

**Submission  
No 66**

## **INQUIRY INTO ILLEGAL TOBACCO TRADE**

**Organisation:** Public Health Association of Australia (PHAA)

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**Public Health Association**  
AUSTRALIA

## **The illegal tobacco trade in New South Wales**

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# Contents

<b>Introduction</b>	<b>4</b>
Fact background .....	4
The existence of illicit markets .....	5
Recent developments in tobacco and vaping consumption .....	6
Policy discussion – Strategy, price interventions, and the illicit market .....	7
Implementing recent NSW legislative reforms .....	9
<b>Conclusion</b>	<b>11</b>
<b>References</b>	<b>12</b>



**Public Health Association**  
AUSTRALIA

The **Public Health Association of Australia** (PHAA) is Australia's peak body on public health. We advocate for the health and well-being of all individuals in Australia.

**We believe** that health is a human right, a vital resource for everyday life, and a key factor in sustainability. The health status of all people is impacted by the social, commercial, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the root causes of poor health and disease. These determinants underpin the strategic direction of PHAA. Our focus is not just on Australian residents and citizens, but extends to our regional neighbours. We see our well-being as connected to the global community, including those people fleeing violence and poverty, and seeking refuge and asylum in Australia.

**Our mission** is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

**Our vision** is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society, underpinned by a well-functioning ecosystem and a healthy environment.

**Traditional custodians** - we acknowledge the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

## Introduction

The Public Health Association of Australia welcomes the opportunity to provide input to the Committee for its inquiry into the illegal tobacco trade in New South Wales.

### Fact background

Australia has long been a global leader in tobacco control. The proportion of people aged 14 and over who smoke daily dropped from 24% in 1991 to just 8.3% in 2022-23.<sup>1</sup> Between 2002 and 2017, the proportion of secondary school students who were current smokers declined significantly, from 9% to around 2%.<sup>2</sup>

Despite these reductions, tobacco remains one of the most significant causes of preventable illness and death in Australia. It is responsible for an estimated 24,000 deaths annually, and contributes to 8.6% of the total national burden of disease.<sup>1,2</sup> Two-thirds of people who smoke long-term are expected to die from a smoking-related disease, equating to approximately 1.8 million Australians alive today.<sup>3</sup> Every day, about 66 Australians die from smoking-related illness.

Young people are particularly vulnerable to nicotine products. The tobacco industry targets price-sensitive adolescents and young adults, especially those from low-income or culturally and linguistically diverse (CALD) communities. There is also a clear overlap between illegal tobacco and vaping products, contributing to dual use and early nicotine dependence.

### The extent of regulation of tobacco

Some of the language used in the Terms of Reference suggests that tobacco in Australia is a 'prohibited' product, or an 'over-regulated' product. This is incorrect. Tobacco is not prohibited; it is a regulated product, and remains widely available through thousands of retail outlets.

If an addictive product with as many scientifically established harms as tobacco were newly developed today, its introduction onto the market would be prohibited by all responsible governments. However, with its sale and use becoming widespread and entrenched many years before the harms were established, the term 'prohibition' does not describe the current legal regime for tobacco.

Until very recently, NSW did not even require any form of tobacco retailer licensing. This has now been corrected, although the new regime will take time to become fully operational.

Tobacco control policy in Australia, and legislation at Commonwealth and State level, has undergone a comprehensive review since endorsement of the *National Tobacco Strategy* in 2022. Recent revisions to Commonwealth, state and territory laws changed the way that tobacco products must be packaged and labelled, govern the manner in which they may or may not be advertised and promoted and displayed for sale, and address many other matters. But tobacco is in fact – when measured against its enormous harmful impact – an *under*-regulated product, not an *over*-regulated one.

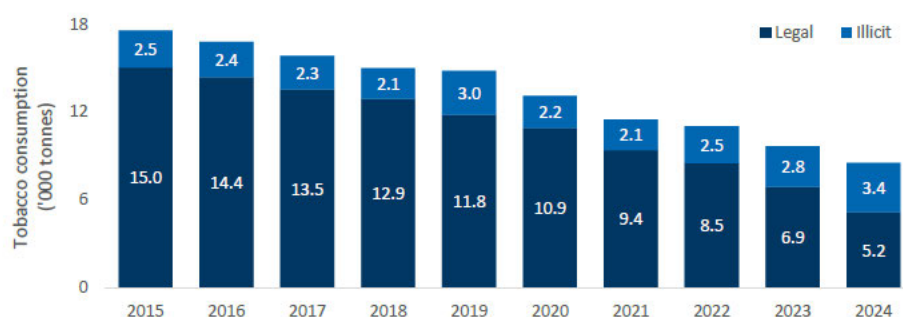
## The existence of illicit markets

Taxation of tobacco – and the legal framework that penalizes tax avoidance – has been the law in Australia since the beginning of the 20<sup>th</sup> century. Some level of avoidance of taxation through an ‘illicit market’ has always been present, regardless of the tax rate. Indeed, illicit markets have existed in every nation around the world, at all levels of product taxation, high, medium and low.

