believe that Workplace Standards understand that. So it is quite prohibitive and it is quite different from the other States.

CHAIR - It is Regulation 107 that restricts you in that way? Is that what you are saying?

Ms PALMER - Yes. According to Schedule 6, the approved purposes.

Mr MARTIN - That is a display that is professionally run by yourselves?

Ms PALMER - Yes.

Mr MARTIN - You cannot get approval?

Ms PALMER - According to the regulations, it is not in the approved list, no. A private celebration such as a birthday is not listed. So the type 2 and the type 3 permits are subject to the approved purposes. That is a significant problem. No other State or jurisdiction in Australia does that. The problem is they are trying to lump type 2 and type 3 together in the same permit and that is where they have created the problem.

CHAIR - Are you saying that type 2 should not require a permit?

Ms PALMER - No, no. It is just they are subject to the same schedule, the same types of conditions of use. In other jurisdictions they keep them separate.

CHAIR - The Regulation 101?

Ms PALMER - It means a loss of half of the current type 2 range of fireworks through redefining what is a type 2 firework. It also means the loss of the bursting, fancy fireworks that the families and community groups use. It represents a loss of half of our turnover. It represents the loss of approximately a thousand customers and hundreds of community groups as the range that they are used to is just not there any more.

Regulation 101.1 also means the loss of a range of small ground-based, quiet, colourful fireworks that are suitable to be used in a suburban backyard. The only products people in the suburbs will be able to access to celebrate New Year's Eve or their Empire night will be sparklers. Bright Star Fireworks loses another half of its turnover. Do you have a question?

Mrs RATTRAY-WAGNER - No, I was just thinking about the sparklers.

Ms PALMER - You can get those from Chickenfeed so there is no need for us to supply those. Bright Star Fireworks loses another half of its turnover and many thousands of customers. We believe a successful model to go into the future must provide a satisfactory range of small fireworks for the suburbs. Without it you are just asking for problems.

CHAIR - We are nearly out of time, which is unfortunate, but you have outlined these other regulations that you believe impose impacts which go to what you have said in your submission.

Ms PALMER - Yes.

CHAIR - Basically what you are asking for, as I hear it - and I would like you to correct me if I am wrong - is more time to negotiate the changes you were led to believe would be made but have not been, rather than just having the two days for New Year's Eve and whichever one it was -

Ms PALMER - Empire night.

CHAIR - these restrictions are being placed across the business so that you cannot operate to the extent that you were.

Ms PALMER - Correct, yes. We negotiated in good faith and were led to believe that there was community support and the ministers were saying we would get a compromise that would not put us out of business. That is what we were heading towards and this is not that outcome. So, yes, I am asking for more time to negotiate and get a more workable compromise.

CHAIR - I have heard they do not come into operation until, when was it?

Ms PALMER - 2 January 2010.

CHAIR - That does not give you time? On the present track record you described I would say that is probably unrealistic to expect, but -

Ms PALMER - I have waited three months for a reply to our initial negotiations, so I would love to think that things could get better.

Mr LESTER - We have been told by the minister that there are no more changes coming. Unless they reopen negotiations and allow that time, then it can't happen, basically. Parliament is our last resort.

Mr ROCKLIFF - In your submission, you talk about the safety track record of Tasmania, which you claim is a lot better than that of other States - other States have more problems - on the issue of the black market. If these changes go ahead, in your view, how would the black market operate? What channels would the fireworks get into - the wrong hands, if you like?

Ms PALMER - I don't know, I run a different business!

Laughter.

Mr ROCKLIFF - How much of an issue is that?

Ms PALMER - It is definitely an issue and I have said from the beginning that it is all about having a user-friendly system that works because that is where people go. In the absence of a legal framework, people will go to the black market and we have seen that for the last 20 to 30 years in other States. That is where the injuries and deaths occur in States where they've banned it altogether. New South Wales and Victoria actually have

advertising and press releases that come out in the lead-up to a season, specifically addressing the black market problem, because it is a problem. We have had no injuries - we have an excellent track record -

CHAIR - No injuries to humans - what about injuries to animals? That is one of the issues that have been raised.

