

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON LEGAL AFFAIRS**

**(Reference: sale and safety of fireworks)**

**Members:**

**MR B STEFANIAK (The Chair)  
MR J HARGREAVES  
MS K TUCKER**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 7 JUNE 2002**

**Secretary to the committee:  
Mr R Power (Ph: 62050435)**

**By authority of the Legislative Assembly for the Australian Capital Territory)**

**The committee met at 10.16 am.**

**JOCELYN PLOVITS** was called.

**THE CHAIR:** Thanks for coming. As chair, I read a screed to anyone who appears before the committee. It's something we do in all committees these days prior to evidence being given. You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means you're protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

I also say what I have said to other witness, especially members of the fireworks industry. You are well aware of allegations and counter-allegations and problems in the media between WorkCover and the fireworks industry. As this is an open hearing, keep your comments industry specific rather than referring to Mr X or Ms Y. If there is anything which you feel you need to tell the committee involving individuals, we can go into an in camera hearing, although our time is running a bit short. Otherwise, because of the nature of this inquiry, keep your comments more general if you can.

**Ms Plovits:** I hadn't intended to address that.

**THE CHAIR:** Please state just your name and your occupation for the record, please.

**Ms Plovits:** My name is Jocelyn Plovits. I'm the Occupational Health and Safety Commissioner for the ACT. Mr Creaser would have liked to be here, but he has been called to a Supreme Court case and he is likely to be giving evidence there, so there's a conflict which we couldn't resolve. As soon as he's free from there, he will be coming here, if it's in time for the hearing. Another person who assists WorkCover, Mr Ian Nicol, may arrive from a broken-down aeroplane in time or he may not, so we'll see how we go.

I will open with some points and then take any questions you have. I've written the points down to assist the process. Given that we have written comprehensive submissions to you, I don't intend to revisit all of that material, because I think it would be tautological for you. However, I'd like to draw your attention to those written submissions.

The CIDG reference right up the front is a comment that Wayne Creaser wanted to make, and in his absence I undertook to do it for him. He understood that there was some reference to him being my puppet. Had he been here, he would have said words along the lines that he never has been and never would be anybody's puppet. I'd like to assure the committee that I certainly don't expect somebody with statutory authority decision-making powers like a chief inspector of dangerous goods ever to act in that way. Hopefully, he'll be here and he can address any issues of concern he has.

Clearly the whole act needs an overhaul to bring the legislation up to contemporary standards and to reflect modern technology. The kinds of explosives referred to in the act are basically the explosives of 1912. We really need to move to more modern references and definitions.

The act does not easily fit with modern safety approaches such as those in the comprehensive OHS framework, and we are currently looking at the scope of the Dangerous Goods Act, the OHS Act, the Machinery Act and the Scaffolding and Lifts Act to try to bring them into a more sensible safety framework.

The act has negative definitions which don't help. It also has strange situations. If you're not licensed and you break the law, the act doesn't enable very much to be done about that at all. You can't withdraw a licence if somebody doesn't have one already and so on. We need clarity for inspectors, for licensees and for members of the public in these matters.

The act as it stands doesn't fit with modern environmental concerns, especially noise, smoke and possible pollution. It certainly doesn't fit with the human concerns. To that end, I hand up a copy of an article from the *Herald Sun* today. When I've been reviewing and reporting on this regulatory area each year, this is the one thing I've feared and it's nothing that the regulations have enabled me to prevent. This child is now dead. He died over the last 24 hours. As you can see, he put his face over a mortar-type firework. It went off in his face. Speculation is that it was an illegal firework purchased through Canberra.

**MR HARGREAVES:** Do you know what type? Was it a Thunder King or something like that?

**Ms Plovits:** It says "mortar-type". Thunder King is a mortar-type firework, but I have no definition yet of what type it is. Obviously, we're receiving things. The reference to Canberra is on the second page of the article. It's that that draws me to keep pushing for greater safety through legislative change and through the activities of the regulatory area.

With this industry, as we understand it, there are considerable profits. This means that there's a temptation for non-compliance.

In all of that difficult context, we're charged with regulating a product that has a real potential for harm. So why would you have a licensing regime? Obviously you have it to address that harm problem.

Explosives and fireworks are recognised internationally and nationally as high-risk products. If they are not handled properly, they can cause death, serious injury and property damage. We need regulation to ensure that access and use are limited to those with the knowledge and safe practices to minimise harm.

Currently there are five types of licences—import, keep, sell, use and manufacture. This is an attempt in the legislation to differentiate the types of activities and the places those activities would occur.

That licensing regime came into place, I believe, to distinguish the processes, places and responsibilities of people doing the various activities. But in the history of the thing you have a set of overlapping arrangements which create confusion, and they are complex.

There are discretionary provisions, but the only way that we're solving what those discretions could be is on a case-by-case basis through the courts. That's not helpful either. The court's decisions are helpful. I didn't mean they were not, but I meant that it is a laborious and difficult process when people have to do that.

To try to get some clarity for people, in the last couple of years we've taken a subset out of all of that and tried to look at the shopgood fireworks, since that's an issue that needs to be looked at, and get clarity there. We've distilled that into a two-page information sheet on how to purchase and use shopgood fireworks and how people can purchase from people who are licensed to sell. This area is not complex. It's easy to comply with. It's just whether there's a will to comply, and that's a different issue.

**THE CHAIR:** You have that document in your submission?

**Ms Plovits:** It's an attachment in one of the submissions, but if you need more copies, I'm happy to send them across.

**THE CHAIR:** Perhaps if you leave that here, if you don't need it.

**Ms Plovits:** I have scribbled all over it, but we'll get some more and send them across.

**THE CHAIR:** We've got it. Thanks, it's okay.

**Ms Plovits:** We need a regime that is clear, straightforward in operation and transparent.

The problems are lack of clarity in the legislation and widespread non-compliance or inadequate compliance, especially with record keeping. In a safety world, why is there this emphasis on record keeping? It goes to issues such as the chain of evidence—where they are, who's got them and where they have gone to. When you know that, that starts to sort the market out in terms of the importation of goods and ultimate destination and proof of legal sales. If you've got records and you can prove legal sales, life is simple. Records enable us to obtain information in a way that improves worker and public safety. Without them it's very hard. Effective record keeping is a substantial tool in the elimination of unlawful supply and use of explosives and makes them less likely to fall into the wrong hands, in our view.

Of the people we have asked to produce records, two claim their records have been stolen, and one has been found to have kept inadequate records. So at the moment record keeping is a quite difficult issue.

The industry has to take responsibility for a large amount of the problem associated with the illegal use of fireworks. Without adequate records, the only place we can see where the responsibility stops is with them, because they're the last person that had them, as far as we can find out.

There is illegal use of fireworks as in arson. There's also the use of illegal fireworks as in car bombs or, as with this poor child in Victoria, entertainment.

It would be fair to say that a laissez-faire situation had existed before the Bender inquest and my appointment. I haven't allowed that to continue. That is the minimum requirement that was placed on me in coming into the position, and it's certainly no less than the coroner recommended in making improvements to the processes and the legislation administered by WorkCover.

There is now a proper concentration on safety. A statutory body has been created, and a substantial impact has been made on improving enforcement, albeit with some difficulty, and requiring compliance with the laws that are passed by the Legislative Assembly.

The only kind of campaign we have been waging is a campaign for proper regulation. It is not anything else. We have no personal investment in this. All we want is the regulations to be followed.

It's difficult for us to determine what the industry wants. We're constantly getting mixed messages. We have claims they're dangerous. Witness what I will call the beat-up over the fireworks depot. And we have claims that they're not dangerous and there should be unlimited quantities in shops. I was in a meeting with them in the early days when there were requests for improved regulation, yet we have a high degree of non-compliance with the regulation.

There has been some comment about moving licensing to Fair Trading. These would be decisions that governments make. I have no problems with the decisions governments or the Legislative Assembly make in relation to this. But at the same time there have been requests for explosives and pyrotechnics expertise in managing the industry. I assure the committee that I and several of my staff are qualified as shotfirers, and we also undertake pyrotechnics training. So there is no doubt that we have some knowledge about what's required as well as having the services of an explosives expert on our panel of experts.

They seem to want an unregulated regime couched perhaps in terms giving the impression of public safety and economic prosperity whereas the reality is that the legal season is only for two weeks of the year.

There's a lot of personal attack on public servants, and public servants can't often respond to those things. Yet there are also requests for a better working relationship. It's very hard to work in an environment like that. I suspect the personal attacks are simply a smokescreen to avoid compliance and avoid addressing the real safety issues.

So what about the way ahead? I think I've said more than once in more than one submission that complete modernisation of the act and integration with the OHS framework is a clear way to go, making clear the duty of care obligations. I note here the respected experience of the current chief inspector of dangerous goods, Mr Wayne Creaser, in developing and implementing modern legislation for this area and the Northern Territory. This legislation makes clear the objective of minimising harm. It also allows for the use of command and control legislation, as it's called, where the level of industry maturity requires it.

**THE CHAIR:** What does that mean?

**Ms Plovits:** I remember something that was said to me by the head of Queensland, probably four or five months ago now. It's run differently in Queensland. They come from the mines and energy area. He said that when you are regulating the gas industry, the petroleum industry or other industries they come to you and say, "How can we make it all work?" and you all sit down and you make it work. There's not what in my opinion is constant avoidance and non-compliance.

Where you have mature industries you generally put in what's called performance-based, rather than prescriptive-based, legislation. You see an increasing trend towards co-regulation and performance-based legislation for those areas that have a reliable professional approach. We've yet to achieve a good level of compliance with the current regulations for shopgood fireworks, which are quite simply distilled on to two sheets of paper. That's why I make that comment.

It needs clear and positive definitions, readily understood standards, and perhaps even things like the use of IT to make record keeping and the regular provision of records clear. As I have put it in my report, I got to the point in writing these reports where I thought whether I could look a parent in the eye and say, "Well, that's just the way it is," when something goes terribly wrong, or whether I would say, "It is wrong, and it needs to be fixed." That's what I've done, and that's why I've asked for a proscribing of retail sales.

I refer you again to our written submissions. I've already discussed the Victorian fatality. That's my opening material.

**THE CHAIR:** There's been a request by my two committee members which I think has considerable merit. They want to go into in camera session during these proceedings with you this morning. That may be sensible. I propose to ask some general questions now, especially in relation to deficient legislation. We have heard evidence from a number of people in the fireworks industry, the DPP, and any number of submissions—everyone seems to agree—that the legislation is deficient.

**Ms Plovits:** That's right.

**THE CHAIR:** What have you been doing to get the act changed? Can you elaborate on what you think should be in the act. You referred to the Northern Territory legislation, which you see as quite good. Perhaps you could elaborate on what is good about that legislation. That might be very helpful to this committee. Firstly, could you indicate what your office has done, if it has done anything, to try to change the act.

**MR HARGREAVES:** Mr Chairman, just before Ms Plovits answers that question, can I ask that she address the issue of subordinate legislation as well as the act?

**THE CHAIR:** Exactly, yes.

**Ms Plovits:** In fact, that's where I have to address it. Obviously it's not in my power to make changes to the acts and things like that. Back in 1998 or 1999 the government of the day asked me to look at the problem, and it was as a result of looking at the problem that I made recommendations that led to the changes that led to the shopgood regulations. Those were signed off by the executive. So in that sense I lobbied government for a change, as you do as a public servant. Clearly it was at the discretion of government to make that change, which they did.

On the face of it, the change should have given us a regime of good compliance in relation to a fireworks season. It set in place performance standards. I draw this hemisphere in the sky each time I talk about performance, but it's the area within which the effect of the fireworks is constrained, so that they can't be shooting off way over there and hurting somebody. They have a performance hemisphere, if you like to look at it like that, of three metres. If they do go up in the sky, by the time they come down to that three metres they're not to burn or hurt anybody.

It placed on sellers an obligation to sell only certified fireworks, ones that have been proven to meet those performance standards, and it put in place the permit system in such a way that it brought to people's attention that they had to take care when using this product. They had to be over a certain age. They had to say where it was going to be used and so forth. It was like a pattern interrupt, if you like to think about that.

So in that sense in the subordinate legislation we achieved the change that should have helped. It then relies on the other parties to the situation to adopt that change and come forward. Despite the fact that in the early days we held meetings where those kinds of improved regulations were discussed, they were not welcomed by the industry, I think it would be fair to say—or generally welcomed. There are a couple of people approved to sell fireworks this year who have met the standards and done the required things.

The changing of the act is a matter that requires government to sign off on a process. We have the agreement of this government to look at the full range of the OHS framework. To change the use of explosives in construction, I recommended taking them out of the Dangerous Goods Act and I put it to government that they could be better regulated under the OHS Act through doing a blast plan and all those sorts of things that you need to do for best practice in construction. That was done. There has never been a ripple on the water about how effective that's been. It's in fact best practice and being adopted elsewhere.

In terms of the act, we're now moving to look at what kind of framework you need for management of all of the dangerous goods classes, realising that they go way beyond explosives, and whether they would best fit as regulations under the OHS Act or not. Then we'll bring that forward to government in due course.

**IAN NICOL** was called.

**THE CHAIR:** I welcome Mr Nicol. Please state your name and the capacity in which you appear.

**Mr Nicol:** My full name is Ian Nicol. I appear as legal counsel to ACT WorkCover.

**THE CHAIR:** Mr Nicol, I need to read a statement to any witness who gives evidence before this hearing. It's an Assembly requirement for committee hearings. You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal actions such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

I also say to you, as I said to Ms Plovits and I said to the representatives of the fireworks industry, the committee is well aware of a number of allegations and counter-allegations which have been flying about over a period of time. In the public hearings we will not tolerate people slagging off at individuals. If people have anything to say about individuals, that can be done in camera. We have that process to enable everyone to have a fair say. We have afforded that opportunity already to the fireworks industry. My two colleagues are keen to ask some questions and hear from you two in camera should you wish to avail yourselves of that opportunity. My committee wants to go into in camera session at about 11 o'clock. I'd ask you to confine yourself to general comments, as Ms Plovits has, and if you have any comments in relation to particular individuals you can save them for the in camera hearing.

**Mr Nicol:** Thank you, Mr Chairman, and thank you for pointing out the position.

**THE CHAIR:** Ms Plovits, you were answering some questions. Would you like to continue?

**Ms Plovits:** I was talking about the safety framework that this legislation could fit under. The question that arises is: do you take elements of it which, say, manage chemicals and put them as another regulation under the OHS Act, rather than have this huge omnibus thing called the Dangerous Goods Act which is so convoluted, and have a simple Dangerous Goods Act which addresses just those matters which go to those that still need control or command legislation.

In that, you put in place the prescription issues that are required, say, for the management of fireworks and the display processes, which I recommend should continue. Then we have the kind of legislation that would make sense to us, to the fireworks industry and to the members of the public, who are trying to work their way through all of this as well.

**THE CHAIR:** You mentioned the Northern Territory legislation. We spoke to some people from the Northern Territory in March. Perhaps you can elaborate on the Northern Territory legislation. You say that that strikes a good balance.

**Ms Plovits:** I could send over a copy of it if it would be helpful for the committee.

**THE CHAIR:** It would be.

**Ms Plovits:** I think it would be helpful if you had it before you.

**THE CHAIR:** It certainly would be.



**Ms Plovits:** The act and the regulations that go with it. The intention was to put in place those very elements that I've got there under the way forward. It made clear the duty of care obligations, which are not clear in the current Dangerous Goods Act. The duty of care obligations are very well set out in the OHS Act. They are about the person in control being responsible. At any point where you're in control of a dangerous good, it should be that you are the person responsible for what's happening. At the moment the Dangerous Goods Act puts some controls on the licensee, but the licensee may well be on-selling.

A duty of care obligation makes clear the objective of harm minimisation and it uses clear and positive definitions, so instead of the negative approach it says, "If you do this, there are these kinds of outcomes in the legislation." It's a simple way of writing it.

Within that, there is the opportunity to decide whether you still keep a fireworks season or not, and so on. Whether or not there is a fireworks season, we will still need law to manage fireworks, if only for the display business.

**MR HARGREAVES:** You talk about the negative bits in the legislation. Do you think the penalties that attach to illegal use of fireworks need looking at?

**Ms Plovits:** Absolutely.

**MR HARGREAVES:** The reason why I ask that is that I picked up that bit on the bottom of page 2 of the *Herald Sun* article. It says that people not using licensed pyrotechnicians for fireworks displays face penalties of up to \$40,000 and jail. They're pretty stiff penalties. Do we have penalties which match that?

**Ms Plovits:** Not anything like it.

**Mr Nicol:** All the proceedings under the Dangerous Goods Act are summary proceedings. That means they are only dealt with at the Magistrates Court level. The maximum penalty under the act is a year in jail.

**MR HARGREAVES:** You're suggesting that that definitely needs revisiting?

**Mr Nicol:** Certainly.

**Ms Plovits:** It should be brought into line with the other jurisdictions.

**Mr Nicol:** In my view, there is probably some area for civil penalty orders rather than having to deal with a criminal regime where it's a regularity matter. That's certainly the course that has been adopted in relation to the Corporations Law and other regulatory regimes. You don't need the very strict standard of proof, although usually a standard of proof that's higher than the balance of probabilities, usually what we lawyers would call the Briginshaw test, which is the test of reasonable satisfaction.

**THE CHAIR:** I suppose it's 70 per cent as opposed to 51 per cent and 95 per cent.

**Mr Nicol:** I think that's a fair characterisation, Mr Chairman.

**MS TUCKER:** I just want to clarify the position. Clearly there are problems with the legislation. Is it your view that we can have shopgoods fireworks if the regulatory framework, including policing and enforcement, is working, or are you saying that in your view, from your experience, we should not have shopgoods fireworks?

**Ms Plovits:** With the current state of the situation I think we should not have them.

**MS TUCKER:** What if we changed the current situation, through fixing up the law?

**Ms Plovits:** What you need is people willing to comply. You can have the best law in the land, but if people aren't willing to comply we might have illegal sales going on, illegal fireworks being sold. Until that's resolved and industry shows that they're not interested in that part of the exercise anymore, then I think we have a problem.

**MS TUCKER:** I read your submission at the beginning of this process, so I'm just trying to remember. You have evidence that there is no will to comply, as you put it.

**Ms Plovits:** Generally that's our conclusion, yes.

**MS TUCKER:** I'll have to go back and look at that. I don't quite know what to do with that argument. We have to determine whether an activity is okay or not for the community. You're arguing that people currently in the industry do not have the will to comply.

