

## INQUIRY INTO ILLEGAL TOBACCO TRADE

**Organisation:** Northern Beaches Council

**Date Received:** 1 August 2025

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council

1 August 2025

Hon Robert Borsak MLC  
Chair, Portfolio Committee No. 5 - Justice and Communities –  
Inquiry into the illegal tobacco trade  
NSW Parliament  
6 Macquarie Street  
SYDNEY NSW 2000

Our Ref: 2025/501633

Dear Mr Bosak,

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

Northern Beaches Council welcomes the opportunity to contribute to the Legislative Council's Inquiry into the illegal tobacco trade in NSW. We acknowledge the broad scope of the Terms of Reference, which appropriately reflect the complex intersections between criminal activity, regulatory enforcement and community wellbeing.

Recent local media coverage has also highlighted growing community concern across the Northern Beaches regarding the proliferation of tobacconists and their potential links to organised crime, reinforcing the urgency of coordinated government action.<sup>1</sup>

At its meeting on 17 June 2025, Council resolved (124/25):

*That Council:*

1. *Note:*
  - a. *continual concern in the community regarding the increase of tobacco shops across the Northern Beaches and alleged associated crime and these are often near where children frequent.*
  - b. *that a NSW Parliamentary inquiry has been established to inquire into and report on the illegal tobacco trade in NSW.*
  - c. *the Notice of Motion submitted on 13 May 2025 by Jacqui Scruby MP, Member for Pittwater, which states:*

*That this House:*

- (1) *Notes that many tobacconist and American lolly shops are selling cheap, illicit tobacco and illegal vapes.*
- (2) *Notes that communities do not want the proliferation of these shops in our suburbs and high streets, often near schools.*
- (3) *Urges the Government to establish an interagency Taskforce including NSW Fair Trading and NSW Police.*

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<sup>1</sup> Northern Beaches Advocate (2025) Calls for tobacconist curbs. Available at: <https://www.northernbeachesadvocate.com.au/2025/06/27/calls-for-tobacconist-curbs/> (Accessed: 28 July 2025).

- (4) *Urges the Government to amend planning laws to require a Development Application for these shops.*
2. *Request Council staff prepare a submission to the NSW Parliament's inquiry into the illegal tobacco trade, and include:*
  - a. *that the Standard Instrument Local Environmental Plan be amended to introduce 'tobacco shops' as a separately defined land use and allow local councils to introduce locational criteria into their local planning instruments to restrict new applications for 'tobacco shops' from being located in close proximity to sensitive land uses such as schools and recreation areas, similar to legislation restricting the location of brothels and sex shops*
  - b. *the issues raised in the Notice of Motion by the Member for Pittwater*
  - c. *any other relevant matters.*
3. *Request the CEO provide a copy of this resolution and the subsequent submission to the Premier, the Hon Chris Minns MP; the Minister for Planning, the Hon Paul Scully MP; the Minister for Police, the Hon Yasmin Catley MP; the Attorney General, the Hon Michael Daley MP; and all respective Shadow Ministers, Leaders of the crossbench and local State MPs.*

Council's submission (attached) addresses the Inquiry's Terms of Reference. It emphasises the need for the NSW Government to strengthen planning controls, enforcement frameworks, and interagency collaboration to address the proliferation of tobacco shops and associated criminal activity.

While Council's primary responsibilities do not include direct enforcement of tobacco-related legislation, we remain deeply concerned about the broader impacts of the illegal tobacco trade on our local communities, small businesses, and vulnerable groups.

Council's current regulatory role is limited to the *Environmental Planning and Assessment Act 1979* (the Act), which allows intervention only in cases of unauthorised development or use of premises without appropriate consent. However, the term "tobacco shop" is not currently defined in the Standard Instrument Local Environmental Plan under the Act, significantly limiting Council's ability to regulate such premises through local planning instruments.

