

**Submission
No 57**

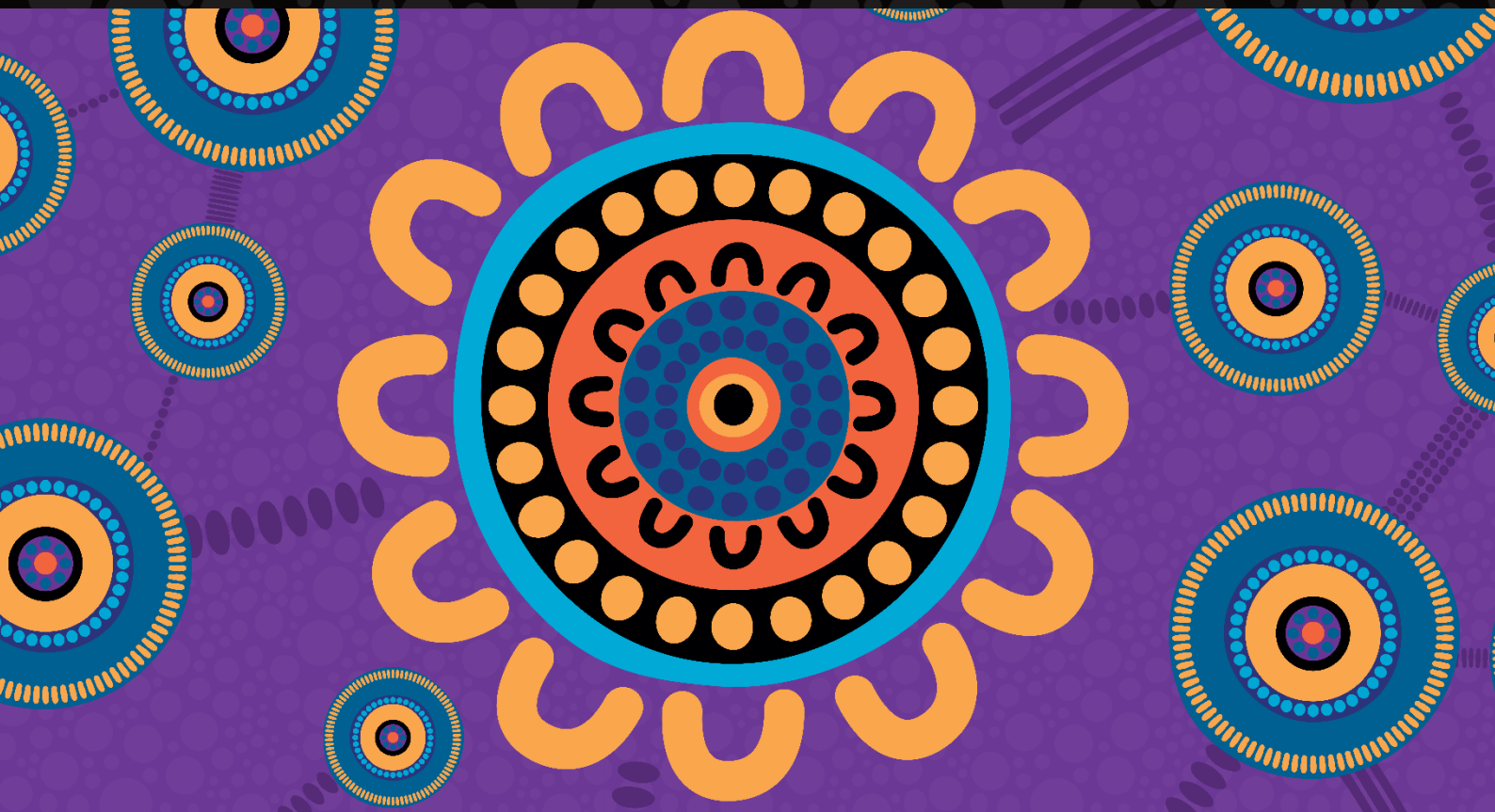
INQUIRY INTO ILLEGAL TOBACCO TRADE

Organisation: Tobacco Free Program, Australian National University

Date Received: 1 August 2025

**NSW Parliament Legislative Council
Portfolio Committee No. 5
Justice and Communities
August 2025**

Inquiry into the illegal tobacco trade

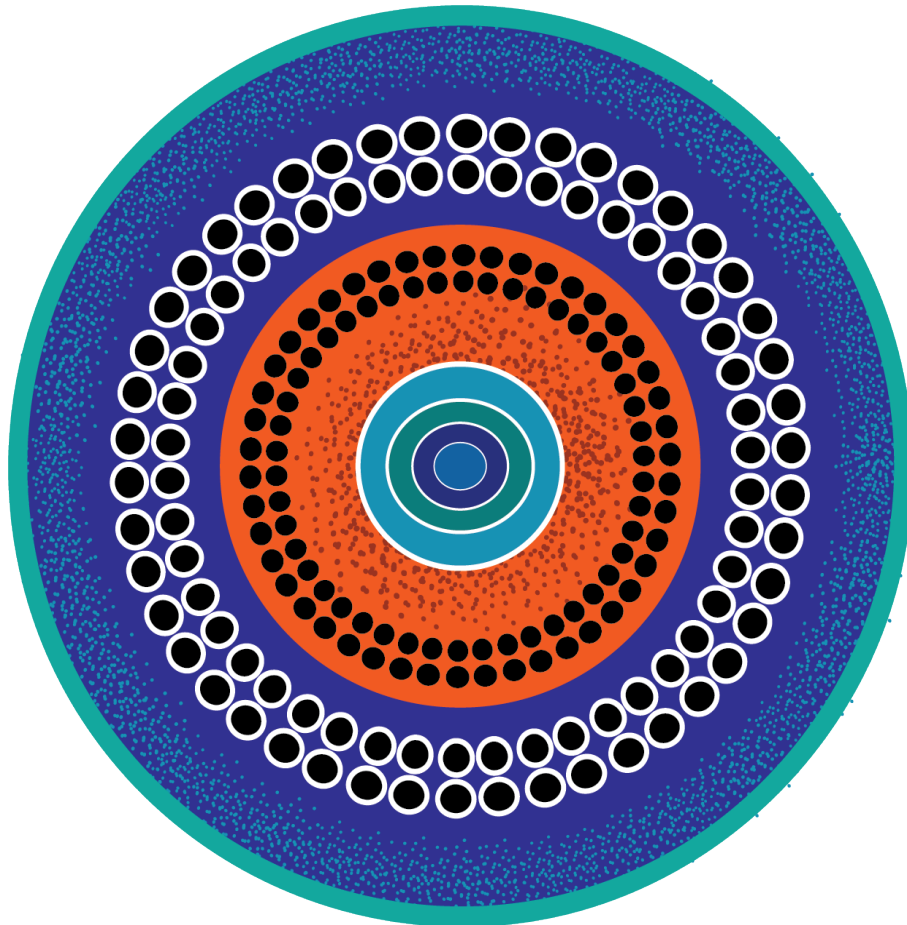


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Acknowledgements

The authors acknowledge and respect the diversity among Aboriginal and Torres Strait Islander peoples, including the many nations, language groups, cultures and protocols. We pay our respects to all Elders past, present and future.

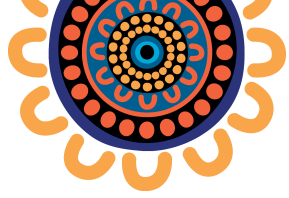


'Unified' created by Jasmine Sarin, a proud Kamilaroi and Jerrinja woman

Artwork elements: the outside circles consist of figures, signifying that people come first and should be consulted and included in services that affect their health and wellbeing. These are also symbolic of the people and community who have been a part of the project. The subsequent layer of circles represents the journey of research and cycle of collecting, analysing, interpreting, and presenting information. It shows the process of research in community. The innermost circles represent the impact and the change that we are seeing on the ground through sharing stories, knowledge, and success.



**Tobacco
Free**

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Funding Declaration

This submission was prepared by Associate Professor Raglan Maddox and the Tobacco Free Program at the Australian National University (ANU). The Tobacco Free Program receives funding from Australian Governments through competitively awarded research and evaluation grants.

No funding was received from any tobacco, nicotine, or related industry, directly or indirectly.

Declaration of Conflict of Interest

Associate Professor Raglan Maddox and the Tobacco Free Program declare no conflicts of interest. There are no financial or non-financial relationships with the tobacco or nicotine industry, its affiliates, or any front groups. The Tobacco Free Program adheres to Article 5.3 of the World Health Organization Framework Convention on Tobacco Control, which requires the protection of public health policy from the commercial and other vested interests of the tobacco industry.



