

Fireworks in Tasmania

Discussion and Options Paper



Tasmania

February 2016

WORKSAFE TASMANIA
Department of Justice

Contents

1. Preface	3
2. Terms of reference	5
3. Summary of key discussion points and questions	6
4. History of fireworks management in Tasmania	10
5. Current regulatory environment	10
5.1. Classification of Fireworks	11
5.2. Relevant permits.....	11
5.3. Key features of the current system relating to fireworks display permits.....	12
5.4. Application process.....	16
5.5. Other requirements.....	17
5.6. Permit cancellations and mechanism for appeal	19
6. Pattern of fireworks use	19
7. Issues arising from the use of fireworks	20
7.1. Danger to people, property and the environment.....	20
7.2. Public disturbance	21
7.3. Fire hazard	22
7.4. Misuse of fireworks	23
7.5. Inherent weaknesses of the regime	24
7.6. Costs to the Tasmanian public.....	26
8. Approaches in other Australian jurisdictions	27
9. Developments at the national level.....	30
10. Options for moving forward.....	30
10.1. No change	31
10.2. Minor changes to improve clarity and efficiency	32
10.3. Refine the current regime with increased regulation	33
10.4. Maintain public access with a focus on community benefit	35
10.5. Retain the permit system, but limit the use of fireworks by members of the public to one day per year.....	36
10.6. Introduce a total ban use of fireworks by unlicensed members of the public	37

10.7. Other potential changes	38
11. Consultation process and invitation for submissions	39
Appendix A: Summary of questions	41
Appendix B: Stakeholder questionnaire	44

1. Preface

This Discussion and Options Paper forms the basis of consultation with stakeholders and the broader Tasmanian community on potential changes to legislation relating to the sale, purchase and use of Type 2 fireworks in Tasmania.

It aims to help stakeholders and community members think about the current issues with Tasmania's fireworks legislation, as well as some potential remedies for consideration.

The review of fireworks legislation (the review) will examine matters relating primarily to Type 2 fireworks, also known as 'shopgood' or 'consumer' fireworks. These are outdoor fireworks that, subject to holding a fireworks display permit, may be used by members of the public without a requirement to hold a shot-firer's permit endorsed for pyrotechnics.

As requested by the Treasurer, and stipulated by the terms of reference (on page 5), the review ultimately will enable recommendations to be made on how the current fireworks laws can be improved. This paper seeks to promote consideration of the issues and stimulate feedback on some potential options. The paper outlines:

- how fireworks are currently regulated in Tasmania and in other Australian jurisdictions;
- issues arising from the use of Type 2 fireworks;
- potential options for amending the regulation of Type 2 fireworks in Tasmania; and
- the impact each option could have on business, the Government, the community and the environment.

This paper is relatively detailed, to do justice to the issues. A brief overview of the key discussion points is therefore provided at section 3.

Your feedback will allow your views to be considered in this review. To assist in the provision of feedback, a series of questions have been provided throughout the paper and summarised in Appendix A. These questions are designed to promote thought and discussion on the key points of the review. Interested parties are invited to provide a response to these questions via a written statement. Alternatively, a more general questionnaire is provided at Appendix B. Please refer to section 11 on page 39 for more details.

Written statements and completed questionnaires must be returned to WorkSafe Tasmania by **5pm on Friday, 1 April 2016, by emailing to:** wstinfo@justice.tas.gov.au

Fireworks in Tasmania
Discussion and Options Paper

Alternatively, written statements and completed questionnaires may be posted to:

Fireworks Consultation
WorkSafe Tasmania
PO Box 56
ROSNY PARK TAS 7018

The review is being conducted by the Department of Justice (WorkSafe Tasmania is part of the Department) because it is the Department responsible for administering the legal framework for the use of fireworks.

2. Terms of reference

The Treasurer's terms of reference for the review are as follows:

1. The Treasurer announced that there would be a review of Tasmania's fireworks laws. These laws sit in the *Explosives Regulations 2012* under the *Explosives Act 2012*.
2. WorkSafe Tasmania will review Tasmania's fireworks laws taking into account:
 - a. ongoing concerns regarding fireworks management in Tasmania;
 - b. approaches in other Australian jurisdictions to managing fireworks;
 - c. developments at a national level for nationally consistent explosives laws; and
 - d. public comment and stakeholder consultation, including Police, the Tasmanian Fire Service, RSPCA, DPIPWE, local government, fireworks suppliers, and business.
3. The review should examine matters including:
 - a. Who should be allowed to lodge an application for a Type 2 fireworks permit; adults, groups (community, sporting, other) or certain qualified people?
 - i. An appropriate mechanism for those potentially affected by a fireworks application to make comment.
 - ii. An appropriate appeal mechanism for permit decisions.
 - b. The lead time for making applications.
 - c. The criteria taken into account when determining the granting of permits.
 - d. What days should Type 2 fireworks displays be allowed: 365 days per year; limited to certain days of the year; limited to certain events during the year?
 - e. What time of the day and for what duration should Type 2 fireworks be limited?
 - f. Should Type 2 firework displays be limited by location?
 - g. The interaction between Type 2 fireworks displays and native and domestic animals.
 - h. Disposal of unused fireworks.
4. Report to the Treasurer on:
 - a) options considered;
 - b) recommendations for improvement of the existing fireworks laws; and
 - c) any further work recommended to ensure best practice fireworks laws in Tasmania.
5. Consider any further fireworks matters referred by the Minister.

3. Summary of key discussion points and questions

This paper discusses the regulation of fireworks in Tasmania. It identifies some issues and concerns that arise from the holding of fireworks displays, and it presents some questions and options, to generate public feedback.

Current situation:

To purchase or use Type 2 fireworks, a person must have a fireworks display permit issued by WorkSafe Tasmania. Any adult considered fit and proper to hold a fireworks display may apply for a fireworks display permit.

So long as the purpose of a fireworks display aligns with one of the 'approved purposes', such as a community fair or a military tattoo, it may be held on any day of the year. A small number of the approved purposes are limited to a particular day, such as New Year's Eve.

An application for a fireworks display permit must be lodged in person, with the fee and photo identification, at a Service Tasmania Shop. WorkSafe Tasmania will consider the application and make a decision.

Once a person is issued with a fireworks display permit, they must ensure compliance with all the relevant safety requirements and other permit conditions. This includes notifying relevant authorities and neighbours about when and where the fireworks display will be held.

A fireworks display permit may be cancelled under certain conditions.

If a person is unhappy with a decision to issue, cancel or refuse to issue a fireworks display permit, in most cases they may apply to the Magistrate's Court for the decision to be reviewed.

Summary of questions for this section:

Questions 1 to 13 largely seek your views on who should be allowed to fire Type 2 fireworks, where and when and under what conditions. They cover matters such as:

- Whether qualifications should be required (for example a shot-firer's permit endorsed for pyrotechnics).
- Should displays be limited to certain days? What time of day and duration should be permitted for displays?
- Should the locations for Type 2 displays be more limited? Should 'no fireworks' zones be implemented?
- Should neighbours be advised that an application has been lodged before a fireworks display permit is granted, rather than after?

Issues:

There are some ongoing concerns and frequent issues that arise from the use of Type 2 fireworks by members of the public. These concerns and issues include:

- risk of danger to people, property and the environment;
- public disturbance, in particular, noise and disturbance to animals;
- fire hazard;
- risk of misuse;
- other inherent weaknesses of the regime, such as:
 - inadequate timeframes for processing permit applications or lodging appeals;
 - inadequate guidance surrounding the possession, storage and disposal of surplus unused fireworks; and
 - the limited ability for authorities to enforce the requirements of the law; and
- financial costs to the Tasmanian public.

Summary of questions for this section:

Questions 14 to 24 relate to issues with the current fireworks regime and seek your views on the best ways to improve the safety and administration of fireworks use in Tasmania. They cover such matters as:

- how to protect domestic and native animals;
- how to manage public disturbance and fire risk;
- any experiences of misuse of fireworks;
- timeframe for applications; and
- any other concerns about the current regime.

National trends:

All Australian jurisdictions have either banned or restricted public access to Type 2 fireworks. Tasmania's fireworks regime is one of the most liberal.

The Northern Territory remains the only jurisdiction in which the access to Type 2 fireworks is unrestricted; however, this freedom only exists on Territory Day, held on 1 July each year.

There is growing momentum for national consistency to be achieved in the regulation of explosives (noting that fireworks are explosives and will be addressed in any nationally consistent explosives laws).