The main regulators for tobacco-related offences are NSW Health, under the *Smoke-free Environment Act 2000* and the *Public Health (Tobacco) Act 2008*. Council has no enforcement powers under these Acts and can only advocate for action or legislative reform by the State Government. The recent introduction of the NSW Tobacco Licensing Scheme on 1 July 2025 is a welcome development. This scheme requires retailers and wholesalers to obtain a licence to sell tobacco and non-tobacco smoking products. However, it does not extend to vaping products, which remain restricted to pharmacies with a valid prescription.

Council remains committed to supporting legislative reform that protects community wellbeing, promotes fair trading, and ensures that local government has the tools necessary to respond effectively to emerging public health and safety concerns.

Should you require any further information or assistance in this matter, please contact my office on

Yours faithfully

Scott Phillips  
Chief Executive Officer

**Cc:** NSW Premier, the Hon Chris Minns MP  
Minister for Planning, the Hon Paul Scully MP  
Minister for Police, the Hon Yasmin Catley MP  
Attorney General, the Hon Michael Daley MP  
All respective Shadow Ministers  
All Leaders of the crossbench  
All local State MPs

## **Northern Beaches Council Submission Portfolio Committee Justice and Communities inquiry into the illegal tobacco trade in New South Wales**

**That Portfolio Committee No. 5 - Justice and Communities inquire into and report on the illegal tobacco trade in New South Wales, and in particular:**

### **(a) current links between serious and organised crime syndicates and tobacconists, and future trends in crime activities, practices, methods and their impact on society**

Council acknowledges growing concerns about the involvement of organised crime syndicates in the illegal tobacco trade. These activities undermine legitimate businesses and pose risks to community safety. This concern is reflected in community feedback and recent Council resolution.

Recent incidents, such as the armed robbery at a tobacconist in Collaroy, highlight the serious public safety risks associated with these premises and reinforce the need for coordinated action.<sup>2</sup> Council supports calls for stronger enforcement and urges the NSW Government to take decisive steps to address the criminal elements linked to the illegal tobacco trade.

#### **Key recommendations:**

1. Establish an interagency taskforce comprising NSW Police, NSW Fair Trading, and NSW Health to investigate and disrupt organised crime links to tobacconists.
2. Enhance intelligence sharing and enforcement coordination between State agencies and local government to proactively identify and respond to criminal activity associated with the illegal tobacco trade.

### **(b) the utilisation of money laundering schemes by tobacconists, including the use of automated teller machines (ATMs)**

Council notes the potential for tobacconists to be involved in money laundering schemes, including using ATMs. Council supports enhanced regulatory oversight and collaboration between law enforcement and local government to identify and mitigate such risks.

#### **Key recommendations:**

3. Introduce mandatory reporting requirements for tobacconists operating ATMs, including transaction monitoring and data sharing with appropriate enforcement agencies.
4. Strengthen compliance inspections and financial audits of tobacco retailers, particularly those with high cash turnover or operating in high-risk areas. Council recommends NSW Police and NSW Fair Trading lead this initiative.

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<sup>2</sup> Northern Beaches Advocate (2025) Pair charged over Collaroy robbery, 17 June. Available at: <https://www.northernbeachesadvocate.com.au/2025/06/17/pair-charged-over-collaroy-robbery/> (Accessed: 28 July 2025).

### **(c) introduction of legal protections for landlords who lease to tobacconists**

Council supports the introduction of legal protections for landlords who lease premises to tobacconists, particularly where criminal activity may be occurring without the landlord's knowledge. Recent incidents, such as the armed robbery at a tobacconist in Collaroy, underscore the need for clear guidance and legal safeguards to ensure landlords are not unfairly penalised when criminal acts occur beyond their control.

#### **Key recommendations:**

5. Establish a formal notification and support mechanism for landlords affected by closure orders or enforcement actions, including guidance on lease termination rights and legal recourse. Council recommends NSW Fair Trading develop this framework.