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EXECUTIVE SUMMARY

The Tobacco Free Program and Australian National University welcomes the opportunity to contribute to the NSW Parliament Legislative Council Portfolio Committee No 5. – Justice and Communities inquiry into illegal tobacco trade.

This submission from the Tobacco Free Program, as a program accountable to Aboriginal and Torres Strait Islander peoples, provides an Indigenous-led, evidence-based response to the NSW Parliamentary Inquiry into the illicit tobacco trade. This submission responds to the Terms of Reference and outlines an Indigenous-led public health response to the structural conditions enabling illicit tobacco trade in NSW.

The illicit tobacco trade is a structural issue that benefits from weak enforcement, inadequate regulatory oversight, and the actions of profit-oriented supply chains, not from public health measures. Industry-aligned commentary risks undermining public health goals and contravenes Australia's obligations under the World Health Organization's Framework Convention on Tobacco Control (FCTC), particularly Article 5.3, which mandates the protection of public health policy from commercial and vested interests.

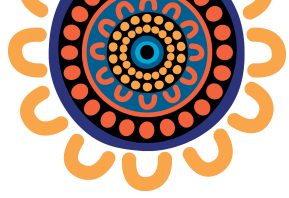
The submission outlines key recommendations, including:

- Industry Influence and Transparency (Terms of Reference (ToR) a, f, h)
- Context and Cross-Jurisdictional Collaboration (ToR b, d, e, f, g, h)
- Demand Reduction and Tobacco Excise (ToR a, d, h, i)
- Licensing and Regulatory Oversight (ToR d, e, f, g, h)
- Compliance and Enforcement Capacity (ToR a, b, c, d, e, f, h)
- Investment in Cessation and Community-Based Supports (ToR a, d, e, f, h, i)
- Countering Industry Misinformation and Interference (ToR a, d, f, h, i)
- Structural Justice and Truth-Telling (ToR f, h, i)

Responses to illicit tobacco trade must avoid framing individuals who are addicted to these products as criminals. Instead, a shift toward structural reforms is proposed, divesting from harmful industries and investing in culturally safe health and wellbeing. The submission concludes with a call for policy development that centres equity, truth-telling, and health and wellbeing.

Although daily smoking is declining, the sale and supply of all tobacco products continues to contribute disproportionately to the poor health outcomes and higher mortality rates among Aboriginal and Torres Strait Islander people [1]. The Tobacco and Nicotine Industry continues to profit from the importation and sale of tobacco and novel nicotine products into Australia. The availability of illicit tobacco and nicotine products undermines national and state public health approaches and tobacco control activities to preserve the good health and wellbeing of all Australians.

This submission firmly rejects any collaboration with the Tobacco and Nicotine Industry. Instead, it outlines evidence-based strategies grounded in public health, aiming to uphold the human right to health.



TOBACCO USE

European settlers to North America industrialised and modified the sacred tobacco plant, developing it as a plantation crop. Subsequent mass production and distribution of adulterated tobacco, in the form of cigarettes, has resulted in commercial tobacco products being available in large quantities and at low-cost [2]. Prior to first contact in what is now known as Australia, there was minimal use of native tobacco plants or cultivated products among Aboriginal and Torres Strait Islander peoples [3]. However, colonisation systematically introduced and embedded the use of industrially produced, commercial tobacco products, including forced and unpaid labour on missions, stations and widespread use of tobacco rations in lieu of wages which continued up to 1968 [4], the health effects of which continue today.

Past and contemporary colonial mechanisms compound this impact by generating the conditions that make it more likely that someone will smoke. The structural and commercial determinants of smoking, including housing, socio-economic position, racism, trauma, and targeted Tobacco and Nicotine Industry marketing help entrench inequities and social disadvantage. This is due to multiple policies actively failing, including the exclusion of Aboriginal and Torres Strait Islander peoples from the cash economy, as well as exclusion from the education, social and health systems. These same conditions that underpin higher rates of tobacco related harms, are the drivers of preventable chronic disease, morbidity and mortality [3]. It is within this context that we still observe the active targeting of Indigenous peoples by the Tobacco Industry today [3], and the need for an inquiry into harms to Indigenous peoples caused by the Tobacco and Nicotine Industry. This historical and contemporary context as fuelled by the Tobacco Industry has led to Aboriginal and Torres Strait Islander peoples disproportionately impacted by tobacco related-disease and -death.

