

**Submission
No 47**

INQUIRY INTO ILLEGAL TOBACCO TRADE

Organisation: Mosman Council

Date Received: 1 August 2025

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Chair and Members of Portfolio Committee No. 5
Justice and Communities

council@mosman.nsw.gov.au
www.mosman.nsw.gov.au

Re: Submission on the Inquiry on the illegal tobacco trade in New South Wales

On behalf of Mosman Council I wish to make a submission to the inquiry into the illegal tobacco trade in New South Wales. This issue has become visible within our local government area and we have received feedback from residents regarding this matter.

Community Concerns

Over recent months, our Council has received feedback from residents regarding the emergence and proliferation of tobacconist shops. These outlets often appear, seemingly overnight, and are stocked with a limited range of legitimate goods, including prominently displayed and brightly coloured confectionery and vaping products. Residents have expressed concern at the proximity of these shops to schools, bus stops, and other areas where our young people gather, raising fears about the normalisation and accessibility of vaping among young people. Our Local Member for North Shore, Felicity Wilson, has publicly stated that at least 11 tobacconists in the area have been identified as selling illegal tobacco products. These shops are not only undermining public health efforts but are also suspected of contributing to organised crime and money laundering activities.

Public Safety and Crime

While there have been no confirmed incidents of violence directly linked to illegal tobacconists within our Council area, broader evidence from across NSW suggests that these businesses are often associated with intimidation, financial insecurity for nearby small businesses, and the sale of harmful products. The NSW Health Department has also noted that illicit retailers frequently operate near schools, undermining youth protection efforts.

Impact on Community Livability

The presence of illegal tobacconists erodes the village atmosphere that communities like Mosman strive to protect. These shops often feature anonymous branding, sparse legitimate stock, and a focus on products that appeal to youth, such as American confectionery and energy drinks. This aesthetic and business model clash with the character and values of our local centres.

Moreover, the illegal tobacco trade undermines legitimate small businesses by undercutting prices and diverting foot traffic. It also contributes to a sense of unease among residents, particularly parents and educators concerned about youth exposure to vaping and smoking.

Planning Limitations

Local councils currently operate within a constrained planning framework under the Environmental Planning and Assessment Act 1979 (NSW). While councils are responsible for assessing development applications based on land use zoning, Councils do not have the authority to regulate or restrict tenancies based on the nature of the business operator or the legality of their trade. This means that even when there are community concerns or suspicions of illegal activity, councils are unable to intervene if the land use remains permissible under the planning scheme.

Although there may be scope to amend the Act to provide a framework for identifying and managing problematic tenancies, it is critical to emphasise that enforcement of tenancy legality, particularly in cases involving illegal tobacco trade is a matter of criminal law and regulatory oversight. These responsibilities fall within the remit of state government agencies, such as NSW Police, NSW Health, and the Department of Customer Service.

Legislative reforms that clarify and strengthen the role of state agencies in managing and enforcing compliance in this space must be undertaken. Councils should not be expected to take on enforcement roles that require investigative powers, legal expertise, and cross-jurisdictional coordination. Shifting this burden to local government would be inappropriate and ineffective, given our limited powers and resources. The regulation and oversight of tobacconists especially those suspected of engaging in illegal trade should remain a state level responsibility, where the capacity to act decisively and consistently exists.

Recommendations

It is recommended that the Committee consider the following:

1. Legislative reforms that clarify and strengthen the role of state agencies in managing and enforcing compliance in this space, while ensuring councils are supported with information and tools to raise concerns and collaborate where appropriate.
2. Provide additional powers to the State in regulating tenancies where illegal activity is suspected or proven.
3. Introduce legislation to prohibit tobacconists from operating within a defined radius of schools, childcare centres, and youth services.
4. Fund further campaigns to raise awareness of the risks associated with illegal tobacco and vaping products.

We thank the Committee for its attention to this matter.

Please contact my Executive Assistant, _____, via _____ or _____ on _____ if you have any questions on this matter.

Yours sincerely,

Craig Covich
ACTING GENERAL MANAGER