**Ms Plovits:** Some.

**MS TUCKER:** Some do not have the will to comply. To me that sounds more like a regulatory and policing issue than us as a parliament or as a committee deciding that we won't have this activity because of certain characters. I'm trying to understand whether you think there is a possibility for the activity itself if you had a better regulatory framework. That could include reducing the power. The explosive mentioned in the newspaper article must have been a very powerful explosive. Could you reduce the power of some of the fireworks and improve the regulatory regime? If the community want the right to have fireworks, do you think it is impossible to do that? I don't understand non-compliance as an argument against an activity. That seems to me to be another issue.

**Ms Plovits:** I think it's the argument used in the drug scene all the time. There are two parts to what we're saying. One is that there's a flat, down-the-line, straight-out safety issue around fireworks. Unless they're being used in a safe way by a person that knows what they're doing, then we cannot guarantee that we won't be dealing with more injuries and more destruction.

**MS TUCKER:** Because we can't control what happens once they're purchased—even with a good regulatory framework, good records and all the things you're alleging don't happen—you would still say it is a concern because of the potential for harm.

**Ms Plovits:** Because of the nature of the product.

**MS TUCKER:** You are saying that a child should not be able to hold on to them.

**Ms Plovits:** Get hold of these things, yes. The old-fashioned fireworks were in loose cardboard and had earth plugs, which may or may not have had pathogens in the clay that might have concerned the quarantine people. That's changed. It's now tight, and it's with plaster and things like this, which makes it far more powerful, just from the containment alone, whether you put more explosive in or not.

Then you change the compound inside. The allowance at the moment is 40 grams. Forty grams of black powder is something very different to 40 grams that includes admixtures or flash powder. I talk about the technology having changed. Why do you do that? Why do you put these extra, bigger effect things in things that are supposed to be small things for family use, as you were talking about it. That's part one.

The other side is compliance. On the safety side, I think all around Australia the general conclusion is that it simply can't be guaranteed well enough, and therefore shopgood fireworks, mums and dads type fireworks, shouldn't be out there for people. They should be in the hands of people who know what they're doing and running display-type situations, if people want to have a fireworks experience. I've never said anywhere in my reports that displays should disappear. In fact, I've encouraged their continuation.

**MR HARGREAVES:** Why have other jurisdictions banned them outright? Is it for the reasons you've articulated, or are there other reasons why they're saying that people should not get access to shopgood fireworks?

**Ms Plovits:** I think in these difficult times, to use the quote that stems from the tragedy of September 11, there is an increasing concern about explosives in society. There is an increasing concern about the way explosives are used. Fireworks are explosives for all purposes. They're just tamped down to not be like quarry explosives and so on, or they are a different type of explosive. That's part one. My answer on the other part would probably need to be given in camera.

**MR HARGREAVES:** We might pursue that then.

**MS TUCKER:** I have a question on the current situation with licences. I found it a bit confusing. Is there anybody licensed now to sell shopgoods?

**Ms Plovits:** There are two people. I checked with Wayne Creaser this morning. One person is definitely licensed, and he was in the process of finalising a licence for another person when he was talking to me. I'm assuming that has continued, because he didn't intimate that there would be a problem in finalising that arrangement.

**MS TUCKER:** What is different about that person? How can he arrange for someone else to have a licence?

**Ms Plovits:** He arranges for all sorts of people to have licences.

**MS TUCKER:** Who?

**Ms Plovits:** The chief inspector of dangerous goods.

**MS TUCKER:** Sorry. I misunderstood you. I thought you meant the person who received the licence was organising for someone else to get a licence. I suddenly thought, “How could that happen?”

**Ms Plovits:** I wasn't clear. I apologise.

**MS TUCKER:** It's the way you expressed it.

**MR HARGREAVES:** I thought that too.

**MS TUCKER:** Mr Hargreaves confirms that it was not clear. It did seem a strange thing. There is one person who is licensed. I would like to understand what is different about that person as against the other people who have not been given a licence. What is it that he or she has done that other people have not?

**Ms Plovits:** My briefing is that the required records have been produced to show the testing for the performance of the fireworks that are being sold. They are being done in the quantity that the regulations allow in the shops so that there are not huge stacks of these things liable to cause problems. And the licence fee has been paid, obviously, and it was a proper application. So all the information required by the chief inspector of dangerous goods has been supplied. That has been done in two instances, as far as I'm aware.

**MS TUCKER:** So the other people have not been given licences because of which things? They didn't provide records of testing?

**Ms Plovits:** It's a variety of reasons across the group. Some hadn't bothered to apply in the first place. With one who has applied, as I understand it, not naming names, insufficient information was supplied. In none of those cases has information been supplied about current testing of fireworks for this year to demonstrate that they meet performance standards. This is a matter that's currently before the court.

**Mr Nicol:** That is testing in accordance with the standard laid down in the regulations. Some tests have been provided, but they do not comply with the standards laid down by the regulations.

**MS TUCKER:** That's what I'm trying to understand. Who does the testing?

**Ms Plovits:** The way the regulations are structured at the moment enables the retailer to do the testing, provided they hold the right qualifications to do testing, and to produce the results to the chief inspector of dangerous goods for his assessment. In the Northern Territory the regulating body undertook the testing, so they had a great degree of certainty about what those tests were and what they meant.

**MS TUCKER:** Thank you for that. There seems to have been another process. You felt that some of the industry were not meeting the requirements, so you weren't able to issue licences. It has been taken to court, as I understand it, and the court has found that the licence should have been issued. Is that correct, or have I misunderstood that?

**Ms Plovits:** No. Perhaps I can refer to Mr Nicol, who has the legal summary for me.

**Mr Nicol:** As I understand it, there's been no order in relation to the Queen's birthday licences. There have been orders in relation to other licences, licences to keep. They have been the subject of an appeal and were referred back to the court to be dealt with today.

**Ms Plovits:** And that's where they are at the moment.

**Mr Nicol:** That's where they are at the moment.

**Ms Plovits:** But that was a matter brought by a member of the fireworks industry, not by WorkCover.

**MS TUCKER:** Where the court has found a licence should have been issued, you're appealing that?

**Ms Plovits:** No.

**Ms Plovits:** As I understand it—and I'm sure my colleague will help me if I get it wrong—a decision was made at the Supreme Court level about some licences that needed to be issued on an interim basis while the Supreme Court case ran its full course. These are nothing to do with the shopgood fireworks season. This is to do with licences to keep and so forth.

**MS TUCKER:** Is it a problem if you don't have a licence to keep? If you didn't have a licence to keep, how could you sell?

**Ms Plovits:** Yes, that's a problem.

**Mr Nicol:** Yes, that's a problem.

**Ms Plovits:** But you can sell to display operators in a different way than you're selling shopgood fireworks to members of the general public. So a licence to keep and a licence to sell generally are not to do with the shopgoods season, the Queen's birthday season.

There was some ambiguity in those orders, in our view. We appealed in the Federal Court. The Federal Court found there was ambiguity and sent it back to the Supreme Court, and that's where it is this morning. It is unresolved, but it is not anything to do with licences for the shopgood fireworks season.

**THE CHAIR:** There's been some anxiety, expressed in the media, in relation to the storage facility at Mugga not meeting relevant standards. If there's another one, please tell us. Can you assure the committee that the relevant standards are being complied with? If there are other sites in the ACT, would you mention where those other sites are?

**Ms Plovits:** No.

**MR HARGREAVES:** I don't want to hear where they are, Mr Chairman.

**THE CHAIR:** All right.

**Ms Plovits:** I'm sorry, Mr Chairman. I don't disclose. I would never disclose where the fireworks depot was.

**THE CHAIR:** All right.

**Ms Plovits:** I find its disclosure to be one of the most unsafe things that I've ever seen done by the industry.

**THE CHAIR:** So let us say then that there are storage facilities in the ACT.

**Ms Plovits:** Yes.

**THE CHAIR:** What do you say about allegations made in relation to them not being safe?

**Ms Plovits:** We have a number of storage facilities. I'm happy to say that. The fireworks depot is properly constructed as is required by the law and more than meets the requirements of the law in terms of its separation distance from anything else. I have said that in the media three times, but in fact we measured it with aerial photography yesterday, and it's close to six times the distance required by the law from any other building or facility. So it more than meets the requirements.

It's under 24-hour guard as a result of publicity given to it. We had some yahoos there last night throwing fireworks at a fireworks magazine, which can only happen when this kind of publicity is given to those kinds of facilities, and of course we had to ask for police assistance to try to manage the situation, as well as the guards we normally have there. I find it culpable.

**MS TUCKER:** Can we see a copy of the criteria for safety?

**Ms Plovits:** To establish a—

**MS TUCKER:** For a magazine. You said it has to have a certain space around it.

**Ms Plovits:** Yes, a separation distance.

**MS TUCKER:** And whatever else it has to do.

**Ms Plovits:** Yes. We'll send those across to you. There are obviously different requirements for different magazines for the different types of explosives that you have. We'll send them all across so you can see the differences.

**MS TUCKER:** If there are different requirements on different sorts of explosives, we would have to know what was in the magazine; is that correct?

**Ms Plovits:** Yes. For a 1.4, which is basically what fireworks are, you can have the kind of magazine that we've got for that depot. You wouldn't normally have to have it under 24-hour guard and you wouldn't normally have to call the police to manage it. The fireworks industry has exactly the same kind of magazine arrangements for their own fireworks.

Fireworks that we consider to be higher risk and the high explosives that we may have seized for other reasons—nothing to do with the fireworks industry cases—we hold in a different bunkered magazine which meets the requirements for that kind of explosive.

**MS TUCKER:** What is in the Mugga Lane magazine and what are the requirements for that type?

**MR HARGREAVES:** You said that there are various standards of explosive.

**Ms Plovits:** That's right.

**MR HARGREAVES:** Did you take the maximum precaution with Mugga Lane?

**Ms Plovits:** That's what I said. We more than meet—

**MR HARGREAVES:** Ignored the little ones but took all of the higher end of the explosives scale?

**Ms Plovits:** For the high explosive end—the 1.1s, the 1.3s and above—we have an entirely different magazine which is bunkered and in a very secure environment, as you would expect from me with high explosives. This magazine accords with the standards required for 1.4s. We'll send those across to you.

**MS TUCKER:** How often are police checks done on people who apply for a licence?

**Ms Plovits:** Each time a new licence is issued, it requires a police check.

**MS TUCKER:** And how often is a licence required?

**Ms Plovits:** We run a variable rate on that, depending on the decisions coming out of the courts. We would prefer annual renewal to ensure that the licence and its conditions are as modern as they can be. One of the previous chief inspectors of dangerous goods issued them on a three yearly basis. This was found by the coroner to be inappropriate for high explosives. We weave our way through those kinds of requirements. But every time a licence is renewed or applied for, a police check is required because it's for explosives.

**MR HARGREAVES:** Is the frequency covered by a regulation?

**Ms Plovits:** Yes. It's part of the normal test for being fit and proper to hold the licence.

**MS TUCKER:** And the normal test for fit and proper would include criminal convictions and so on?

**Ms Plovits:** Provided they are not spent. Spent convictions are not counted, but that's what the police check is about. It's about establishing what the convictions are. If it's a conviction for shoplifting or something or other, it may or may not be relevant to the—

**MS TUCKER:** Conviction for anything to do with fireworks, I would assume, would be a problem?

**Ms Plovits:** Anything to do with explosives or violence generally tends to be the—

**MS TUCKER:** Or fireworks regulations?

**Ms Plovits:** Violations.

**MS TUCKER:** I'm asking you.

**Ms Plovits:** Obviously, yes.

**MS TUCKER:** If you were found guilty?

**Ms Plovits:** Yes.

**MR HARGREAVES:** But that's not a criminal offence; it's a summary offence.

**MS TUCKER:** I'm trying to understand what's fit and proper. If you were found guilty of some offence against the current law for fireworks, would that mean you were not a fit and proper person?

**Ms Plovits:** Of course you wouldn't be fit and proper, but it has its time. If time goes by and you don't reoffend, then it becomes a spent conviction and you can—

**MS TUCKER:** What's the time for the spent conviction?

**Mr Nicol:** Ten years.

**Ms Plovits:** Ten years, or at the discretion of the inspector if the person has shown that they can now move to the proper regulatory regime.

**Mr Nicol:** There's a series of quite detailed decisions of various courts setting out what a fit and proper person test is and how it's to be applied in this regime.

**THE CHAIR:** You've tabled two documents: submissions and a *Herald Sun* article. I take it the committee accepts those as tabled documents available for publication along with everything else that we've received today so far.

At this stage I would ask that we go to an in camera session, as has been requested by my two colleagues.

(Evidence was then taken in camera.)



**The committee resumed at 11.57 am.**

**SIMON TADD** and

**BRENDAN JACOMB**

were called.

**THE CHAIR:** You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means you are protected from certain legal actions, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. Please state your names and the capacity in which you appear, before you begin.

**Mr Tadd:** I am Simon Tadd, the Executive Officer of the RSPCA ACT.

**Mr Jacomb:** I am Brendan Jacomb, the Government Liaison Officer for the RSPCA Australia, the national organisation of which state and territory RSPCAs are members.

**THE CHAIR:** Gentlemen, would you speak to your submission then, please. Sorry if we are running a bit behind time.

**Mr Tadd:** Not at all. To start with we should state why we are opposed to fireworks being sold to the public. It is based on the platform on which the whole RSPCA movement is built, which is the five freedoms that we believe all animals should have. I will just run through those quickly: freedom from hunger and thirst, freedom from discomfort, freedom from pain and injury or disease, freedom to express normal behaviour and freedom from fear and distress.

Straight away, with what we have seen with fireworks in the ACT, we have a problem with two of those freedoms directly being contradicted—freedom from discomfort and freedom from fear and distress. Indirectly, because of that, two of the other three are also a problem for us. With the number of dogs getting away from their owners and away from their residences because of the use of fireworks, problems of hunger and thirst, injury, pain and so on have become more prevalent. It would not be happening if there were no fireworks around.

It is also important for us to state that, in Canberra, we have the highest per capita pet ownership in Australia. Because of that, it could be that, in the ACT, the problems associated with fireworks—the number of dogs going missing, and the number of phone calls we get after a long weekend—could be larger than in other states.

For years now, we have maintained a consistent view on fireworks, which has been represented in our media releases, in our lobbying and in our encouragement of members to write letters to their local members of parliament, and so on. Last year we drew up a petition containing 6,500 signatures, which we presented to Kerrie Tucker to take to the Assembly for us. That has been going on now for four years or so. Three years ago,

when the new legislation was drafted, we were willing to sit back and see what difference that would make. We actually thought it would make a considerable difference.

If the fireworks were only released on the Saturday and the Sunday between 7 and 10, it would not extinguish the problem, but it would certainly reduce the problem. It would make it easier for pet owners to cope, particularly those who own pets with extreme reactions who have to medicate their animals. Limiting the release of fireworks to such a short period would allow them to do that more easily. As it is at the moment, with the length of displays and the duress applied by fireworks, that is not possible, and we have continual complaints from members that they are not able to safeguard their pets.

A quite common comment is, "My dog never gets out all year round. The yard is secure enough to keep my dog in. The only day of the year it gets out is on the Saturday that is fireworks night, or a day or so around that time when there are fireworks in the area." The dog gets lost, and it is possibly the only time during the year that it would get out. That has certainly been the case with my animals over the years, but I will get to that later.

We believe that the new legislation that came in a few years ago has not worked at all. It has not actually achieved what it set out to do in the first place, which was to limit the lawless use of fireworks, and to make people responsible for both the sale and use of them. We believe that has not actually happened at all and, if anything, it has gone the opposite way, so that the amount of available fireworks is now less easy to determine.

It appears that the legislation either cannot or will not be policed. It appears, from what we have seen, that prosecutions that have been continually brought against various retail sellers of fireworks have been largely unsuccessful. Fireworks appear to be available somehow, through some sources, all year round. Since last fireworks weekend in 2001, there really has not been an abatement in firework detonations in Canberra right up to this time. Certainly, the rate of release has slowed down over the period, though the extent to which it has slowed depends on where you live.

I live in the Weston Creek area, so I can speak from first-hand experience about that area. Over that year, I do not think that there has been one single week in which there have not been a number of explosions. That being said, it could possibly be that my street is more of a target than others. That is possible. I have certainly found the packaging to suggest that that is the case over some months.

**MS TUCKER:** What did you find?

**Mr Tadd:** There are detonations in my street that do not seem to correspond with what happens generally in Weston Creek areas.

**MS TUCKER:** Because people know who you are?

**Mr Tadd:** Yes, I am in the *White Pages*. The problem I have had for about four months is that, every second or third night there will be a large, heavy five-shooter explosion go off either in my driveway or in the park opposite. I have never been able to retrieve any

packaging from these. It is always between 11 o'clock and 12 o'clock at night, normally shortly after the lights of the house are turned down.

That being said, the person previously in this position at the RSPCA three years ago, when the association did a lot of lobbying, had a far worse situation. A number of times fireworks were thrown at that person's animals over the fence, the mailbox was blown up, the car was damaged and so on. I have certainly not experienced any of those problems at any stage. It could be because I have two large German shepherds, but any problems that I have had have been outside my property and not on my property.

It seems that no matter what sort of legislation is put in place, there are people who are very prepared and active in getting around that, and selling the fireworks to the public. That creates a problem for the RSPCA: obviously the more fireworks that are available, the bigger the bangs of those fireworks, the more dogs are affected, the more animals are affected and the more problems we have accommodating them at our shelter.

There has been a call for a reduction in the amount of gunpowder in fireworks, or a ban on certain types of fireworks, particularly ones that go bang and do not produce the pretty light that can go with it. We would reject that and say that it would have virtually no effect at all. A dog's hearing is 20 times better than humans', or more. The high-pitched whistles, and also the low intense rumbles, of fireworks have just as much effect as a loud sharp bang or percussion on the ear. To a dog, it is the inexplicable noises that are a problem.

That is why, even though thunderstorms are a problem, they are much less of a problem, because the animal is aware that they are coming closer and closer, and then they hit and move on over a couple of hours. Dogs can hear them moving away, whereas fireworks produce indiscriminate noise from all directions, with no pattern or indication that it will end.

What we are finding is that it starts at this time of year. This year, we have had less fireworks going off prior to the weekend than we have had before, for which we are very thankful. That being said, we have definitely had at least six dogs in the shelter in the last three days as a result of fireworks. We are talking pedigree dogs that have their chips, have their tags, and we were able to get them back to their homes fairly quickly. It has been confirmed on a number of occasions that fireworks went off in the area, and when the owners came home, they could not find their dogs.