Options:

Potential options to address the issues with the use of fireworks in Tasmania include:

- *No change.*
This approach would retain the status quo but does not address any of the identified concerns arising from the current fireworks laws. This option is not a preferred approach because it does not address any of the identified problems with the current system.
- *Minor changes to improve clarity and efficiency.*
The primary focus of this approach would be to clarify any ambiguities in the current legislation and to ease the administrative burden of the fireworks regime. No substantial changes to the current workings of the fireworks regime would be made.
- *Refine the current regime with increased regulation.*
This approach would seek to introduce additional regulations to address the main issues that have been identified.
- *Maintain public access with a focus on community benefit.*
Under this approach, the fireworks regime would be reoriented with a community focus so that any fireworks display would need to be held for the benefit of a community, rather than private individuals.
- *Retain the permit system, but limit the use of fireworks by members of the public to one day per year.*
Under this approach, unlicensed members of the public (i.e. people who do not have a shot-firer's permit endorsed for pyrotechnics) would be allowed to use Type 2 fireworks once a year, say on Cracker Night, subject to holding a fireworks display permit. Pyrotechnicians (persons who hold shot-firer's permit endorsed for pyrotechnics) would be allowed to conduct a fireworks display for any prescribed 'approved purpose', subject to the issuance of a fireworks display permit for the event.
- *Introduce a total ban on the use of Type 2 fireworks by unlicensed members of the public.*
This approach would result in public access to Type 2 fireworks being banned, however people with a shot-firer's licence endorsed for pyrotechnics would still be able to purchase and use these fireworks.

Summary of questions for this section:

Questions 25 and 26 seek your feedback of the advantages and disadvantages of the options and invite you to indicate your preferred option.

Next Steps:

All stakeholders and interested members of the community are invited to provide your feedback.

A consolidated list of all the questions raised throughout this paper is provided at Appendix A. You may answer as many or as few questions as you would like. Alternatively, if you would prefer, a short questionnaire is provided at Appendix B.

Please be sure to lodge your submission or completed questionnaire by the closing time of **5pm on Friday, 1 April 2016**. For more information, please refer to section 11, Consultation process and invitation for submissions on page 39.

4. History of fireworks management in Tasmania

There have been two significant reviews of fireworks management in Tasmania over the past 20 years.

In earlier years, any person 18 years and older was able to purchase fireworks from a licensed supplier; typically, one of any number of corner stores or shops in their local area. Fireworks were available for sale during the week before Cracker Night, with no limitations on the amount or types of 'shopgood' fireworks purchased, or the duration of the display.

Legislative changes resulting from the first major review of the laws came into effect in 1998. These changes included the introduction of a permit regime and classifications for different types of fireworks (refer to section 5.1, Classification of Fireworks). It was recognised that more powerful fireworks are more dangerous and, for the first time, restrictions were placed on the purchase and use of various types of fireworks.

Changes arising from the second major review came into effect in 2009. These changes were focused on tightening the management of fireworks to increase safety and further reduce harm. Additional obligations were introduced for people handling fireworks, that is, their import, packaging, storage and disposal. More rigorous conditions were established for people applying for permits; for example, fireworks displays must occur at least 50 metres from infrastructure, vehicles or roadways and notice must be given to police, the fire service, local government and neighbours.

In 2012, the laws relating to fireworks management were transferred from the (now repealed) Dangerous Substances (Safe Handling) legislation, to new explosives legislation that deals with the management of all types of explosives, including fireworks. Despite this change, the fireworks provisions remained the same; and it is under the 2012 explosives laws that the management of fireworks is primarily regulated today.

5. Current regulatory environment

The sale, purchase and use of Type 2 fireworks in Tasmania is regulated under the *Explosives Act 2012* (the Act), and the *Explosives Regulations 2012* (the Regulations). This legislation is administered by the Treasurer (who has carriage of workplace relations matters) through WorkSafe Tasmania, as a part of the Department of Justice.

5.1. Classification of Fireworks

Tasmanian law recognises four classifications of fireworks, with each classification having specific conditions for their sale, purchase and use.

Type 1 fireworks: are intended for indoor domestic use and have a very small amount of pyrotechnic substance. They include items such as sparklers, party poppers and bonbons. Type 1 fireworks are 'exempt explosives' and are therefore freely available to the public and no permits are required for their use.

Type 2 fireworks: are 'shopgoods' or 'consumer' fireworks intended for outdoor use, and include roman candles, small skyrockets and fountains. A fireworks display permit issued by WorkSafe Tasmania authorises a person to buy and use these fireworks in Tasmania, for a specific single event for which the permit is issued.

Type 3 fireworks: also known as professional display or large event fireworks, include professional, 'spectacular larger shell' or mortar type fireworks. A person wishing to conduct a display using Type 3 fireworks must nominate a pyrotechnician (a person who holds a shot-firer's permit endorsed for pyrotechnics) to purchase the fireworks and conduct the display.

Theatrical fireworks: are a separate classification because they are more hazardous than Type 1 fireworks but do not fit neatly into the Type 2 and Type 3 categories. They include flash powder and other pyrotechnic substances/articles designed or adapted for theatrical use. Similar restrictions apply to theatrical fireworks as to Type 3, because they are often used within a close proximity to performers and audiences.

5.2. Relevant permits

5.2.1. Shot-firing permit

A shot-firing (or shot-firer's) permit authorises a person to use explosives in one or more of eight different categories (including pyrotechnics, i.e. fireworks). The particular explosives a person is permitted to use depends on the specific endorsements held. For example, a person with a shot-firing permit endorsed for 'category 1' is permitted to undertake underground shot-firing, being the shot-firing involved in tunnelling or in underground or undersea mining.

To be recognised as a pyrotechnician, who is authorised to sell, purchase and/or use fireworks (except Type 1 which are exempt explosives and require no permits), a person must have a shot-firing permit endorsed for pyrotechnical shot-firing (category 4). There is

an exception, however, in that a person priming or firing Type 2 fireworks in accordance with a fireworks display permit is not required to be a pyrotechnician. To distinguish between pyrotechnicians who may use any fireworks and people who may only use Type 2 fireworks, the latter group is referred to in this paper as 'unlicensed members of the public' or simply 'members of the public'.

To obtain a shot-firer's permit, an applicant must be able to show that he or she has satisfactorily completed an accredited course in shot-firing for the category or categories of shot-firing for which the permit is sought. Equivalent interstate training or authorisation is also recognised. There are also other conditions applying, including that the person must have a legitimate need for a permit.

5.2.2. Fireworks display permit

A person intending to hold a fireworks display must apply for, and be granted, a fireworks display permit by the Secretary of the Department of Justice (the Secretary). It doesn't matter whether or not the fireworks display is to be conducted by a pyrotechnician or an unlicensed member of the public, if any fireworks apart from Type 1 are to be used then a fireworks display permit is required.

A fireworks display permit authorises a person to hold the fireworks display at a specified time and place, subject to conditions, and will specify the type of fireworks which may be used in the display.

When a person is issued with a fireworks display permit for a display using only Type 2 fireworks, that person is authorised to purchase and use Type 2 fireworks (up to a maximum of less than 20kg, or lesser amount if specified in the permit) for the display. Importantly, a fireworks display permit does not authorise a person to purchase or use Type 3 or theatrical fireworks, unless that person is a pyrotechnician with a shot-firing permit endorsed for pyrotechnical shot-firing. This is why any application for a permit to hold a Type 3 or theatrical fireworks display must nominate a pyrotechnician to purchase and use or supervise the use of the fireworks.

5.3. Key features of the current system relating to fireworks display permits

5.3.1. Eligibility for a fireworks display permit

There are a number of factors that are taken into account before a fireworks display permit may be granted, including whether the applicant is an adult and a 'fit and proper' person to hold a fireworks display. The term 'fit and proper' takes into consideration factors such as a person's mental fitness and whether the person has been convicted of a terrorism offence or other offences involving explosives, violence, dishonesty or intimidation.

In cases where it is a corporation rather than an individual that is applying for the display permit, the application must identify who will be the 'responsible adult' and the 'alternate responsible adult' for the fireworks display. Responsible adults must agree to be nominated, and be capable of performing the duties of the role. These duties include overseeing the proposed fireworks display, ensuring compliance with all conditions of the permit, and acting as the first contact point for emergency services and other officials as required.

As mentioned earlier, in section 5.2.2, if Type 3 fireworks will be used in the display, the applicant must also nominate a pyrotechnician to purchase and use the fireworks.

Question 1: *Should additional eligibility requirements be introduced for people applying for a fireworks display permit; for example, should:*
- *a shot-firing permit be required for all displays (using Type 2, Type 3 or theatrical fireworks); or*
- *a police check be required? If yes, please provide details.*

Question 2: *Should applications be limited to groups, such as a community or sporting groups, rather than people applying as individuals? If yes, please provide details.*

5.3.2. Occasions for which permits may be sought

The purpose of holding a fireworks display must align with one of the approved purposes. Subject to that condition, a person may apply for a fireworks display permit to hold a fireworks display on any day of the year. A small number of the approved purposes are limited to a particular day, such as New Year's Eve.

Approved purposes include:

- a Commonwealth Day celebration (also known as Cracker Night);
- New Year's Eve celebrations;
- a school or community fair;
- a Finale to a major agricultural show (like Agfest or the Royal Hobart Show);
- a Finale to a major sporting or recreational event (like the Royal Hobart Regatta or Launceston Festivale);
- traditional cultural occasions (such as Chinese New Year or Diwali);
- the opening or anniversary of a major commercial enterprise;
- the celebration of a major anniversary or milestone with political, historical or other significance to either Australia or Tasmania, such as Australia Day, Tasmania Day or a city centenary;

- the performance of an artistic work that incorporates or is associated with the use of explosives (like Handel's 'Music for the Royal Fireworks');
- a military tattoo;
- the testing/classification of fireworks, or related purposes, typically by a manufacturer/supplier; and
- a purpose that substantially corresponds to one of the above purposes.