Some argue that Australian tobacco taxation is ‘high’, and that the decade of steady increases has caused an expansion of the illicit market. However, the exact size of the market is difficult to measure using standard and reliable public statistics. It is typically estimated indirectly, for example, by comparing surveyed rates of consumption with the estimated legal product consumption deducted. In Australia however, legal consumption figures have historically exceeded estimates based on surveys. Whilst hard data is not available, survey data from the National Drug Strategy Household Survey (NDSHS) indicates that the proportion of Australians, at all frequencies of consumption, using any amount (whether dominant source or not) of illegal (untaxed) tobacco increased between 2019 and 2022–23 from 9.9% to 16.5%.<sup>4</sup>

Estimates of the size of the illicit market that are based on changes in revenue collection have been widely aired, but these ‘guesstimates’ fail to take into account the broader context that regular smoking *as a whole* is steadily and substantially declining across the whole population. That is, the ‘total market’ is shrinking, which is a very welcome outcome. The graphic below, which comes from a recent report commissioned by tobacco companies in Australia (and as such we do not stand by the precise figures used), highlights the big picture:<sup>5</sup>

Consumption of legal tobacco products is declining



Source: Data provided by industry participants, Circana MarketEdge scan data.

Whatever the true scale of the illicit market may be, and whatever the extent to which illicit sales have changed as a result of tax policy, any use of illicit tobacco is a major policy challenge. Urgent action is required to drastically reduce all forms of illegal supply.

The illicit tobacco trade should not be framed as merely a threat to Government revenue; most importantly, it is a serious public health concern. The illicit tobacco (and vaping) retail sector contributes to the perpetuation of tobacco-related harm among new cohorts of young people.

The illicit tobacco market hinders progress towards national harm reduction goals.<sup>6</sup> Illicit tobacco products are sold at prices lower than legally supplied tobacco, lack health warnings both on the packages and on the sticks, and fail to comply with laws banning misleading product names and additives that make them more palatable to young people. They are commonly distributed through informal or unmonitored retail channels, increasing their accessibility, especially to young people, exposing them to harmful substances and perpetuating nicotine addiction. Smuggled cigarettes may contain higher levels of heavy metals and other contaminants, presenting serious health risks, and could bypass legal requirements for plain packaging, health warnings. They create a parallel market that erodes the impact of effective tobacco control measures, as well as programs to support quitting.

## Recent developments in tobacco and vaping consumption

Policy interventions have had a demonstrable impact on consumption of tobacco and other nicotine products. The key positive impact is that smoking rates (the strongest driver of harm and mortality) have steadily declined since the late 20<sup>th</sup> century. Major phases of policy intervention, such as the major reforms of ~2012, have demonstrably contributed to sustaining that decline. The most recent data shows the rate of age 14+ daily smoking at 8.3%. This outcome achieved the *National Tobacco Strategy* goal of a rate below 10% by 2025. The next national target is to achieve a rate below 5% by 2030.

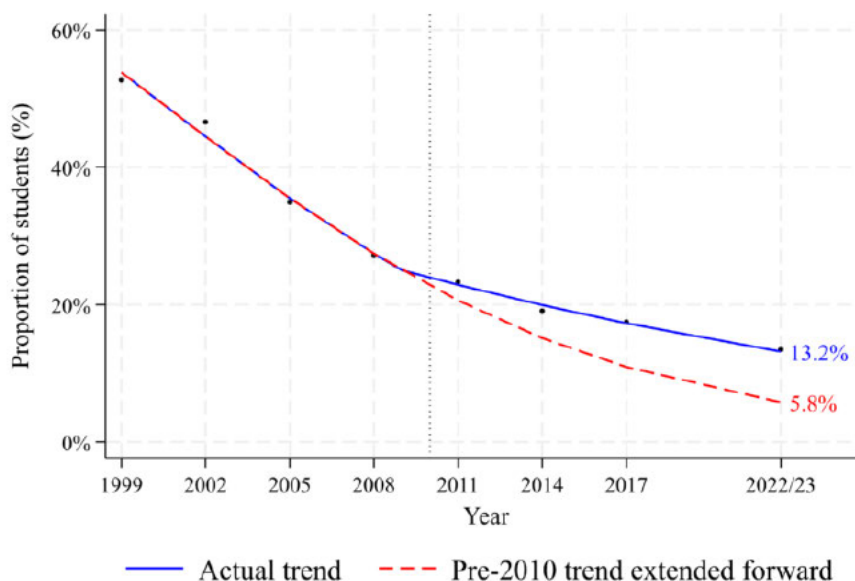
There are clear demographic elements which contribute to this changing outcome. Importantly, well over 80% of the population do not smoke with any regularity, and are not at great risk of changing that behaviour. The factors which significantly drive change in the statistics for total national smoking rates are:

- Long-term regular smokers in older age cohorts
- Declining smoking *initiation* among younger people (including children)

Data shows that older cohorts are steadily reducing their rates of smoking, from a relatively high level (above the overall population result). The generations who began smoking at higher rates prior to the introduction of targeted policy interventions in the 1970s are now steadily exiting the population due to mortality (in many cases, hastened by smoking-related diseases). Many others in middle- and older-age cohorts have successfully quit smoking. As a result, smoking rates in older cohorts continue to decline, serving as the key driver of the steady, national downward trend in overall smoking prevalence.

At the other end of the age spectrum, younger people's rates of smoking commencement are also trending downward overall, as illustrated in the graphic below, provided by Daffodil Centre in research released in July 2025.<sup>7</sup> However, the results in this cohort appear to show more volatility. As this most recent study concludes, the rise of vaping since 2010 has had some causal impact on *slowing the rate of decline* in youth smoking, although happily that rate has not actually risen. This is consistent with evidence in recent years that a young person engaging in regular vaping is 5 times more likely to also become a regular smoker.<sup>8</sup> In short, the rise of vaping in the past 15 years as a product marketed to young people has directly led to more young smokers than would have otherwise been the case. This is, of course, exactly the outcome intended by the nicotine industry.

Figure 1: Ever smoking among 12–17-year-olds



According to the July 2025 Daffodil Centre statement,

“These results reinforce what many public health experts have feared: vaping isn’t helping kids avoid smoking — it’s derailing our progress. This may have been even worse if not for Australia’s many longstanding tobacco control measures.

It’s important to note that our analysis is based on data collected before the 2024 vaping reforms came into effect. Now that those reforms are in place, we need strong, coordinated enforcement to make sure they work to protect the health of young people.”

For this reason, smoking uptake among those who were children and young adults in Australia between approximately 2010 and the present is likely to show more volatility over time than the cohorts that preceded them or (hopefully) will follow them.

It was to address this concerning pattern that Australia’s governments – including the NSW Government – acted collectively to block the continuance of vaping as a legal consumer product marketable to young Australians. The reforms agreed in 2022 and implemented through 2024 maintained access to vaping as an option open to long-term smokers in regulated conditions, where it may play a role in assisting some smokers to quit. However, the primary intent of the policy was to reduce the uptake and resulting regular consumption of both vaping and smoking among the younger cohorts. For the success of our national goals, this focus on protecting young Australians is rightly identified in our national strategy as the paramount consideration.

Encouragingly, strong early indications suggest that the 2024 reforms have led to reduced rates of youth vaping. Monitoring vaping and tobacco product use among Australian young people aged 14–17 has been conducted for some years by the Generation Vape collaboration between Cancer Council and other academic and government partners. The ‘Wave 8’ results released in July 2025 are the first available that can detect changes since the 2024 vaping law reforms. The report states that:

“Wave 8 data reveal promising trends. The proportion of young people who have never vaped remains high at 85.4%, and smoking rates are at their lowest across all survey waves, with 94.0% reporting never having smoked. Curiosity about vaping continues to decline, with less than a third of young people who have never vaped expressing interest in vaping. Social norms are also shifting, with fewer young people reporting that their friends vape. Qualitative interviews reinforce this shift, with participants expressing embarrassment, shame, and a desire to dissociate from the label “vaper.” “

These results indicate a promising return to the long-term downward trajectory of young people smoking. While the full impact of reforms to tobacco regulation and vaping regulation over the past two years, by all jurisdictions, will take time to become clear, the emerging trends are clearly positive.