Ms PALMER - I have asked Workplace Standards numerous times for actual evidence of injuries and as yet, they have been able to come up with no hard evidence. Then I would also ask them to find out detail about how injuries to animals happened. Were the people doing their best to care for their animals on the night?

Mrs RATTRAY-WAGNER - Were they even at home?

Ms PALMER - Yes. I had a lady tell me that her dog got out on cracker night and she doesn't want it back because it's an annoying, yapping dog. I am sure that is not the case across the board, but -

CHAIR - One of the problems in dealing with that issue is the notification, notifying neighbours so that people who have horses and dogs can ensure that they have adequate time to house them safely during the time when the fireworks are being let off. Do you think those regulations in the bill are reasonable?

Ms PALMER - Yes, in some way. We have moved to a twice-year model now, so some of the notifications are not really in line with a streamlined model that allows a more efficient way of notifying stakeholders for that one night of the year. For example, I have a permit and I have to notify a dozen stakeholders now, as opposed to a more efficient method that goes through a central body.

CHAIR - Through Workplace Standards, as it used to?

Ms PALMER - Yes, through Workplace Standards. So you have a permit and you have to now find a way to notify fire, police, council, marine - all those - look up the number and decide which way to do it. Alternatively, you can put a public notice in the paper; it will cost you an extra \$20, but will your neighbours see that? I think there are flaws with that as well but, yes, it is important that the various people are notified.

Mr BUTLER - Concerning the 1 000 customers you believe you would lose, and you have here 100 community groups - with respect, it might have been a slip of the tongue, I thought you said hundreds of community groups - could you give more detail about those because on the community groups we had only one letter and that was from the Forth Football Club. With the 1 000 customers, is that 1 000 transactions and purchases or, for example, is it that one customer might have 100 people attending their function and you were including those 100 although it was only one person buying the fireworks? Could you break those figures down because we haven't received much evidence from the community of their support. I presume that you would have a database of customers and would have mounted a big campaign to get those people to contact us, which would have been very instructive for us. The paucity of submissions from the community is instructive in another way.

Ms PALMER - Sure, I am happy to answer that. There are approximately 1 000 type-2 permits a year -

Mr BUTLER - Right, so they are particular permits.

Ms PALMER - Yes. There are approximately 1 000 permits and why it doesn't reconcile with what you know is because you know that the vast majority stay silent. We did a campaign, as I am sure you are aware, and rallied people to have their say but unfortunately, for various reasons, people don't always have their say. So I am here to have my say for them. But essentially we did a freedom of information and there were at least a dozen community groups that did put a letter in. So it does tell you -

CHAIR - Into the Workplace Standards?

Ms PALMER - Into the Workplace Standards. There are people in schools who rely on the fundraising. There are many that go unnoticed because their community group is small - it is the local car club, or something, that spends \$500.

Mr LESTER - If the committee wants a list of the community organisations, we can provide that, we do not have that information with us at the moment. Of the 1 000 type-2 permits, 100 of them are community groups like local fire brigades even, so there are all sorts of people. For example, a community group when they thought they beat the Gunns' pulpmill - the Green movement - got a permit for a fireworks display.

Mr BUTLER - That would be helpful because it seems to me that there has been a bifurcation of the information, partly to Workplace Standards, which hasn't -

CHAIR - We can ask them too, Ross, we have them next.

Mrs BUTLER - Yes, but I wonder why it had not come to us as well.

Ms PALMER - It is tricky. I am happy to go through and find it but sometimes Camp Quality come in and put the permit in their name and they don't always represent to us at that permit time that it is for their community group. So some of them quite often go unofficially noticed, or recorded on the application. But I am telling you anecdotally that is what I know, but I am happy to provide whatever evidence we can.

Mr BUTLER - Thank you.

Mr MARTIN - The viability of the business, how important is the -what do you call them - Regulation 101.1, the school backyard-type ones -

Ms PALMER - The suburban -

Mr MARTIN - From a childhood experience, I have a problem with that. I tried to burn a house down, ironically.

Mrs RATTRAY-WAGNER - You can't let your own personal feelings take over.

Mr MARTIN - So I heard yesterday. But ironically the thing I almost burnt the house down with was a sparkler.

Laughter.