People often say that, really, it's the owners' responsibility to safeguard their animals, however they have to do that. However, again, we come back to the point that members continually ring us to say, "Our dog never gets out of the yard. He was never able to leave the yard. We have seven-foot fences. The only time that he has escaped is around firework weekend."

We have other problems. Two particular cases spring to mind where people have been out walking their dogs, and fireworks have gone off very close to them. The dogs have broken leads, slipped collars and run while the owner was actually physically in control of them. There was one old lady last year who, when some fireworks went off, picked up her dog and had it in her arms, but it jumped out of her arms, ran across the road, and was run over in front of her.

The problem is that this is something that the pet owner can actually do nothing about. We continually put out media releases asking people who are having fireworks parties to tell the people in their area, and asking people with dogs that have problems to ask their neighbours whether they are having parties. However, it is unrealistic to expect people not to go out for the two-month period that is generally the bad time in Canberra. It is not just a weekend. Obviously, the worst problem is on the weekend, but there is actually a two or three-month period where there is excessive noise. Obviously, owners are going to be out sometimes, and they may have the problem of losing their animals.

To show you what we actually have to do to prepare for the weekend, I will run through what we did last year. Obviously, we were putting out media releases containing warnings to the public, and ways in which owners can lessen the problem for their animals. It is not just dogs, as we have reports of people having problems with horses and backyard aviaries, in particular, with animals and birds trying to escape and birds beating themselves against the bars of cages. There was a case of two horses that were very badly injured on the New South Wales border last year. They panicked and ran into barbed wire fences and one had to be euthanased. I believe one did recover, but it has ongoing problems.

We have very limited kennel space at Weston and because, even though we are not what they class as a non-kill shelter, we do try to give every possible opportunity to an animal to be re-homed. We certainly do not like euthanasing out of turn. What we have found is that, coming up to the long weekend, we know that we are going to be in demand, and so we have to euthanase at least some animals to make room for the influx that we are going to have over the weekend.

In 2001, in the week prior to the long weekend, 10 animals were euthanased purely because we needed the space. Those animals would not have been euthanased at that time unless we had needed the space. We may have been able to house them for another month or two months after that stage, and re-home them. We do not have a seven-day euthanasia policy as the pound does. We have cases where we may have an animal for up to five months, if we believe it is a good animal and it could be found a home.

This year, so far they have euthanased—and they are euthanasing today—five animals to make room. Again, we have 40 kennels that are generally used. At this time of the year, we make up and clear out additional runs so that we can have temporary holdings. What we generally find, and what the pattern has been for the last two years, is that we have a lot of dogs coming and going on the same day, because they belong to responsible owners. They are tagged, they are microchipped, and we can contact their owners. The owners are frantically trying to find their dogs and will contact us or come down to see us. We are operating a revolving door at that time.

Last year, as the submission states, we received on the Tuesday—we were closed on the Monday—almost 300 calls directly related to lost dogs, which is a vast increase on the usual figure. Even on a busy day we would not get more than 10 phone calls. It is usually more of the order of two to three calls a day. The other comments that we had from the public last year were along the lines of, “I have been trying to ring you all day. I have not been able to get through, so I have come down here to look for myself”, so I think that the 300 or so calls that we got last year were really the tip of the iceberg.

I think really that is about the maximum number of calls you could answer in a day on the phones used for that purpose. It is just a case of being totally swamped. Because of the number of staff and the number of dogs, our usual advice to people is to come down and look for themselves, because we cannot tell them whether we have their dogs or not.

Certainly, that demand eases off by the Wednesday or the Thursday after the long weekend. We can certainly count on that. The 290-odd calls that we recorded as being for lost dogs were from the people we could not help—we could look on the computer and say, “No, we do not have your dog.” The ones for whom we could say, “Yes, we have your dog” straight away, were not noted and should be added to that figure. Those dogs that went through the revolving door are not mentioned in that 300 figure, so again the figure should be a lot higher than that.

Working for the RSPCA at markets and community events, we have a lot of contact with the public. A lot of people tell us the most horrific stories, and I encourage them to write to WorkCover or, recently, to write to this Assembly. We find that generally they do not. They feel that, having told the RSPCA, they are then absolved from any further action and it is up to us to do something about it. The reason we did the petition last year was that the number of people wanting us to do something was so great.

Rather than state a whole lot of anecdotal evidence from other people, I will just state my own evidence. I have lost a number of animals over the years. Eight years ago, I had two dogs who, again, never got out of their yard. They got out because of a firework display that actually occurred two weeks before the event at a neighbour’s house. They broke out from Wanniasa, were last seen running at Point Hut Crossing, and I never saw them again.

The two people who managed to catch one and get the tag number, rang me, but the dog broke away from them again. They got the number through the domestic animal search, rang me and told me that they had seen my dogs and where they were, but the dogs were never seen again.

At the present time, I have a 45-kilo German shepherd who, if I am not home and there are fireworks in the area, will cave my back door in. She is arthritic and cannot get over the fence any more, which is what she used to do. Now, she will either break the door or use some other means to get inside the house, so as to feel safe.

Being a dog owner, I do not go out on that weekend at all after dark, but because the problem does not occur just on that weekend, I cannot protect and safeguard my animals for the period over which fireworks are released. In our area, as I am saying, it has not actually stopped at all. Over the whole year, we have had ongoing, but reduced, firework problems.

In closing, I want to say that it is not a matter of how big the bang is, although that is certainly important: it is more the pitch, the whistle, the lights, the randomness of the fireworks being released around a dog’s home. When they break out, dogs will run in panic until they cannot hear that sound any more. Their idea is to get away and get away as fast as they can, which is why you have dogs running blindly and being hit on the roads. You have dogs getting into all sorts of trouble around the place.

For example, last year on the Tuesday I drove from the RSPCA down Hindmarsh Drive to Domestic Animal Services. Just on Hindmarsh Drive, I picked up three carcasses of dogs and took them back to the shelter. The reason I did that was that they had tags on them, they were people's pets, and those people would have wanted to know, good or bad, what had happened to their animal. One person, who came out to do an ID on a dog's body, was in Macquarie and I picked up his dog, which was a little terrier, outside Swinger Hill. It had been missing only overnight, and that is an incredible distance for a little terrier to run just overnight. Again, the dogs run in sheer panic.

In closing, I will say that we have tried to rely on different legislation to reduce the problem, but that has not worked. The feeling of the RSPCA is that, if there is any legal selling of fireworks to the general public, then that is open to abuse. In that situation, fireworks will be available at any time to those who are in the know, and we will continue to have this problem. I would like to pass over to Brendan to explain a little bit more about the national front, and how what happens in the ACT affects the nation too.

**THE CHAIR:** I think that is a good idea but, just before he does, I have a couple of questions. I know from your submission that the number of animals at the pounds increases around each Queen's birthday weekend, and much more so than other long weekends.

**Mr Tadd:** About double.

**THE CHAIR:** Yes. The fireworks representatives made some allegations along the lines that those figures were not correct. I think they also mentioned that, during the long weekend in June, you deliberately put down a large number of animals. Am I expressing that correctly, colleagues?

**MS TUCKER:** Well, he just said that they had to.

**THE CHAIR:** He had to, yes.

**Mr Tadd:** I had a chat to the shelter manager this morning and she looked it up on a computer, and 10 dogs were euthanased last year, particularly to make room, and five have been euthanased so far this year. There seems to have been less of a build-up this year, so we are hoping—

**THE CHAIR:** The other thing they raised was that a horse at Murrumbateman had been counted twice over the last couple of years.

**Mr Tadd:** I do not know whether that is true or not and, again, that is anecdotal evidence. People have rung to say to me, "I have had two horses that have been hurt." We certainly have not been out there to examine them. We are repeating hearsay, which can be dangerous. We would agree that the statistics are not right. The figures are probably grossly less than they really should be.

At the shelter we have 300 or so phone calls coming in, and a constant stream of people going in and out in tears and hysteria looking for their animals, so not all inquiries are reported, and not all dogs that come in are put onto the database. Sometimes we might

only have a dog for an hour, and then it goes back out again to its owner. Those dogs are not noted, so I would agree with the industry that the statistics are not correct, but they are actually considerably understated not overstated, I would say.

**THE CHAIR:** Sorry, Mr Jacomb.

**Mr Jacomb:** Yes. Committee members, I will keep it very brief. There is little more I want to add to what Mr Tadd has already said. However, I can help this committee by giving you a national perspective, and perhaps particularly by mentioning Darwin. I heard the Northern Territory being mentioned before.

Committee members, you are probably aware that the RSPCA has been running a campaign on television called “Fireworks—It’s no party for pets”. The history of the campaign is that, when it was originally developed, it was actually “Fireworks in backyards—It’s no party for pets”. When the title was reviewed by the RSPCA member societies, it was clear that, even if you were not in South Australia, the Northern Territory or the ACT, you may still have a lot of good information about this matter to put into the public domain, and so it became the broader “Fireworks—It’s no party for pets”.

The campaign had two aspects. One is an educational aspect, and the information included what people can do about the widely advertised, big public displays, in central locations, once a year, and covered a number of other practical tips and what have you. There was also the aspect of trying to achieve legislative change in various jurisdictions. As I understand it, South Australia did change a number of requirements in November 2001, but we were still left with the Northern Territory and the ACT.

It is difficult to gauge how well the educational campaign has been going, but certainly there has been a lot of interest in it. We have had a lot of positive feedback about the information on the net, and also about the advertisement, which committee members may have seen on television.

I will briefly mention Darwin, because I think it is important. The important point lies in the comparison between the well-advertised, public display fireworks that the public will attend, see and enjoy, and what happens in the Northern Territory and the ACT, where there are private sales to the public and the fireworks are released in parks, reserves and backyards as well.

I want to stress that the figures I am about to give you are estimates. As Mr Tadd mentioned, often, when there is a lot of activity in the shelter, we are not really focused on getting the statistics, but on doing the thing that needs to be done to maintain the welfare of the animals. However, we know that, around Australia, there is a percentage increase in the number of dogs coming in when fireworks are being released of somewhere between 104 per cent and 280 per cent.

I understand from speaking to the Darwin RSPCA that, typically, in a three-day period they would have four dogs brought in lost. However, over the New Year’s Eve period that figure would go up to about 15, which is about a 275 per cent increase, and for Northern Territory Day, which I understand is 1 July, it goes up again, to about double that at 30 dogs.

I understand that, during last year, it got so bad that, because part of the problem is that dogs escape from places they normally cannot escape from, Darwin city council introduced either an official or unofficial amnesty. They could not really go around fining people for having dogs loose because of the way it occurred, as a result of the celebrations for Territory Day, as they call it, on 1 July.

I just wanted to bring that to the committee's attention. There are a number of things that can be done, and the information is there on our web site. However, there is a real difficulty in the ACT, of which I am sure you are all very aware, and about which we have previously put in submissions, where you have private sales to the public. Thank you.

**THE CHAIR:** Any questions?

**MR HARGREAVES:** I wanted to briefly discuss the difference in the effect on the animals of display fireworks as opposed to the backyard display, or the kids running around blowing letterboxes up. I think we have a fairly good idea of the scattergun approach that you were talking about.

One of the things that the industry was telling us was that they have display fireworks at agricultural shows and such events, and there is no problem with it. What is the association's position on those major displays?

**Mr Jacomb:** You mentioned the agricultural displays. I am certainly aware that, in a number of jurisdictions such as Victoria, at rodeos there are restrictions about the proximity of fireworks to livestock. With big public displays, while they do cause distress for animals—particularly dogs and we would say horses—because they are well publicised, they are in the one location and if they are away from houses and backyards, then there is a window of opportunity for pet owners to take precautionary steps to minimise the impact on their pets.

However, the problem with across-the-counter private sales is that those sorts of opportunities are really not available. Because of the scattergun effect—where fireworks are being released all over the place, in every direction—and the unusual proximity of fireworks, these smaller displays do not lend themselves necessarily to the same sorts of preparations.

The point that has been borne out by the Darwin figures and, as I understand, also those from RSPCA ACT, is that there is that dramatic increase and impact. If we have the public displays, we can do what we can to prepare for them and educate the public, as we do in our national campaign. However, what I call the overlay on that existing animal welfare issue is a significant increase in affected animals, and really something that is of ongoing and great concern for the RSPCA.

**Mr Tadd:** I would like to add just a little to that. I have been at the Canberra Show at the RSPCA stall for a number of years now. Last year, in particular, I fielded five verbal complaints from horse owners there who were saying, "Can you take it up with the Royal National Capital Agricultural Society, because every year it is the same: we have



to calm and stable our horses.” It does not seem to affect the other livestock, the cows, sheep and so on, but the horses certainly have a problem.

Generally, the dogs that are doing shows have already gone at night. They are not normally housed there overnight and so that is not such a big problem. We have made a couple of advances to the show society to try to get it to reduce the display. Rather than having a display every single night of the show, last year they had two instead of three, which is a step in the right direction.

With Skyfire, it is very pleasing that the radio station involved contacted us very early this year and asked us for recommendations that they could publicise over the radio which would say, “If you are in the area and you have a dog that is adversely affected, this is what you can do.” Also, because it is well advertised and they know that it is going to be half an hour or an hour long on this particular day, owners can go and visit friends on the other side of town with their dogs, if the dogs have severe problems. They do not have to be in the area.

However, with the displays that are a result of over-the-counter sales, how do you avoid them? Where do you go? I know some people who do go to Sydney for a week, but it is really pretty extreme to be forced to leave town or to medicate your dog for a lengthy period of time.

**MR HARGREAVES:** There is something else I want to explore with you that I have experience of myself, and that is the use of shop-bought fireworks to deliberately damage animals, because it is some sick person’s perception of fun. Have many animals been brought to you injured because of maltreatment or as a direct result of this, such as cats in collars over fences, cats that have fireworks tied to them and that sort of thing?

**Mr Tadd:** Very little of that actually comes to the RSPCA, but there is a good reason for that. Generally, the average dog or cat in a backyard with a responsible owner already has a relationship with a vet. If there is a problem, the owner will take the animal directly to that vet, and they will not come to us. That being said, last year there was one cat that came in with a damaged tail that looked like it had been burnt. It could have been fireworks, but who knows. It had strayed and it was brought in to us.

Again, because we are only dealing with the strays, it is very hard to comment. It is unlikely that someone would chase a dog around the street and throw a firework at it. Certainly, we believe that one cat was injured by fireworks. However, it is not essential for veterinarians to report cruelty to us, unlike the situation with doctors, for whom it is compulsory to report abused children. We do not usually get to find out as much as we would like to about that.

**THE CHAIR:** Is it worse now or better than what it was, say, 10 or 20 years ago?

**Mr Tadd:** Yes, it seems to be worse. Being from England myself, where Guy Fawkes Day started, I know that it used to be more a community event, where the whole street or group of streets would collect firewood for a number of weeks, go down to the common area away from the houses, build a big bonfire and have a party down there. You would have 20 or 30 households having one party down there, away from the animals. Now, it seems that it is orientated much more to backyards, rather than public land.

**THE CHAIR:** Yes.

**Mr Tadd:** And there is much more of it.

**THE CHAIR:** In terms of animals being injured, is it worse now than what you experienced say five, 10 or 20 years ago?

**Mr Tadd:** If I was talking about last year, I would say yes.

**THE CHAIR:** Yes.

**Mr Tadd:** Last year we were hoping there would be decrease from the previous years with the new legislation, but there was actually an increase. Every year that we have been monitoring statistics, the figures have been going up. There could be more animals, more—

**THE CHAIR:** More reporting perhaps.

**Mr Tadd:** Reporting, and more public knowledge of who to report it to.

**THE CHAIR:** But it is going up?

**Mr Tadd:** Yes, it is a steady climb. It is not a huge increase, but it is a steady climb over previous years.

**MR HARGREAVES:** Am I correct in summing up your submission by saying that we could do with some regulatory attention towards the use of display fireworks, but in fact an outright ban on shop- bought fireworks is the only way to go?

**Mr Tadd:** That is what we are saying because, if they are available in any way, they can be abused and sold throughout the year, or distributed in some way, as we have seen. We are unsure exactly how it happens but, yes, availability does not seem to be a problem.

**MR HARGREAVES:** Given that tonight is the first night that fireworks are allowed to be released—I think that is right, isn't it? Or is it tomorrow night? Anyway, have you heard any going off so far?

**Mr Tadd:** Yes.

**Mr Jacomb:** Yes.

**MR HARGREAVES:** Have you noticed a steady increase in the numbers being let off in the last week or so?

**Mr Tadd:** In the last two weeks in the Weston Creek area, the numbers have been increasing slowly. It may be because of the licensing problem that some retailers have had, but I must say it has been far less than the previous year. However, it is still there and still notable. My dog is certainly reacting, yes.

**MR HARGREAVES:** Yes, I have heard them at my place as well.

**Mr Jacomb:** Regarding the two questions you were asking before, the ones about deliberate injury and whether it is now better or worse, if it would assist the committee I could request information from other member societies around the country, some of whose members have been around for a long time, and obtain information from South Australia and the Northern Territory.

**THE CHAIR:** That would assist us, Mr Jacomb, thank you.

**Mr Jacomb:** I will do that for you.

**THE CHAIR:** If you can get that to us quickly that would be good.

**MR HARGREAVES:** Yes, just shoot that up to us. We have to report by 27 June, but we need to think about it a bit before that, otherwise you will get a blank piece of paper.

**THE CHAIR:** Gentlemen, thank you very much for giving evidence before the committee today.

**Mr Tadd:** Thank you for the invitation.

**BRIAN HEPWORTH,**

**MICHAEL JOHN CASTLE,**

**IAN BENNETT** and

**PETER LUCAS-SMITH**

were called.

**Resolved:**

That, pursuant to the power conferred by standing order 243, the committee authorises the publication of evidence and any other written material presented to it at public hearings this day, other than that information and that evidence provided in camera.

**THE CHAIR:** Gentlemen, I am going to read to you what I read to all witnesses. You might have heard it in relation to the last two witnesses. You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means you are protected from certain legal actions, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the assembly as a serious matter.

I say this in relation to just one witness here. The committee has taken some evidence in camera because of allegations and counter-allegations between WorkCover and the fireworks industry. I suspect—I may be wrong—all of you might have something to say here. If any individuals are mentioned, you do not do it in a public hearing, we have provision to go in camera. I intend going in camera briefly with Superintendent Hepworth, at some stage, because the police might have some relevant stuff that could assist the committee there.

If anyone else wants to go into specific instances which involve individuals, we have the provision to do that in camera. However, I do not think that is appropriate in public hearings. That is a rule we have made with everyone in relation to this hearing. With that proviso, we are now into the emergency services and police evidence in the public hearing. Name, rank and station, please, Superintendent.