Given decreasing global [5] and local [6] demand for tobacco products, the Tobacco and Nicotine Industry have continued to develop novel products and packaging that are deliberately packaged, flavoured, priced and marketed to appeal to children and young people [7]. Such practices alongside interference by the tobacco industry and affiliates in the development of policy approaches to protect against proven tobacco harm requires focused and ongoing efforts from all governments [5]. False and misleading claims from the Tobacco and Nicotine Industry deliberately undermine public health efforts, using tactics of doubt, denial, and deflection [8]. Further, illicit tobacco undermines public health, fuels criminal profits, and is routinely leveraged by industry actors to push for policy changes that expand their influence and weaken public protections. Instead of engaging with false rhetoric from the Tobacco and Nicotine Industry, including tobacco retailers about weakening tobacco control measures to address the proliferation of illicit tobacco [9], enhanced control efforts must be made to address the sale of cheap tobacco products (due to tax evasion) within the existing profit-oriented supply chains [10].





TOBACCO HARM

Tobacco is responsible for 12% of the total preventable health burden for Aboriginal and Torres Strait Islander peoples, the single largest preventable cause of mortality and morbidity [11]. **Smoking causes over a third (37%) of all deaths among Aboriginal and Torres Strait Islander people and 50% of all deaths among those aged 45 and over [12].** More than 10,000 Aboriginal and Torres Strait Islander people have been killed by tobacco in the last decade alone [12]. The weight of this loss spans beyond the grief that is felt with any death to encompass loss of knowledges, including languages, protocols, customs, kinship and law [3].

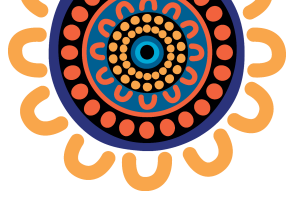
We know however, that most people who smoke wish they never started, want to quit, and most have tried to quit [13, 14]. Population trends indicate more and more people are quitting and/or not taking up smoking. Since 2002, there has been a significant decline in smoking prevalence from 48% among Aboriginal and Torres Strait Islander peoples aged 15+ to 29% in 2022-23 [15, 16]. Despite this progress, prevalence is up to 58% in some remote regions [15]. We must take action to eradicate tobacco related disease and death, and the resulting trauma, loss, and cultural harms. We must hold the commercial Tobacco and Nicotine Industry accountable for the harms they continue to inflict on Aboriginal and Torres Strait Islander peoples and all Australians.

WHAT WORKS IN INDIGENOUS TOBACCO CONTROL

Meaningful Aboriginal and Torres Strait Islander engagement, voices and perspectives are critical to the design and implementation of tobacco control measures. This is consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) [17]. There is a need to plan and implement a clear and urgent roadmap for the eradication of commercial tobacco and nicotine-related harms. A population profile of people who smoke in Australia shows several shared characteristics between Aboriginal and Torres Strait Islander peoples and the total population who smoke, including experiences of structural social disadvantage [18]. As such, tobacco legislation, regulations, policies and programs designed to meet the needs of Aboriginal and Torres Strait Islander people are likely to be effective for all Australians who smoke and help to uphold the human right to health for all [17].

Aboriginal and Torres Strait Islander communities, and the Australian community more broadly, have demonstrated strong leadership and success in prioritising smokefree norms. This has been assisted by substantial, and critically, sustained investment in tobacco control programs and policies [19]. The achievements in reducing smoking prevalence have generally resulted from comprehensive demand reduction measures, consistent with our international obligations as a signatory to the World Health Organization Framework Convention on Tobacco Control (FCTC) [20]. This includes “measures to promote the participation of Indigenous individuals and communities in the development, implementation and evaluation of tobacco control programmes” and “to implement tobacco control measures including policies on tobacco price and tax increases; prohibiting or restricting tobacco advertising, promotion and sponsorship; requiring labelling with more





prominent health warnings; preventing and reducing tobacco consumption and nicotine addiction; protecting against exposure to second-hand smoke; promoting tobacco cessation interventions, education and public awareness activities; and combating illicit trade” [20].

There is strong evidence for this approach, particularly regarding price increases [21], tobacco plain packaging and graphic health warnings [22, 23], smokefree policies [24] and social marketing campaigns [25]. Price increases are particularly effective with socially disadvantaged communities [26]. These activities are part of broader whole of population measures, in addition to those measures aimed to specifically reduce smoking among Aboriginal and Torres Strait Islander people, including free or subsidised quit smoking medicines, Aboriginal Quitlines and the national Tackling Indigenous Smoking program (TIS) [27].