Ms PALMER - There you go - a confession.

Mr MARTIN - So my views are little coloured by that but I will try to put them aside.

I think it is quite ridiculous that a group like the one running the Moorilla function, that I happened witness, and community groups cannot get permits. If they were allowed and the little backyard ones were not, what does that do to the viability of the business?

Ms PALMER - As I have said, something for the suburbs represents half the turnover. It also represents solving a massive problem in that we have all the festivities around cracker night - let's all celebrate cracker night - and there's advertising, but you can only celebrate if you have three acres or more. Whereas in the suburbs, that's it, it's you and your sparkler. It is not sustainable, it sets up such dissatisfaction and you're just asking for problems. You are asking for people who don't have three acres to find a way to do something for their children.

Mr MARTIN - The bottom line is you need that part of the business, too, to be sustainable.

Ms PALMER - We need it for sustainability and for a sensible working model. I don't want to be part of a model that doesn't have something for the suburbs because it just leads to more complaints and more problems, and we will be back here in a year's time to put it right.

Mr LESTER - It should be pointed out that the sorts of products you are talking about are not the sorts of products you had when you were a child. The fireworks for backyards give more colourful displays, rather than being things that go 'bang'. They are not the same as the old-fashioned things.

Ms PALMER - Also fireworks have massively improved in quality and performance. They do what they are supposed to do.

Ms RATTRAY-WAGNER - In relation to the Workplace Standards meetings with police, fire and local government - and I am happy to take your answer at a later time - it says that from feedback you had, the meeting process appeared flawed because there was a lack of understanding by all the stakeholders. Could you provide a quick answer to that, or something at a later date?

Ms PALMER - I am happy to provide a more detailed explanation to help you, but the short version is this: my interpretation - and I got my solicitor to have a look at it - is that the veto power is already removed for the fire, police and council, and yet that seems to be the problem - that fire, police and council were concerned that our streamlined model would remove their veto power. It has already been removed, so that is flawed. It is not the first time that Workplace Standards have not truly understood a definition.

CHAIR - That is all we have time for, but you are welcome to stay and here the next witness if you like.

Mr LESTER - We would like to provide you with a copy of the submission that were made to Workplace Standards.

CHAIR - Have we not got that?

Mr LESTER - No, we made a submission to you and we gave you the letter that we sent back to the minister, but I don't think you have the actual submission that we originally put to Workplace Standards in response to -

CHAIR - Yes, we do have that. It was sent at an earlier time. If you can provide that other information relating to your customers, we would appreciate that. Thank you very much for appearing before us today.

THE WITNESSES WITHDREW.

Mr ROY ORMEROD, GENERAL MANAGER, WORKPLACE STANDARDS, **Mr ROBERT PEARCE**, DIRECTOR OF POLICY, WORKPLACE STANDARDS, AND **Mr PETER DAVIS**, HEAD OF SECURITY, DANGEROUS SUBSTANCES, WORKPLACE STANDARDS, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Ms Forrest) - As you know, we are on a tight time frame, so perhaps you could give us a brief overview. I know you have heard our previous witnesses, so we would appreciate it if you would address some of those issues. No doubt committee members will then have some questions for you.

Mr ORMEROD - I have here a presentation which I will leave with you because it gives a full history of how we have negotiated the past regulations. I thought perhaps I should just quickly go through the points. First, the point about type 1 fireworks and the reliance of the business on being able to sell such fireworks. The definition of type 1 fireworks in the existing regulations will be the same in the new regulations. Type 1 fireworks are indoor fireworks only - fireworks that can be safely used indoors. The reason we served an order was that these fireworks pictured here were being sold across the counter at Bright Star Fireworks as type 1 indoor fireworks, in breach, we believe, of existing regulations. These are fireworks which shoot sparks up to five or eight inches in the air -

CHAIR - The ones that set Terry's house on fire!

Mr ORMEROD - That's right. That is why we acted as we did before cracker night this year - because these had been sold. These are some pictures - we set them up obviously - to give you an idea of how big these were. It appeared that there was a market generated from the sale of type 1 fireworks which were not ever intended to come to it by legislation. I think we should make clear once and for all that there was never any negotiation about type 1 fireworks - our policy advice from government was that type 1 fireworks would only ever be sparklers, bonbons, throw-downs et cetera - not these sorts of things.