### **(d) the adequacy of existing legislation and the allocation of departmental responsibility for enforcement, including in other jurisdictions**

A June 2025 article from *Northern Beaches Living* states that there are 15 tobacconists in Manly alone and that their proliferation has sparked concern among residents, Northern Beaches Councillors, and local MPs.<sup>3</sup> *Northern Beaches Advocate* reports that NSW Health data confirms a 25% increase in tobacconists across the State over the past four years, with 60 tobacco stores in Sydney for every McDonald's restaurant.<sup>4</sup>

Despite concerns about the rapid and concentrated growth of tobacconists on the Northern Beaches (generally located in retail centres, often near schools and public spaces) Council currently faces significant barriers in addressing tobacco-related issues at the local level:

- Lack of a defined land use term: "Tobacco shop" or "Tobacconist" is not defined in the Standard Instrument Local Environmental Plan (LEP) under the *Environmental Planning and Assessment Act 1979*, preventing Council from regulating such uses through local planning instruments (i.e. Local Environmental Plans (LEP) and Development Control Plans (DCPs)).
- Ambiguity in existing definitions: Tobacco retailers may operate under the guise of convenience stores or shops due to the broad definition of "retail premises", and as such, are permitted in any location where such uses are a permitted use under Council's Local Environmental Plans. Further, under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, Part 2, Division 1, Subdivision 10A, the change of use of a shop is exempt development if that use is permissible in the LEP, meaning that a development application is not required to be submitted to Council to obtain approval for such an activity. While clause 2.20B(f) lists certain uses that are excluded from these provisions, such as sex service premises and restricted premises (i.e. adult

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<sup>3</sup> Northern Beaches Living (2025) Tobacconists and Vape Shops Near Primary Schools. Available at: <https://northernbeachesliving.com.au/tobacconist-shops-near-primary-schools/> (Accessed: 28 July 2025).

<sup>4</sup> Northern Beaches Advocate (2025) Calls for tobacconist curbs. Available at: <https://www.northernbeachesadvocate.com.au/2025/06/27/calls-for-tobacconist-curbs/> (Accessed: 28 July 2025).

shops), a tobacco shop or tobacconist are not excluded because this is not a separately defined land use term.

- Limited enforcement powers: Council's role is restricted to unauthorised building works under the *Environmental Planning and Assessment Act 1979*. Council cannot undertake enforcement action against premises selling tobacco products or amend planning instruments to regulate them.
- Primary enforcement by NSW Health: NSW Health administers and enforces the *Smoke-free Environment Act 2000* and the *Public Health (Tobacco) Act 2008*. Council has no formal enforcement role under these Acts.

#### **Key recommendations:**

6. Amend the Standard Instrument Local Environmental Plan (LEP) to define "tobacco shop" or "tobacconist" as a separate land use and amend the definition of "retail premises" such that the term does not include a tobacco shop or tobacconist, preventing misclassification.
7. Introduce locational criteria as a standalone LEP clause to restrict tobacco shops from being near sensitive land uses (such as schools, youth and community centres, recreation areas), similar to restrictions for sex services premises.
8. Amend *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, Part 2, Division 1, Subdivision 10A Change of Use of Premises, to list "tobacconist" or "tobacco shop" under clause 2.20B(f) to prevent the change of use of a shop to a "tobacconist" or "tobacco shop" from being carried out as exempt development, therefore requiring a development application to be submitted to Council for assessment and approval.

#### **(e) review of the resourcing, administrative arrangements and staffing for enforcement in metropolitan and regional New South Wales, including the adequacy of cross-jurisdictional databases to meet current and future needs**

Council supports a review of enforcement resourcing and administrative arrangements. Improved cross-jurisdictional data sharing and coordination between NSW Health, NSW Police and local councils is essential to address illegal tobacco trade effectively.

#### **Key recommendations:**

9. Conduct a comprehensive review of enforcement staffing and resources across metropolitan and regional NSW, with a focus on tobacco-related offences.

#### **(f) the impact of the tobacco trade on small businesses and communities in regional New South Wales**

The illegal tobacco trade undermines legitimate small businesses, particularly in regional and suburban areas. On the Northern Beaches, small retailers face increasing pressure from illicit operators, which distorts competition and erodes consumer trust. NSW Health has acknowledged that illicit tobacco retailing adversely affects lawful businesses, with illegal operators undercutting prices and bypassing regulatory

obligations.<sup>5</sup> Council supports measures to protect compliant businesses and promote fair trading environments.