If the intended fireworks display is for an event or occasion that does not meet one of these approved purposes, a fireworks permit will not be issued.

Question 3: *For what purposes should Type 2 fireworks be used by members of the public?*

Question 4: *Should the approved purposes for members of the public to hold Type 2 displays be identical to the purposes for displays by pyrotechnicians (usually, but not always, Type 3 fireworks displays)? If no, in what ways should they differ?*

Question 5: *On what days should Type 2 fireworks be able to be used by members of the public? Should their use be limited to a particular day of the year, or for certain events? If yes, please provide details.*

Question 6: *Should there be more limitations on the days on which members of the public are allowed to use fireworks compared with pyrotechnicians? If yes, please provide details.*

5.3.3. Safety requirements

Fireworks displays have some inherent dangers, and anyone handling or using fireworks has the obligation to exercise reasonable caution to protect people, property and the environment from harm. Before a fireworks display permit will be issued for a Type 2 display, the applicant must confirm that they understand all the relevant safety requirements and that the display will be organised and held in accordance with them.

The current safety requirements include that:

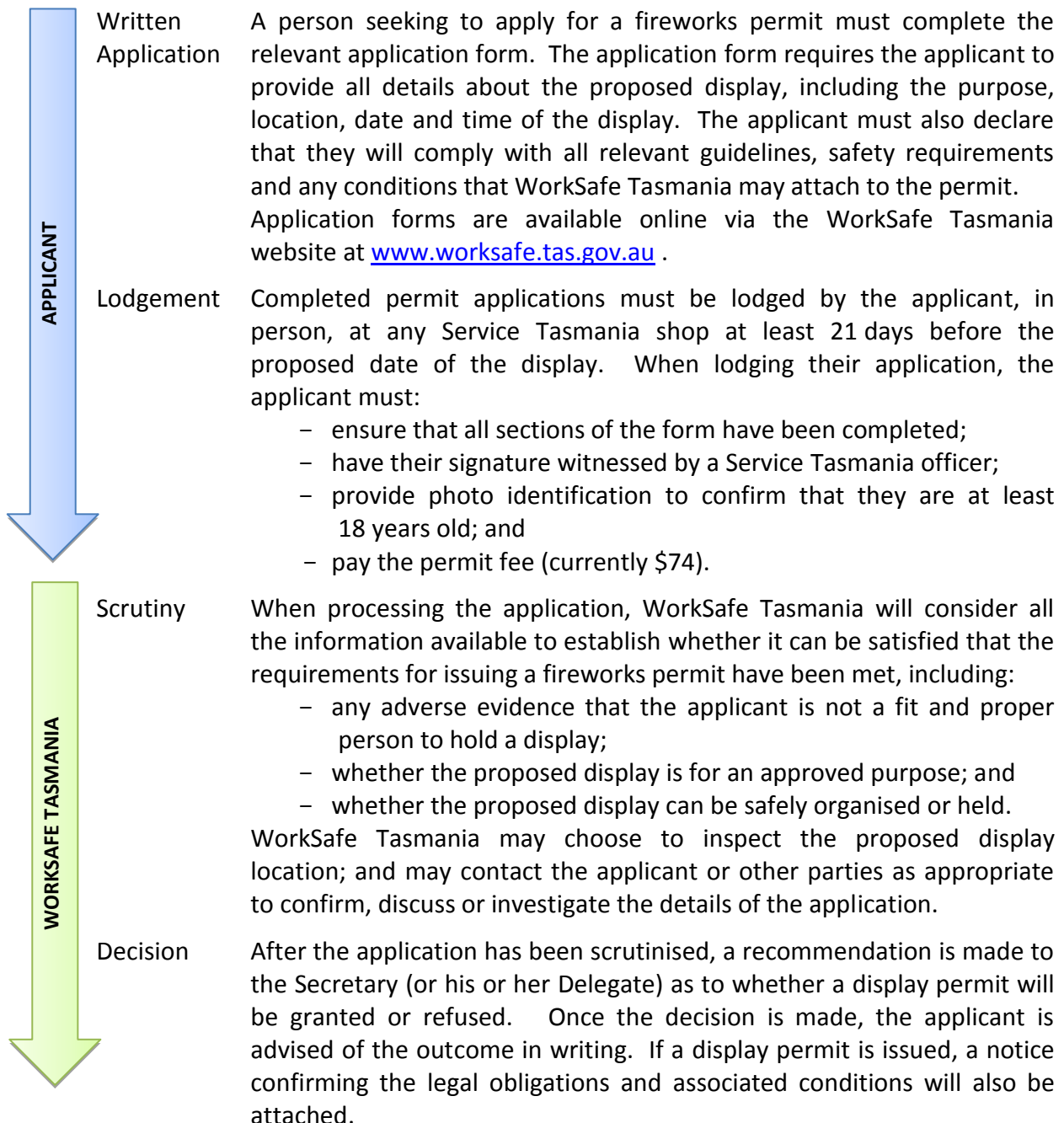
- at least seven days' notice of the display must be given to the Tasmanian Fire Service, Tasmanian Police, local council, immediate neighbours and any commercial livestock operations within one kilometre of the proposed display site;
- minimum clearance distances must be maintained, so that the location where fireworks will be fired is at least:
 - 10 metres from spectators;
 - 50 metres from parks, motor vehicles, roads, bridges and infrastructure;

- 200 metres from any other explosive, flammable or combustible material; and
 - 500 metres from an aged care facility, school, church or hospital (unless approval from the owner or authority responsible is gained);
- spectators must not have access to any fireworks or firing areas;
- the trajectory of any aerial fireworks must be at least ten metres away from hazards including power lines, streetlamps and tall trees;
- adequate fire-fighting equipment must be available on site throughout the day, including at least two suitable fire extinguishers; two sand buckets; and a hose connected to a water supply;
- before their use, fireworks must be checked for damage or defects, and must not be left unattended at the display location at any time. A closed container must be used to store fireworks until they are positioned and made ready for firing;
- the display must not commence or continue in winds stronger than 17 knots, in a lightning storm or other unsafe weather conditions; or in contravention of a total fire ban;
- any accident or incident that occurs as a result of the fireworks display must be promptly reported to the appropriate authority; and
- immediately after the display, all necessary follow-up action must be taken, including:
 - securing and removing unused fireworks,
 - checking for materials that are ignited or smouldering; and
 - making sure the site is free of rubbish and other debris.

Question 7: *Should the safety requirements be changed to improve the protection of people, property and the environment? If yes, please outline any suggestions you have. If your answer is based on a personal experience, please provide details.*

5.4. Application process

The following process is currently in place for the issuing of fireworks display permits for a display by an unlicensed member of the public using Type 2 fireworks:



PERMIT HOLDER

Notification A display permit holder must notify the Tasmania Fire Service, Tasmania Police and their local council of the display, giving at least seven full days' notice. The same notice must also be provided to the owner or occupier of each property adjoining the location of the display, as well as the owner or occupier of any property used for commercial livestock operations within a one kilometre radius of the display.

Question 8: *Before a decision is made on whether to issue a display permit, should people who may potentially be affected by a fireworks display be given the opportunity to provide comments? If yes, what would be the appropriate mechanism to request these comments, and what criteria should be applied to determine which people 'may potentially be affected'; for example, should comment be sought from all people within a certain distance from the display?*

Question 9: *Is there any way in which the permit application process should be changed? If yes, please provide details.*

5.5. Other requirements

5.5.1. Display limitations

Once a fireworks display permit (for use of Type 2 fireworks) has been granted, the fireworks display can only be held if all the conditions of the permit are met. In addition to any specific conditions identified or prescribed by WorkSafe Tasmania, the following limitations apply:

Weight: The total gross weight of fireworks purchased for, or used in, the fireworks display must be less than 20 kilograms.

Location: The display must be held in the site designated by the fireworks permit and all necessary clearance distances must be complied with (refer to Section 5.3.3, Safety requirements).

Day: A fireworks display must only be held on the day that is specified on the fireworks permit.

Time: On New Year's Eve, a fireworks display must generally not start until midnight, and must be finished at or before 12:30am New Year's Day. On any other day, a fireworks display may be held at a nominated time between 6:00pm and 10:00pm.

Weather: A fireworks display must be held in safe weather conditions: a display cannot commence or proceed if a total fire ban has been declared, or if there is a strong wind, lightning storm or other unsafe weather.

Duration: The display must be no longer than 30 minutes in total, from start to finish, including any breaks.

Question 10: *Based on your experiences, would you suggest changing the limitations for fireworks displays? If so, how?*

Question 11: *At what time of the day and for what duration should Type 2 fireworks displays be allowed?*

Question 12: *Should the location for Type 2 fireworks displays be more limited so they can only be held in specific areas or particular types of locations, such as only on sporting ovals or not within a certain distance from livestock? Should certain localities be identified as 'no fireworks' zones? If yes, please provide details.*

5.5.2. Storage and disposal

Current fireworks laws provide some guidance for the safe storage of fireworks and disposal of unused fireworks:

- Before being taken to the site of the display, Type 2 fireworks must be stored securely, away from any ignition source or other dangerous substances with which they could explosively interact.
- Once fireworks have been taken to the site, they must be kept in closed containers, at least 25 metres away from the firing area, until they need to be positioned and made ready for firing. In addition, they must not be left unattended at any time.
- Misfires must be destroyed or safely removed from the site in an approved portable magazine, preferably by soaking them with water for at least 10 hours and then burying them. Under no circumstances may misfires be burned.