I should mention in response to the discussion about lack of consultation - we have had a lot of meetings with Bright Star about this. While she talks about being restricted to two events, that is not strictly correct. The secretary has discretion to allow permits for issuing type 2 or type 3 displays throughout the year. If you come up with a good reason for a display, you can run a display. The two identified cracker nights - New Year's Eve and Empire night - are the two well-known occasions for displays, which take the majority of permits that are issued. The bulk of Bright Star's work for type 2 fireworks is around cracker night and New Year's Eve. There has been a growing market in other parts of the year and that can continue under the proposed legislation.

Mr MARTIN - Just on that point: the example I gave of the function at Moorilla - can that be allowed or not?

Mr ORMEROD - Well, there is a problem at Moorilla. They are adjacent to a horse stud and it is unlikely that Moorilla would ever be allowed to run a display there in future because of some serious problems that occur when horse studs are nearby.

Mr MARTIN - At Moorilla? At Berriedale?

Mr ORMEROD - I am sorry - I am thinking of the other one - Barilla.

Mr MARTIN - Oh, good - I thought there was a horse stud Glenorchy didn't know about!

Laughter.

Mr ORMEROD - No, there is no reason why Moorilla couldn't apply for a permit to run a type 2 or type 3 display in the area for a specific purpose. If it is not a purpose listed in the regulations, the legislation says 'or any other approved purpose' and the secretary has discretion. The point we want to make is that it appears from the submissions that the public don't want random nightly public displays happening all over the place. They like to see some sort of order around them and some reasons behind them. On top of that there can be other events that aren't listed for which people can apply for a permit. If there are good reasons it can be approved.

Mr MARTIN - There are two completely conflicting answers there. Why?

Mr ORMEROD - Maybe a lack of understanding of what the regulations are. We have a copy of the regulations here and I am happy to discuss it further.

Mrs RATTRAY-WAGNER - What about the birthday then? That is not an event as such -

CHAIR - It can be deemed an approved purpose. That is what you are saying, isn't it Roy? If I was having my fiftieth in a couple of years I could put in a request to have the occasion deemed an approved purpose. Is that what you are saying?

Mr ORMEROD - You could do. I am not sure how we would deal with a birthday as such.

Mr PEARCE - If it were to be a significant display that was being proposed, the secretary could consider it under 107.8 because Schedule 6 does not limit the secretary's discretion. So if someone wanted to put on a super-duper display for purposes other than those outlined in Schedule 6, that ability is there.

Mr ORMEROD - The two issues that the minister has agreed to give further consideration to are first, the permit process, and secondly, whether there can be any room for movement on the definitions around type 2 fireworks. We had a meeting in my office with Bright Star to talk about those two issues and we agreed to take the permit process to the other agencies - police, fire, et cetera. They weren't prepared to reduce the level of involvement in the permit because they are very much concerned about public nuisance issues around that. The bit about type 2 fireworks, where they're seeking to make some changes, we discussed the idea of reducing some of the aerial-type displays down to a certain level and, if we did that, we were able to then reduce the size of the land but Bright Star was not willing to discuss that. They said that they wanted two levels of type 2, one for large areas of land and one for small areas of land, and that simply was not practical for us to manage, so we could not see how that would work.

The other two issues that the minister agreed to consult with - it is true that there was some delay in getting back to Bright Star. We met certain deadlines but unfortunately it did not get through to them as quickly as it should have.

Type 2 definition of fireworks that we are adopting is the Australian standard that applies across Australia. It is a similar type 2 definition as used to apply when we had access to crackers as kids. They were the sorts of displays. What we have done is clarify the fact that what we believe have been sold as type 2 up until now are the sorts of fireworks that we didn't think was wise to put in the hands of someone inexperienced or unqualified. For argument's sake, there is a thing called a 'Blonde Joke' - it is not an appropriate title. It is a box with a multishot firework and contains half a kilogram of propellant powder - you have to look at how to transport it as well as how to set it off. These things give out a very loud report and there is a lot of propellant powder in them. They are not sold anywhere in Australia as a type 2 device. These fireworks would be transported in the boot of people's cars and if there was an accident and a flame or an ignition point, these things could cause an awful lot of damage in the boot of a car or to the public. We don't believe that the existing regulations were ever intended for them to be used and they are not allowed to be used anywhere else in Australia as type 2, but they can be sold under type 3 and be let off by an accredited pyrotechnician.