## **Policy discussion – Strategy, price interventions, and the illicit market**

The basis for national policy in Australia on tobacco products and their control is the *National Tobacco Strategy 2023–2030* (NTS), last revised in 2022, to which NSW and all other national, state and territory governments subscribe.

The key direction of the strategy is to minimise by all means possible the onset of nicotine addiction at early ages. In this our nation has been remarkably successful, as shown in the data above. We urge the Committee, the NSW Parliament more broadly, and the Government of NSW to continue, in collaboration with all other jurisdictions, to pursue our strategy with vigour and determination.

A key element of the NTS strategy is the policy influence on product prices driven by impactful tax settings. Among an interlocking suite of policy measures, tobacco taxation is believed to be the single most effective intervention to reduce tobacco consumption. Analysis by the World Bank indicates that in general a 10% increase in price results in a 4–5% reduction in consumption.<sup>9</sup> Australia's pathway of steady and significant increases in tax rates since 2010 is accepted to have a strong causal role in our steadily diminishing rates of smoking. Survey data from the 2022-23 National Drug Strategy Household Survey, published in 2024, indicates the cost of cigarettes is the most often cited reason for wanting to quit smoking (53.3%), followed by health impacts (45.4%). The policy framework is, therefore, achieving results as intended.

The Terms of Reference for this Inquiry focus on the existence of the illicit tobacco trade in Australia. Every nation has illicit trade activity, and has done for many decades. Policy makers, and the public health community, are rightly concerned that in providing products at lower prices than the legal market, this trade undermines our national strategy, and places upward pressure on tobacco consumption rates.

Commendably, all of Australia's governments are currently working to more rigorously enforce the national strategy, such as through NSW's recent establishment of a tobacco licencing scheme, and other measures to tighten regulation and enforce it with vigour. We list further detailed actions and policies for the NSW Government to consider below. We acknowledge that these recent legislative and enforcement improvements are in a settling phase, and should be given time to be fully implemented.

As discussed above, there are claims that Australia's tax settings – while clearly positive in their impact on tobacco consumption overall – have been causing an increase in the scale in the illicit market. However these claims cannot be proven, nor can the real extent of such an impact be quantified. An effect of our tax policy on increasing the extent of illicit trade is being promoted by industry advocates and others, but remains unproven as a causal factor.

Nor is there any evidence that lower prices – whether occurring through market forces or through tax policy settings – work to inhibit the existence of illegal markets, nor directly influence their scale. Comparison with countries such as the United States, Vietnam, and the Philippines, which have lower tobacco prices than Australia, shows that those nations continue to experience significant levels of illegal trade.

There is no evidence to support the suggestion that reducing rates of tobacco taxes would be a directly effective policy response to illegality. Suggestions that this would be the result are no more than inferences.

It is important to recall that the paramount national goal is to minimise the *total* consumption of tobacco. International experience suggests that cutting tobacco taxes typically *increases* smoking rates, and does not act to reduce illegal trade when a market already exists. Reducing the excise at a level required to compete with the price of illegal products (as low as \$10- \$15/packet) in Australia is clearly impractical. Cuts to tobacco taxes would not just fail to reduce sales of illegal tobacco, they would almost certainly lead to increased consumption of tobacco, including by more children and young people.

Research on the relationship between tax and illegal tobacco across countries finds little correlation between tax levels and illegal trade in tobacco.<sup>10</sup> In fact, countries with higher taxes have often had lower illegal trade.<sup>11</sup> The clearest comparable case is Canada, which reduced its cigarette excise significantly in the 1990s, only to see total smoking rates increase, particularly among young people, and cessation (quitting) rates decline.<sup>12</sup>

Indeed, there is little reason to believe that any significant cut in rates of tax would trigger a chain of consequences that would actually reduce the scale of illicit trading. Such an intervention would need to see legal traders fully pass on tax reductions to customers as price reductions, and in turn see customers be able to identify a large enough shift in comparative prices between illicit and legal traders sufficient to

change their purchasing behaviour. There would also need to be no reaction by illicit traders to alter their own prices downward in response. In turn, we would need to see a sufficiently large impact on the profitability of illicit trading for those suppliers to experience shrinkage of their 'market share' – which market share, it should be noted, we have no means of accurately measuring, either now or after a policy change. And finally, we would need to see a criminal sector which is demonstrably highly adaptable, determined, and defiant of all policy direction display in these circumstances absolutely no adaptability and determination to evade the implementation of such changes in tax policy. Only if all of these things 'went right' would the size of the illicit market significantly decrease (which outcome, as already mentioned, we would not be able to accurately measure).

