

5th March 2026

Tobacco Control Department
GPO Box 125
HOBART Tasmania 7001

Email only: tobacco.control@health.tas.gov.au

Dear Tobacco Control team,

Re: Public Health Amendment (Prohibited Tobacco and Other Products) Bill 2026

Lung Foundation Australia (LFA) is pleased to provide feedback on Tasmania's *Public Health Amendment (Prohibited Tobacco and Other Products) Bill 2026* and make further recommendations to ensure an ongoing comprehensive approach is taken to tobacco and vaping control to continue to drive down smoking and vaping rates in Tasmania, ultimately saving lives.

For more than 30 years, LFA has walked alongside people living with lung disease and lung cancer, helping them navigate some of life's hardest moments with care, knowledge and hope. We provide trusted support through our nurses, peer support programs and social workers. We fund research that leads to better treatments. We speak out for people who need lung health to be taken seriously. Everything we do helps protect the gift of breath, so that more Australians can breathe easier, live well and feel less alone. As a national health peak we have a remit to advise governments on matters pertaining to lung health, particularly under the *National Preventive Health Strategy 2021-2030* and the *National Tobacco Strategy 2023-2030*. Our work includes providing submissions to federal, state, and territory consultations on tobacco and e-cigarette legislation and regulatory reforms, contributing to inquiries, and delivering programs and public health campaigns across Australia.

Tobacco use remains the leading cause of preventable death in Australia, responsible for over 24,000 deaths annually, equating to approximately 66 lives lost each day.¹ In Tasmania smoking related disease is responsible for the loss of 559 lives every year.² In 2024, smoking was identified as the second most significant risk factor contributing to the national burden of disease.³ Evidence indicates that up to 2 in 3 people who smoke long term will die of smoking related disease.⁴

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We commend the Tasmanian Government on their ongoing work and commitment to addressing tobacco control and the illicit tobacco market. The illegal trade in tobacco, vaping and other nicotine products is a serious threat to decades of progress in tobacco control and has the potential to widen existing health disparities. Action is crucial to reinforce the integrity of public health initiatives. While strong measures to curb illegal trade are essential, we underscore that **all tobacco products, whether legal or illegal, are harmful and inflict widespread damage to public health** thus requiring continued strengthening of legislation.

Whilst LFA is grateful for the opportunity to offer feedback to the Tasmanian Government on the Bill, we believe that to tackle the illicit tobacco trade and the existing legislative loopholes, a comprehensive range of measures that are subject to regular reviews should be considered. As such, our submission is broken into two parts, firstly, where we address the updated legislation, and secondly where we have provided additional recommendations to support the reduction of harm created from illicit tobacco activities.

1. LFA's feedback on the amendments put forward in the Bill

a. Creation of a new offence for the sale and supply of illicit vaping products

LFA supports the introduction of a new offence relating to the sale and supply of illicit vaping products. However, we recommend that the scope of this offence be broadened to explicitly include nicotine pouches and any emerging nicotine-containing products. We note that the South Australian Government took this forward-looking approach in 2024, passing legislation enabling the prohibition of any new or novel nicotine product that may emerge in the future⁵. Similarly, the Queensland Government recently expanded its regulatory framework to include nitrous oxide (commonly known as nangs), allowing Queensland Health officers to seize nitrous oxide bulbs and canisters as "compromised goods" when found in premises associated with the illegal tobacco or vaping trade.⁶ Nitrous oxide can cause frostbite to the airways and rupture lung tissue. Faulty or repeatedly used dispensers can also explode or cause cold burns. Mixing nitrous oxide with other drugs increases health risks, including damage to the heart.⁷ Often used recreationally, readily available, and frequently sold alongside smoking products, we consider nitrous oxide to be an issue that warrants inclusion within the broader regulatory context of tobacco and related products.