When a person owns Type 2 fireworks but has no permit to use them, the owner needs to decide how store or dispose of them. Such a situation could occur, for example, if a person purchases ten kilograms of fireworks but only uses five kilograms during their display; or if a display must be cancelled for any reason, such as the declaration of a total fire ban.

Question 13: *Have you experienced a situation in which unused fireworks needed to be stored or disposed? If yes, did you encounter any difficulties?*

5.6. Permit cancellations and mechanism for appeal

5.6.1. Cancelling permits

The Secretary has the authority to cancel a fireworks display permit at any time, if:

- a total fire ban has been declared;
- the relevant event is cancelled or postponed;
- cancellation is necessary in the interests of State security or public safety;
- the permit holder is found not to be a fit and proper person to hold a permit; or
- there are other compelling reasons for the cancellation.

If a person's display permit is cancelled, they will receive written notice explaining the reason for the cancellation, specifying when the cancellation takes effect and advising the person's right to appeal the decision (see 5.6.2 'Appeal mechanism').

5.6.2. Appeal mechanism

If a person believes that a decision to issue, refuse to issue, or cancel a fireworks display permit is wrong, the only option available to appeal the decision is to apply to the Magistrate's Court (Administrative Appeals Division) for the decision to be reviewed.

Given the processes involved in appealing to the Magistrate's Court, the length of time required to see the results of an appeal prior to the intended date of a fireworks display can deter potential appellants. Further discussion on this issue is provided in section 7.5.1 'Timeframes for processing and appeal'.

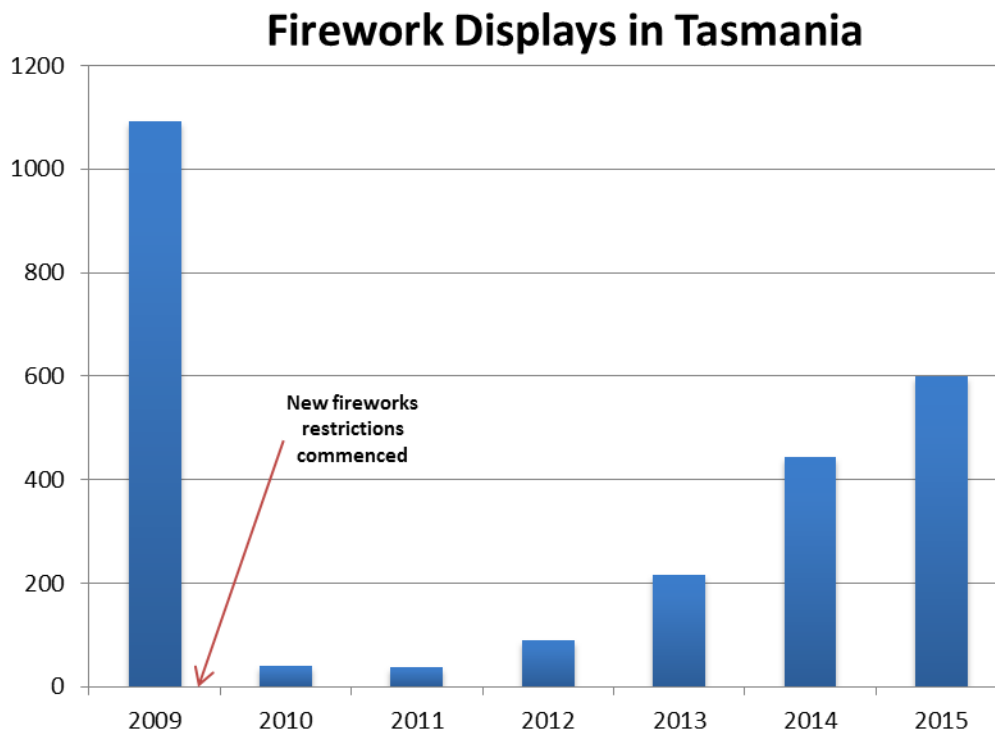
Question 14: *Have you ever been involved with a fireworks-related appeal process? If yes, do you have any comments about your experience or suggestions for how this process may be improved?*

6. Pattern of fireworks use

The following graph shows the number of fireworks displays held in Tasmania from 2009 to 2015 (using year to date figures).

The number of fireworks displays in Tasmania reduced significantly after the current restrictions were introduced – from well over 1,000 displays in 2009 to just 40 displays in 2010. However, it is clear that the popularity of fireworks is steadily returning.

If the current pattern of fireworks use continues, it is estimated that the number of fireworks displays in 2016 may compare with pre-2010 figures.



7. Issues arising from the use of fireworks

The current fireworks management regime was developed with a focus on establishing a robust regulatory framework that promotes safety and reduces harm. However, this current review was initiated in response to a number of ongoing issues arising from the use of Type 2 fireworks. Each of these issues will be addressed individually, below.

7.1. Danger to people, property and the environment

At every stage of their production, handling and use, fireworks are hazardous. If proper safety management practices are not followed, they present significant risk to people, property and the environment.

Although there are conditions upon the granting of a display permit, there is no certainty that people who buy and use Type 2 fireworks have the knowledge, skills or experience to do so safely. Even when all reasonable precautions are taken, injuries still occur. Common injuries from fireworks include burns, lacerations, injuries to eyes, face and limbs, deafness, and in severe cases, even death.

Incidents associated with property are not commonly reported to WorkSafe Tasmania; however, the potential for damage of public and private property is significant. Similarly, even if fireworks are appropriately used and handled with care, there is considerable potential for livestock and other animals to be injured, either from accidental fires, or as a

result of their natural response to being frightened. A fleeing horse, for example, can destroy and be injured by fences and other property. A horse running on to a road may cause serious car accidents, and may itself be injured or killed. Other enclosed animals, either on private properties or in animal shelters, can also be severely injured if they try to escape when frightened.

These potential dangers exist for any fireworks display, including large professional displays. However, when compared to professional (Type 3) displays, Type 2 displays are more likely to be held by people who are inexperienced and unqualified. And, on nights such as Cracker Night and New Year's Eve, Type 2 displays are held in more locations than professional displays, and are spread throughout communities, hence there is the potential to affect more people and animals.

The context of a Type 2 display is more likely to be a private celebration and, as is the case for social activities and parties more generally, there is the potential for unsafe or rowdy behaviour to occur at a small number of these events. Although such behaviour is no more likely to occur at a fireworks display than any other celebration (and may be less likely, due to a heightened awareness of the safety considerations), the presence of fireworks nevertheless adds a hazardous element, should such behaviour occur.

In circumstances where fireworks are being used within close vicinity to private property, livestock and other animals, Type 2 displays carry a heightened potential risk of serious damage, injury or death to animals when compared with professional displays.

Question 15: *What is the best way to protect domestic and native animals during fireworks displays?*

Question 16: *How can the safety of fireworks displays be improved?*

7.2. Public disturbance

WorkSafe Tasmania, Tasmania Police and local government authorities commonly receive complaints from members of the public regarding fireworks. These complaints often reflect concerns about noise, and the disturbance of pets, livestock and people.

Any one display may only be 30 minutes in duration, which helps to limit the disturbance caused by a display. However, horses and other animals can have a flight response to even a very short burst of noise. Particular issues of public disturbance can also arise when multiple fireworks permits are issued for a single area or location; if the fireworks display is associated with a loud party or social event; or where behaviour becomes unruly.

Further, with an increasing number of displays being held on the same evening in multiple areas (in particular, on Cracker Night or New Year's Eve), responding to the numerous complaints puts a strain on resources and diminishes the capacity of emergency services to respond to other priorities and incidents within the community.

Question 17: *What is the best way to prevent and manage public disturbance that is caused or contributed to by fireworks?*

7.3. Fire hazard

Fireworks displays present a particular challenge for the Tasmania Fire Service. Generally, fireworks displays are more popular in dry, warm weather, or at events that are held during spring or summer, such as school fairs and community events. However, it is during these warmer months that the risk of a fire becoming out of control is greatest.

When the danger of bushfire is considered to be high, the Tasmania Fire Service may declare a Fire Permit Period in specific – or all – municipal areas. If a Fire Permit Period has been declared, a permit is required by anyone seeking to burn vegetation, which allows the Tasmania Fire Service to coordinate and monitor controlled burning, and minimise the risks involved by imposing certain conditions to increase the safety of the fire. While there is currently no formal interaction between the fire permit system and the fireworks display permit regime, this review provides the opportunity to consider whether aligning the two permits would be beneficial and, if so, potential ways that this may be achieved.