**Mr Hepworth:** Detective Superintendent Brian Hepworth. I am the North District Police Commander for the ACT.

**THE CHAIR:** Thanks very much, Brian. Mr Castle and gentlemen, please give your names and the organisations you represent.

**Mr Castle:** Mike Castle, Executive Director, Emergency Services Bureau.

**Mr Bennett:** Ian Bennett, ACT Fire Commissioner.

**Mr Lucas-Smith:** Peter Lucas-Smith, Director, Bushfire and Emergency Services.

**THE CHAIR:** Who wants to lead off? You might as well, Brian, because you are closest to me.

**Mr Hepworth:** Mr Chairman, I have done a breakdown of the fireworks incidents reported to police since 1 January 2001. There are four copies there, which I table.

**THE CHAIR:** That is duly tabled.

**Mr Hepworth:** You will notice that there are several incidents listed—things like no appropriate codes. This is done by the police officer who attends. I pulled up a couple of those—and related things like children throwing fireworks in the streets, where they have not been listed amongst other specific incidents.

**MR HARGREAVES:** That is very helpful. This is what I am interested in. Without getting into detail, can you give us a bit of expansion on the use of these fireworks in both the assault and the bomb incident?

**Mr Hepworth:** A bomb incident may be something like a letterbox being blown up by fireworks. It goes down as whatever the attending police first get the complaint. It may be a bomb incident. I attended one out at Melba, where there was a device created—it was not exactly fireworks—and put into a letter box.

**MR HARGREAVES:** An incident occurred at Ric and Vic's supermarket about three and a half years ago, where there was a series of fireworks taped to the glass. These people inadvertently created a shape charge out of it and it blew the inside of the supermarket away. That would be reported as a bomb incident, rather than a firework going off?

**Mr Hepworth:** Probably, yes. Traffic complaints—I looked at a couple of those. They are relating to young people throwing fireworks at passing cars. The same thing would come up as a traffic hazard.

**THE CHAIR:** What were the assaults?

**Mr Hepworth:** I did not go right into the four assault ones. I could not go into each of the 381 offences. It might interest the committee that the last police attendance was on the 25th of last month, where children were throwing fireworks at vehicles. There was an incident—I do not know if you are aware of it—where WorkCover was involved. I looked up the synopsis report in relation to that last night. They believe young persons in that area were letting off fireworks. The security people called the police to attend. It was all found to be intact.

**THE CHAIR:** Do you have any comments, or can you offer any evidence to this committee, as to where the fireworks would come from and how they would be obtained?

**Mr Hepworth:** To go into a bit of history, in about August 1999, WorkCover contacted me and asked for assistance in relation to the sale of fireworks. I arranged for a sergeant to attend all the firework shops in Fyshwick, to advise them of their obligations in relation to selling fireworks to people without permits, and things like that. I also attended those firework shops in Fyshwick, in uniform—and gave them the same advice.

About a week after that, we did a joint operation with WorkCover on a number of premises. We had undercover police, without permits, go into premises out there and buy fireworks. At one premises at Hume, which was a joinery shop, we were very concerned. We had the premises under video surveillance, during the day, for some time.

There were almost non-stop people going in there. It was mainly ski traffic going through—people from New South Wales. Two officers—a male and female—went in there. They had no trouble at all buying fireworks. No permit was required. When we eventually searched the premises with WorkCover, there were boxes and boxes stacked up with fireworks in the joinery shop. Behind the sanding machine, there were open boxes of fireworks.

In fact, the joinery shop was part of a building complex. There were other shops around the outside. The owner of one of those shops told us about the ones behind the sanding machine. He was concerned at what would happen if there were any flames to his premises.

We then went to premises in Fyshwick. The two police officers went in there and, again, had no difficulty buying a packet of fireworks. At the first premises, the packet was 12 inches by 12 inches and the fireworks cost \$50. The same packet at the other place in Fyshwick cost \$25. Again there was no permit requested.

More recently, at the last Summernats, I was in charge of the Summernats area. We got a call to one of the northside caravan parks, where two males were selling fireworks from a car. The car was absolutely packed with fireworks—boot and back seats. I spoke to two people they were selling them to—they were 10 and 11-year-old boys. Again, no permits were required.

**MR HARGREAVES:** What would have been the effect if that car had gone off?

**Mr Hepworth:** Well, who knows what explosives there were? All the explosives were handed over to WorkCover—the fireworks. They were not just sparklers, they were the big bangers you can get. You could get practically any sort of fireworks you wanted there. The manager of the caravan park contacted us because the young persons were buying the fireworks and letting them off around the caravan park.

**THE CHAIR:** Was anyone charged as a result of that? Did you apprehend the sellers?

**Mr Hepworth:** The matter was then handed over to WorkCover, in relation to the security of the fireworks in the vehicle. I am not sure whether any action was taken against those persons.

**MR HARGREAVES:** Could I ask your view, as a senior police officer, about the law pertaining to these things? Where there is the illegal sale of these things in situations that are potentially significantly dangerous—that is what I am reading into that, with a car full of them—it appears that, at the moment, perhaps the ability to prosecute people who are doing this is very, very limited. While the police might have jurisdiction to charge someone for putting other folk in danger, it appears it has to be handed over to WorkCover. Do you want to comment on that?

**Mr Hepworth:** Because of the confusion of the law, we found it easier to hand over matters to WorkCover to take the action. We are mainly assisting WorkCover in relation to their inspectors going onto premises. We provide a response support to them, to prevent them being assaulted or anything like that. The police will attend really only to prevent a breach of the peace. WorkCover takes the action in relation to the fireworks.

**MR HARGREAVES:** It seems somewhat significant that there is the potential for significant injury to people by a new generation of fireworks, which are no longer fireworks—they are explosives. If somebody in the community were letting off a stick of gelignite at the back of the shops, presumably the police would have a very significant interest in that, and yet you cannot have the same interest in a person letting off a Thunder King at the back of the shops. There is probably not a great deal of difference between the two in terms of explosive potential. I do not want you to necessarily give us a conclusion, unless you feel like it, but should the Assembly be looking at the legal—charging—jurisdiction concerning these offences?

**Mr Hepworth:** Possibly, to make it simpler. We look at what are shopgood fireworks, and the problems with the definitions there. It is getting to the stage now that, when we get a complaint of a bonfire in a backyard and fireworks being let off, we will send a patrol car with a WorkCover person. We expect WorkCover to take action against the people. Again, we are only there to protect the WorkCover inspector.

**MR HARGREAVES:** We do not want to put too much of an extra workload on the shoulders of the police, but I think this is something for the Assembly to look at. I know you are associated with it, rather than being integrally involved in it, but do you have any feeling for the penalties which apply to breaches in this situation?

**Mr Hepworth:** I am not aware of a successful prosecution and what penalty was handed down. I cannot comment in relation to that.

**MR HARGREAVES:** What ticked me off about that was that, in an article in the *Herald Sun* about the firework that injured and resulted in the death of a boy recently in Melbourne, it says that people not using licensed pyrotechnicians for firework displays face penalties of up to \$40,000, plus jail. We do not have anything which remotely resembles that. Do you think we ought to be looking at something up around that scale?

**Mr Hepworth:** Anything that would restrict the use of dangerous fireworks, whether it be penalties, education, or whatever, is only going to assist.

**THE CHAIR:** Perhaps the other gentlemen could make any quick statements they would like—Mr Castle first, then Messrs Bennett and Lucas-Smith.

**MR HARGREAVES:** Mr Chairman, in the interests of time, I would be grateful if these guys would address the questions I asked of Superintendent Hepworth, to save time on questions later.

**THE CHAIR:** Yes.

**Mr Castle:** I thought I might open and put this in context. We believe we are in the business of risk management. We deal with a whole lot of risks. That process follows Australian-New Zealand Standard 4360, which is risk management. There are some emergency management guidelines, which I am happy to provide to the committee. I will make reference to that.

**THE CHAIR:** That would be helpful.

**Mr Castle:** It is the process of risk identification, risk analysis, risk evaluation, and risk treatment. Those are just some of the steps. There are other steps as well, as you can see if you wish to peruse that.

Basically, in identifying the risk, we look at risks for people, environment, private property, lifelines, et cetera. Having heard the RSPCA, I would add pets and animals. They are part of the environment, in that context. We analyse the risk and try to determine likelihood and consequences. There are interactions of levels in a qualitative risk analysis, so it results in a matrix. We look at the likelihood—on a scale of 1 to 5. There are words associated with the likelihood of something occurring—‘rare’, up to ‘almost certain’. We look at the consequence. That can be ‘insignificant’ right up to ‘catastrophic’.

Turning specifically to fireworks, the risks are possibly numerous. There is injury to a user from legal use—purely accidental—where something may go wrong. There is injury to others. Again legal use but with people surrounding you. There are a number of incidences of this, even with public displays, particularly the notable one in Queensland where a child was killed. Something can go wrong. There is injury to a user from illegal use or the type of the firework that is used. There is injury to others, also as a result of that illegal use. There is possible death. There have been instances of that elsewhere. Through illegal use, there is damage to property—like letterboxes and other property that people just want to blow up. There can be accidental damage—in other words, people accidentally damage their own personal property.

Damage can be consequential—that is, urban fire. In the celebrations for Y2K—we surmised that that was the event—a family came home, I think it was in Kambah after they had had a marvellous celebration. They found that there had been illegal use of a firework. A skyrocket had gone onto the roof and caused damage to their house.

Other consequential environmental damage is bushfire. Somebody lets off a firework that, either intentionally or accidentally, starts a bushfire. Kids just take them—they do not want to necessarily let them off in their own backyard because mum might find out or whatever. There are lifelines in our infrastructure, targeted at somebody who wants to do specific damage. Then there are animals in distress.



I suppose fireworks cause bushfires. There has been some evidence, but it is difficult to find the devices. I agree with Brian that at Summernats, some were used. We have no specific evidence from our records that said fireworks caused fires in 2002, but we were aware of fireworks being let off.

For each of the years that the Canberra 400 has occurred, we have looked at the risks. One of the risks we have identified is possible illegal use of fireworks, so we attempt to publicise 'no fireworks'. There was one instance—I cannot recall whether it was 2000 or 2001—where a worker on a building site decided to let off a skyrocket.

Overall, from our perspective, looking at those risks, events do occur. Therefore, you could say the consequences are moderate. In the guidelines, the moderate definition of it refers to medical treatment required, but no fatalities; some hospitalisation, personal support, satisfied through local arrangements; no long-term effects, but some impact—possibly on the environment. There may be significant financial loss associated with it.

In terms of the likelihood, or the incidences of fireworks being used, I would think the guidelines would put it into the category of it being 'almost certain' that there will be events associated with fireworks. If you put it under 'almost certain', it is expected to occur in most circumstances, and/or there will be a high level of recorded incidents, strong anecdotal evidence, or a strong likelihood that the event will reoccur. It may occur once every year or more.

When you put those two together, the word picture that comes out in the matrix puts it in the extreme category—that there needs to be some risk treatment. That is where you get into a debate as to what you do. You take the risk away. That is the most beneficial risk treatment—to remove the risk.

If you disagree with the likelihood of 'almost certain' and downgrade it to 'likely', it still puts it in the word picture in terms of 'high'. In our business, we have a preference—there is a word picture associated with that matrix. We prefer to convert that to a number, where 5 x 5 is the 'possible'. That is 'catastrophic' and 'almost certain'. That gives an upper limit of 25. You can do the mathematical combinations in-between. You can follow a word picture or you can follow mathematical representations.

In essence, I think what we are saying, from our services, is that fireworks are a risk. There need to be some risk treatments. Despite the risk treatments that have occurred at the moment, there are still occurrences that cause damage to property and potential injury to people. As to the specifics, bear in mind our records. I note that Jon Quiggin, Acting Director, ACT Ambulance Service, has written in response to committee that we do not pick up the people who self-present to a doctor because they sustain some injury to their hand, eyes or whatever.

In a nutshell, we think there is a risk, and there needs to be risk treatment. In an evaluation sense, what is being done at the moment for risk treatment is perhaps not sufficient because events still occur. I am interested to hear from the AFP about this figure of 381 in a 12-month period. That typifies our experience—they might not get to a significant level, but they are occurring.

**MR HARGREAVES:** You mentioned that one of the difficulties is finding the causes of fires, because fireworks disintegrate with heat. I will get you to address that in the context of the recent spate of bushfires, and explain your conclusions on that.

**Mr Castle:** I might hand over to Peter to do that.

**Mr Lucas-Smith:** In relation to last summer, three fires occurred—one in December and two in January. They were not major fires, by any stretch of the imagination. They were very minor, the largest being a hectare in size.

We found evidence of fireworks up at the fire site. In two of those cases, they were sparkler-type things. Whether the fires were a result of carelessness in just letting these off or not understanding the consequences of them, or whether it was a malicious or deliberate use of a firework as an ignition source, we do not know. We will not know unless we can get the people to admit it.

The one in December was a totally different scenario. There was a propane can with sparklers taped around it. It was deliberately ignited and left on the ground as a deliberate arson device. Those are three fires we know of that we are fairly certain were started by some firework.

Two of them appear to be carelessness, but people are moving out of city areas and into bushland areas or forest areas to do this. The areas where the fires occurred were easily accessible by pushbike or motor vehicle. We have that information in from last summer, anyhow. There were no other major fires last year that could be attributed to fireworks.

**MR HARGREAVES:** I would ask for a short recess. I have a five-minute committee meeting.

### **Short adjournment**

**THE CHAIR:** We are on again.

**Mr Hepworth:** Mr Chairman, if I may, I will explain something. You asked about the assaults, and I clarified them during the break. One of the assaults, at the EPIC centre on 6 January 2001, related to a 17-year-old male throwing a bungie-style firework at a female. It went off next to her head and caused injuries.

The next one was on 16 September 2001. There was a 10-year-old female sitting in the bus shelter at Rivett, when a male walked up and threw fireworks at her. She got cuts on the legs.

The next one related to an incident at Greenway where a 13-year-old boy received a broken collar bone. He was interfering with a firework site, and someone took umbrage at that.

The final one was again at EPIC. A person was assaulted while watching the fireworks and stunt shows.

**THE CHAIR:** Thank you. Now, Mr Bennett?

**Mr Bennett:** I am not sure how much more I have to add.

**THE CHAIR:** Mr Lucas-Smith?

**Mr Lucas-Smith:** I have no more to add, other than the incidents I talked about in relation to last summer.

**THE CHAIR:** Kerrie missed those. I think there were three incidents.

**Mr Lucas-Smith:** There were three where we found fireworks adjacent to bush or grassland fires.

**MR HARGREAVES:** Those are the ones of which there were pictures in the submission?

**Mr Lucas-Smith:** Yes.

**Mr Castle:** If you go back to our broad general risks, the concern is that the availability of even small, shopgood, fireworks is that kids will be kids. They will break them down, and you are likely to get more explosives. They want bigger bangs—they want to do things with them. If they are available, kids can do that.

**MR HARGREAVES:** They strap them all together to get a bigger bang for their buck. With the bits you found at those fires, was there any way to determine whether they were fireworks sold in the legal context, or illegal fireworks? You know the context I am talking of.

**Mr Lucas-Smith:** With two of them, we would say they were part of a package of fireworks. They were legal sparklers and Roman candle-type things. One of them was a small mortar-type device, a firework device. I do not know if you can buy those across the counter. They are certainly not shopgood fireworks.

**MR HARGREAVES:** This is the same question I have been asking at a number of these things. You say the main thrust of emergency management these days is risk management, and you talked about removal of the risk. I presume the bureau is thinking of fireworks in two categories. One is display fireworks administered by qualified pyrotechnicians—that is why you guys still have an attendance at the Lanyon Homestead—but they are still set off by a qualified pyrotechnician. Your attitude to risk management there is quite different from that with shopgood fireworks. Do you believe we should remove the shopgood fireworks from circulation?

**Mr Castle:** My personal opinion is yes, because we see the consequences of misuse or accidental use. I suppose that, if there were an opportunity to remove the risk, then we would take that option. The balance—that is where you get into personal opinion—is what impact that has on the enjoyment of others.

We can all come up with anecdotal issues. I would support Brian in the anecdotal issues. I have anecdotes. I have family in Sydney. The young kid, my nephew, came down with a list of the places to go to get fireworks. The parents were not aware that it was illegal.

It was out of season, but my nephew had the address where the word was you could go and buy fireworks.

We said to his parents, “It is illegal—you cannot do it.” They said “Right—we are not going.” That was it. It is anecdotal, and you hear that. I would think that, from the point of view of our service, it is getting that balance. On balance, we would suggest we remove the risk.

**MS TUCKER:** To be devil’s advocate here, as a society, we make decisions about risk. There are many legal things in our community that people enjoy. You could say, “Look how many people are killed by cars.” We could ban cars, but you could say no—because they have a function other than enjoyment.

You could say alcohol. People like alcohol—it is recreational. The harm to our society from alcohol is well understood—it is a major killer, in fact. But we do not say people are not entitled to have a choice and take personal responsibility for using it properly.

Is it in perspective that we will use this argument for fireworks, which a lot of people really enjoy and see as part of the culture? I am interested to know. Is it in perspective?

**Mr Castle:** I would put it this way: they are explosives. They have greater potential, in some respects, than the consequences of alcohol per se. That is my personal view. However, you can still provide enjoyment for people to watch that style of fireworks, done through qualified operators, with a lot of checks and balances. If they enjoy them, why do they need to go out and personally buy them and potentially injure themselves or damage property? It is the consequential nature of it that seems to me to be the risk element. If you can remove that component and still have the enjoyment—because it is done through authorised people—people trained in the use of what is an explosive—then I would see the balances.

**Ms TUCKER:** What would you say to the suggestion that we change the nature of shopgood fireworks to the degree that it is just a very small firework—not very powerful, not high-noise and does not hurt animals? Is there a potential for us to change the nature of the product so that is not such an issue for those people who, for reasons I personally do not understand, like to do it?

**Mr Castle:** There is still an element of explosive content in it. Now you are down to whether we have a responsibility to protect people who want to break it down and boost the charge. If you make it available, even in small amounts, then it is capable of escalating on a true unintentional basis.

Peter Lucas-Smith indicated that, in one of the events, the sparklers were wrapped around a can. They are a ‘get out of the way’ ignition source, so there is some delay. I do not think you can scrape sparklers down and make something more damaging out of them, per se. However, once you go into something that contains an explosive or some accelerant, then you can use it for other purposes. I think, personally, in our business, that availability is the issue. Once it is available, you have no greater aspect for public safety, in that respect.

**Mr Hepworth:** Where we are involved is in the sale of the fireworks. If there is responsible sale, okay. We are concerned where they are there just to make a buck and sell, to 10 or 11-year-old kids, anything they want to buy.