The inadequate enforcement of the trade in untaxed tobacco and novel nicotine products undermines this comprehensive approach specifically around price, packaging, access and health messaging. Ensuring that all tobacco sold within Australia is subject to the correct taxation and duties reduces any potential loss of income to governments from the illicit tobacco trade.

Recent findings from the National Drug Strategy Household Survey, demonstrate there is strong support across Australia for ongoing tobacco control action. With preference for approaches such as making tobacco less attractive to young people (78%, up from 74% in 2019), implementation of national licensing for tobacco retailers (68%, up from 67%), increasing the legal age for purchasing tobacco products to 21 years (65%, up from 63%), making tobacco harder to purchase in shops (65%, up from 61%) and increasing tobacco excise was supported by over 64% of those in favour of various tobacco control policy options [6]. These national level findings align with previous and ongoing calls from Aboriginal and Torres Strait Islander communities for policy and legislative action in these areas to end the devastating and preventable impacts of tobacco and nicotine products.

ILLICIT TRADE OF TOBACCO AND NICOTINE PRODUCTS

The illicit tobacco trade undermines the viability of small businesses, particularly in regional NSW. Without adequate enforcement and reform, compliant retailers are economically penalised. Businesses operating within legal frameworks are undercut by illicit retailers who face minimal oversight or penalties while benefitting from lower operational costs and unregulated sales. This distorts fair market conditions and places pressure on legitimate businesses, especially in regional and remote communities where enforcement is limited.

The visible sale of harmful and illicit tobacco products with impunity also erodes community trust, particularly in areas experiencing structural disadvantage. A strengthened licensing system, coupled with education and community-based enforcement models, could support promote more ethical, small business retail environments that prioritise health and wellbeing.

There is an opportunity for the NSW Government to introduce new control measures to support and enact the reforms introduced by the Australian Government to ban the illicit





tobacco and nicotine products. This includes the ban on importation and sale of e-cigarettes outside of the pharmaceutical-access model, alongside the implementation of pharmaceutical-like packaging and bans on flavours and disposables including ‘non-nicotine’ vapes [28].

We recommend a nationally coordinated regulatory and enforcement approach, supported by robust local implementation, to address current fragmentation in legislative and departmental responsibilities. Additional measures the NSW Government has proposed, in line with those of Queensland, would enhance existing enforcement capacity to interrupt illicit supply chains and significantly and systematically end illicit tobacco and nicotine product access. These measures include longer closure orders, increased penalties for non-compliance and the introduction of powers for landlords to terminate leases.

INTEGRITY OF INQUIRY PROCESSES

To safeguard the integrity of the inquiry, Australia’s obligations as a signatory to the World Health Organization’s Framework Convention on Tobacco Control (WHO FCTC) must be upheld. Article 5.3 of the WHO FCTC mandates that Parties protect public health policies from the commercial and other vested interests of the tobacco industry, across all branches and levels of government: national, state, and local. In Australia, these obligations are implemented via the Department of Health’s Guidance for Public Officials on Interacting with the Tobacco Industry (2019).

Accordingly, we recommend the application of a conflict-of-interest framework that is fully aligned with Article 5.3 Guidelines [29], including:

- Mandatory disclosure of all funding sources (both direct and indirect) by individuals or organisations making submissions or giving evidence, including support from tobacco, vaping, or nicotine companies or their affiliates.
- Declaration of any industry support, partnership, or consultancy received within the past five years.
- Establishment and publication of a real-time public register of submissions and witness affiliations to ensure public transparency and accountability.
- Exclusion of industry-funded actors from participating in or influencing public health policy processes, including parliamentary inquiries and advisory roles.

These measures are consistent with best practices outlined in the WHO FCTC Article 5.3 Guidelines [29] and Australia’s own public sector guidance. Transparency in industry ties is essential to prevent interference, such as through front groups or retail alliances, that undermines and/or is in direct conflict with tobacco control policies, public health and the human right to health.