One method of aligning Fire Permit Periods with fireworks display permits would be to ban fireworks displays during declared Fire Permit Periods. This would prevent private (Type 2) fireworks displays from being held when the danger of bushfire is considered high, thereby significantly reducing the risk of fireworks igniting a bushfire. However, direct alignment in this way also creates uncertainty and inconsistency, as Fire Permit Periods are declared only when conditions warrant it. This means that the declared Fire Permit Period varies from one year to the next and, potentially, between one municipality and another.

If such alignment is desired, the varying nature of Fire Permit Periods could be moderated by applying a ban on private fireworks displays each year during a fixed high risk period; for example, over summer months, during day light savings time, or for another period to be determined. This approach would provide certainty for people seeking to plan a fireworks display and reduce the risk of bushfire during high risk periods.

It would also address challenges that are currently experienced in responding to the declaration of a total fire ban. While a total fire ban may be declared on any day of the year, it is most common during the warmer months. The current permitting regime

prohibits any fireworks display from proceeding on a day on which a total fire ban has been declared. However, a fire ban may be declared with very short notice, making it difficult for event organisers to make alternative entertainment arrangements, or reschedule the event as necessary.

Question 18: *Do you have any suggestions on how the risk of fireworks causing bushfires during high risk periods could be addressed? If yes, please provide details.*

Question 19: *Would you support a ban on private fireworks displays during certain months in each year; for example, during summer (1 December to the end of February) or during day light savings (first Sunday in October to the first Sunday in April)?*

7.4. Misuse of fireworks

Fireworks contain explosives. Given this, fireworks – and the explosive materials within them – can be dangerous if misused.

Tasmania’s current fireworks regime limits the total gross weight of Type 2 fireworks that may be purchased or used in a display (refer to 5.5.1, Display limitations). It also requires a person to be regarded as fit and proper to hold a display, before the permit will be issued (refer to 5.3.1, Eligibility for a fireworks display permit). However, the permit application process does not currently include a police records check or any other background search to confirm an individual’s suitability to handle fireworks. This means that, unless the applicant is specifically known to WorkSafe Tasmania as having a relevant conviction or some other reason not to be regarded ‘fit and proper’, this necessary information may be unavailable when the decision on a display permit application is made.

Allowing unlicensed members of the public to access Type 2 fireworks increases the quantity of uncontrolled fireworks within the community. Although most people who obtain these fireworks handle them responsibly and lawfully, there is nevertheless a risk of harmful misuse, whether unintended or deliberate. The stockpiling of unused fireworks, for instance, can lead to accidental explosion or provide a source of fireworks for unlawful, perhaps criminal, use. While it would not be possible (or desirable) to monitor each individual firework sold, it is important to recognise potential opportunities for misuse of fireworks, and consider options to mitigate them.

Question 20: *Have you ever been the victim of, or witness to, the misuse of fireworks? If yes, please describe your experiences.*

Question 21: *To what extent are you concerned about the potential for fireworks to be illegally used?*

7.5. Inherent weaknesses of the regime

In addition to the general issues identified above, the current fireworks permit regime holds some inherent weaknesses arising through administrative requirements and the particular nature of fireworks.

7.5.1. Timeframes for processing and appeal

The permit application process (detailed on page 16) specifies two timeframe requirements for any person seeking to hold a fireworks display: the applicant must lodge their display permit application at least 21 days before the proposed date of the display; and, once a display permit is issued, the relevant neighbours and authorities must be given at least seven days' notice of the display. These timeframes work well when the details of the application are easily established, and the neighbours are happy for the display to proceed.

However, for complex permit applications requiring substantial investigation, or in the lead up to Cracker Night – during which time WorkSafe Tasmania can have hundreds of applications to process – the available processing 'window' can make it difficult for all the necessary information to be identified and properly considered.

Particular difficulties also arise if a person wishes to appeal a decision to issue, refuse or cancel a display permit. A neighbour, for example, may only become aware of the permit a week before the display. If they wish to appeal, it may not always be possible to apply to the Magistrate's Court, attend a hearing and receive the outcome of the review before the display takes place, after which time the review is redundant. If a display permit is cancelled close to the date of the event, the affected parties may have even less time to appeal, making it virtually impossible for the decision to be reviewed before the event.

A potential remedy for these issues is to extend the 'lead time' on applications for a display permit. For example, if applications were required to be lodged 60 days before the intended date of the display, more time would be available during the processing of the application, and decisions could be made earlier. If notification requirements were also invoked earlier, more time would be available for any appeals to be finalised.

Question 22: *Currently, permit applications must be lodged at least 21 days before the proposed date of the fireworks display. If this 21 day 'lead time' were to be extended, what is the longest timeframe that you would consider reasonable?*

7.5.2. Possession of uncontrolled fireworks

As described in section 5.5.2, Storage and disposal, when a person owns Type 2 fireworks but has no permit to use them, such as when fireworks purchased for a permitted display are not used, the owner needs to decide how they will be stored or disposed.

Ideally, the owners would either store the fireworks responsibly until they are issued a permit for another display; or destroy the fireworks in a safe and responsible way. However, without clear guidance, some owners can inadvertently store or dispose of their fireworks inappropriately, thereby putting their family or property at risk. Others may decide to use the fireworks on another day without a display permit. When this happens, neighbours and authorities might not be notified and safety requirements, which are specified when a permit is issued, might not met. Again, family, friends and property may be put at risk.

7.5.3. Anomalies within the fireworks regulations

A small number of anomalies have been identified (within the fireworks regulations) that may lead to ambiguity or confusion. These are referred to as ‘technical’ issues because they concern the way the requirements are drafted, rather than the policy underpinning the relevant provisions.

By way of example, the treatment of theatrical fireworks under the regulations is confusing. A person requires a shot-firer’s permit endorsed for pyrotechnics in order to fire theatrical fireworks (because there is no exception in regulation 44, which is about the requirement for a shot-firer’s permit, from this requirement for this category of fireworks). (Regulation 44 overrides the fireworks provisions of the Regulations and there is a clear exception in regulation 44 that allows a person to fire Type 2 fireworks under the auspices of a fireworks display permit.)

Despite the lack of a similar exception for theatrical fireworks, in some regulations theatrical fireworks are grouped with Type 2 fireworks, for example in regulation 86(1), which could lead to an erroneous conclusion that a fireworks display permit alone is sufficient authority to use theatrical fireworks, when in fact a category 4 shot-firer’s permit is required.

Some other regulations are silent on theatrical fireworks and only deal with Type 2 and Type 3 fireworks (for example, regulations 88 and 89, 97, 98), again leading to a lack of clarity.

It is proposed in section 10.2 of this paper that anomalies in the laws be rectified, to deliver clarity. Such clarifications are not expected to have any significant impact on the community. For example, because use of theatrical fireworks is a small sector, applicants for fireworks display permits for the use of theatrical fireworks are usually aware of the need for a pyrotechnician for the event.

7.5.4. Limited ability to enforce regime

When issuing a fireworks permit, WorkSafe Tasmania will attach to the permit an outline of the conditions and requirements for holding a fireworks display, as well as any additional conditions that WorkSafe Tasmania specifies. If a person chooses to disregard fireworks legislation – either by contravening the conditions and requirements of a display permit, or by holding a display without a permit – WorkSafe Tasmania often has limited ability to enforce the laws, or penalise those responsible.

For example, WorkSafe Tasmania has received complaints about fireworks being illegally displayed without a permit. At the time that the complaint is received, the fireworks display is often completed, or is near completion, and any evidence has been cleared away. It is therefore very difficult for a subsequent investigation to find sufficient evidence to impose a penalty, and any harm caused by the illegal display has already occurred.

Question 23: *Do you have any other concerns or comments about the inherent weaknesses of the fireworks regime in Tasmania? If yes, please provide details.*

7.6. Costs to the Tasmanian public

The prescribed fee for lodging a Type 2 fireworks permit application is currently \$74.00. This fee contributes to the cost of processing the permit application, but does not cover all of the expenses involved.

The specific cost of each application varies, depending on the amount of research required; the extent of any negotiations with the applicant on any details of the display; whether an appeal is lodged, and the nature of any complaints that may be received. However, it is estimated that to receive, scrutinise, process and follow up a single permit application it can cost WorkSafe Tasmania an average of up to \$260.00, based on 2015 year-to-date figures. This means that, on average, the figures indicate an average net loss of approximately \$186.00 for each Type 2 application received. As at 31 July, 600 Type 2 fireworks permit applications had been received during 2015, reflecting a total year-to-date loss of \$111,600.00. This is a significant cost for the Tasmanian Government – and therefore the Tasmanian public – to absorb for the celebration and amusement of a relatively small proportion of the Tasmanian population.

This calculation does not consider the expenses incurred by other authorities, such as Tasmania Police and Tasmania Fire Service. Neither do the estimates take into account the cost of any medical expenses or property repair costs that may be incurred as a result of fireworks, nor the social cost of personal injury, animal welfare concerns or other environmental impacts.

Question 24: *What is the highest fee that you would be prepared to pay to apply for a Type 2 fireworks permit?*

Question 25: *Do you consider it to be acceptable for the Tasmanian Government to make a financial loss on the administration and management of the Type 2 fireworks regime? If yes, what should the limit of this loss be?*

8. Approaches in other Australian jurisdictions

All Australian jurisdictions allow the unrestricted sale and purchase of Type 1 fireworks (or equivalent).