**Ms TUCKER:** You have proof that they do that?

**Mr Hepworth:** You were out of the room when I referred to the job I attended at the Summernats. At the Northside Caravan Park, fireworks were being sold to 10 and 11-year-old boys. The car was absolutely packed with fireworks. If the kids had had the money, they could have bought anything that was in that car. They were buying the bunger type of fireworks.

**MR HARGREAVES:** We heard in the WorkCover submission about the volume of legal sales of shopgood fireworks in the ACT last year. That was, I think, 1,590 sales. When you talk about balance and risk management, it would appear as though the 1,500 or 1,600 people who buy it are at the other end of the stick. Your concern is about the volume of illegal purchases, which would possibly be considerably in excess of 1,590.

**Mr Hepworth:** At the premises in Hume, which we had under observation, it was almost a line-up. Non-stop, there were people going into the premises to buy. They had 'Fireworks' signs set up on the highway, directing them to the joinery shop. We had it under video surveillance. There were cars pulling up there, with people getting out, walking in and buying them.

**THE CHAIR:** All right, gentlemen. I would like to now excuse Messrs Castle, Bennett and Lucas-Smith.

Superintendent, I do not think we will keep you very long. I have a few questions which I think are appropriate to ask in camera.

Ken, we will probably be only five or 10 minutes, if you want to hang around for a comment. We will then adjourn for lunch.

(Evidence was then taken in camera.)

**The committee resumed at 2.11 pm.**

**SAM WONG** was called.

**THE CHAIR:** I welcome you to the afternoon session of the fireworks inquiry. We are starting a little late but we went about an hour over time before. I apologise to staff—especially the Hansard staff, who had only a short time to grab a bite to eat. I thank everyone else for their forbearance. Sam Wong appearing, whom I understand is patron of the ACT Chinese Australian Association.

Thank you for your submission, Mr Wong. I will now read what I read out to all witnesses. Just before I do, might I welcome Mrs Helen Cross. Apart from the normal committee, consisting of myself, Mr Hargreaves and Ms Tucker, any Assembly member is entitled to sit in and perhaps participate in these public hearings. If they are not committee members, they are not entitled to participate in deliberative hearings or indeed in-camera matters. However, they are more than welcome to participate and ask questions in public hearings. I welcome Mrs Cross to this committee inquiry.

**MRS CROSS:** Thank you, Mr Chairman.

**THE CHAIR:** I read this to all witnesses, Sam. It is a general blurb we have to read to people who give evidence before any Assembly committee.

You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. But it also means that you have a responsibility to tell the committee the truth. Any false or misleading evidence will be treated by the Assembly as a serious matter.

Just for the record, please give your full name and the capacity in which you appear in front of the committee.

**Mr Wong:** Thank you, Chairman Bill. Sam Wong. I am the patron of the ACT Chinese Australian Association.

**THE CHAIR:** Thanks, Sam. You have made a submission to the committee. Perhaps you would you like to talk to your submission and then answer some questions.

**Mr Wong:** Honourable members of the Assembly, ladies and gentlemen, first of all, I would like to thank the committee for providing the ACT Chinese Australian Association with an opportunity to confront you, to provide further views on this matter.

Our association looks at this piece of legislation and related matters as very important to our community. We have submitted four pages through our president, Mrs Wong, related to the matter under discussion—namely the sale of fireworks in the territories, the general safety of setting off fireworks and any other related matters.

In our introduction, we introduce our organisation, which is one of the large Chinese community organisations. I am very careful to say it is one of the large organisations, not larger, because it might concern other people. We are not the youngest, but we are premature. We started in 1998, when apparently we had over 200 members, including families.

Our role, as stated in the submission, is to try to promote Chinese culture and integrate the Chinese community into the mainstream core community in Canberra and Australia. In this matter, we have consulted our members and all the other relevant people involved, as far as possible, about the impact of fireworks and related matters.

Right from the start, fireworks, from the Chinese community's point of view, are a very important part of our culture. There is no question that this goes back for many thousands of years. Many other cultures like Spanish and European—I would not say followed—have at least emulated ours.

**THE CHAIR:** They were invented in China, I would say.

**Mr Wong:** Of course. Thank you very much for the confirmation—that is one of our successes in civilisation. One of the members pointed out to me that, related to fireworks, when it comes to noise and recognition of that, the west has adopted the 21-gun salute to our sovereigns and other dignitaries who come to our country. That has been the practice, and there are many other similar methods of recognition or welcoming. This is not unique for fireworks. There are other noise producing events. This is called cross-cultural admirations. I think that is a very good thing.

Going to our introduction, we are grateful to see that the safer use of fireworks. It should be operated in a way that is workable for government, community and industry. In recent months, weeks and days, from my point of view, I have had very little association with industry or the government on this matter. The media have been portraying adversarial types of situations, especially between industries and also with government regulators.

This is, to me, probably not the true operation of the ACT government. I have been working here for a little while—not long, but for a year or so. We are always looking for the model of more cooperation, rather than looking at these adversarial models. I will come to that a bit later because we have some recommendations to try to improve the situation.

As to the background, in the submission I mentioned Chinese festivities, and why we need fireworks. Basically, the legend, or the following, with our culture, is that big noise chases the evil spirits away. This is why we have fireworks in that way. We use them not just for festive days like Chinese New Year but also in inaugurations for business and on happy family occasions such as weddings. I think it is important for the committee to know about that.

**MR HARGREAVES:** Yes.

**Mr Wong:** This is not just a corporate thing, but it applies also to individual families in the community. In our introduction, we mentioned the effect of the changes of the legislation on the business community. I found that information in what I read in other submissions, especially the one from WorkCover.

They make some interesting, very uncommitted statements about the amount of money. I also read something from the fireworks association about it. I think the whole process needs to be transparent and seamless—and the community should be informed.

There is an impact on trade in this matter. I believe we need to look at it a bit more closely—especially, as pointed out, because a lot of fireworks come from China. I am aware that this government is very interested in trade between China and Australia—particularly in Canberra. I certainly have some very negative comments. One of the organisations talks about the way the things are being made, but that will come a bit later.

I have personal contact with the Chinese Embassy. I made some inquiries about it from a business counsellor there. All the factories making fireworks in China are pretty regulated. They look at it as their centre of excellence for industry and export. We would all agree about our fireworks displays during the Sydney Olympics—and also our centenary celebrations. Most of those fireworks were from China, and have been showcased to the rest of the world. From a Chinese-Australian point of view, I am very proud that Australia is associated with quality products coming from China. That is an important part of the whole business about impact.

Let us move on to the more specific issues involved. In our submission about the sale of fireworks in the territories, we agreed that the supply or sale of fireworks should be done from licensed premises. There is no question about that—we should follow that.

The sale of fireworks should be banned from supermarkets and other areas—that to us is important. We need to focus on that area. If you have licensed premises and a problem arises, inspectors can look at it more specifically—rather than things supplied from any other retail outlet. Training of staff and the requirement for licensing are issues I will come to a bit later on.

In point 4 of our submission, we say that the sale of fireworks should be restricted to approved events only—and that approval should be sought through the appropriate approval processes. There is no question about that. The major displays of fireworks from our community—the Chinese New Year celebrations and so forth—are especially important. We have a record which I am not sure whether the members of the Assembly know about. In the last few years, for that ceremony, we have used the longest firecracker in the Southern Hemisphere. That was over 150 feet long, or something like that.

**THE CHAIR:** I was there. It went on for ages and was very loud!

**Mr Wong:** That is correct—it was quite long. We are very proud of that. It was under a controlled environment.



The other thing is that individual sale of fireworks should be restricted to special events. We have no objection to that. I think we could move these things a bit further. We need to provide a simpler information leaflet for people purchasing a licence and ask them, from a public health point of view, about the handling of this type of dangerous goods. That is what I call them. We need better instructions.

In fact, there might be some requirement for them to read it and understand the scope of that licence. That might take a bit of time but, from a public education point of view, it is important. I am not sure what is currently being done. I admit I am ignorant about that. Is it currently being done?

**MS TUCKER:** There is a leaflet.

**Mr Wong:** But they are not required to actually read it?

**MS TUCKER:** Not that I know of.

**Mr Wong:** A certain effort needs to be made so people understand the hazardous nature of the goods, if they are mishandled. Something needs to be done—I will not say legislatively—through education. We must educate people about the importance of those safety instructions and encourage them to read them.

Regarding the sale of fireworks, attending public sessions on the safe use of fireworks at sales—and the safety section should be conducted by the licensed business proprietor. We are talking about education in general—about licensing and also for technical people. I think they require some form of regular update of training—and also about the law, government, and those things.

We then go to the other part—the general safety of setting off fireworks. As far as our association is concerned, we support the following:

1. The general safety guidelines are made available to the organiser and the users when the application for licence to set off fireworks is made.

The use of the guidelines is very important. It continues:

2. A checklist is issued to the organiser and the users to ensure all the appropriate measures are in place before setting off fireworks.
3. The venue for setting off fireworks is made known to the public and a safety zone surrounding area is blocked off and prominent signs are placed to ensure the public is aware of the danger.

I think this is the current practice. We certainly endorse that. Then there is the proposal from our association:

4. The association also proposes that a venue may be allocated that the public can use the venue for setting off fireworks for celebration.

We use as an example people on roller-skates and skateboards. In the past, there have been many incidents affecting the neighbourhood, with people skating up and down the streets. However, as you know, the government and the community now have a number of skate parks and special places available, in a more controlled and safe environment. I also use for an example people on trail bikes—or something for kids in Narrabundah.

The government should look at the possibility of an opportunity for a really well controlled environment for kids, parents and families. If they want to light up a firework, they could do it at any time of the year, rather than restrict it to the Queen's birthday weekend. That could be used as a sanctuary, or whatever you call it, to take off the heat—something along those lines.

I do not think this would cost the government too much. You could even make it a cost-recovery venture, where people using it pay certain fees. Also, you could provide educational material—and other types of requirements. In that case, hopefully that would take care of all the excess energy the kids have, and maybe even the parents. Rather than going out and blowing up people's letterboxes, there could be a place for them to liberate their hobbies. That is just one of our proposals—our fourth one. I have not seen what other people have done, although I have had an opportunity to read other people's submissions. The learned committee might like to think about that one.

For any related matters, the press have not taken the opportunity to educate people, especially for this coming weekend, which is the Queen's birthday. They are more interested in knowing about the adversity, and also the drama, between the government and the suppliers, or the licensees. I think they should have community awareness and educational programs—both locally and in the media. They should do something like that. Hopefully, that program would be supported by the regulator, the industry and the consumer. It is important that we have that campaign. I am sorry, I have not seen any of those. People basically have been asking about the fine—they are more interested in that.

From my point of view, being involved in the health area, prevention is better than intervention. I do not think we should use a punitive type of approach. Rather, we want to educate them to make sure they don't hurt themselves—that they do not end up in hospital with half a finger blown off, or their eyes blinded. I think more positive messages can be given rather than this punitive side of things where, if you do not do certain things, you will be penalised. As you, Chairman Bill, as former Attorney-General, know, some of these things do not work very well at times. People will rebel on those things.

The other thing is that the association will continue to support the use of fireworks in celebratory events. That is very important to us. I think we need to have more publicity. This may contradict what I just said regarding the unsafe and unlawful use of fireworks, but we should make sure that they purchase those fireworks from a reputable, licensed supplier.

The third part is that the severity of penalties for illegal or unlicensed sellers should be made known to the public. As I mentioned before, this is probably not as important as the public health messages, but it still needs to be there.

The fourth one says that the government, community and business sectors which are affected by the Dangerous Goods Act should work together in a collaborative and positive approach to ensure the sale and safety of fireworks in the Territory. The key words are “work cooperatively”.

At the moment, I do not see that happening. There seems to be a lot of negativity floating around. This is from my point of view as a member of the general public. It is not a very educated view but, from what I have heard, at times people are not very complimentary to one another.

**MS TUCKER:** That is pretty accurate .

**Mr Wong:** The fifth is an innovative idea—that we should set up an independent advisory council to monitor, evaluate and advise the government, business people and the community in relation to matters concerning the handling of dangerous goods, especially related to fireworks. We need that kind of approach.

Going back to my former work, or current work, if there is a problem shutting down, using a prohibition model normally does not work very well. There are things that we have been using for many years. Take drinking, for example. If we started a prohibition on drinking, I do not think it would be welcomed by either the community or the government. It would not be a popular event.

However, we would have liked this government, and its successor, to have done things like that—looking into the medicines and drugs matter, using the harm minimisation approach to look for the way to do things. That would be a much better practice. The harm minimisation approach has been used in many public health areas. On the same note, I have read through most of the submissions. There is not much mention of the risk management approach, but I am happy to be corrected.

I could share some experiences with you on the risk management approach, because I have been using the risk management approach in medicines and poisons for a number of years. I was secretary of the National Drug and Poison Scheduling Committee, which deals with the regulated supply of poisons and drugs. When I was Chief Pharmacist for the ACT, I was a member of that committee, but that was a few years ago.

The risk management approach examines the various risks of dealing with and supplying hazardous substances. I would use the preventative approach to make sure those things were not going to be used for harmful purposes, or to the detriment to the community—to make the best of them and use them the way they should be used.

I am surprised that I have not seen any of those things. I have probably not read all of them but, from what I have read, it seems that the concept of a risk management approach is not very well laid down. As I say, I stand to be corrected, because I have not read enough of the submissions.

To reiterate, our association has four very strong points of support for and recommendation to the committee, which I will read:

1. The ACT Chinese Australian Association supports the sale of fireworks in the Territory under the Dangerous Goods Act 1975.
2. The sale is restricted only in specific events through an application of licence for purchase and sale of fireworks, and the authority of setting off fireworks at a time specified.
3. The sale of fireworks is restricted to license premises with the proprietor being the owner of a license premise for holding Dangerous Goods specifically related to fireworks.
4. The Government establishes an Independent Dangerous Goods Advisory committee to address issues relating to the appropriate sale and safety of fireworks in the Territory.

Perhaps I can add another point, which I do not have written down. The fifth point is to establish a sanctuary, a place where you can light fireworks in a controlled manner.

With the indulgence of the committee, I would like to make some observations on other people's submissions.

I read the submission from the RSPCA with great interest. I have always respected that organisation for the great work it does for animal welfare and the community. When I read through that, I found a number of issues where our community might not be in line with their thinking. If I may, I will quote from their submission. It says:

The RSPCA is totally opposed to fireworks being made available to members of the public, and organisations, other than those licensed by the Government to stage special events in an area that has been cleared for such use by an animal welfare impact study.

If I read that correctly, it is saying that, without an animal welfare impact study, basically everything should be prohibited—except those events agreed to by the government. This is a very fundamentalist approach—that, without basic facts, they will stop something.

The same analogy could be applied to the Christmas/New Year period. A lot of car accidents occur during that period. Perhaps, as a result, we should not have the holiday at all. That is an interesting analogy. As I say, I read the submission with great interest.

I quote the relevant section of the Animal Welfare Act 1992. It says that a person shall not, without reasonable excuse, deliberately cause an animal unnecessary pain. The wording is “deliberately cause ... pain”. I do not think any person of sound mind would deliberately light up a firework to cause an animal pain.

Therefore, in looking at the legislation, the ‘intent’ part is more important than the ‘pain’ part. I ask the former Attorney-General to enlighten me as to whether or not our interpretation is correct. This is what I have not seen—except for a small minority, a person lighting up a firework, deliberately wanting to cause unnecessary pain to an animal.

**THE CHAIR:** No. You are fairly accurate there.

**Mr Wong:** Thank you for your support. Again, I have read the observations of the RSPCA on the number of telephone calls related to firework events—people seeking help from the animal welfare officers to recover missing dogs, cats, et cetera.

I do not dispute that observation, but the conclusion is very simplistic. Certainly, there is a correlation of events. I can speak with some expertise, because I have a graduate diploma in statistics. Speaking in a statistical sense, because you have a correlation, there does not have to be a causation event.

I am not disputing that that might be a factor, but I am talking about the other confounding factors in the situation, such as people. The owners of the pets will be more relaxed or liberated during that time. Their behaviour probably reflected the loss of their animals during that period. Mind you, that period is really a festive time of year.

**THE CHAIR:** Yes. We have a fairly limited time and a few people to get through. The main thing we are doing with witnesses, Mr Wong, is finding out what they or their association think. You have made some excellent points about what your association thinks. I hate to interrupt your opinions on the other submissions. However, I do not think anyone else has given much of an opinion on anyone else's submissions, unless it has been, for example, WorkCover and the fireworks industry—and that is logical.

Perhaps I may ask you a few questions and then my colleagues can do so, in relation to some of the points you have made, especially in relation to the Chinese community and the celebrations. You talk of family occasions, apart from the general festivals you have. How is that operating at present? Perhaps you can assist the committee as to how that operates at present. I assume, from what you say, it is something you want to see continue.

**Mr Wong:** We operate at two ends of the spectrum. One is that we are well aware of the requirement to contact WorkCover to seek the necessary permit. The other one, which is the extreme end, is pure ignorance. The thing is, they say it is a happy event—and they go about it. Therefore, we have a mixture of both. I do not think any of our citizens wish to break the law on that basis. However, going back to the public educational aspect, I think we need to provide more information.

**THE CHAIR:** I am interested, too, in the independent advisory council or committee relating to the handling of dangerous goods, specifically fireworks. Who would you recommend should be on such a body—what organisations?

**Mr Wong:** Normally, territory governments have a great model on advisory councils. They are more like a tripartite body, with representatives from the regulators, the industry and the consumers. That would be very helpful. The main thing is that I think we must wipe out what these adversities produce. We must start from scratch and build this piece of legislation from a totally adversarial situation to a cooperative way of doing things.

**THE CHAIR:** You mentioned a central area for letting off fireworks—a communal area.

**Mr Wong:** Yes. The model I use is like a—

**THE CHAIR:** Like a Guy Fawkes night or something?

**Mr Wong:** Yes, a centre for fireworks—similar to a skateboard centre. In fact, that could be expanded for use as a basis for future firework displays, in a more professional manner. It could also be used in an educational role. There are heaps of opportunities. Information could be provided. Schools could come in and have a look at how best to use a firework, and so forth.

That is important for our future generations, especially going back to my initial remarks. If you find children have antisocial behaviour, or anti-whatever behaviour, it is useful to start education about these things when they are young.

I wish to make one last remark. It is silly. If a dog causes damage to a child, should we ban dogs? It is as crazy as that. We should not be doing that. If you were to talk to the RSPCA and say that, because some dogs bite children, you should not have dogs at all, they would tell you to jump into the lake. Would it be possible? That is probably true.