Any legislative change must complement and not undermine health sector efforts and be accompanied by structural supports and Indigenous-led evaluation mechanisms to improve the health and wellbeing of people in NSW. This is consistent with the WHO FCTC [20] and numerous Sustainable Development Goals, specifically SDG 3 (Good Health and Wellbeing) but also SDG1 (No Poverty), SDG2 (Zero Hunger), SDG13 (Climate Action), SDG15 (Life on Land), and SDG16 (Peace, Justice, and Strong Institutions) [30]. Legislative changes must be developed with consideration for the UNDRIP[17] and the Ottawa Charter [31], to ensure





the basic human rights of Aboriginal and Torres Strait Islander peoples are preserved and given due consideration within all aspects of government legislative processes. Adherence to these principles resists the Tobacco and Nicotine Industry narrative that shifts blame onto already marginalised population groups within any society.

STRENGTHENING ENFORCEMENT INFRASTRUCTURE AND DATA COORDINATION

Effective, equitable enforcement requires sustained investment in infrastructure that enables public health regulation, not over-surveillance. Current cross-jurisdictional enforcement is limited by fragmented data systems, unclear governance responsibilities, and a lack of culturally- safe infrastructure for timely coordination. A coordinated, whole-of-government response should prioritise Indigenous-led governance models and culturally safe systems, ensuring that enforcement efforts do not replicate deficit-based or punitive approaches to Aboriginal and Torres Strait Islander communities. Establishing a centralised, transparent reporting system would strengthen early identification of illicit operators and support coordinated action.

In line with commitments to truth-telling and structural reform, addressing the illicit tobacco trade must be grounded in transparent public dialogue about the historical and ongoing role of the Tobacco and Nicotine Industry in driving harm. Truth-telling is important not only for accountability, but also for shifting toward public health policy that centres community health, wellbeing, equity, and to be free from addiction. We recommend that:

- A portion of proceeds from fines and enforcement actions be (re)invested into Indigenous-led health and tobacco control initiatives.
- The NSW Government establish an independent advisory group inclusive of Aboriginal and Torres Strait Islander health leaders to oversee retail licensing reforms.
- Licensing reform be aligned with climate and environmental policies, recognising the tobacco industry's role in environmental degradation, waste, and pollution, including as the single largest pollutant of single use plastics through cigarette butts.

Truth-telling is essential to any effective response to the harms perpetuated by the commercial Tobacco and Nicotine Industry. For over a century, these industries have profited from colonial dispossession, structural racism, and targeted marketing to Aboriginal and Torres Strait Islander peoples and marginalised communities [3, 32]. A comprehensive approach to illicit tobacco must acknowledge this history and centre truth-telling as a public health intervention. Without this reckoning, enforcement risks repeating harmful patterns of surveillance and criminalisation and ongoing persecution of those experiencing nicotine addiction rather than dismantling the upstream systems that profit from harm.

While some retailers may profit in the short term, the widespread availability of illicit tobacco harms community health, burdens local healthcare services, and undermines legitimate businesses. Regional communities are often targeted for increased retail activation, both illicit and legitimate, due to reduced enforcement visibility, strengthened local licensing, community education, and health investment are essential countermeasures.





All of which have been consistently requested by Aboriginal and Torres Strait Islander people in these areas.

While some submissions may focus on links to organised crime, it is essential not to allow this to obscure the broader structural issue: the Tobacco and Nicotine Industry is the primary driver of tobacco and nicotine addiction, disease, and death. There is well-documented evidence that transnational tobacco companies have both historically enabled and benefited from illicit tobacco trade, while publicly positioning themselves as part of the solution [33, 34]. Organised crime framing can misdirect attention from the systemic enablers, including under-regulated corporate actors, weak enforcement, and lack of retailer organisational accountability, that facilitate harmful tobacco profit-oriented supply chains.

SUPPORT FOR REFORM

We support the NSW Government in their continued investment into evidence-based, culturally appropriate smoking cessation services to reduce tobacco use among Aboriginal and Torres Strait Islander people and non-Indigenous Australians [1]. Illicit trade of tobacco products disproportionately impacts communities in economically disadvantaged areas. This parallel market undermines legitimate retailers and fuels preventable harms, disease, and death.

We support the NSW Government's continued investment in campaigns that educate the community about the harms of tobacco smoking and the benefits of quitting. This aligns with the ongoing activities of the Tackling Indigenous Smoking (TIS) teams across Australia.

We support the consideration of existing Aboriginal Community Controlled Health Organisations (ACCHOs) in the development and delivery of cessation support to Aboriginal and Torres Strait Islander people by the NSW Government.

We support clear delineation between the enforcement of, and penalties for, those profiting from trade in untaxed tobacco and other illicit nicotine products, and not the targeting of individual end-point consumers. This also helps to minimise the risk of contributing to the over-policing of population groups, such as Aboriginal and Torres Strait Islander peoples and marginalised populations.