Mr ROCKLIFF - You mentioned the difficulties of Bright Star wanting to have two levels of type 2 and you said that that was impractical. Could you explore why it is impractical to have those two levels? Is it a resourcing issue or is it administrative?

Mr ORMEROD - It is a resourcing and oversight issue because we have to be satisfied that we are not going to see something like a skyrocket released into the air from a backyard that can go into other people's yards. That was the problem we had. We could not see how that could be well-managed to suddenly have two levels of fireworks. We thought that if we took that down a bit we could then make it more viable for backyard displays.

Mr DAVIS - It does open a whole raft of other issues. If you then allow those smaller fireworks in the backyard not only do you have possible problems with neighbours with noise and possible fire risk et cetera, you also have problems with storage and transport. At the moment every other State has prohibited shop-bought fireworks for use by the general public. ACT has just put in its ban and the other States put in their bans during the 1980s, for good reason. What we had in 1990 to put in the current regulations - the ones that have just been rescinded - was that these small shop-bought fireworks were being sold in every corner shop and being accessed by people just for a one- or two-week selling period for use on cracker night. That is where there was a lot of complaint and we brought in this current system which was revealing probably about 100 displays a year up until recently when Bright Star came into the marketplace and quite rightly saw an opportunity through the gaps in the legislation. We had about 100 displays a year and now we are up to about 1 200 a year with one supplier. So, if we were to reinvent the old legislation or keep it in place, it would invite more people in to sell more fireworks and to have more displays, which is great if that is what the community wants. But from the evidence we have around Australia and also here, there other sides to the story, I suppose.

Mr ROCKLIFF - On that evidence around Australia, what State are we closest to in terms of this? My impression is, from your evidence, that all States on the mainland are

similar but I have also had evidence to suggest that no two States are the same. Is this a national thing being driven?

Mr ORMEROD - The initial intention when we were first reporting regulations was to ban type 2 altogether to bring us in line with every other State. So our allowing type 2 fireworks in the hands of non-qualified people makes us the most relaxed firework regulator in Australia.

CHAIR - Are these type 2 here?

Mr ORMEROD - These will be type 2. Under the existing definition they were sold as type 1. But you can buy them as type 2 fireworks.

CHAIR - So it means an individual could use those in a three-acre property?

Mr ORMEROD - Yes and plus skyrockets and things as well.

Mrs RATTRAY-WAGNER - For a \$66 fee.

Mr ORMEROD - Yes and that is not cost recovery. It costs more than \$66 to process these permits. But I should mentioned that there was a -

Mr MARTIN - You can go and buy \$200 worth, can you?

Mr ORMEROD - What we suggested to Bright Star - and the letter to them offered a compromise on quantities - was that if they believed that it was not viable, \$66 versus \$200, to increase the quantity of fireworks to 20 kilograms rather than 12.5 kilograms. That is a way of perhaps making it more viable. The other option is also -

CHAIR - Rather than dollar value, the size, are you saying?

Mr ORMEROD - That is the dollar value. That is the quantity of fireworks they can buy rather than 12.5 kilograms of fireworks, 20 kilograms of fireworks as sold by weight.

Mr DAVIS - Which is a hell of a lot.

Mr ORMEROD - Quite a big difference. The second thing that the compromise offered was to take away the need to put a public notice in the newspaper because we agreed that there is probably not much value in that and, so long as they consult with neighbours, that would satisfy our concerns.

CHAIR - Have you done that?

Mr ORMEROD - We have made the offer.

CHAIR - So that is still a requirement under the regulations?

Mr ORMEROD - Yes, we can amend the regulations and increase the quantity and take away the need of a public notice before it commences on 2 January.

Mr BUTLER - What does 'consulting with neighbours' mean? Does that mean the necessity to get the approval of the neighbours in writing or just verbally or simply to notify the neighbours that we have a permit and we are going to do this at time x ?