In relation to the use of Type 2 fireworks (or equivalent), Tasmania's fireworks regime is one of the most liberal within Australia. Western Australia was the first to introduce prohibition, with public access to Type 2 fireworks having been banned for almost 50 years. The Australian Capital Territory introduced restrictions in 2009 'in the interests of public safety and animal welfare',¹ making it the most recent jurisdiction to restrict access. The Northern Territory remains the only jurisdiction in which the access to Type 2 fireworks is unrestricted; however, this freedom only exists on Territory Day, held on 1 July each year.

Information about fireworks management in each jurisdiction is provided below.

Jurisdiction	Public access to Type 2 fireworks (or equivalent)
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Australian

Restricted since 2009

Capital Territory

A fireworks display may only be held by someone with a display permit. When applying for a display permit, an applicant must provide a detailed safety management system, proof of appropriate insurance, an inventory list of the fireworks that will be used, permission from the land owner and information about how the fireworks will be stored.

Generally, a display operator licence is required to operate fireworks displays; however, an unlicensed person may apply for a display permit to use up to 100 items. A display permit will only be granted to a person that is regarded to be a 'suitable person' to hold a permit (which includes whether the person has demonstrated adequate knowledge and experience in safety in the use of the relevant fireworks and the requirements of the regulation dealing with fireworks).

¹ <http://www.worksafe.act.gov.au/news/view/1000/title/fireworks-ban-this-queens-birthday> Retrieved 30 June 2015.

New South
Wales

Restricted since 1987

Fireworks may only be used by a person with either a pyrotechnician's licence, or a fireworks (single use) licence.

A pyrotechnician's licence will specify the particular types of fireworks the licence holder is authorised to use, from ground displays and Chinese strings through to aerial shells and aerial salutes. The applicant's level of training and experience will determine the types of fireworks that will be authorised by their licence.

A fireworks (single use) licence will only be issued for an organised public event, with permission from the local authority. Single use licences can authorise the use of ground display, Chinese string or theatrical/indoor fireworks and will only be issued to applicants that have successfully completed instruction/training from a person with a pyrotechnician's licence or pyrotechnician's permit in the safe use of the fireworks to be used for the event

Northern
Territory

Unrestricted on 1 July of each year (Territory Day)

The Northern Territory remains the only jurisdiction in Australia where it is legal for any member of the public 18 years and older to purchase and use fireworks without any form of permit or licence. However, fireworks may only be purchased or used by members of the public on 1 July of each year. To possess or use fireworks on any other day, a fireworks permit is required.

A fireworks permit will only be issued to a person who holds a Northern Territory shot-firer's licence endorsed with the class 'to conduct firework display' or 'special effects'. To gain a shot-firer's licence, a person must be over the age of 18; have the necessary training and experience; provide a satisfactory criminal history check; understand sufficient English to understand directions relating to the use of blasting explosives; and be not found to suffer from defective hearing, defective vision or a physical infirmity likely to interfere with the efficient and safe discharge of their duties as a shot-firer.

Queensland

Banned since 1972

Only licensed professionals may use fireworks. Event organisers must have evidence to demonstrate that they have met all legal responsibilities as an event organiser, including emergency planning, notifying authorities and neighbours, gaining approval from land owners and securing appropriate insurance coverage. No event permits are required.

- South Australia ***Restricted since 2001***
Only a licensed pyrotechnician, or someone under the direct supervision of a licensed pyrotechnician may use fireworks.
- Exempt display permits are available in some circumstances if the fireworks display is for public or community purposes; and is conducted by, or on behalf of, a prescribed body such as a charitable, religious, sporting, social, community or educational organisation. While the applicant of an exempt display permit need not be a licensed pyrotechnician, they must provide comprehensive documentation, including evidence of age (21 years or older), a National Police (Clearance) Certificate, an inventory list of the fireworks that will be used, and, during the fire danger season, a relevant permit under the Country Fires Act.
- Tasmania ***Restricted since 1998***
Under the current restrictions, a fireworks display may only be held by someone with a display permit. A person may apply for a permit to hold a fireworks display on any day of the year, so long as the purpose of the display aligns with one of the 'approved purposes'. Any adult who is fit and proper to hold a fireworks display may apply for a display permit. Type 3 or theatrical fireworks may only be used by a pyrotechnician (a person with a shot-firer's permit endorsed for pyrotechnics).
- Victoria ***Banned since 1985***
Only a licensed pyrotechnician, or someone under the supervision of a licensed pyrotechnician, may use fireworks.
- A pyrotechnician's licence specifies the types of fireworks that may be used and the types of activities that may be carried out, depending on the applicant's qualifications or experience.
- Western Australia ***Banned since 1967***
A fireworks event permit is required for every fireworks event. Permits will only be issued to a person who is a licensed fireworks contractor, who is then responsible for ensuring compliance with all relevant standards and regulations. Insurance details and arrangements for fireworks storage must also be provided and approval for the event must be gained from WA Police, fire services and the local council.
- To set up and initiate fireworks at the event, a person must be a licensed fireworks operator, or someone working in the presence of a licensed operator.

9. Developments at the national level

Each Australian state and territory has its own regulatory system for explosives (including fireworks), and there is considerable variation between systems. There have been a number of national developments over the last decade, leading to increased momentum for consistency between explosives laws across Australia.

The most significant developments, from the perspective of regulating fireworks in Tasmania, have been relevant decisions of the Council of Australian Governments (COAG) in recent years. In particular, COAG agreed in 2012 for harmonisation of explosives regulation to be progressed where doing so would achieve clear benefits. More recently, in March 2015, COAG agreed that work health and safety ministers would continue this work, through Safe Work Australia.²

The scope of this work is broader than the issue of fireworks alone, and it is likely that any proposed regulatory change, ultimately arising as a result of the national process, will take some years to finalise and result in change to Tasmania's laws.

The review into Tasmania's fireworks laws is not linked to the national process. Nevertheless, it is logical that the question of aligning the Tasmanian regime more closely with those in other jurisdictions would arise during the course of this review. The option discussed at section 10.6 of this paper would result in closer alignment with most other jurisdictions.

10. Options for moving forward

Six main options for the management of fireworks in Tasmania have been considered, and are presented here to stimulate thought and elicit feedback:

1. no change;
2. minor changes to improve clarity and efficiency;
3. refine the current regime with increased regulation;
4. maintain public access with a focus on community benefit;

² Safe Work Australia, July 2015, *Explosives Regulation in Australia: Discussion Paper and Consultation Regulation Impact Statement*, p 5. <https://submissions.swa.gov.au/SWAforms/explosives/Documents/cris-document-explosives.pdf>

5. retain the permit system, but limit the use of fireworks by members of the public to one day a year; and
6. introduce a total ban on the use of Type 2 fireworks by unlicensed members of the public.

Each approach has both advantages and disadvantages: for business/industry, for Government, for the community and for the environment. A summary of the advantages and disadvantages that have been identified follows.

10.1. No change

Under this option, there would be no change to the current fireworks regulations.

This option is not a preferred approach because it does not address any of the identified problems with the current system.

	Advantages	Disadvantages
Business/ Industry	<ul style="list-style-type: none"> • Industry can continue to import and supply Type 2 products. • Demand for fireworks would likely continue to increase. 	<ul style="list-style-type: none"> • Ambiguities in the legislation will remain unaddressed, potentially leading to confusion.
Government		<ul style="list-style-type: none"> • Risk of increased accountability if significant injury or damage from fireworks occurs in the future. • Continued diversion of resources to the permitting regime and firework incident response. • Some increases to administration costs as demand increases. • Adverse comments from members of the community that support a ban. • Would maintain disparity between the Tasmanian regime and momentum at the national level.
Community	<ul style="list-style-type: none"> • Community members that wish to use Type 2 fireworks will be able to continue to do so. 	<ul style="list-style-type: none"> • Community members who are concerned about the noise, potential harm to animals or fire and safety risks, will not have their concerns addressed.
Environment		<ul style="list-style-type: none"> • Issues related to noise, fire risk and animal welfare will continue.

10.2. Minor changes to improve clarity and efficiency

Under this option, any changes to the fireworks regulations would be minor. Changes would focus primarily on streamlining the administration of the current regime and clarifying any aspects of the regime that are ambiguous or may be confusing.

Potential amendments may include:

- requiring applications to be lodged earlier, providing time for appeals to be sought and finalised by the Magistrate’s Court prior to the date of the display;
- identifying and removing ambiguities or other technical issues (concerns about the drafting of the provisions that may lead to confusion); and
- increasing the cost of applying for a display permit to better reflect administration costs.

