

INQUIRY INTO ILLEGAL TOBACCO TRADE

Organisation: Local Government NSW

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**Inquiry into the illegal tobacco trade
Portfolio Committee No. 5 – Justice and Communities**

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Draft submission: Inquiry into the illegal tobacco trade

Thank you for the opportunity to make a submission to Portfolio Committee No. 5 Inquiry into the illegal tobacco trade.

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing general purpose councils as well as related entities. LGNSW facilitates the development of an effective community-based system of local government in the state.

This submission is in draft form until endorsed by the LGNSW Board at its next meeting. The Committee is asked to consider this current version. If there are any changes following Board endorsement, these will be separately provided to the Committee.

Although the terms of reference for this inquiry are broad and cover a range of aspects related to the illegal tobacco trade, LGNSW's submission will largely focus on the potential for land use planning to better regulate premises selling tobacco and vapes.

Land use planning

All councils in NSW play an essential part in improving and safeguarding the health and safety of their communities, and have a role in considering how the built environment can be planned to promote health and safety.

At the 2024 LGNSW Annual Conference, councils resolved to call on the NSW Government to give councils greater powers to regulate the location of tobacco and vape stores through land use planning:

109 Shoalhaven City Council Stricter regulation of tobacco and vape stores

That Local Government NSW calls on the NSW Government to urgently, through the planning system and any other relevant mechanisms, mandate and ensure that 'tobacconist stores' (and similar, e.g. vape stores) require development approval and that as part of this there is the ability to limit/cap and reduce the number of these stores operating in NSW and in any given Local Government Area.

(This will most likely involve amendments to the NSW Standard LEP Instrument, the SEPP (Exempt & Complying Development) 2008 and possibly associated adjustments to other legislation.)

Councils have noted that the siting of these shops and the sale of harmful products is not regulated by land use to the degree that would allow full assessment of the impacts where proximity to other land uses presents potential conflict (for example schools). While businesses that sell alcohol will typically require a full development application and social impact assessment, this is not the case for tobacconists.

As a result, retail precincts in suburbs and towns in Greater Sydney and across rural and regional NSW have seen a proliferation of tobacconists in recent years.¹

Since this resolution was considered at the 2024 Annual Conference, councils have welcomed the NSW Government's tobacco licensing scheme, which commenced on 1 July 2025. This new scheme is a significant step forward in regulating the sale of tobacco and non-tobacco smoking products, requiring all retailers and wholesalers to hold a valid licence to sell these products, with significant penalties in place for wrongdoing.

To support compliance, LGNSW understands that NSW Health is doubling the number of inspectors working across the state. This is welcome news to local government. It is essential that this important public health and law enforcement responsibility remain with the NSW Government: there must not be any attempts to shift this role to council Environmental Health Officers, for which there are already significant skills shortages right across NSW.

¹ Recent reporting indicates that on just one street in inner Sydney there are more than 20 tobacco retailers, and that in the last year alone across Australia, the number of businesses registered to sell tobacco has increased by almost a thousand ([60 tobacconists for every McDonald's: How Sydney's streets became consumed by smoke shops](#), Sydney Morning Herald, 19 May 2025).



While the Australian Government's new laws restricting the sale of vapes to pharmacies commenced in July 2024, LGNSW is aware of reports that availability of vapes from other businesses remains widespread.

LGNSW would like to see planning pathways that apply to tobacconist stores reviewed, to better allow for a full assessment of adverse impacts to communities.

In December 2024, LGNSW wrote to the NSW Minister for Planning and Public Spaces on this matter, and was pleased to receive a response advising that the Department of Planning, Housing and Infrastructure was currently reviewing the planning pathways applying to tobacconist stores. LGNSW encourages the NSW Government to take action on this matter, in the interests of communities across NSW.

Disposal of hazardous batteries

Vapes with embedded batteries can contaminate waste streams, pollute the environment and can be a serious fire safety hazard particularly if incorrectly disposed of. If included in a general waste collection, vapes can readily cause fires, releasing hazardous gas and putting lives of waste collection workers at risk.

LGNSW has long called for extended and compulsory producer responsibility schemes for emerging problem wastes, including batteries, and supports the new *Product Lifecycle Responsibility Act 2025*. The NSW Government has announced that batteries will be the first products to be regulated under this Act.

The embedded batteries in many vapes are particularly problematic as the vapes in many cases have been illegally imported and sold, so identifying the producer is challenging. Addressing the illegal importation and sale of vapes will streamline efforts to introduce producer responsibility schemes for these products, and reduce the incidence of harm from vapes that have been disposed of inappropriately.

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Thank you for the opportunity to make a submission to the Inquiry into the illegal tobacco trade. For further information, please email

Yours sincerely

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