**MRS CROSS:** Mr Wong, how would your association—or any of the other Chinese associations in the ACT—feel if they could no longer use fireworks during their Chinese celebrations? How would they feel if they had to go to a central location, for example, to watch the show rather than the various venues where you celebrate Chinese New Year or other celebrations?

**Mr Wong:** Thank you for your question, Mrs Cross. In general terms, the community would not be very happy to see that happen. In the past week, we asked the community if there had been any mishaps or unsafe situations. We have not had any of those things happen.

I have been living in Canberra for over 25 years. I do not know all the Chinese people here, but I would know most of them. I have not heard of an accident arising through the misuse of a firework during a celebration. On that basis, if we are using the risk management approach, I do not think they should change that—without a very strong legislative reason. Otherwise, I do not think we would be happy—I use that term politely—with that.

**MR HARGREAVES:** Mr Wong, I want to correct my understanding of the position that the association has. The first is that you have no objection to the provision of what are called display fireworks—Skyfire and those sorts of controlled events, conducted by qualified pyrotechnicians?

**Mr Wong:** There is no question.

**MR HARGREAVES:** You are saying that, for community events like Chinese New Year, other Asian new years, marriages and specific celebrations, as long as sufficient information is provided about the proper use of fireworks in a structured environment, those too should be permitted?

**Mr Wong:** Correct.

**MR HARGREAVES:** But the uncontrolled sale of fireworks to the community generally is an issue of which your association is not necessarily supportive?

**Mr Wong:** To reiterate what I just said through you, Mr Chairman, we would support the supply of fireworks in a controlled, educated environment, through a reputable, licensed supplier. I am saying that, at the moment, with this Queen's birthday long weekend, the way I read the legislation allows that, but at any other time we would need permission for that.

The intent of that I could well understand, because of the difficulties arising from the law being operated or implemented. From our association's point of view, we would like to see it not restricted to the Queen's birthday weekend. We would like those things to be relaxed during the Chinese New Year, which always happens in January and February, if there is some possibility of that. Also, as I mentioned earlier on, inaugurations for business and weddings can come at any time of the year.

**MR HARGREAVES:** Yes, I understand that. Can I take you back and ask you to call upon your experience as chief pharmacist? Regarding these shopgood fireworks, we are not talking, in this case, about the celebratory ones, because your point has been well made on that, we are talking about the use by the general public of shopgood fireworks. You are saying shopgood fireworks should be available only from licensed premises, and that therefore the regime for someone to have a license is a quite strict one, in the same way that exists with pharmacists?

**Mr Wong:** I think so.

**MR HARGREAVES:** They should be completely controlled, licensed and all that. If I recall correctly, we have had debate in recent years on the labelling of drugs. We are not talking about illicit drugs—we are talking about licit drugs here.

**Mr Wong:** Medicine.

**MR HARGREAVES:** There is indeed an issue about the labelling of fireworks. What is your view on the uneducated use of these shopgood fireworks? Is there a correlation between our concerns about the misuse of licit drugs and the use of shopgood fireworks by people not trained in their use?

**Mr Wong:** With illicit drugs, normally we are talking about something else. I am talking about medicines in general.

**THE CHAIR:** Yes. It is a better term.

**Mr Wong:** It is better. Medicines have a therapeutic value, while illicit drugs are used recreationally.

**MR HARGREAVES:** We are talking about medicines.

**Mr Wong:** Your point is well made. Labels, in general, for use on safe goods, including medicines and fireworks, are very important. I have looked at some of those. I never know whether a firework has been approved or not because, currently, there is no approval number. That is my understanding—it is just a piece of firework.

A lot of those need to be formalised and made uniform across the suppliers, and also from supply countries. In fact, that is one other point I would like to mention. This is not mine. My remarks have gone through the committee. It is about a more uniform approach, about importation from a Customs point of view, and also uniform labelling across the various jurisdictions in Australia. I think that is a question that needs to be addressed—and not just from the ACT's point of view.

Regarding the content of the label, there are two very specific areas. One is the so-called warning area of the label. That is really to warn people not to use things in a silly way. One of the suggestions is that they should not bind them together, to make them bigger. That is one aspect.

The other is the performance aspect. It is about how to store the things properly, the fact that young children should not be able to use them, and that they should be used by an adult or more responsible person.

There is also the compliance with Australian standards. I understand that is a sticking point with the legislation. Certainly there is no compliance with an Australian standard, and that needs to become part of the labels on those things.

If you look at the matter holistically, basically the label would be helping the regulator—the people in the government. When you look at a label, there is the need to conform, from the government's side. Then, from an industry point of view, the firework should be labelled as to where it comes from. If something goes very wrong, there should be the name of the supplier and a point of contact, as to the source of the firework. More importantly, that is for the user and the public—they need instructions. I share that view. If fireworks are not labelled on that basis, they are not doing the right thing.

**MR HARGREAVES:** Do you speak Italian, Mr Wong?

**Mr Wong:** They can be translated into English. There are many Italian translators here in Australia.

**THE CHAIR:** Mr Wong, thank you very much for your attendance here today and your assistance to the committee and your observations.



**KENNETH JAMES MITCHELL and**

**THOMAS NG**

were called.

**THE CHAIR:** Thank you, gentlemen. I don't know if you were here when I read out the blurb that I have to read out to all witnesses. You should understand these hearings are legal proceedings of the Assembly, protected by parliamentary privilege, and that gives you certain protections and responsibilities too. It means you are protected from certain legal action such as defamation for what you say at the hearing. It also means you have a responsibility to tell the committee the truth. Giving false evidence or misleading evidence will be treated very seriously by the Assembly.

Could you please give your name and the organisation you represent.

**Mr Mitchell:** Yes. My name is Ken Mitchell, and I am the CEO of Australian Marketing and Research Services.

**Mr Ng:** I am Thomas Ng from Australian Marketing and Research Services as well.

**THE CHAIR:** Gentlemen, would you like to briefly address your submission.

**Mr Mitchell:** Thank you. We have got a copy, Mr Chairman. Is it okay if we hand it to committee members.

**THE CHAIR:** Yes.

**Mr Mitchell:** I realise that time is of the essence, Mr Chair.

**THE CHAIR:** Yes, it is.

**Mr Mitchell:** I propose to be relatively brief. I also propose to speak to the overhead transparency as we go through. Let me start off by explaining that I have been engaged by Harold Upton of the ACT Fireworks group to undertake some research, which I have in my previous submission and in my current submission. What I would like to mention to the committee is that I have been asked to provide independent research to the committee, and I have done this. I am under no duress and no obligation, or no coercion or persuasion in any way, from the members of the ACT Fireworks group that have commissioned me to do some research. So I just wanted to make that clear right from the word go.

**THE CHAIR:** I need to ascertain, because of standing order 246 I think, whether in fact you are appearing in your own right.

**Mr Mitchell:** I am appearing in my own right, or giving evidence to the committee as an independent marketing agency. However, I am being paid to do so by the ACT fireworks group.

**THE CHAIR:** You are being paid to do so by the ACT fireworks group?

**Mr Mitchell:** I have been commissioned to undertake independent research.

**THE CHAIR:** Right.

**MR HARGREAVES:** And to provide it to this committee?

**Mr Mitchell:** What I have done is I have sought to clarify some matters with the committee in my previous correspondence to the chair about my concerns. So my first report was back in last year and I submitted that earlier on this year. I subsequently wrote to the chair expressing my concerns about a number of matters in the public domain and sought the opportunity of appearing and presenting evidence, and in doing so I am being very fair and honest.

**THE CHAIR:** Yes.

**Mr Mitchell:** My research and what I am presenting is independent. The ACT fireworks group have not received or seen anything that I have done in terms of what I am presenting to you today, at this point in time.

**MS TUCKER:** But you're getting paid to do this by the—

**Mr Mitchell:** Yes, I am. I have been commissioned.

**THE CHAIR:** Gentlemen, I would just like to check that with the Clerk. It is just a technical rule of the Assembly in terms of the capacity you are appearing in. If you could perhaps just resume your seat.

**Mr Mitchell:** Right.

**THE CHAIR:** We will perhaps go on with another witness. We will check that out and I will just get some advice on that. So we will continue with another witness. I am sorry to interrupt but it is just a technical thing which we ought to be careful with.

**Mr Mitchell:** That's okay.

**ROLAND MANDERSON** was called.

**Mr Manderson:** My name is Roland Manderson. I am appearing as an individual. I work part time with Kerrie Tucker here at the Legislative Assembly but I haven't been dealing with any of the fireworks stuff while I have been there. I guess I am here to talk about my experience of fireworks and what happens in Ainslie, and why I think that access to shopgood fireworks is probably a really important thing in terms of our cultural practices.

**THE CHAIR:** You say you work part time with Kerrie Tucker.

**Mr Manderson:** Yes.

**THE CHAIR:** You indicated to the committee just then that you have not dealt in any way with fireworks in the office of Kerrie Tucker?

**Mr Manderson:** No. The only thing that has happened is that people have rung up, so I am the first port of call. So if I get a phone call from someone I will move them onto somebody else. That is as much as I had to do with it.

**THE CHAIR:** Right. And you are appearing in a purely personal capacity?

**Mr Manderson:** Absolutely.

**THE CHAIR:** As a resident of Ainslie.

**Mr Manderson:** As a resident of Ainslie. That is exactly right.

**THE CHAIR:** Thank you. Well, what have you got to say then?

**Mr Manderson:** I guess the first thing is that for four or five years now—the year before last we didn't, but I think for five years overall—every long weekend we have had a bonfire at Calvert Park in Ainslie and people come out of the woodwork, as it were. Parents and kids come down and there is a big bonfire. When the sun has gone completely we do most of the fireworks. Other people come down later and bring their own fireworks. People cook potatoes, you meet people that you don't know. The tricky thing is that when you put a big bonfire in a place like that, people will turn up when you are not looking, and you have got a huge mob. You have to stand there till 4 o'clock in the morning while it burns all the way through.

But it has been a great kind of a community social event and the fireworks are a really big part of that. The way we run them is that if it is me who has got the licence, I set them off. I have them in a plastic box or a suitcase, or whatever, so that they are safe. Other people come down with their fireworks. They are responsible for them and they have their licence and they bought them from Jock's—not that you buy them from there anymore.

**MR HARGREAVES:** What would the public liability issue be if you are putting on the event and people who are bringing their own stuff in got injured, either through something that came out of the bonfire or the fact that their fireworks exploded, or something like that? Would the public liability accrue to you and your group as the organisers of that?

**Mr Manderson:** Well, as it happens I am a part of a group called Canberra Community Arts Front. So what I have done to protect myself is when I put the little sign up saying “We are building a bonfire here tomorrow from noon,” I have said, “We are the Canberra Committee Arts Front Incorporated and we pay public liability insurance” and so that would give me coverage. I would argue that probably in initiating activity probably everybody else that turns up would be covered as well.

**MR HARGREAVES:** What would be the impact? I think these community groups are terrific ideas; they are really fabulous ideas. But we had a comment made earlier on that in the old days that is exactly what happened and people came out onto the streets. The idea was that there would be the bonfire, people would come out of their homes, have street parties and they would go to a vacant block of land—bang, off they would go, and everybody would have a terrific time. Now the tendency is that people let these things off in their backyard, as opposed—

**Mr Manderson:** Done that as well. There is just not much room really. If you want big fireworks—

**MR HARGREAVES:** Agreed, but the point made to the committee was that unfortunately people are having them in their homes and not going to a central spot where the quality, if you like, or safety controls can be applied. If in fact they were coming to that spot it wouldn't be quite as bad, was their view.

**Mr Manderson:** The fact is that it is informal.

**MR HARGREAVES:** How would your association or society regard it if it was acceptable for your group to put that activity on but it was unacceptable for people to bring their own fireworks?

**Mr Manderson:** Well, you would lose the community development function, basically. It becomes “Roland Manderson does something; people can come if they want to.” It is the ad hoc things that actually make, I think, any community development activity something that really works. The fact is that Gaida and Julian can come down with their fireworks later after having dinner. They missed the big ones and they can bring some more down. It is that kind of reasonably loose structure which I think makes a huge difference to how people start to function in relation to each other.

**THE CHAIR:** And you have been doing this for how many years?

**Mr Manderson:** Five or six years.

**THE CHAIR:** And how many people come down?

**Mr Manderson:** Last time it was a hundred and something. It was big. At the high point it was big. A couple of neighbours, my brother and I were there till 3 o'clock in the morning burning the last bits of wood through till they were all gone. There were people we hadn't met before—a woman and her partner, and the bottle of wine and all that kind of stuff. It is a different way of connecting to people. So there is that aspect of it.

There is not even a swing anymore in Calvert Park. There used to be a big wooden swing that people could swing on. I don't know why they took it down, but it is probably a public liability issue as well that you can't even have a swing. So I just think that we're getting a real problem here with risk.

**THE CHAIR:** Has anyone complained about the activity?

**Mr Manderson:** No, people have said, "Gee that was great. That was fantastic. And why don't you put a piece of paper in everybody's letterbox and tell them?" But I prefer the organic sort of thing than actually formally telling.

**THE CHAIR:** Has anyone been injured in the four or five years that you have been involved in this?

**Mr Manderson:** I have burnt my fingers a few times in the fire turning the bits of wood over. You can do amazing things even with sparklers. Someone was telling me that they wrapped 600 sparklers together with a whole lot of gaffer tape and set them off and, wow, it was amazing. So you can do something dangerous with anything really. It is more a question of who is doing the dangerous things, do they actually learn how to take risks and do they have relationships with adults when they are younger that allow them to work their way through risk taking. I think things like that are a lot of it. Of course, if you got a bomb then that is really dangerous, and there are arguments for not being able to get bombs.

But when it comes to fireworks there are obviously issues about what you can get hold of and whether or not you should be able to get hold of particular sorts of fireworks. But in terms of actually being able to get hold of fireworks which are a bit exciting, I bought for your entertainment, because I know you would be tired, a couple of little things from Las Fallas Valencia. I will just pass them around and you can have a look at the pictures while I am talking. It is an event they have every year and it includes a festival of fireworks, with thousands of people in the city square with explosions going off. It includes—and I am standing up for the microphones and waving my arms around so you get the picture—local social associations setting off—

**MR HARGREAVES:** It is very hard to portray tai chi in the *Hansard*.

**Mr Manderson:** That is exactly right. I just thought I would indicate what so many people are missing out on when they are reading it. Local associations have fireworks hanging outside their doors. They sit around having dinner and then at one time or another during the two weeks of the festival, they will set them all off. They have giant fireworks displays. They have, as you will see in these books, mammoth papier-mache sculptures which they burn on the one night. The fire brigade moves around from one to the other and hose down the buildings. Fire has got a really bad press in this country, and there are some good things about fire.

**MR HARGREAVES:** Are the instructions on the fireworks in Valencia, in English?

**THE CHAIR:** They would be in Italian, like everything else.

**Mr Manderson:** I would suspect they are in Valenciano.

**MR HARGREAVES:** Right. As opposed to the ones we get here?

**Mr Manderson:** Actually, they are probably in English really, aren't they? I mean, who knows? Or they are Chinese or—

**MR HARGREAVES:** Well, the ones we have an example of here are in Italian.

**Mr Manderson:** But I actually think the little ones they hang outside the little social clubs they make themselves.

**MR HARGREAVES:** So you are suggesting that the people having a great time there can actually break down, for example, bits and pieces of fireworks and make other ones out of them?

**Mr Manderson:** I don't know what the process was. It could be a hundred-year-old community activity where somebody brings the saltpetre from one place—I really don't know. The point really is that here is a whole city of people who are quite happy to have a two-week celebration of gun powder, fireworks, fires and flowers and religion. There is not a lot of violence. They are all drinking, and there is not a lot of injuries that are known. It is really about culture. It is really about what are the sorts of things we want to do; how we want to offer leadership for this society so that we actually grow in a way that has those healthy things, without being dangerous, rather than saying, "Oh, there is danger, so therefore we can't have the healthy aspect as well." That is the thing that really worries me.

There is earth, fire, air, wood and water if you are Asian, and fire is the one that's got the really bad press in Australia. There is something there about the spirit that we are backing away from by being concerned to always try and limit the risk rather than manage the risk, which I think is different. It is about what we are used to doing and how we work with kids. Regulations obviously are an issue. I don't understand why the fireworks people here in Australia can sell their fireworks to anyone from outside the ACT—whatever they like, whenever they like—but they can only sell them to me when I have got a licence to set them off in Canberra. I don't get that. But it seems to me that should be something that should be easily sorted out.

**MR HARGREAVES:** Section 97 of the Constitution.

**MS TUCKER:** No. It is what?

**MR HARGREAVES:** Free trade across the borders.

**MS TUCKER:** No, but there is a regulation about that. There is a regulation, Mr Manderson.

**Mr Manderson:** Oh, is there?

**MS TUCKER:** I can explain this, because I was wondering about this as well.

**Mr Manderson:** Good.

**MS TUCKER:** What happens is that if a permit is issued in another state then people can come and buy the fireworks here, as long as they use them—

**Mr Manderson:** Yes, but aren't people turning up from interstate and with no permit and just buying them?

**MS TUCKER:** And that's the illegal—

**Mr Manderson:** People from New South Wales have told me that all they have got to do is go to Canberra and they can just buy their fireworks.

**MS TUCKER:** Yes, that's right and that's the allegation.

**Mr Manderson:** You would think that there would be a way of actually correlating permits with the amount of fireworks that are sold, and all that kind of stuff. You would think there would be a way of actually controlling that aspect of it, rather than saying, "Well, okay the RSPCA issue is a different one". But I think that is where what I am talking about is okay. There is a balance here. We need a balance.

**MR HARGREAVES:** That is predicated on people in the industry being prepared to comply with record keeping, isn't it? Because you can't make a correlation without—

**Mr Manderson:** No, you don't. You just make sure that whatever the business is that you have licensed complies with the record keeping. Isn't that always what the whole thing about record keeping and workers compensation and all that kind of stuff involves—making sure that the businesses or the employees are looked after and all that kind of stuff? Why is it we can't do it with fireworks when we can do it with child care?

**MR HARGREAVES:** Has it got to do with the willingness of the industry that we are talking about being prepared to comply?

**Mr Manderson:** Well, that's okay. I'll set up a business and comply if you like and you can close down the others. That to me is a problem that should be able to be sorted out between those businesses who want to stay in business and the ACT government who has the regulatory control over it. What I am talking about is the access to shopgood fireworks; the fact that fire and fireworks can be something really positive and we should really enjoy them—and responsibly, but we should really enjoy them.