	Advantages	Disadvantages
Business/ Industry	<ul style="list-style-type: none"> • Industry can continue to import and supply Type 2 products. • Demand for fireworks would likely continue to increase. 	
Government	<ul style="list-style-type: none"> • Responding to community concerns. • More time for permit applications to be considered and processed. 	<ul style="list-style-type: none"> • Risk of increased accountability if significant injury or damage from fireworks occurs in the future. • Some increases to administration costs as demand increases (unless fees are increased as part of this option). • Continued diversion of resources to the permitting regime and firework incident response. • Adverse comments from members of the community that support a ban. • Would maintain disparity between the Tasmanian regime and momentum at the national level.
Community	<ul style="list-style-type: none"> • Requirements will be made clearer, assisting compliance. • Community members that wish to use Type 2 fireworks will be able to continue to do so. • Some improvement to safety, transparency and accountability. 	<ul style="list-style-type: none"> • May not be fully effective in addressing the issues raised, in particular fire and safety risks. • Those that are adversely affected by fireworks use in their area will continue to be affected. • Increased efficiencies may reduce

	<ul style="list-style-type: none"> Additional time to appeal. 	<p>the responsiveness of the regime to individual circumstances.</p>
Environment	<ul style="list-style-type: none"> Issues related to noise, fire risk and animal welfare will continue. 	

10.3. Refine the current regime with increased regulation

Under this option, the current permit system would remain and amendments would be introduced to specifically address the main issues identified.

This approach would focus on trying to find a balance that allows community concerns to be addressed while continuing to allow unlicensed members of the public to hold some fireworks displays. The approach could include earlier notification of neighbours and relevant authorities. Effective mechanisms would be required for handling complaints and appeals.

Potential amendments may include:

- requiring applicants to provide a recent national police records check;
- issuing permits only in situations where applicants can show that neighbours and relevant authorities agree;
- prohibiting the use of Type 2 fireworks during a declared Fire Permit Period;
- requiring applicants to advertise the fireworks display once a fireworks display permit has been granted; and
- including some of the suggestions from section 10.2, such as clarifying ambiguities and requiring applications to be lodged earlier.

	Advantages	Disadvantages
Business/ Industry	<ul style="list-style-type: none"> Industry can continue to import and supply Type 2 products. Demand for fireworks would likely remain strong or increase (although potentially at a slower rate than has occurred over recent years). 	<ul style="list-style-type: none"> New requirements likely to have some impact on the growth in demand for Type 2 fireworks.
Government	<ul style="list-style-type: none"> Responding to community concerns. Increasing the onus on applicants to consult with neighbours and relevant authorities prior to lodging an application. 	<ul style="list-style-type: none"> Risk of increased accountability if significant injury or damage from fireworks occurs in the future. May result in substantially increased administrative costs for relevant authorities. Increased complaints from

	<p>applicants who are unable to obtain the agreement of neighbours.</p> <ul style="list-style-type: none"> • Continued, and potentially increasing, diversion of resources to the permitting regime and firework incident response. • Adverse comments from members of the community that support a ban.
<p>Community</p> <ul style="list-style-type: none"> • Potential for clearer laws. • Community members that wish to use Type 2 fireworks will be able to continue to do so. • Some improvement to safety, transparency and accountability. • Additional time to appeal. 	<ul style="list-style-type: none"> • More requirements to comply with. • May not be fully effective in addressing the issues raised, in particular fire and safety risks. • Those that are adversely affected by fireworks use in their area may continue to be affected.
<p>Environment</p> <ul style="list-style-type: none"> • Substantially reduced fire risk if bans are introduced during part or all of the fire season. • May provide greater opportunity for those who are concerned about animal welfare and fire risk to object to the granting of a permit. 	<ul style="list-style-type: none"> • Issues related to noise, animal welfare and, potentially, fire risk (depending on to the extent that fire risk is addressed) may continue.

10.4. Maintain public access with a focus on community benefit

Under this option, the Type 2 fireworks regime would be reoriented with a community focus, facilitating fireworks displays that benefit communities, rather than private individuals. Potential amendments may include:

- amending the eligibility requirements for permit applications so that only people representing a recognised organisation or community group may apply;
- requiring applicants to gain permission from their local council before a display permit application may be lodged; and
- issuing permits only for community events (within the scope of either the existing, or a refined list, of approved purposes).

	Advantages	Disadvantages
Business/ Industry	<ul style="list-style-type: none"> • Some demand for Type 2 products would continue. • With fewer members of the public conducting displays, some new opportunities may arise for pyrotechnicians. 	<ul style="list-style-type: none"> • Loss of business income and opportunities for suppliers of Type 2 fireworks.
Government	<ul style="list-style-type: none"> • Achieve closer alignment to other jurisdictions. • Reduced administration costs due to anticipated decrease in displays. • Local governments may have greater involvement with displays in their local area. • Responds to community concerns without implementing a total ban use of fireworks by members of the public. 	<ul style="list-style-type: none"> • Increased administration for local governments. • Some costs associated with processing permit applications would remain. • Adverse comments from sections of the community who support access to fireworks for personal use.
Community	<ul style="list-style-type: none"> • The community focus of fireworks displays will encourage a broader level of engagement within the local community, potentially resulting in less complaints. • Reduced incidence of disturbance. • Regime would be responsive to community needs. 	<ul style="list-style-type: none"> • Would not fully eliminate the problems associated with fireworks. • Would abolish the experience of private Cracker Night displays (although it would not preclude community Cracker Night displays). • A small number of people may turn to illegal purchase and use of Type 2 fireworks, if current lawful

	avenues are no longer available.	
Environment	<ul style="list-style-type: none"> • Reduce the impact of fireworks on livestock and other domestic or native animals. • Reduced risk of fires. 	<ul style="list-style-type: none"> • Potential remains for some issues relating to noise and animal welfare. • Fire risk will not be totally eliminated.

10.5. Retain the permit system, but limit the use of fireworks by members of the public to one day per year

Under this option, a permit system for holding fireworks displays would be retained (with or without modification). However, the exception to the requirement to hold a shot-firers permit (regulation 44) would be limited to one night a year, say Cracker Night. Members of the public would only be allowed to use Type 2 fireworks on the specified night, and would require a fireworks display permit.

Use of fireworks (except Type 1) by unlicensed members of the public would be banned at all other times of the year. Fireworks displays by pyrotechnicians would continue, subject to the issuance of a fireworks display permit (for an approved purpose).

	Advantages	Disadvantages
Business/ Industry	<ul style="list-style-type: none"> • Industry can continue to import and supply Type 2 products. • There may be some potential for pyrotechnicians to undertake more work due to the increased restrictions on use of Type 2 fireworks by members of the public. 	<ul style="list-style-type: none"> • New requirements likely to restrict growth in demand for Type 2 fireworks.
Government	<ul style="list-style-type: none"> • Provides a limited response to community concerns. • Could be combined with other options, such as increasing the onus on applicants to consult with neighbours and relevant authorities prior to lodging an application to hold Cracker Night displays. 	<ul style="list-style-type: none"> • All the risks of the current system apply to the specified night when members of the public are permitted to use fireworks under the auspices of a fireworks display permit. • Administrative costs and diversion of government resources will remain, and may increase, with respect to processing of applications and attending to complaints arising from displays on the specified night. • Adverse comments from

		<ul style="list-style-type: none"> members of the community that support a ban. Adverse comments from sections of the community who seek to use fireworks at other times of the year.
Community	<ul style="list-style-type: none"> Community members that wish to use Type 2 fireworks will be able to continue to do so, once a year. 	<ul style="list-style-type: none"> May not be fully effective in addressing the issues raised, and may merely concentrate many of those concerns to the one night. Those that are adversely affected by fireworks use in their area may continue to be affected.
Environment	<ul style="list-style-type: none"> Substantially reduced fire risk due to the fact that only professional displays (by pyrotechnicians) will be permitted for most of the year. 	<ul style="list-style-type: none"> Issues related to noise and animal welfare will continue and may potentially increase for the specified night. Fire risk will not be totally eliminated.

10.6. Introduce a total ban use of fireworks by unlicensed members of the public

Under this option, only pyrotechnicians would be able to purchase or use Type 2 fireworks, and public access to fireworks would be banned in all circumstances.

This option would bring Tasmania’s fireworks regime in general alignment with the regimes currently in place in Queensland, Victoria and Western Australia.

	Advantages	Disadvantages
Business/ Industry	<ul style="list-style-type: none"> Clear and consistent regulation for all fireworks (other than Type 1 which will remain exempt). Some potential for pyrotechnicians to undertake more work due to the prohibition of use of Type 2 fireworks by unlicensed members of the public. 	<ul style="list-style-type: none"> Loss of business income and opportunities for suppliers of Type 2 fireworks.
Government	<ul style="list-style-type: none"> Reduced applications for fireworks displays resulting in significant reduction in the diversion of resources away from other priorities to administer the fireworks regime. 	<ul style="list-style-type: none"> Adverse comments from sections of the community who support public access to fireworks.

	<ul style="list-style-type: none"> • Significant cost savings. • Achieve consistency with other jurisdictions and ease transition to nationally consistent regulation. 	
Community	<ul style="list-style-type: none"> • Improved safety; only qualified/trained people will be using fireworks. • Minimise risk of property damage. • Minimise the problems associated with fireworks use, due to fewer displays across a broad geographical area. 	<ul style="list-style-type: none"> • Professional displays will continue, therefore may not fully eliminate the problems associated with fireworks. • Would abolish the experience of private Cracker Night displays (although it would not preclude professional displays on Cracker Night). • A small number of people may turn to illegal purchase and use of Type 2 fireworks, if current lawful avenues are no longer available.
Environment	<ul style="list-style-type: none"> • Minimise the impact of fireworks on livestock and other domestic or native animals, due to reduced number of displays. • Minimise risk of fires. 	<ul style="list-style-type: none"> • Although risks will be controlled, they will not be totally eliminated.