In line with these developments, LFA recommends that the Bill be amended to incorporate nitrous oxide and nicotine pouches within the offence provisions, alongside

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measures to capture any future nicotine products. This approach would block any attempts to sidestep regulatory requirements for new nicotine products. It serves as a critical safeguard, particularly in light of the tobacco and nicotine industries' continued efforts to innovate and launch substitute products in response to tightening regulations. Ensuring that the legislation anticipates and responds to these industry practices will enhance its long-term effectiveness.

b. Increasing penalties for the sale and supply of illicit tobacco and vapes

LFA supports the proposal to increase penalties for the sale and supply of illicit tobacco and vaping products. While supportive, we note that the penalties outlined in the Bill remain lower than those applied in several other Australian jurisdictions. Stronger penalties are important because they act as a deterrent to those who might otherwise break the law and engage in the illicit tobacco trade. Breaching these laws undermines efforts to protect community health and contributes to significant health harms for the people of Tasmania.

Recent legislative developments demonstrate that significantly higher penalties are being adopted nationwide to strengthen deterrence:

- Western Australia has proposed penalties of up to \$4.2 million and 15 years' imprisonment for commercial quantities of illicit tobacco or vaping products.
- South Australia has introduced penalties of up to \$2.1 million (individual first offense) and \$6.6 million (body corporate) for offences involving commercial quantities.
- New South Wales provides for penalties of up to \$1.5 million and 7 years' imprisonment for commercial possession.
- Queensland has established on the spot fines of \$32,260 (individuals) or \$161,300 (corporations). Court ordered penalties of up to two years' imprisonment and/or fines of up to \$322,600 for individuals or \$1.6 million for a corporation.

Given the scale, profitability, and increasing sophistication of illicit tobacco and vaping operations, penalties need to be sufficiently severe to act as an effective deterrent. If penalties are too low, they risk being absorbed by offenders as a routine cost of doing business.

LFA therefore recommends that the penalties in the Bill be substantially strengthened to align with Western Australia and South Australia and to better disrupt illicit trade networks and protect the health of Tasmanians.

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c. Introduction of new powers to temporarily close businesses that sell illicit products or operate outside of the licensing framework

LFA supports the introduction of 90-day closure orders for businesses found to be selling illicit products or operating outside the licensing framework. However, we are concerned about the inclusion of sub-section (2)(c), which limits the number of short-term premises closure orders to no more than two per premises in a single calendar year.

LFA recommends that this limit be removed. If a business reopens and continues to sell illicit products or operate outside the established licensing framework, repeated non-compliance should not be tolerated. Allowing multiple breaches within a year without escalating consequences undermines the intent of the legislation.

We also recommend the Bill clarify that any online retail activity operating under the same Australian Business Number (ABN) as a physical store be subject to the same closure order, to prevent businesses from shifting to online sales when a premises-based closure is imposed.

Furthermore, LFA recommends that the government consider a zero-tolerance approach, whereby any business found selling illicit products faces permanent licence revocation. This would send a strong and unambiguous message that illicit sales are unacceptable and will not be treated as routine or manageable risks by operators.

d. Ban the display of smoking paraphernalia in retail stores to ensure products are not visible to children and young people

LFA supports the proposed ban on the display of smoking paraphernalia in retail settings. Keeping these products out of sight of children and young people is critical, as exposure increases their sense of familiarity, normalises behaviours, and makes the products appear more accessible.

LFA further recommends that the legislation consider restrictions on mixed-use retail environments where smoking paraphernalia is sold alongside products targeted at children or families such as confectionery stores, gift shops, or novelty retailers. The presence of smoking-related items in these settings undermines public health objectives by creating environments in which harmful products are presented as benign or appealing.

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e. **Improve enforcement responses for offences relating to obstruction of a nominated officer and for the sale of smoking products to underaged people.**

LFA supports strengthening the enforcement measures outlined in these sections to advance tobacco control in Tasmania. Enhanced enforcement powers are essential to ensure compliance, assist frontline officers, and better protect children and young people from unlawful access to harmful products. However, while LFA endorses increased enforcement powers, it remains unclear where a 'nominated officer' will sit within the enforcement hierarchy, and whether these officers will receive the necessary training, authority, and support to confidently engage with matters that are, in effect, criminal in nature.

f. **Clarify the definition of "body corporate"**

LFA seeks clarification on the definition of "body corporate" in the context of the *Public Health Amendment (Prohibited Tobacco and Other Products) Bill 2026*, and the principal Act. It is unclear from the Bill whether "body corporate" refers specifically to a tobacco licence holder or more broadly to a business or property owner, particularly given that consequences for breaches are applied either to the individual or to the body corporate. Clarifying the distinctions between a body corporate, a business owner, a property owner, and a licence holder is essential to understanding the regulatory framework governing these entities and determining the consequences applicable to any breach. Clarifying this definition is necessary to ensure that no gaps or unintended loopholes enable businesses to continue operating while contravening Tasmanian law.