Clearly, this complex chain of hoped-for consequences could be broken at *every* link. As a public policy intervention, reducing taxes with the aim of reducing the scale of the illicit market is therefore unsupportable. The far more likely result of such a change would be that the foregone public revenue would simply manifest as increased retailer profit – which some advocates of such tax changes no doubt intend. There is also no evidence that changing tax policy changes would meet our primary policy goal of reducing total tobacco consumption. Indeed, the Canadian experience warns that such a policy change would directly undermine that goal.

A far more effective intervention for diminishing the scale of the illicit market is to ensure adequate resourcing of health and law enforcement agencies, and react to defiantly illegal activity in the ordinary manner – by enforcing the laws we have made and convicting those committing criminal offences. All jurisdictions are recently or currently strengthening their legislative regimes to exactly that end, and are resourcing and directing health and law enforcement agencies to enforce the revised legislative schemes.

Finally, the most effective ultimate means of diminishing the scale of the illicit market over the longer term is to maintain the rigor of our national policy framework's efforts to prevent teenaged and young adult Australians from entering into nicotine addiction in the first place. As shown above, the price impacts that result from modern tax settings have proven to be a crucial part of this policy effort.

## Implementing recent NSW legislative reforms

Central to the current debate about the illicit tobacco market, and its relationship to policy choices and their enforcement, is the plain fact that some operators and individuals are prepared to deliberately defy NSW and Australian law, and at a significant scale. Crimes are being committed, legally required revenue is being evaded, and a range of other associated forms of criminality are taking place through this activity.

The argument that the appropriate policy response is to *surrender* to deliberate, large-scale, calculated, and commercially-oriented criminal enterprise – to loosen the laws, and lower tax rates – is surely unique in Australian public policy. This argument should not be supported by this Committee.

Over the past year legislation to address illicit tobacco has been considerably strengthened in Queensland, South Australia and Victoria. NSW is undergoing a similar round of legislative reform at present. The new NSW licensing scheme should be allowed to take effect and settle into place. NSW should also continue to align with other efforts nationwide, drawing on what other jurisdictions are doing and looking to strengthen its legislation as quickly as possible by adopting best practice across all elements of licensing, compliance procedures and enforcement powers.

We note a list of specific reforms recently proposed by Cancer Council NSW, and we specifically support the following actions which they call for (noting that some of these proposals are already the subject of announcements by the NSW Government):

### *Licensing and oversight*

- The NSW Government develops and maintains a public register of all licensees.
- NSW Health continue to lead the implementation of the NSW tobacco licensing scheme.
- NSW Health develop a robust evaluation framework for assessing the impact of the scheme (including but not limited to impacts on illegal tobacco supply).
- The NSW Government introduces legislative amendments that:
  - require licence applicants to pass a 'fit and proper person' test (as is the case in other states and territories)
  - require licence applicants to provide demonstrable evidence of capacity to meet all of the licensing requirements
  - enable NSW Police to enter and search tobacco retail premises
  - make it an offence for licensees to possess any quantity of tobacco products non-compliant with federal product and packaging laws
  - make it an offence for retailers who supply or possess commercial quantities of tobacco products non-compliant with federal customs and excise laws
  - grant a termination of lease power to landlords, enabling them to end leases with tenants who engage in illicit tobacco trade on their premises
  - enable prosecution of landlords who knowingly lease to retailers selling illegal products.
- Over time, the NSW Government continues to improve the tobacco licensing scheme to incorporate provisions such as caps on licence numbers that will reduce the overall tobacco supply.

### *Compliance and enforcement*

That the NSW Government:

- Promptly introduces legislative amendments (in line with public announcements) to:
  - significantly increase the penalties for the sale and commercial possession of illegal tobacco
  - grant substantial powers for inspectors to close premises found to be in breach of the new rules.
- Introduces an additional amendment to increase the period a person convicted of selling illegal products is prohibited from engaging in tobacco retailing.
- Increases the compliance workforce and ramps up compliance monitoring.
- Pursues prosecutions for businesses caught selling illegal products at volumes that warrant legal action.
- Expands the scope of the licensing scheme to apply to retailers illegally supplying non-therapeutic nicotine products, including vapes and pouches.
- Establishes an interagency Taskforce to enable greater enforcement capability and coordination across agencies including Health (lead agency), Police, Liquor and Gaming, Fair Trading, Communities and Justice and Local Government.
- Ensures that the Interagency Taskforce consults with tobacco control experts (that have no conflicts of interest), from both university and non-government sectors.
- Advocates illegal tobacco supply be a standing agenda item at the National Health Ministers Meeting.