Apart from no change, there are numerous potential variations to, and combinations of, the above options that may represent a balanced approach to the regulation of Type 2 fireworks in Tasmania. Although they are not listed here, they are not precluded from consideration if public comment points to some combination or variation of the above options.

Question 26: *For any of the proposed options, are there other advantages or disadvantages you can identify? If yes, please provide details.*

Question 27: *What is your preferred option for changing the management of fireworks in Tasmania?*

10.7. Other potential changes

In addition to the six main options above, there are a number of other potential changes that could be implemented. However, these changes would not address the issues identified under the current firework regime, and are therefore not preferred approaches.

Allow unrestricted access on a single day:

This approach would bring Tasmania in close alignment to the Northern Territory. Mirroring the arrangements in place for Territory Day would allow adults to have unrestricted access to Type 2 fireworks, thereby effectively abolishing the permitting regime. While unrestricted access eases the administrative burden, it would exacerbate rather than mitigate the other issues that have been identified; in particular, issues of personal safety, animal welfare and public disturbance. It would also be inconsistent with developments at the national level, and it would be contrary to WorkSafe Tasmania's focus on reducing safety risks.

This is therefore not a preferred approach. (A variation of this approach, allowing restricted access on a single day, is discussed in section 10.5 of this paper.)

Limit the number of permits available to be issued:

This approach would reduce and effectively limit the administrative burden associated with the regime by placing a cap on the number of permit applications issued. However, depending on how many permits would constitute the cap, this arrangement would fail to address many of the issues that have been identified with the current regime. Further, it would introduce other issues, such as fair and equal access to the use of fireworks, with significant community dissatisfaction anticipated when the demand for permits exceeds the total number available to be issued.

This is also therefore not a preferred approach.

11. Consultation process and invitation for submissions

WorkSafe Tasmania has prepared this paper to facilitate public consultation on the management of Type 2 fireworks in Tasmania, and ways the current fireworks regime may be improved.

A series of questions have been provided throughout the paper to promote thought and discussion on the key points of the review. These questions have been consolidated into a single list, provided at Appendix A. It is not necessary to address every question in your submission; however, you are welcome to do so.

If you would prefer to answer some general questions rather than address specific questions, please refer to the Stakeholder Questionnaire provided at Appendix B.

Fireworks in Tasmania
Discussion and Options Paper

Completed questionnaires and written submissions may be emailed to wstinfo@justice.tas.gov.au or sent by post to:

Fireworks Consultation
WorkSafe Tasmania
PO Box 56
ROSNY PARK TAS 7018

All completed questionnaires and submissions must be received by WorkSafe Tasmania by 5pm on Friday, 1 April 2016.

When making a submission, please ensure that your name, address and telephone number are included so that we may contact you to clarify any of your comments, if necessary.

Any personal information collected from you will be managed in accordance with the *Personal Information Protection Act 2004* and may be accessed by you on request to this Department. You may be charged a fee for this service.

If you have any questions about the review process, please contact WorkSafe Tasmania by email at wstinfo@justice.tas.gov.au or by telephoning the WorkSafe Tasmania Helpline on 1300 366 322 (inside Tasmania) or (03) 6166 4600 (outside Tasmania).

Appendix A: Summary of questions

For ease of reference, a consolidated list of all of the questions raised in this paper is provided below. Written submissions do not need to address every question.

Please include your full name and contact details with your response, so we may contact you to confirm or clarify our understanding of your views, if necessary.

Section 5: Current regulatory environment

1. Should additional eligibility requirements be introduced for people applying for a fireworks display permit; for example, should:
 - a shot-firing permit be required for all displays (using Type 2, Type 3 or theatrical fireworks); or
 - a police check be required? If yes, please provide details.
2. Should applications be limited to groups, such as a community or sporting groups, rather than people applying as individuals? If yes, please provide details.
3. For what purposes should Type 2 fireworks be used by members of the public?
4. Should the approved purposes for members of the public to hold Type 2 displays be identical to the purposes for displays by pyrotechnicians (usually, but not always, Type 3 fireworks displays)? If no, in what ways should they differ?
5. On what days should Type 2 fireworks be able to be used by members of the public? Should their use be limited to a particular day of the year, or for certain events? If yes, please provide details.
6. Should there be more limitations on the days on which members of the public are allowed to use fireworks compared with pyrotechnicians? If yes, please provide details.
7. Should the safety requirements be changed to improve the protection of people, property and the environment? If yes, please outline any suggestions you have. If your answer is based on a personal experience, please provide details.
8. Before a decision is made on whether to issue a display permit, should people who may potentially be affected by a fireworks display be given the opportunity to provide comments? If yes, what would be the appropriate mechanism to request these comments, and what criteria should be applied to determine which people 'may potentially be affected'; for example, should comment be sought from all people within a certain distance from the display?

9. Is there any way in which the permit application process should be changed? If yes, please provide details.
10. Based on your experiences, would you suggest changing the limitations for fireworks displays? If so, how?
11. At what time of the day and for what duration should Type 2 fireworks displays be allowed?
12. Should the location for Type 2 fireworks displays be more limited so they can only be held in specific areas or particular types of locations, such as only on sporting ovals or not within a certain distance from livestock? Should certain localities be identified as 'no fireworks' zones? If yes, please provide details.
13. Have you experienced a situation in which unused fireworks needed to be stored or disposed? If yes, did you encounter any difficulties?
14. Have you ever been involved with a fireworks-related appeal process? If yes, do you have any comments about your experience or suggestions for how this process may be improved?

Section 7: Issues arising from the use of fireworks

15. What is the best way to protect domestic and native animals during fireworks displays?
16. How can the safety of fireworks displays be improved?
17. What is the best way to prevent and manage public disturbance that is caused or contributed to by fireworks?
18. Do you have any suggestions on how the risk of fireworks causing bushfires during high risk periods could be addressed? If yes, please provide details.
19. Would you support a ban on private fireworks displays during certain months in each year; for example, during summer (1 December to the end of February) or during day light savings (first Sunday in October to the first Sunday in April)?
20. Have you ever been the victim of, or witness to, the misuse of fireworks? If yes, please describe your experiences.
21. To what extent are you concerned about the potential for fireworks to be illegally used?
22. Currently, permit applications must be lodged at least 21 days before the proposed date of the fireworks display. If this 21 day 'lead time' were to be extended, what is the longest timeframe that you would consider reasonable?

23. Do you have any other concerns or comments about the inherent weaknesses of the fireworks regime in Tasmania? If yes, please provide details.
24. What is the highest fee that you would be prepared to pay to apply for a Type 2 fireworks permit?
25. Do you consider it to be acceptable for the Tasmanian Government to make a financial loss on the administration and management of the Type 2 fireworks regime? If yes, what should the limit of this loss be? Do you have any other concerns or comments about the inherent weaknesses of the fireworks regime in Tasmania? If yes, please provide details.

Section 10: Options for moving forward

26. For any of the proposed options, are there other advantages or disadvantages you can identify? If yes, please provide details.
27. What is your preferred option for changing the management of fireworks in Tasmania?

Appendix B: Stakeholder questionnaire

Your views are important to us. If you would prefer to answer some general questions rather than address the specific questions raised throughout this paper, please complete and return the below questionnaire to WorkSafe Tasmania by **5pm on Friday 1 April 2016**.

Completed questionnaires and written submissions may be emailed to wstinfo@justice.tas.gov.au or sent by post to:

Fireworks Consultation
WorkSafe Tasmania
PO Box 56
ROSNY PARK TAS 7018

1. Have you applied for a fireworks display permit in the past?

(please select)

No Yes

- a. *If yes, what was your overall experience of applying for a display permit?*

Positive Negative Neutral

What contributed to this experience?

- b. What changes would you make to the fireworks display permit regime?

2. If the Tasmanian fireworks laws were to be changed, what change would you prefer?

- Minor changes only to make the regime clearer and more efficient
- Improve the current system by adding to the regulations
- Retain the fireworks display permit system, but restrict use of Type 2 fireworks by members of the public to one day per year
- Introduce a total ban on use of Type 2 fireworks by members of the public, so only qualified people (pyrotechnicians) can use this type of fireworks
- Only allow use of Type 2 fireworks by unlicensed members of the public for community events (rather than for private use)

Fireworks in Tasmania
Discussion and Options Paper

3. Please share with us any positive or negative experiences you have from using fireworks, being a spectator of a Type 2 fireworks display, or if you have been affected by a fireworks display that was held in your local area.

4. Is there any other information you would like to provide to help us to review the fireworks laws?

5. Please provide your name and contact details so we may confirm or clarify our understanding of your views, if necessary:

NAME

PHONE

MOBILE

POSTAL ADDRESS

SUBURB

POSTCODE

EMAIL

Thank you for your contribution

Personal Information Protection Act 2004 : Personal information we collect from you will be managed in accordance with the *Personal Information Protection Act 2004* and may be accessed by you on request to this Department. You may be charged a fee for this service.