Mr DAVIS - It is just a notification process. Certainly neighbours have had bad experiences in years gone by, particularly because the legislation has been so open ended with time frames. Even though we have issued permits with time frames, they have had the displays maybe between 9 p.m. and 10 p.m. and then at 2.00 a.m. it started again and the location of the display moved out onto the street or where ever it might be. Certainly we have a list of about 25 complaints just over the May, June and July period where horses have been scared, there have been neighbourhood disputes and where action of the police, the council and the Tasmania Fire Service was required.

But on the notification issue, certainly we advise Tasmania Fire Service and the councils if there are any concerns about where this display is being held because invariably there is a bonfire with it or the fireworks themselves are an ignition source. We have had people such as the Spring Bay Association saying they did not want fireworks displays because of the fire risk to the natural vegetation and destruction of penguin reserves and things like that. There is a whole raft of issues that get raised.

CHAIR - So can the neighbours, once they are notified, make application to Workplace Standards?

Mr DAVIS - They may give us a ring or send an e-mail and say they are very concerned about it.

CHAIR - What is the process permitted under that?

Mr DAVIS - We would then liaise with the applicant. Sometimes you have to be sensitive because we don't want to create a neighbourhood dispute. It ties up a lot of resources in following up, not only for us but police as well. In Penguin last year the police actioned a restraint order against some people who then applied again this year for a fireworks permit.

CHAIR - The process of notification, having to notify your neighbours, the police, local government and the fire service, currently is done through Workplace Standards, so are you putting it back out to the applicant of the permit?

Mr DAVIS - We would probably still assist with that process because we know the general public has problems with that.

CHAIR - So why don't you maintain that function within Workplace Standards in the regulations?

Mr DAVIS - Originally that was the case. Over the years the situation has evolved to get a better outcome.

Mr BUTLER - Do police, council or fire people have automatic right of veto to the applicant who is notifying them or do the police, council and fire service have to go back to you and you say you will withdraw it?

Mr DAVIS - Yes, that's right. They normally notify us and on the information we get we would then maybe deny the permit or put extra conditions on it. Cherida at Bright Star - we know her people and are regularly in contact with them. We would say, 'We are going to alter that permit. You can't have any rockets or loud devices'. It is a bit of a compromise in that circumstance.

Mrs RATTRAY-WAGNER - One of the issues raised by Bright Star and was that there has been no issue as such - safety issues and no injuries.

Mr ORMEROD - There have been a lot of complaints about public nuisance. There is one example here of a person who lost a horse during a display. It was quite sad. There is no proper way of knowing the level of injury as a result of a firework because the way in which hospitals report injuries don't allow for that. But even so, in all fairness, I don't believe there is any real issue at the moment about misuse of fireworks causing injury. This is all about coming up with a compromise which the public believes is appropriate, taking account of all the various concerns across the State. The Government could argue COAG rules and say, 'No, for the sake of COAG consistency we're going to ban type 2', but they didn't. They said, 'Let's see if we can come up with a compromise model which enables type 2 fireworks to be displayed but also take into account the concerns of livestock owners and other people in the community'. This was attempted here, so while health and safety is a very important component, I think it would be wrong to argue that this is done as a result of serious health and safety conditions. I must admit the 'Blonde Joke' one was a disaster waiting to happen.

Mr MARTIN - So is type 2 banned in every other jurisdiction?

Mr ORMEROD - Yes.

Mr DAVIS - Unless you are a pyrotechnician you cannot buy type 2 fireworks anywhere in Australia apart from the Northern Territory.

Mr MARTIN - So you can't buy those things?

Mr ORMEROD - No.

Mr DAVIS - But they can be used by a pyrotechnician who would have the proper training, storage and transport facilities to conduct displays.

Mr MARTIN - Going back to the difference of opinion about interpretation of the regulations, what has changed in relation to type 2 displays by a pyrotechnician?

Mr ORMEROD - We used a British standard before and there was some doubt about how the tight the British standards of interpretation were, which allowed some doubt about whether things such as the Blonde Joke was legal to be sold as a type 2 firework. Because there was an Australian standard that clearly defines type 2 fireworks, we called up that standard because that makes it clearer what type 2 fireworks are. It takes away any doubt.