To address enforcement challenges, we support additional investment in public health-oriented enforcement teams, especially in regional and cross-jurisdictional contexts. Overcoming the interoperability of databases and real-time data-sharing between local councils, health departments, and law enforcement is critical to dismantling illicit networks and monitoring retail compliance. Such improvements would strengthen the investigation, enforcement, and monitoring of retail activities of those profiting from the supply and distribution of harmful commercial tobacco and nicotine products, support licensing reform and regulatory compliance, and restrict promotions and advertising. Importantly, strengthening, and broadening enforcement approaches will restrict the accessibility of illicit nicotine products, such as commercial tobacco, vapes and nicotine products to young people. Enforcement loopholes have also enabled links between the illicit tobacco trade and





broader organised crime networks. Independent law enforcement and public health bodies note that criminal networks are drawn to illicit tobacco due to high profit margins and low enforcement penalties. However, industry actors have exploited this issue to legitimise their involvement in enforcement policy, contravening Article 5.3 of the WHO FCTC [32, 35, 36]. NSW enforcement strategies must be designed to explicitly disrupt these upstream networks currently profiteering from facilitating ongoing health harm.

Any legal protections for landlords leasing to tobaccoconists must explicitly exclude those who knowingly enable or profit from illicit or harmful tobacco practices. Such protections must be conditional on adherence to clear public health and licensing standards. Landlords should be required to ensure tenant compliance with all legal obligations, including retail licensing, point-of-sale restrictions, and cessation of illicit product sales. In the absence of such conditions, protections risk legitimising industry misconduct and embedding pathways for public harm.

REFORM RECOMMENDATIONS AND OPPORTUNITIES FOR ACTION

Enforcement strategies must avoid reinforcing structural inequities or contributing to racialised policing. Evidence highlights that punitive approaches can disproportionately affect Aboriginal and Torres Strait Islander peoples and low-income populations without effectively reducing harm [37].

We present the following opportunities to action and key recommendations:

Industry Influence and Transparency (ToR a, f, h)
1: Ensure all individuals and organisations participating in public hearings submit a comprehensive disclosure statement. This must include any financial or non-financial, direct or indirect support received from entities involved in the production, distribution, or sale of tobacco, nicotine, or vaping products, including associated or front groups.
Context and Cross-Jurisdictional Collaboration (ToR b, d, e, f, g, h)
2: NSW Government collaborates with the Australian Government to implement a national system that enables real-time verification of excise or customs duty payment on all tobacco products throughout the supply chain. This track-and-trace system would enhance transparency, reduce fraud, and strengthen cross-border enforcement.
3: NSW Government commits to evaluating the short- and long-term impacts of tobacco control measures targeting the illicit trade. This includes tracking illicit sales reductions, compliance outcomes, and sharing findings across jurisdictions to support national learning and ongoing coordination.



**Demand Reduction and Tobacco Excise (ToR a, d, h, i)**

4: NSW Government continue to support the maintenance of tobacco excise by the Australian Government, as one of the most effective tools for reducing smoking prevalence and demand for illicit products. Taxation must be part of a coordinated strategy to reduce both licit and illicit supply and demand, including preventing uptake among youth, young people, people who do not smoke, while encouraging people to quit.

Licensing and Regulatory Oversight (ToR d, e, f, g, h)

5: NSW Health continue to lead the implementation of the state's tobacco licensing scheme.

6: NSW Health are responsible for developing a robust evaluation framework for assessing the scheme's impact, including on the illicit tobacco market.

7: NSW Government establish and maintain a publicly accessible register of all licensees.

8: NSW Government evolve the scheme to incorporate additional provisions such as a cap on the number of retail licences in each local government area, to reduce tobacco availability over time.

Compliance and Enforcement Capacity (ToR a, b, c, d, e, f, h)

9: NSW Government introduce legislative amendments that, enable prosecution of landlords who knowingly lease premises to retailers selling illicit products. Enable NSW Police, consistent with statutory authority and procedural protections, to enter and inspect tobacco retail premises suspected of illicit activity. Make it an offence for licensees to possess any quantity of tobacco products that do not comply with federal product or packaging laws. Make it an offence to supply or possess commercial quantities of tobacco products that breach federal customs or excise laws. Require all applicants to pass a 'fit and proper person' test as part of the licensing process.

