

Ref: R25/0132

4 February 2026

The Hon. Robert Borsak MLC
Chair
Portfolio Committee No. 5 - Justice and Communities

By email: PortfolioCommittee5@parliament.nsw.gov.au

Dear Chair

Transcript correction and response to supplementary questions: Inquiry into the illegal tobacco trade

Thank you for inviting Local Government NSW (LGNSW) to appear before the Inquiry into the illegal tobacco trade. Please see attached minor correction to the transcript from the 17 December 2025 hearing, and the below responses to supplementary questions issued to LGNSW.

1. In raising planning-based or premises-focused options, what problem or gap in the current enforcement framework was LGNSW seeking to address?

A multi-government effort is needed to fix the illegal tobacco trade, using a range of mechanisms – for example licensing, enforcement and compliance, resourcing, reporting and education.

LGNSW does not suggest that planning laws alone will fix the illegal tobacco trade, but they could be a critical part of the solution by giving councils the ability to control where and how these outlets operate.

Councils are on the front line of these issues and planning powers would allow councils to respond proactively rather than reactively.

The NSW Government's new licensing framework (which commenced on 1 July 2025) is a good start, but should be complemented by stronger planning laws to make it harder for illegal operators to exploit loopholes and easier for councils to safeguard their communities.

Just as the NSW Government has resourced compliance and enforcement of its new laws, consideration would also need to be given to councils' resourcing needs for regulating any new planning powers.

2. What were the key evidentiary or operational gaps LGNSW identified that would need to be addressed before any council role could be considered workable?

A workable role for councils in the framework for regulating the illegal tobacco trade would need to address the following gaps:

- **Data and information** - There is currently limited reliable, shareable evidence about the location, scale and modes of operation of illegal tobacco activity.
- **Planning amendments** - There are currently no clear statutory powers nor a clear role for councils to act against illegal tobacco retailers.
- **Roles, responsibilities and resourcing** - There is currently no clearly defined or properly resourced framework that could enable councils to perform regulatory functions that complement state and federal enforcement. A workable council role would need clear roles and responsibilities, appropriate resourcing, and a safe, consistent and cost-effective regulatory model.

The NSW Building Commission's use of data-driven approaches for compliance provides an enforcement model that could have merit, but would need to be accompanied by commensurate resources. To help focus its enforcement effort the NSW Building Commission uses shared data and analytics across agencies, as well as growing relationships with councils, to identify higher-risk construction sites and builders/developers.

3. Notwithstanding those gaps, what factors led LGNSW to consider it necessary to raise council-based options for consideration, rather than limiting its position to state-led enforcement?

The proliferation of retailers selling illegal tobacco across cities, suburbs and towns has prompted LGNSW and councils to call for a multi-pronged approach to address this challenge. Councils and their communities are the first to see these impacts on the ground and therefore seek an additional regulatory tool to complement state-led and federal-led enforcement.

It is too early to gauge the success of state and federal reforms commencing in 2024 and 2025, including:

- From 1 October 2024, new national laws mean vaping goods can only be purchased from pharmacies. It is illegal for all other retailers to sell any type of vaping good, regardless of its nicotine content. Pharmacies do not need a tobacco licence to sell vaping goods.
- From 1 July 2025 the NSW Government's tobacco licensing scheme commenced, under which retailers and wholesalers must have a licence to sell tobacco products in NSW.

- From 3 November 2025, new closure order powers come into force in NSW.¹ During November, the NSW Government used these new powers to raid and immediately close for 90 days stores for selling illicit tobacco, illegal vaping goods or tobacco without a licence.²
- In December 2025, NSW and Federal Police seized 10 tonnes of illicit tobacco and more than \$200,000 in cash, while making a number of arrests.³

Certainly, councils and communities continue to express concern at the proliferation of tobacconists selling illicit tobacco and illegal vapes.

According to the Australian Government's Illicit Tobacco and E-cigarette Commissioner, targeting just one part of the system is unlikely to deliver results.⁴ This view is consistent with LGNSW's position that strengthened local government planning powers will bolster and complement state led enforcement.

4. How did LGNSW envisage council involvement operating alongside, rather than duplicating, the roles of NSW Health and NSW Police?

Stronger local government planning laws such as requiring development approval for tobacco stores would complement the State Government's licensing and health regulations, making it harder for illegal operators to exploit loopholes and easier for councils to safeguard their communities. It would also introduce a regulatory function for local government where a tobacco store may be operating without consent or contrary to the relevant consent conditions.

Council involvement would be one part of a multi-pronged approach. Giving councils a role to undertake merit or impact assessment could for example involve referral to NSW Police, similar to the NSW Government's proposed reforms for councils to consult police on community safety matters before approving new places of public worship.

Councils regularly work alongside state regulators, with clear delineation of responsibilities. This includes NSW Health for legionella control measures, NSW Police for community safety and crime prevention and the NSW Environment Protection Authority for hazardous waste incidents.

¹ NSW Health website: [NSW tobacco licensing scheme](#)

² Sydney Morning Herald (2025), [Up in smoke: NSW Labor closes Sydney stores in illegal tobacco raids](#), 4 November.

³ Sydney Morning Herald (2025), [Police swoop on alleged \\$150m Sydney tobacco syndicate](#), 9 December.

⁴ Illicit Tobacco and E-cigarette Commissioner (2025): [Annual Report 2024-25](#).

5. What indicators or measures does Local Government NSW consider appropriate for assessing whether any planning-based intervention has reduced illicit tobacco-related harm across councils, particularly in small regional communities?

Evidence that a planning-based intervention has reduced illicit tobacco harm might include:

- Reduced presence of tobacco retailers (including a reduction in number and concentration of tobacco retailers near schools, youth facilities and other sensitive locations).
- Lower community-reported access to illegal tobacco.
- Improved local amenity and confidence in local regulation.
- A rebound in tobacco sales figures from lawfully operating retailers, which have reported significantly lower sales in recent years.
- Number of cross-agency operations supported by planning controls.

6. What additional evidence, pilots or policy clarity would most strengthen the case for considering a council role in this area?

According to the Australian Government's Illicit Tobacco and E-cigarette Commissioner, a clear view has emerged that there is no single solution to addressing the illicit market. Instead, a multi-pronged approach is needed across the ecosystem, from supply (growth through to retail) to demand.⁵ Targeting just one part of the system is unlikely to deliver results.

Parallels can be drawn from planning laws for liquor-licensed venues, which have successfully controlled where these venues can and cannot be located.

There are also similarities with the NSW Government's recent approach seeking to reform council powers and responsibilities in relation to regulating unapproved places of public worship (including a requirement to consult NSW Police on development applications).

Thank you again for the opportunity to provide evidence to this inquiry. For further information, the committee secretariat is welcome to contact Damian Thomas, LGNSW Director Advocacy on _____ or at _____.

Yours sincerely

Cr Darcy Byrne
President

⁵ Illicit Tobacco and E-cigarette Commissioner (2025): [Annual Report 2024-25](#).