**MR HARGREAVES:** I have to say that that was a very powerful and explosive submission.

**THE CHAIR:** It was. It is the first one where we have had actions described by the witness.

**Mr Manderson:** I was trying to demonstrate the explosions and the flames on the side of buildings.

**THE CHAIR:** Thank you very much, Mr Manderson.

**MS TUCKER:** I just want to say something here. It is interesting because the previous submission, which came from the Chinese community, was actually making the same point about the community development and the meaning to community. It interests me that the Chinese community have a very old culture connected with the use of fire—that is well established; people understand that. But what you seem to be saying is there is equally a cultural value in the fireworks night for people from the broader Australian community. That is what I understand you have said.

**Mr Manderson:** Absolutely, of course. I grew up with Guy Fawkes Day in Victoria where there were fireworks and there was the burning of Guy.

**MR HARGREAVES:** On 5 November in fact, and not in June.

**Mr Manderson:** Yes, Guy Fawkes Day, which I think was a bit silly. I think Empire Day or June is a much better time to have a bonfire.

**MR HARGREAVES:** Was there not a connection with trying to blow up the houses of parliament? We are not trying to blow up the Queen now, are we?

**Mr Manderson:** Isn't that ironic! No. I work here, that's all. But it wasn't. It was the sense of the families all coming together and the event at the church and all that kind of stuff. That was a part of my upbringing that I really value.

**THE CHAIR:** Thank you very much, Mr Manderson, for your evidence.

**MR HARGREAVES:** Very entertaining.

**THE CHAIR:** I think you are the first one to have actually mentioned community sort of activities, such as I suppose the old cracker night.

**MR HARGREAVES:** Excuse me, Mr Chairman, I think I can remind you that the RSPCA actually said that they were sad to see people not having their collectives together and that they were going into the back yard.

**THE CHAIR:** Quite so, Mr Hargreaves. In fact, Mr Manderson probably described an activity which the RSPCA described. I think they referred to Guy Fawkes night too, didn't they?

**MR HARGREAVES:** They did.

**THE CHAIR:** Thank you for that.



**KENNETH JAMES MITCHELL** and

**THOMAS NG**

were recalled.

**THE CHAIR:** Gentlemen, I have had a quick look at this submission and it falls in the same category as other submissions which we have taken a certain procedure with, which I think we have to do of course with this. I say to you what I said to representatives from the fireworks industry and representatives who have appeared today from WorkCover and also government officials from the police and the emergency services, although that was not quite in the same category.

A number of allegations have been made on a number of sides here. Individuals have been named. The committee has a procedure for hearing evidence in relation to specific individuals in camera, which is what we have done, both for the fireworks industry and also for the WorkCover people.

In relation to specific individuals named here, if you felt it absolutely essential to go into details there, a lot of which I must say I think has been done in other submissions from the fireworks industry too, we would have to go into camera. I therefore ask you in the public hearing just to keep your comments in terms of the industry and the government, say WorkCover or police or an agency like that, rather than individuals.

**Mr Mitchell:** Thank you, Mr Chair.

**MR HARGREAVES:** And also, Mr Mitchell, before you start: the information you have given to us is sort of in tabular form. Could I just ask you to tell us the thrust of what this is supposed to achieve with regard to the inquiry so that I can follow the thread?

**Mr Mitchell:** Okay.

**MR HARGREAVES:** I had a quick scan while we were waiting and there seems to be bits of statistical assertions which are valid or invalid.

**Mr Mitchell:** There are.

**MR HARGREAVES:** There are bits of other things. And I am not quite sure I follow the purpose of your submission.

**Mr Mitchell:** Okay. The purpose of my submission is to, if you like, review some aspects and hopefully draw some issues to the attention of the committee that might not otherwise be the case, particularly relating to accuracy and, if you like, integrity of documentation and what is referred to in documentation. What I have endeavoured to do with the report, in virtually every single instance, is give a specific reference to material that the committee might then review. So what I am not doing is I am not making any unsubstantiated allegations about anybody or anything. What I am doing is trying to get a context or a framework, if you like, from a communications perspective in particular.

**MR HARGREAVES:** Okay. Thank you for that.

**Mr Mitchell:** As I have mentioned, I will be brief. In nearly all the reports there was an inference—or this was stated or these were recommendations in various reviews and reports over a period of time—that WorkCover would be seeking, or would be recommending, to close the industry down. In terms of how that could be achieved, that can be achieved essentially in two parts.

**MR HARGREAVES:** Before you go on, Mr Mitchell. What led you to suggest that that statement is true and then take the research that follows it?

**Mr Mitchell:** If you like, I reviewed a range of documentation, including various WorkCover submissions, including submissions and correspondence over time, and that has been pretty much a major recommendation for a number of years by ACT WorkCover as one of the considerations.

**MR HARGREAVES:** That is?

**Mr Mitchell:** Yes. It is also one of the recommendations in WorkCover's current submission, April 2002.

**MR HARGREAVES:** Was that to close down the whole industry, or just the shopgood fireworks part of it?

**Mr Mitchell:** It may well be to close down the industry or aspects of the industry, or the entire shopgoods sales.

**MR HARGREAVES:** I thought I heard evidence today from the commissioner in the public hearing that she supported the use of display fireworks by our own industry here.

**Mr Mitchell:** Yes.

**MR HARGREAVES:** And that her whole attention in respect of this inquiry was the provision of shopgood fireworks to the public.

**Mr Mitchell:** Right.

**MR HARGREAVES:** She made it quite clear, and I thought it was clear in her submission. But if you have a different view, I would like to understand where that different view comes from.

**Mr Mitchell:** No, just in interpreting the documentation, it was my opinion that the process was to ban fireworks, be it the sale of shopgood fireworks, and that then impacts on the industry.

**MR HARGREAVES:** So, in fact, is that title there a little bit too broad? Perhaps it could be defined further down to talk about shopgood fireworks?

**Mr Mitchell:** Yes.

**MR HARGREAVES:** Okay. I am happy with that.

**Mr Mitchell:** Thank you. This could be achieved by two means—and I don't think anybody has any doubt or concern with the issue—which are inviting other government departments, whoever they are, to take certain measures, whatever necessary, to close things down or introducing restrictions and controls, permits, licensing fees, a \$5,000 licence fee as a barrier to entry, et cetera.

But what has been of concern to me and why I wrote to the chair in the first place seeking to come before the committee are other issues relating to the communication campaign, and one of the things is issues like a bikie assassination link and so on. So I was reviewing it from the total communications aspect as well.

Basically, what I would say is that this is based on the evidence or submissions that I was provided with. So, if you like, I am relying on information provided by both the WorkCover's various reports and also by the ACT Fireworks submission. I make no assertions that, for example, the contracting investigators were hired. It is alleged that they were hired and there is documentary evidence going back to it. I have highlighted elements of statistics where statistics were not correct in accordance with the source data—that is, the actual source records of complaints. In fact, the number of complaints were going down and injuries were going down at a time when they were being reported going up.

We have also in the report a range of issues relating to misinterpretation of data. What I have found is that there was incompetent data recording as complaints come in, various duplications and so on, leading to conclusions that were biased and inaccurate. There are issues such as the report here relating to bikie assassination and so on. Also, there is the article in the *Canberra Times* which says that 400 tons of fireworks were imported by locally-based fireworks retailers and so on. So you have got, if you like, a linking of various associations associated with it. Indeed, issues such as 400 tons of fireworks being imported cannot be accurately determined for a variety of reasons, and one of the reasons is that the unit of quantity is not measured by Customs.

I have included in my submission the response in the Senate of 15 April relating to that—the Customs one; attachment 4. In attachment 4 it is quite clear that there is no unit of quantity and so on associated with it. So any specific statement that there is 400 tons—and a large aspect of the public relations aspect has been sighting large quantities of imports coming in and being unaccounted for and specific tonnages being mentioned—is not a basis of where Customs, in fact, measure or record and there is no basis for compiling data such as there being specifically 400 tons of fireworks.

In the submission there are a couple of things that I might specifically point out. On page 6 of ACT WorkCover's report—this is my attachment 3—it says things such as “which appear to be illegally sourced”, “appears to be the hub”, “this lends support to”. These are not statements of categorical fact; and statements of categorical fact appear to be in the public arena and the source for some of this material is directly attributed back to the ACT WorkCover submission.

Also on page 7 of the ACT WorkCover report, it talks about K208 and concludes that “some fireworks tested exceed the energy levels”. That includes reports for K208 and K207, which were referred by ACT WorkCover specifically as part of the package to be assessed and I am advised that they are not commercially available fireworks.

I refer to the term “high explosive” as opposed to “explosive”. I am not a chemist or a chemical engineer, and I will leave it for others to discuss the issue of what constitutes high explosives. When you start talking about dynamite according to the chemistry of pyrotechnics, which is attachment 6, the detonation rate for things like dynamite is when the mass expands at a kilometre a second or greater. So what we are talking about—and this is a matter that someone more qualified than I should probably look into—is that the largest reading in the pyrotechnics report that was attached to the ACT WorkCover submission was in fact 0.824 metres per second; so less than 1/1000 of the explosive rate of TNT when addressed in what I understand to be a precise manner.

So what I am suggesting to the committee is there are elements of areas of concern that I am specifically asking you to look into in order to verify and get to the, if you like, true merit, to the true measure, of what the submissions relate to. The outcome of the whole thing, Mr Chairman, relates to the impact on a range of individuals. There has been an impact and page 4 of my submission relates to a lot of problems. That is merely referring, if you like, to information that has previously been received. So what I am suggesting is that you might look, if you like, independently at some of the aspects that have been provided before the committee.

**THE CHAIR:** Thank you. I note that a number of your attachments have actually been provided to us from other sources. I am not too sure whether some other ones have or have not. So I thank you for that presentation. Just a couple of, I suppose, technical points: when did you first start collating this information? When were you first commissioned to do this and collate information?

**Mr Mitchell:** The first time was back in about September or so last year, for the first report. For this it was two weeks ago.

**THE CHAIR:** Two weeks ago. Thanks. John or Kerrie, do you have any questions?

**MR HARGREAVES:** I have got a few. Our terms of reference talk about whether or not we should basically change the law—I paraphrase a bit here—regarding the availability of shopgood fireworks in the ACT. One of the things that we have been involved in, inadvertently I suppose, is the bun fight between the fireworks industry and WorkCover. Whilst the information that you provided here provides a perspective on the issue between WorkCover and the industry, and I would suggest specifically Mr Upton, how is this information going to assist us to determine whether or not the provision or the availability of shopgood fireworks ought to be made to the general public? This is other than enlightening us a bit more on the differences between WorkCover and the fireworks industry.

**Mr Mitchell:** That is all I am intending to do. I am not intending to make any recommendations whatsoever other than help clarify, if you like, information that you are considering.

**THE CHAIR:** Thank you for that. You probably heard Mr Wong address the terms of reference which are to inquire into the operation of the Dangerous Goods Act, with particular reference to sale of fireworks, the general safety of setting off fireworks, and any other related matters. So thank you for your clarification there. John, do you want to continue?

**MR HARGREAVES:** My understanding of that is that Mr Mitchell's submission in fact isn't specifically related to the terms of reference, but is intended to be of some assistance to the committee in understanding the differences between WorkCover and the industry.

**Mr Mitchell:** If I may mention one thing, and that is that I was greatly alarmed when I opened up the *Canberra Times* and read about bikie connections and so on, and there have been in the public arena lots of allegations and statements. Some of the statements haven't been in the context of alleged involvements with various things; they have been progressed beyond that to statements of fact, or interpreted and passed on as what would be statements of fact. And that also I find of concern, as it would be to anybody in any organisation.

**THE CHAIR:** Ms Tucker.

**MS TUCKER:** No. Thank you for the submission.

**THE CHAIR:** Thank you both very much for your assistance to the committee, and your submission.

**Mr Mitchell:** Thank you.

**THE CHAIR:** I note the time. I think we have two more people to talk to when we restart with fireworks. We will now switch inquiries. I temporarily adjourn the inquiry into the Dangerous Goods Act 1975. The fireworks inquiry is adjourned until a later time this afternoon.

**The committee adjourned at 3.26.**

**The committee resumed at 4.09 pm.**

**PAUL CARTOLANO** was called.

**THE CHAIR:** Mr Cartolano, I thank you very much for your attendance. You should understand that these proceedings are legal proceedings of the Assembly and are protected by parliamentary privilege, which gives you certain rights and responsibilities. The rights are that you are protected from legal action, such as defamation, for what you say here, but it also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter. What is your name and in what capacity are you appearing?

**Mr Cartolano:** My name is Paul Cartolano. I am just a private citizen of Canberra.

**THE CHAIR:** What would you like to say to us?

**Mr Cartolano:** I am pro-fireworks. I have just typed out a little speech that I want to read. I would like to thank the Legislative Assembly for giving me, Paul Cartolano, an average citizen of Canberra, the opportunity to express my concern over the possible ban of fireworks. As you have heard from various other organisations and community groups of Canberra, including the Australian Federal Police, the RSPCA and WorkCover, I am sure that you are aware of the negative effects of fireworks. I would like to state that I am not naive to these effects and I have read and seen numerous articles in the newspaper and on TV regarding this matter.

I believe that fireworks have been a part of Canberra's history. One of these examples is the Queen's birthday celebration, which has always been, as long as I can remember, and I am sure as many of you will also remember, celebrated by fireworks. Over the years, I have seen the gradual attempt by various parties to ban this form of entertainment, in which they have succeeded by limiting this practice to only one day of the year. One must ask whether this is already not enough. These attempts to ban fireworks have resulted in importers going wild. Fireworks that have previously been considered too dangerous and have been unavailable to the public have found their way onto the market purely to make a point. If fireworks remain legal, there can at least be some sort of control over their use and sale.

I am aware that certain members of the community are reckless in their actions and do not take care when attempting such activities, but this is just one example. Why aren't bars or clubs banned to prevent the occurrence of drink driving, et cetera? It does not seem fair to disadvantage the community over one careless act. It is about time that individual citizens took responsibility for their own actions in regard to recreational activities.

Canberra has already lost its right to host a circus with animals. What will be next? The Canberran entrepreneur Chic Henry, who fought so hard for the Summernats, has now an event that is the envy of all states. Many try to mimic this event, but none come close to the atmosphere that is unique to Canberra. This is another event that has survived through careful planned management and not a quick-fix solution of just banning the event. Why can't fireworks be dealt the same hand? Licensing is in place. With tighter

control of the sale of fireworks, I believe that a far better outcome would be achieved. Another possible solution may be the introduction of planned neighbourhood bonfires organised by local communities.

Once again, I would like to thank the Legislative Assembly for creating this opportunity to allow me, a citizen of Canberra, to have an option to express my opinion on the matter of the possible banning of fireworks. Thank you.

**THE CHAIR:** Thanks, Mr Cartolano. Taking up your last point about planned neighbourhood bonfires, how would you see them going ahead?

**Mr Cartolano:** Via a local community. With the development in Latham now, the shopping area is being knocked down. Perhaps an option would be to leave an opening available to, say just the suburb of Latham for such recreational activities. You would have to send out pamphlets, flyers and whatnot bringing it to the attention of the citizens of the suburb in general, just letting them know that this place is available for this activity and others. I can remember when I was about 10—I am 22 now, so it was about 12 years ago—you would get together with everybody in the whole street. We lived in a cul-de-sac and, when there was no licensing, we would just send one person out, give them \$20 or \$50 from each family and have a big display in the circular bit of the cul-de-sac, have a few laughs, maybe have a barbecue beforehand and call it a night after the fireworks.

**MR HARGREAVES:** One of the things that we are concerned about is the movement from the old days when essentially the make-up of fireworks was black powder and they used to make a lot of smoke and a lot of noise, everybody would squeal and it was great. Nowadays, flash powder and a whole stack of other things are being used and they are considerably more explosive in their chemical make-up than they used to be. The last couple of people who have come before the committee have been talking about the possibility of having community bonfires and that sort of stuff, and it sounds all right. I am concerned, though, about the use of those new fireworks, if you like, by people who are not trained in how to use them and the controls that our society ought to have to stop them being used by kiddies. We heard today from a police officer that there were some young people, 11-year-olds, buying these things and letting them off. Have you got any ideas on how we could actually stop that or control it, or do we just let it go?

**Mr Cartolano:** I would like it to be controlled. I would not like it to be totally banned. I understand what you mean by younger children having access to these fireworks. In certain regards, they will always have access to these fireworks through the stupidity and ignorance of adults. It could be stopped at the store, in the sense that the store would have a policy of 18 years of age and over, or even 21 and over, but a limit on who can actually access and buy the fireworks.

There is another point also. These new fireworks, I agree with you, are not the big bang show and hoo-ha; now they are just made out there to blow things to pieces, letterboxes and whatnot, and that is, in effect, not what fireworks are really about. You don't want to be throwing sticks of TNT around the streets; you want something with nice colours, a bit of smoke and whatnot. So I agree with you there. As I said before, if they could put a limit on the age group of people purchasing the fireworks and in certain respects the licensing of people being able to buy fireworks, there is no reason why they cannot set

aside a Saturday in their time schedule to spend a whole day with the fireworks technicians and run through certain courses of competency.

**MR HARGREAVES:** Would the idea be that we would try to give training in one form or another to those people who are going to be the ones who are going to let the stuff off, but we would try to keep it out of the hands of those people who don't have that kind of training?

**Mr Cartolano:** Yes, that would be a desirable outcome.

**MS TUCKER:** If we are looking at harm minimisation because of the power of some of the fireworks, do you think it would be reasonable to reduce in some way the power of the fireworks so that we made a lot less available?

**Mr Cartolano:** Yes, I agree with you there. The point about the new fireworks is that, although some people say that they are fun and they can do this and that with them and we can watch, say, an apple explode or something crazy like that, to me that is not what fireworks are really about. It is not about watching things explode; it is about watching a fire in the sky. If there were a governing body that sat down with the importers and looked at their stock and had a few demonstrations of what they had, we could get something that was relatively fun and had the same impact without forcing the banning of fireworks.

**MS TUCKER:** A good argument against that, one which I have put to a few people, is that people can combine them anyway and make something more powerful.

**Mr Cartolano:** Yes. That is a very valid argument. At the same time, it is like saying that people can just go onto the internet and make a bomb out of instructions on the internet. There is no policing of that. The internet is a free range for anybody, as long as you know where you are looking. Another point is that most people with the intent of just having fun aren't going to go to the extent of stretching the limit and saying that they want to make a bomb type of thing, rather than having fun. But that is a valid argument.

