



10 December 2015

Research Director
Health and Ambulance Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Research Director

TOBACCO AND OTHER SMOKING PRODUCTS (SMOKE-FREE PLACES) AMENDMENT BILL 2015

The Local Government Association of Queensland (LGAQ) welcomes the opportunity to provide a submission to assist the Health and Ambulance Services Committee's detailed consideration of the Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015 (the Bill).

The Bill proposes to amend the *Tobacco and other Smoking Products Act 1998*, the *Tobacco and Other Smoking Products Regulation 2010* and the *State Penalties Enforcement Regulation 2014* for particular purposes. The objective of the Bill is to decrease the incidence of smoking through the creation of more smoke-free public places and strengthening of smoking bans in Queensland.

The LGAQ has consulted with Queensland councils, including a number of councils that are actively engaged in current compliance activities in relation to smoke-free places.

In summary, the LGAQ supports strategies that contribute to the reduction of health costs associated with smoking related illnesses. The introduction of additional smoke-free places represents one element of a multi-strategy approach needed to reduce the incidence of smoking in Queensland.

The LGAQ supports in principle a consistent approach to smoke free places across the State. A consistent approach removes doubt over where people can smoke and those areas that are prohibited. The LGAQ supports flexibility and discretionary powers for councils to take enforcement action as it gives consideration to local circumstances and the considerable impost placed on councils with the introduction of additional smoke-free places to enforce.

Of the smoke-free places highlighted in the proposed State Government Bill to Parliament, the following environments would impact on local councils:

- public transport waiting points
- skate parks
- under-age organised sporting events
- outdoor pedestrian malls
- public swimming pools

Enforcement

Although councils have the discretion to respond to smoking issues in a manner it deems appropriate, the introduction of this legislation may create unrealistic community expectations and jeopardise a balanced approach to enforcement currently adopted by councils.

Section 26ZU (1) of the Bill empowers local councils to make laws banning smoking at any outdoor public place not covered by State smoking laws. The LGAQ supports the inclusion of the new part 2E



incorporating section 26ZU (2) of the Bill that clearly articulates there is nothing in the provision that imposes a duty on a local government to enforce the relevant provisions of smoke-free places.

Although it has been stated that councils will have the ability to determine appropriate compliance action to be enforced, the introduction of additional smoke-free bans will likely require programmed attendance at “hot spot” locations in response to complaint based investigations. Councils have expressed this is a resource intensive exercise, especially around public transport waiting areas and skate parks that would be both challenging and problematic for local government to regulate. Responding to offences by minors, gathering of evidence, refusal to provide identification, powers to detain or follow a direction given would be recurrent problems encountered by authorised officers.

Furthermore, the majority of Queensland's 77 local governments do not have the resources to enforce this legislation or expand their existing enforcement practices in their own local government areas as these are labour intensive activities that would require additional resources and a coordinated approach across agencies.

Recommendation 1

The committee notes the significant enforcement impediments placed on local government.

Cost impacts on local government

The LGAQ made a submission in August to the State Private Member's Bill, where it raised concerns about the significant costs associated with the extension of smoking bans in additional public places. These costs would be deemed prohibitive for councils to ensure infrastructure supports smoke free areas: for example, signage to delineate smoke free areas.

The implications of this proposed Bill would also have significant impacts on councils that would require the removal of existing infrastructure i.e. (eg. “butt bins”), relocating infrastructure to suitable / permitted areas and the installation of revised/new signage to proposed smoke-free places.

The State Government has not as yet addressed these financial barriers with the introduction of the Bill or in the accompanying explanatory notes.

Recommendation 2

The committee notes the significant impediments to infrastructure costs placed on local government.

Recommendation 3

The LGAQ recommends the State Government provides a subsidy to offset the infrastructure costs associated with the implementation of the proposed changes in the Bill.

State Government role

The LGAQ provides support for this Bill with the development and implementation of a comprehensive State-wide education and awareness campaign to ensure success in achieving behavioural change.

The LGAQ is concerned that there is no additional resourcing for State Government authorised officers to regulate this initiative. At the public hearing on 2 December 2015, it was stated that there was an additional \$420,000 to contribute towards the implementation of this initiative, however this would not be allocated to funding any increase to the 122 environmental health officers working for the Department of Health across Queensland already engaged in a range of compliance activities.



It is unrealistic to rely on education and awareness from programmed attendance at 'hotspot' locations by state and local government authorised officers to initiate this behavioural change. Furthermore, it is not reasonable to rely on the goodwill of smokers or self-regulation by commuters and patrons at these public places to achieve the desired compliance outcomes.

Comprehensive education and awareness, additional signage and compliance programs would be deemed critical in the successful implementation of these changes providing clear messages prior to the attainment of long term behavioural change.

Recommendation 4

The State Government develops and implements a comprehensive education and awareness strategy with clear and consistent messaging across Queensland.

If you have any questions regarding the matters raised in this submission, please do not hesitate to contact Mr Robert Ferguson, LGAQ - Senior Advisor – Environmental and Public Health, on [REDACTED]

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Hoffman', is written over a light blue horizontal line.

Greg Hoffman PSM
GENERAL MANAGER – ADVOCACY