Additionally, LFA recommends that penalties and enforcement measures should be directed to the licence holder who is responsible for compliance and who may be engaging in unlawful activity. Importantly, the definition should ensure that enforcement actions apply to the licensed business entity, not merely the physical address. This will prevent operators from evading consequences by relocating illicit activities to another premises or shifting operations online.

2. **LFA's additional recommendations to further protect against the illicit trade and support people to quit smoking**

a. **Reduce the number of retail tobacco licenses and location restrictions**

Across Australia, the number of tobacco retailers has grown substantially in recent years. Reducing the number of available tobacco retail licences would reduce the density of tobacco outlets and, in turn, ease the enforcement burden on regulatory authorities.

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International evidence shows that jurisdictions that have implemented caps on tobacco retail licences have often experienced declines in smoking rates and improvements in compliance with tobacco control laws.⁸ Reducing the number of authorised outlets also decreases opportunities for illicit tobacco trade.

Australia has long been recognised as a global leader in tobacco control; however, regulation of where tobacco can be sold remains limited. LFA urges all jurisdictions, consistent with Action 8.6 of the *National Tobacco Strategy*,⁹ to implement policies that restrict both the number and location of tobacco retail licences.

We recommend a multi-layered approach, which may include:

- Capping the number of licences issued per suburb or region
- Establishing minimum distance requirements that prohibit tobacco sales within prescribed distances of schools, youth services, and health facilities
- Prohibit sales of tobacco products at specific types of retailers (supermarkets, convenience stores, petrol stations, gift shops, candy stores)
- Ban online sales and delivery

Tasmania has an opportunity to be the first Australian jurisdiction to adopt these measures, positioning itself as a leader in comprehensive retail-environment reforms and aligning its policies with global best practice in tobacco control.

b. Protect against industry interference

Australia has made strong progress in reducing tobacco use since signing the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) in 2003, but further action is needed to meet ongoing obligations and protect public health. A core requirement is ensuring that policymaking remains free from tobacco industry influence, including prohibiting political donations from tobacco and vaping companies.

Article 5.3 of the FCTC requires governments to protect public health policies from the commercial and vested interests of the tobacco industry, including those connected to emerging products such as e-cigarettes and nicotine pouches. Australia has endorsed international guidance encouraging parties to safeguard tobacco-control measures from all industry-related interests. New South Wales provides a strong example by banning political donations from the tobacco industry and its close associates under the *Electoral Funding Act 2018*.

We commend Tasmania on making positive changes regarding the disclosure of political donations in the *Electoral Disclosure and Funding Act 2023*. We encourage Tasmania to

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amend this Act further to prohibit political donations from the tobacco and vaping industry, consistent with Article 5.3 and Priority Area 9 of the *National Tobacco Strategy 2023–2030*. Industry-funded stakeholders should not be permitted to participate in or influence public health policy processes, including parliamentary inquiries. Additionally, all public servants should receive training on their obligations under Article 5.3 to ensure policy development remains fully protected from tobacco industry interference.

c. Improve support for Tasmanians in their quit journey

LFA commends the Tasmanian Government for its comprehensive cessation support programs, including the provision of free nicotine replacement therapy (NRT) for priority populations. To strengthen quit support across the community, we recommend expanding access to NRT so that all Tasmanians who wish to quit smoking or nicotine use can benefit from free evidence-based cessation assistance. We also encourage the integration of routine quit referrals into health-system workflows to normalise cessation as part of standard care. Embedding these referrals across clinical settings would enable earlier intervention, increase the reach of cessation support, and ensure that more people are encouraged and assisted to quit at key touchpoints within the health system.