Mr DAVIS - So the replacement standard, AS 2187 part 3, is recognised by all other States. It was developed by industry in conjunction with the regulators to provide specifications and testing performance on shop-good fireworks so that it was clear what was a shop-good firework with respect to the amount of propellant and pyrotechnic content in each device, otherwise it becomes such an unwieldy beast to try to manage. The British standard, although good in parts, was difficult to interpret in others for all players.

Mr MARTIN - So the change is what falls into type 2?

Mr DAVIS - Yes, that's right.

Mr MARTIN - The example of a \$10 000 display for a birthday party or a fundraising night for a community group or whatever, what has changed there?

Mr DAVIS - Even under the old legislation it was never the intent of that legislation for displays to be run for, say, birthdays, someone's divorce, a fiftieth birthday, or someone's return home from an overseas trip. Type 2 displays were for community groups, school fairs, opening of a business and those things, not so much for the individual. Nothing has changed there. Under the new legislation you can still have a display for the opening of, say, a new Bunnings store. They could have a display and it could be type 2 or 3.

Mrs RATTRAY-WAGNER - An event is still at the discretion of one person, isn't it?

Mr ORMEROD - Well, not quite, there are events that are automatically omitted. If you are running a display under schedule 6, they are approved automatically, so there's no problem there. It means they can still have school fairs and things without a pyrotechnician involved; they will be able to set off type 2 fireworks as they have in the past.

Mr BUTLER - My ears cocked up when Mr Pearce mentioned a 'significant event'. I was wondering who determines what is and what is not significant and what is a major anniversary.

Mr ORMEROD - It is designed as a catch-all because we thought the list may not be exhaustive so we gave discretion. So long as it fits within the intent behind the list. We don't believe the community wants these things happening every night for any reason. It is all about getting some sort of community -

Mr DAVIS - People do like fireworks. We recognise that and, given the opportunity, we would have other suppliers and retailers such as Bright Star. They would quite willingly open up and sell fireworks and there would be plenty of people there willing to buy.

CHAIR - So Queenstown is still safe. That is a fantastic display if ever there has been one.

Mr ROCKLIFF - If you were to use your discretion on a birthday or a wedding, and it came across your desk and you ruled it out, wouldn't that set a precedent?

Mr ORMEROD - It would, yes.

Mr ROCKLIFF - So basically for the first application you get for a wedding, if you rule that in or out, that sets your agenda forever, doesn't it?

Mr ORMEROD - It pretty well does, yes. Celebrating a 100-year birthday is a pretty significant event and probably worth a go, but not a thirtieth.

Mr MARTIN - So basically birthdays and weddings are not going to be allowed, are they?

Mr ORMEROD - No, I wouldn't have thought so. If you look at the way permits come through at the moment, the peak times are cracker night and New Years Eve. The other part of the year doesn't represent a significant part of the permits that come through to us.

Mr DAVIS - That is how it was.

Chair, I mentioned the wrong community group. It was the Dolphin Sands Association, and that is typical of some areas.

CHAIR - Roy, are able to provide us with at least a list of the submissions that you received in relation to this from the community groups and so on that were referred to by previous witnesses? Are they massive?

Mr ORMEROD - There is the same list as Bright Star. This is a summary of the issues raised and whether a member was required. That is worth looking at.

CHAIR - Okay, thank you for that.

Mr ORMEROD - Under FOI, Bright Star received the list of those who made submissions too, but we can give them to you.

Mr MARTIN - In the handout that you have given us, on slide 7 you have '1998 regulations remain largely unchanged. The general public still has access to shop goods fireworks' and so on.

Mr ORMEROD - The only change is that the definition for type 2 fireworks comes under a different standard. It goes from the British standard to the Australian standard.

Mr DAVIS - So there is a clear parameter on how big that type 2 firework can be and what performance level it can be.

Mrs RATTRAY-WAGNER - But events are changing.

Mr DAVIS - Events change the risk.

Mr ORMEROD - It is putting boundaries around an approved purpose for a display.

CHAIR - Thank you very much.

THE WITNESSES WITHDREW