**MS TUCKER:** There seem to be a few potential responses. Some people are suggesting that there be a total ban and other people are suggesting that there be only licensed displays, the big displays. We have also had representations from people who feel that they have, as you do, a strong position in our culture. The Chinese community, obviously, has a very strong feeling about them from their own history and they have brought that here.

What would you think about an idea whereby, between shopgoods fireworks sales and the very big displays, there was some other category for a community event—the gathering in the cul-de-sac that you described may not fit into it—for which it was much harder to get a licence? Perhaps you would have to have some training. Perhaps they could be sold in the same way as WorkCover is suggesting the display fireworks be sold, which would require a lot more forward-thinking. WorkCover was saying that, if you were only selling to professional people for displays, they could come into a shop and see empty packages, as the fireworks would not be stored in the shop. Therefore, the potential for illegal sales has gone. I do not know whether it has, but perhaps it is minimised. People would then come in as a community in advance, get the licence, do



the training and then order in the same way. That would be limiting it a bit, but not totally cutting out those smaller community events.

**Mr Cartolano:** I can see where you are coming from and that is what I am aiming at, at that middle ground between the display fireworks and the fireworks available to average citizens. The thing that really troubles me is that I don't really want to see fireworks banned, in the sense that that would tend to force things underground and, from a relatively controllable situation, it gets escalated and schools tend to have a big boom. I know when I was at school, there was a large boom of people with these fireworks. They weren't display fireworks; they were just fireworks purely to make a bit of ruckus and destruction.

That middle ground is what I would like the Assembly to consider, yes, rather than just saying no. The fact that certain fireworks are not stored in stores, for the purpose that it eliminates the sale of them, is an excellent idea. I really don't see why, if the vendors of the fireworks are honest, as they say they are, they would disagree with that. I don't see why they would disagree with that.

**MRS CROSS:** Mr Cartolano, given that you are here presenting your case as a private citizen, would you like your right to go and buy fireworks and use them whenever you would like to for personal celebrations taken away from you?

**Mr Cartolano:** Personally, no, I wouldn't.

**MRS CROSS:** Given that you would like to continue to have that freedom of choice, would you like to see certain guidelines put in place to have restrictions on who buys them and who can use them? If so, who, for example, out of your family would you nominate, and why?

**Mr Cartolano:** It would be, I would imagine, on the guidelines of, say, a drivers licence, where you have to sit a test and you have to pass certain criteria before you are allowed to drive on the road. I think the main problem with society today is that these things are a privilege, not a right. You don't have a right to drive without a licence and to do what you like; it is a privilege. I believe that fireworks should be a privilege.

As to whom I would nominate as a member of my family, I have a younger sister who is 20 years of age, so we are all adults. I would nominate perhaps the father or the mother as one responsible member of the family. I don't see a difficulty in going for, say, a one-day course to do the training, to get the competency, to demonstrate a level of understanding about the dangers of fireworks, to bring about an awareness of the possible damage that fireworks can do to stationary objects, moving objects, people or whatever. I think the wider community realises what damage is actually being done. Talks by the AFP and graphical evidence really help. No-one wants to see people getting burnt and no-one wants to see property destroyed. If we really hit it home that way, I believe that we could make an impact.

**THE CHAIR:** Thank you very much, Mr Cartolano, for turning up and giving a private citizen's view. I thank you too for the points you made and the very responsible attitude you have shown.

**JOHN FARRELL** and

**PAMELA AYSON**

were called.

**THE CHAIR:** I welcome the last witnesses for the afternoon. Our terms of reference are to investigate the operation of the Dangerous Goods Act, with particular reference to the sale of fireworks and the general safety in setting off fireworks and any other related matter. I need, firstly, to read to both of you what has been read to every other witness who has appeared before this inquiry. You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections, but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation, for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

As I have said to most people who have come before this particular inquiry, you are probably aware of allegations and counter-allegations by various groups, namely, people involved in the fireworks industry and WorkCover. Some of those allegations relate to persons in a public hearing. I would ask for any comments you have to be general and specific and to refer to organisations, not individuals. If you have any evidence that you feel is crucial to this inquiry that involves actual individuals, we have a procedure whereby we can go in camera and the inquiry ceases to be a public inquiry. I say that because I am not certain as to what sort of evidence you will be giving, but I think it is important to make that point. If anything you do say relates to actual individuals and you want to proceed down that track, we need to go into a private hearing.

For the record, if you could just give your name and that of the organisation you represent.

**Mr Farrell:** My name is John Farrell. I am the federal president of the National Federation of Independent Business, a small business organisation.

**Mrs Ayson:** My name is Pamela Ayson. I am ACT president of the National Federation of Independent Business.

**THE CHAIR:** You have made a submission. We would like you to speak to your submission and then answer questions.

**Mr Farrell:** As you might have guessed, we are approaching this from the perspective of the small business activity, rather than from any moral or pseudo-moral problems that might be involved here, or any others. Most of the members of the fireworks association are members of our association. In particular, Harold Upton, who is the leading act, I guess, in the whole exercise here, has been a member of our organisation for quite a large number of years.

We are extremely concerned that the small businesses in this group are being discriminated against in regard to their livelihood. In fact, their livelihood has largely been removed from them in a very significant and bastardly way. I have read pretty much the whole submission that Harold Upton put to you. It was totally independent of what I submitted, which is a very brief submission. It seems pretty clear to me that there is vindictiveness being engaged in by the WorkCover people. I think any sensible person who looks at the evidence that has gone forward in the various court proceedings over the past months, years or whatever, can only come to that conclusion. In fact, I was absolutely appalled when I read through the Media Monitors stuff recently and saw this comment by the Director of Public Prosecutions, and I guess I can quote what he said—

**THE CHAIR:** If it has been in the media, you can, yes.

**Mr Farrell:** It has. In fact, it was as recently as about a week ago. It says that he has called for a rewrite of the laws, would you believe, covering the sale of fireworks in the territory. It goes on to say that since 1998 the DPP has managed to successfully prosecute only one case against a Canberra fireworks retailer out of 19 brought before the court. In another aspect of the same speech, he goes on to say, “Therefore, we should rewrite the laws”. Here we have a situation where the Director of Public Prosecutions is actually coming out and saying, “We want to change the laws so we can convict the innocent.” That is exactly what he is saying.

**THE CHAIR:** With respect, I do not think that he is. I think that you will actually find that everyone involved in the industry wants to have better laws. There seems to be a problem with the act.

**Mr Farrell:** But it follows from his argument that he has only been able to convict once out of 19, and we do not know whether the 19 is correct; it might be immensely more than that. The fact is that, under the existing law, he has only been able to convict one person out of 19, and he concludes from that, therefore, that he is right and the law is wrong and must be changed so that he can get more convictions. That is the logic of the case.

**MR HARGREAVES:** Mr Farrell, I put it to you that, if you had listened to the evidence of Mr Refshauge, you probably would have picked up the fact that he was critical of the actual case material being put before him in terms of its construct at law and he was calling for a cleaning up of that. He was, in fact, critical of the people making the charges against some of the retailers. I would suggest to you that your conclusions from that are only part right.

**Mr Farrell:** All I am saying is that the very fact is that a lawyer of his particular rank has come to a conclusion that the law is confused, too complex or whatever, and therefore he has not been able to convict people who have been brought forward by, presumably, people like WorkCover, and is saying, for whatever reasons, “I have only been able to convict one out of 19. Therefore, you have to change the law so that I will get a higher hit rate.” That is what he is saying.

**THE CHAIR:** I do not know about that. We have heard evidence from him. You weren't here. I do not think that we should get bogged down on that. If you would like to continue.

**Mr Farrell:** It gets back to my point as to what on earth are these people doing, these vindictive people inside WorkCover, who are attempting to get this particular industry wiped out. They are all small business people. You have obviously heard already from Harold Upton. When you look through the record of what has happened to him as a person, as a businessman, his life has been virtually destroyed, both his family life and his business life. His income has dropped to one-third of what it was when he first started this thing a few years ago.

How on earth can somebody survive in business when two-thirds of your revenue is taken away from you? On what grounds? They have been hounding this small business person for some years now. I get back to my statement that the law has not been able to prove anything significant against him. From a small business perspective, firstly, that gentleman's small business and his personal livelihood have been virtually destroyed, and that is immoral. It will happen to every one of the other four or five around, unless something is done about it, and done about it quickly.

There is nothing immoral about fireworks. In recent talkback shows on radio you will have heard some of the journalists/reporters who conduct those sessions virtually trying to put words into people's mouths about knocking the fireworks industry, with an extremely low success rate, and these haven't been hoons that have been calling in. One out of five maybe agrees that fireworks should be banned in the territory and people shouldn't be allowed to buy them. I don't believe that there is any evidence at all that the public supports this move.

I grew up and my children grew up in environments where you could go down to a number of stores in your neighbourhood and buy fireworks, assemble in the front garden, light a bonfire, stand back, put your dog inside and let them off. What on earth has happened to our society if you can't do that any more? It is basically unsound. These small business operators must be allowed to continue with the sale of fireworks in the territory. What is more, because we have access to probably the finest professional education in the fireworks industry right here in this city, we should be promoting the safe use of fireworks for the ordinary citizen and their sale by a representative group of small business people under regulations and guidelines, by professionally qualified people.

**MR HARGREAVES:** Mr Farrell, how do you equate those comments with the statement from the industry that the predominance of their income comes from sale outside Canberra?

**Mr Farrell:** That is neither here nor there in my argument. I am going to a general point.

**MR HARGREAVES:** You are telling me that the majority of people in the ACT support the use of fireworks.

**Mr Farrell:** Yes.

**MR HARGREAVES:** And you are saying that the elimination of that opportunity for the people of the ACT is going to detrimentally affect the industry, yet there were about 1,590 households bought the things and, if AR&S figures are correct, even using their

extended ones, you are talking about the use as being 10 per cent of households. On top of that, the industry is telling us that the majority of their income comes from sales outside the ACT.

**Mr Farrell:** That is an independent matter, Mr Hargreaves.

**MR HARGREAVES:** Can I suggest to you that our terms of reference don't talk about that.

**Mr Farrell:** Maybe they should.

**MR HARGREAVES:** Maybe they don't.

**Mr Farrell:** Maybe they should.

**THE CHAIR:** They say "any other related matter", but carry on.

**MS TUCKER:** I think that that is covered. I thought Mr Farrell was saying that the income loss was due to legal action.

**Mr Farrell:** No, there was an income loss, whatever he was doing, which was quite catastrophic. He has spent hundreds of thousands of dollars in legal fees as well.

**MS TUCKER:** We are aware of that.

**Mr Farrell:** That is an expense. But his sales, his actual income, have dropped, not just his profits.

**THE CHAIR:** You were saying something about utilising expertise to promote safety with fireworks.

**Mr Farrell:** That is right, and that gets back to the point of trying to get the show on the road correctly. Some kids' toys are bad, but you would not abolish the whole damn lot or wipe them out because some of them were bad and unsafe. Here we have a situation where, whatever has happened elsewhere in this country, we have Harold Upton, who is probably one of the best qualified people, not just nationally but internationally, in this whole exercise. He is a scientist by profession. He has an honours degree in science, which starts it all off. He then has qualifications beyond that.

**MR HARGREAVES:** His degree is in entomology, Mr Farrell.

**Mr Farrell:** Just a minute. He has a degree in science, which is a logical, analytical way that one conducts oneself, okay. I am a professional engineer. I am very rigorous in my thinking, and so is he. The fact of the matter is that he is not some bum off the street and he should be allowed to start an industry here and help it grow nationally so that we have educated people who are suitably qualified and experienced in the conduct of fireworks exercises so that, in fact, right throughout Australia we can get a spread of informed fireworks competence, instead of putting our hands up in the air and saying that we should wipe them out. That is absolute nonsense; it is immoral.

Is this fair trading, by the way? Let's go back to small business. The fact of the matter is that if you look at the Fair Trading Act and the Trade Practices Act—we checked on it this morning—you will find that there is a very high likelihood that the federal Trade Practices Act can be brought to bear on this problem. We are pursuing that because, if it is found that unconscionable conduct is taking place here, under the auspices of the Trade Practices Act there are extremely severe penalties which will be imposed on Mr WorkCover or Mrs WorkCover, or both of them. What we are saying to you is: don't believe that this thing is going to go away. The motto of our organisation, in case you don't know it, is that we never give up and we never go away. I can assure you that we will be pursuing this with the trade practices people and Alan Fels with great vigour.

**THE CHAIR:** Mrs Ayson, do you want to say something?

**Mrs Ayson:** No, I was just more concerned about the ACCC, because I was the person who spoke to the gentlemen regarding that, but I think that John has covered that. But that was the only angle that I wanted to make sure was put forward.

**Mr Farrell:** Essentially, what we are concerned about is that this is a nonsense argument that has been put forward, and it has been put forward by people who have shown unnecessary vigour in putting forward prosecutions which have virtually driven somebody out of business for no good reason at all.

**MS TUCKER:** Do you have a comment to make about illegal sales?

**Mr Farrell:** No, I don't. I am approaching this, Kerrie, from the small business angle and the destruction of somebody's business completely and his life and that of his family.

**MS TUCKER:** I accept that, but there is a very strong connection. One of the reasons that we are having this inquiry, and there seem to be a few issues, is that there has been concern in the community about fireworks being much more dangerous than they used to be, they are much more powerful. A second issue is that, as well as that, they are easily available to people. That is why this committee has to look at the regulatory framework for the sale of this product. The proposal to ban fireworks has come from different groups in the community which feel that the fireworks are being used very irresponsibly or that the fireworks, even if responsibly used, are too powerful and cause trauma for animals or whatever. I accept that you do not want to talk about that, which is fine, but I did need to ask you that question because it is a really big part of the discussion on where to find solutions.

**Mr Farrell:** I accept that.

**Mrs Ayson:** If the goods which are being purchased are being used irresponsibly, that is not, surely, to be turned back onto the person who sold them the goods.

**MS TUCKER:** They are being bought illegally, someone is selling them illegally.

**Mrs Ayson:** But you just made the point that they are more dangerous now and people are using them irresponsibly. How can that be turned on the person who has sold them? If I walk into Commonwealth Motors and buy a V8 car and I am not equipped to drive it

and I go out on the street and wrap myself around a lamp pole, are Commonwealth Motors to blame for selling me that car?

**MR HARGREAVES:** I think that Commonwealth Motors would be to blame if they sold you an unroadworthy vehicle.

**Mrs Ayson:** I am not talking about an unroadworthy vehicle.

**MR HARGREAVES:** That is the point that is being brought home to us by witnesses here. I will put it to you this way: the criticisms, we have to understand, are not about fireworks in general; they are not about display fireworks around which people like Mr Upton have formed their reputations.

**MS TUCKER:** There is still criticism.

**MR HARGREAVES:** Certainly, but predominantly they are about the use of shopgoods fireworks, as opposed to the ones at Skyfire and things like that. There has been recognition of the qualifications of Mr Upton in that sort of area. But there has been a thread in the stuff coming through here that there are people who are accessing fireworks illegally and also that the fireworks themselves are illegal.

**Mrs Ayson:** But the people in the ACT have to buy a permit.

**MR HARGREAVES:** No, we are not talking necessarily about the people in the ACT doing it, either. We are talking about some people in the ACT doing it and some people coming through here. The rules are that if you have a permit for, say, New South Wales to let off some fireworks, you can go to a supplier in the ACT, pick up the fireworks and go back. But there have been statements made that people from New South Wales who do not have permits have been accessing the fireworks. There have also been assertions that fireworks are being acquired—we do not know where—for sale to minors.

**MS TUCKER:** Through the web.

**MR HARGREAVES:** Yes. This is the approach that we are taking.

**Mr Farrell:** Those are definitions.

**Mrs Ayson:** Once again, how does that come back to the ACT fireworks retailers? What has that got to do with them. Underage children can walk into a milk bar and buy a packet of cigarettes, too; it is up to the duty of care.

**MR HARGREAVES:** But that is against the law, isn't it?

**Mrs Ayson:** There is a duty of care. You ask for ID. When these people walk into a firework retailer in the ACT, they cannot purchase them unless they have got a permit.

**MR HARGREAVES:** If a person has a record for the continual selling of alcohol in an establishment to underage people, they get a \$4,000 fine. If there are repeated occasions of that, their licence to trade is taken away, isn't it? We are not here to sit in judgment on various people in the industry. We are just trying to look at the environment within the

ACT and the impact that these shopgoods fireworks are having on the people of the ACT. It is with respect to fireworks generally, but it appears to me that the bulk of the evidence is expressing concern over shopgoods fireworks and not so much the display ones.

I am getting the impression that a major amount of the money which is being made by the small number of retailers in the ACT is through the sale of display fireworks, pyrotechnics, and the sale to the export market; so, in considering whether they should be available to the general public in the ACT, I am wondering whether that will have a significant detrimental effect on the economics of the industry, given that the sales are to only 1,590 people.

**Mr Farrell:** If what you say is true, Mr Hargreaves, and it would therefore be of no great concern to Mr Upton or anybody else, why do you think that they are resisting this issue so much if it is not going to have an impact on them?

**MR HARGREAVES:** I am only quoting to you what has come to us.

**Mr Farrell:** The causal effect. I have a document here that says, "In 1999-2000, the combined business income earned by me as a result of selling fireworks was \$745,000. This dropped by 65 per cent in 2000-01." How, I ask you? I don't believe that the public out there want that. Maybe a referendum should be called on this matter, because the mums and pops and the kids like my own and my grandchildren have grown up in an environment where they could do this in a 99 per cent safe manner. We should at least be putting our efforts into saying that we can control this in a way which is going to reduce the harm, rather than going down the brute force way of banning them.

**MR HARGREAVES:** Mr Farrell, you live in Sydney, don't you?

**Mr Farrell:** No, I don't.

**MR HARGREAVES:** Whereabouts do you live?

**Mr Farrell:** I live in Hall, very close to our office, Loftus Street.

**THE CHAIR:** Helen, do you want to ask some questions?

**MRS CROSS:** No. I found your presentation very comprehensive.

**THE CHAIR:** Mrs Ayson, would you like to say anything else?

**Mrs Ayson:** Just that there are a number of goods and services sold in the ACT, some of which may be dangerous or detrimental. Does that give the government the right to close down or shut down that particular industry, pass judgment and decide who is going to go into business, who is going to survive and who isn't? I suggest to you that there are many other goods and services in the ACT which could be regarded as dangerous or detrimental, but they are still legal.



**THE CHAIR:** I thank you both very much for your assistance to this inquiry with your attendance here today and your submission. I now close the hearings for Friday, 7 June of the inquiry into fireworks in the ACT.

**The committee adjourned at 4.48 pm**