Recent cuts to funding for QUIT Tasmania have significantly reduced the State's capacity to deliver anti-tobacco campaigns. Anti-tobacco campaigns are one of the most cost effective public health strategies. They are internationally recognised as consistently delivering strong returns on investment and helping prevent smoking uptake while supporting quit attempts when combined with other measures.¹⁰ The 50% reduction in government funding for smoking-reduction measure has weakened a vital policy lever in Tasmania's tobacco control efforts. Since the reduction in funding, there has already been a notable decline in engagement with QUIT services, including fewer people accessing online quit information which is an early indication of reduced reach and impact.

LFA supports reinstating funding for QUIT Tasmania so that evidence-based, media campaigns can be delivered consistently over multiple years. Ongoing, stable investment is vital to keeping prevention at the forefront of Tasmania's tobacco control strategy and ensuring the community continues to benefit from high-impact public education efforts.

In addition, complementary investment in targeted public education such as Lung Foundation Australia's recent [vaping campaign for young tradespeople](#) demonstrates how well designed campaigns can effectively engage more hard to reach priority

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populations, increase awareness of harms, and drive traffic toward cessation services. These campaigns can amplify the reach and impact of QUIT Tasmania by prompting help seeking, supporting quit attempts, and reinforcing consistent public health messaging across platforms and from multiple sources. Continued and expanded investment in such initiatives would further strengthen referrals to, and utilisation of, QUIT services.

d. Landlord termination provisions

LFA recommends the introduction of robust landlord-termination powers to ensure that property owners who knowingly permit their premises to be used for the sale, supply, or possession of illicit tobacco or illicit nicotine products can be held accountable. A strengthened landlord-liability framework should include explicit offences for landlords who knowingly or recklessly allow illicit tobacco or nicotine activity on their premises, supported by penalties that reflect the seriousness of these violations.

Effective models in South Australia and Queensland demonstrate the value of such measures. In these jurisdictions, landlords who allow premises to be used for illegal conduct face significant penalties, and landlords are granted expanded powers to terminate leases if a tenant is subject to an illicit tobacco-related closure order. New South Wales is progressing similar legislation, further signalling national movement toward stronger landlord accountability.

To further deter non-compliance, civil and criminal liability should apply where landlords knowingly lease premises to illicit operators or fail to take reasonable steps to prevent unlawful activity. A comprehensive approach would therefore include landlord offences, strong civil penalties for individuals and corporations, due-diligence obligations to prevent reckless indifference, and clear powers to terminate leases when illicit activity is detected. Together, these measures would ensure that landlords cannot enable or profit from illicit tobacco and nicotine markets and would support broader efforts to disrupt illegal supply chains.

e. Ban online sales of smoking and nicotine products

LFA recommends that the Tasmanian Government consider introducing a ban on the online sale of tobacco, smoking products and nicotine products. Online purchasing significantly increases accessibility, convenience and anonymity, making it easier for people to obtain these products, and harder for those attempting to quit to avoid exposure and temptation. Restricting online sales would reduce overall availability,

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support cessation efforts, and strengthen Tasmania's broader tobacco and nicotine control framework.

We commend the Tasmanian Government on continuing to introduce new legislation to combat the illicit tobacco market and to continue to protect the health of all Tasmanians. There is much more that can be done in terms of tobacco control. All tobacco and smoking products are harmful whether legal or not. The best way to protect people is to stop them from starting smoking and to support them to quit. This feedback includes recommendations that extend beyond the scope of the current legislation; however, these measures are critical to achieving the overarching goal of eliminating smoking, vaping, and nicotine dependence whether through legal or illegal products.

LFA supports all opportunities that lead to a smoke-free generation and support policy and implementation strategies to help achieve this goal. It is essential to maintain strong and consistent enforcement to send a clear message that breaches of the law will not be tolerated. Additionally, adequate resourcing of enforcement personnel is critical to ensure these efforts are carried out effectively and without disruption.

LFA would like to highlight that we also support QUIT Tasmania's submission on the *Public Health Amendment (Prohibited Tobacco and Other Products) Bill 2026*.

We look forward to continuing to work with the government in protecting the lung health of all Tasmanians. To discuss our recommendations further, please contact Paige Preston, General Manager of Policy, Advocacy and Prevention at paigep@lungfoundation.com.au.

Sincerely,



Mark Brooke
Chief Executive Officer
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