10: NSW Government introduce legislative amendments to substantially increase penalties for the sale and possession of illicit tobacco and nicotine products. Inspectors be granted expanded closure powers for retail premises in breach. Extend periods for individuals convicted of offences from re-entering the tobacco retail sector.

11: Increase the compliance workforce and strengthen monitoring and prosecution of businesses repeatedly found to be supplying illicit products.

12: Expand the tobacco licensing scheme to cover all retailers of non-therapeutic nicotine products, including disposable vapes and oral pouches, subject to alignment with national therapeutic goods regulations.

13: Establish an interagency Taskforce led by NSW Health to coordinate enforcement across Police, Liquor and Gaming, Fair Trading, Local Government, and Department of Communities and Justice. Ensure Taskforce guidance is informed by tobacco control experts with no financial or institutional conflicts of interest.





14: Illicit tobacco should be a standing item at the National Health Ministers Meeting, with NSW advocating for strengthened national responses.

Investment in Cessation and Community-Based Supports (ToR a, d, e, f, h, i)

15: NSW Government continue to invest in evidence-based, culturally appropriate smoking cessation services.

16: Fund community education campaigns about the harms of tobacco use and the benefits of quitting.

17: Increase investment in community-based cessation services, especially through Aboriginal Community Controlled Health Organisations (ACCHOs) in rural and remote settings.

18: Recognise and support the role of the NGO sector in reaching priority populations with cessation support.

Countering Industry Misinformation and Interference (ToR a, d, f, h, i)

19: Consistent with international public health guidance, affirm that the Tobacco and Nicotine Industry, including illicit suppliers, is not a stakeholder but a source of harm.

20: Reject industry-aligned narratives that shift blame to consumers or conflate illicit trade with organised crime while ignoring industry complicity.

21: Disqualify individuals or groups with financial links to tobacco or nicotine companies from shaping inquiry recommendations or policy responses.

22: Include a 'myths vs facts' type section in all public-facing materials on illicit tobacco to correct misinformation and expose tobacco industry narratives.

Structural Justice and Truth-Telling (ToR f, h, i)

23: NSW Government initiate a truth-telling process to investigate and acknowledge the historical and ongoing harms caused by the Tobacco and Nicotine Industry, in partnership with Aboriginal and Torres Strait Islander peoples.

24: In line with reparative justice and Indigenous Data Sovereignty, enforcement reforms must be community-driven, culturally safe, and avoid punitive over-policing of Aboriginal and Torres Strait Islander communities.





We urge the Committee to consider the wider commercial determinants of health, including the role of retail density, marketing practices, and normalisation of tobacco retail environments in shaping long-term addiction patterns and undermining the human right to health.

Finally, in addressing the illicit tobacco trade, NSW must not reproduce colonial and punitive models of enforcement. Instead, investment should be redirected to Indigenous-led health infrastructure, culturally safe enforcement models, and community-driven alternatives to commercial addiction economies. This submission addresses ToR (f) by advocating for reparative approaches grounded in justice, truth-telling, and Indigenous sovereignty free from addiction. We welcome the introduction of a suite of robust enforcement powers that signal NSW's zero-tolerance approach to untaxed tobacco and nicotine product supply.

CONCLUSION

The commercial Tobacco and Nicotine Industry is the primary source of harms, not the solution. This inquiry must resist industry-backed narratives that blame regulation or consumers and instead confront the systemic enablers: weak enforcement, poor coordination, inadequate licensing, and program and policy capture.

The Tobacco Free Program, grounded in Indigenous leadership and accountable to Aboriginal and Torres Strait Islander peoples, calls for reforms that divest from harmful industries and reinvest in community health and wellbeing. We recommend a coordinated, transparent, and health-centred response to illicit trade of tobacco and nicotine products that upholds Australia's obligations under the WHO Framework Convention on Tobacco Control, especially Article 5.3, and supports healthy, thriving communities across NSW. We strongly support calls for truth-telling, reparative justice, and structural reforms.

The NSW Government must ensure that enforcement does not replicate harm through over-policing but rather dismantles the corporate and criminal networks profiting from addiction, disease and death. All legislative responses must centre equity, transparency, and Indigenous-led solutions to promote health and wellbeing. The time for reform is now, embedded in health, truth, and justice.

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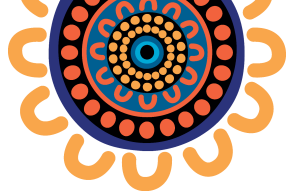
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