**Key recommendations:**

10. Establish a public awareness campaign to educate consumers about the risks and consequences of purchasing illicit tobacco and vapes, and to support local lawful retailers.

**(g) the impact of prohibition on organisations that profit from illegal or over-regulated products**

Council recognises that prohibition can drive demand for illicit products. We support a balanced regulatory approach that prioritises public health while addressing the unintended consequences of over-regulation, particularly in vulnerable communities.

**Key recommendations:**

11. Undertake a regulatory impact assessment to evaluate how prohibition and over-regulation contribute to the growth of illicit markets and use findings to inform more proportionate and targeted policy responses.

**(h) communities and groups that are disproportionately impacted by changes in the supply and regulation of products**

Council is concerned about the disproportionate impact of tobacco regulation and enforcement on certain communities, including young people, who are increasingly targeted by illegal vape sellers and lower-income communities, who may be more exposed to unregulated products and enforcement actions.<sup>6</sup>

While the Northern Beaches generally reports lower tobacco smoking rates, recent incidents and broader State trends suggest that vulnerable groups remain at risk of exploitation by illegal operators and may be more affected by enforcement measures.

The significantly higher vaping rates among young people aged 16 to 24, who are nearly three times more likely to vape than the general adult population<sup>7</sup>, align with anecdotal concerns in the Northern Beaches about the location of tobacconists near schools. This underscores the need for targeted, locally informed responses that address both public health and community safety.

Council advocates for a balanced approach that prioritises public health while minimising unintended social harms.

**Key recommendations:**

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<sup>5</sup> NSW Health (2024) *Strengthening enforcement to tackle illegal tobacco*, NSW Government. Available at: [https://www.health.nsw.gov.au/news/Pages/20241024\\_00.aspx](https://www.health.nsw.gov.au/news/Pages/20241024_00.aspx) (Accessed: 28 July 2025).

<sup>6</sup> Martin, J. and Jegasothy, E. (2025) Fanning the flame: analysing the emergence, implications, and challenges of Australia's de facto war on nicotine, *Harm Reduction Journal*, 22(42). Available at: <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-025-01163-6> (Accessed: 28 July 2025).

<sup>7</sup> NSW Ministry of Health. (2025). Vaping rates (daily or occasional). HealthStats NSW. Available at: <https://www.healthstats.nsw.gov.au/indicator?name=-beh-smo-ecig-phs> (Accessed: 29 July 2025).

12. Develop targeted support, education and harm reduction programmes for communities disproportionately affected by tobacco and vape regulation, with a particular focus on young people and lower-income groups. Council recommends NSW Health lead this initiative.

**(i) any other related matter**

Northern Beaches Council supports the objectives of the Inquiry and encourages a whole-of-government approach to addressing the illegal tobacco trade. Council is committed to working collaboratively with State agencies to protect community wellbeing and support legitimate local businesses.

To support more effective planning and enforcement, Council sees value in improved data collection and greater transparency around tobacco retail activity. A coordinated approach to monitoring the number, location, and compliance status of tobacco retailers would help identify emerging risks, highlight high-risk clusters (e.g. near schools, youth and community centres and recreation areas), and inform targeted enforcement and education efforts. Making this information publicly accessible, such as through an online map, could also enhance community awareness and accountability.

Council highlights the recent launch of the NSW Tobacco Licensing Scheme on 1 July 2025, which introduces significant reforms to the regulation of tobacco sales in NSW. These include mandatory licensing for retailers and wholesalers, increased penalties, and new enforcement powers such as closure orders and lease termination provisions. While these reforms represent a positive step forward, further action is needed to ensure that local governments are adequately equipped to respond to the proliferation of tobacco shops and associated criminal activity.

**Key recommendations:**

13. Develop a publicly accessible online map to monitor licensed tobacco retailers and their proximity to sensitive land uses, supporting enforcement and community awareness.