We commend the NSW Government efforts to implement the recent legislative reforms. Again, we note that it is reasonable to give the recent law changes and resourcing of agencies some time to achieve their intended impact.

## Conclusion

The big picture for the Committee to keep in focus is that overall consumption of seriously harmful nicotine products is steadily falling – and crucially there remains a long-term trend of decline in young people entering into a lifetime of nicotine addiction. This is happening because of our strong and uniform national tobacco policy regime, including the tax settings, the strong response to vaping as a new means of inducing young people to nicotine addiction, and other measures. The overriding goal of reducing consumption, especially youth consumption, is being achieved.

In summary, PHAA recommends that the Committee support continuance of the national policy framework, with its vital goals of preventing youth smoking and reducing demand, through the following actions:

- Implement the *National Tobacco Strategy 2023–2030*, with a strong focus on preventing youth smoking and reducing demand in high-risk populations.
- Align also with the *National Preventive Health Strategy 2021–2030*, including the national target of reducing daily smoking to below 5% by 2030.
- Complete the current round of NSW legislative reforms.
- Adequately resource NSW health and law enforcement agencies to enforce NSW laws.
- Uphold Australia's commitments under the *WHO Framework Convention on Tobacco Control* (FCTC), including safeguards against tobacco industry interference and equitable access to culturally safe quit support.

We thank the Committee for the opportunity to contribute to this inquiry, and welcome future collaboration to ensure tobacco control efforts continue to protect all Australians, especially the next generation. Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.

Terry Slevin  
Chief Executive Officer  
Public Health Association of Australia

15 August 2025

## References

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- 1 Australian Institute of Health and Welfare. Australian Burden of Disease Study: Interactive data on risk factor burden, most recent release December 2024, <https://www.aihw.gov.au/reports/burden-of-disease/australian-burden-of-disease-study-2024/contents/summary>
- 2 Joshy G, Soga K, Thurber KA, Egger S, Weber MF, Sarich P, et al. Relationship of tobacco smoking to cause-specific mortality: contemporary estimates from Australia. *BMC medicine*. 2025;23(1):115.
- 3 Banks E, Joshy G, Weber MF, Liu B, Grenfell R, Egger S, et al. Tobacco smoking and all-cause mortality in a large Australian cohort study: findings from a mature epidemic with current low smoking prevalence. *BMC Med*. 2015;13:38.
- 4 Australian Institute of Health & Welfare, 2024. National Drug Strategy Household Survey 2022-2023. Available from: National Drug Strategy Household survey - Australian Institute of Health and Welfare
- 5 Screen clip from page 8 FTI Consulting (2025). Illicit tobacco in Australia, 2024 Full Year report United States, Philip Morris International. <https://www.pmi.com/content/dam/pmicom/markets/australia/docs/fti-consulting-illicit-tobacco-in-australia-2024-full-report.pdf>.
- 6 *National Preventive Health Strategy 2021-30*, Commonwealth Government, 2021; *National Tobacco Strategy 2023-30*, Commonwealth Government, 2022
- 7 Australia's progress in reducing teen smoking slowed after 2010 as vaping increased, Daffodil Centre, 28 July 2025, <https://daffodilcentre.org/australias-decline-in-teen-smoking-has-slowed/>
- 8 [Tobacco and nicotine industry exploits young people as new data reveals 1 in 5 young adults regularly use nicotine products](#), Cancer Council May 2025,
- 9 [Confronting Illicit Tobacco Trade : a Global Review of Country Experiences](#) (Vol. 1 of 2) : Confronting Illicit Tobacco Trade : a Global Review of Country Experiences (English). WBG Global Tobacco Control Program Washington, D.C. : World Bank Group
- 10 World Bank, *Confronting Illicit Tobacco Trade: a Global Review of Country Experiences*, Washington, D.C., January 2019
- 11 Hana Ross and Evan Blecher, [Illicit Trade in Tobacco Products Need Not Hinder Tobacco Tax Policy Reforms and Increases](#), Johns Hopkins University, Bloomberg School of Public Health, Economics for Health, White Paper, November 2019
- 12 National Cancer Institute (United States) and World Health Organization, [The Economics of Tobacco and Tobacco Control](#) (Tobacco Control Monograph Series, 2016), and World Bank, *Confronting Illicit Tobacco Trade: A Global Review of Country Experiences* (2019)