

# Decreasing the availability of tobacco products in Queensland

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Background, policy options and  
recommendations from Quit Victoria

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# 1. Introduction

Tobacco is one of the leading causes of preventable death and disease in Australia.<sup>1</sup> Despite the harmful nature of tobacco and the devastating toll which it imposes upon the community, it remains one of the most widely available consumer products,<sup>2</sup> with tobacco being sold in more retail outlets than milk.<sup>3,4</sup> This widespread availability can contribute to the idea that tobacco is a normal part of everyday life, is like any other grocery product and is relatively harmless.<sup>3-5</sup> Fry et al. argue that *“the widespread availability of tobacco sends a mixed message to the community, diminishes the likelihood of successful quit attempts and undermines efforts to denormalise smoking”*.<sup>3</sup>

The concept of availability can be defined as the degree of convenience experienced by consumers in obtaining the product in terms of number, density and type of outlets, outlet hours and in-store accessibility.<sup>6</sup>

In Australia, the law places few limits on who may sell tobacco, where and when they may sell, or the number of outlets selling tobacco.<sup>7</sup> Tobacco can be sold from almost any type of retail outlet in Victoria and is widely available in virtually all petrol stations, milk bars, supermarkets, newsagents, licensed premises, on-line and convenience stores.<sup>5</sup> The lack of controls on where and how tobacco can be sold stands in contrast to the regulation of other dangerous goods such as pharmaceutical products, poisons, firearms, pesticides and dangerous chemicals which are subject to a wide variety of restrictions.<sup>2,4</sup> A recent audit of tobacco outlets in New South Wales (NSW) by Cancer Council NSW found that there are more than five times as many tobacco retailers in NSW as pharmacies.<sup>3</sup>

The ready availability of tobacco has been described as *“the weak link in tobacco control”*.<sup>3</sup> Wood et al. note that in Australia, no state or territory government has implemented any restrictions on the number of tobacco retail licenses they grant, *“in stark contrast to the processes applied to alcohol, for which decisions to grant new liquor licences in a given area require the public interest to be considered.”*<sup>8</sup> There has been a call in the tobacco control community to regulate tobacco retailing (restrictions on the number and location) to further denormalise tobacco products and smoking, and to reinforce the harmful nature of tobacco.<sup>3,4</sup> This is reflected in the National Tobacco Strategy 2012-2018<sup>5</sup> which recommends the further regulation of the supply of tobacco production under three action areas including tobacco licensing schemes, exploring options of placing controls over the number of tobacco retailers in communities and reinvigorating efforts to monitor and enforce legislation prohibiting the sale of tobacco to minors.

One of the important and feasible next steps in tobacco control is controlling the supply of tobacco by reducing access and availability of cigarettes in order to further support quitting rates and cut smoking-related cancer deaths. There are a range of potential benefits underlying the reasons to decrease the availability of tobacco products in Victoria. These include reducing the prevalence of smoking among young people, enhancing the effectiveness of smoking cessation by supporting recent quitters and those who want to quit, and reducing the health and economic disparities observed in smoking behaviours.

## **2. Licensing**

### **2.1 Overview**

Most jurisdictions in Australia have positive tobacco retailing licensing schemes requiring retailers to apply for and annually renew their license with an associated licensing fee. New South Wales, Queensland and Victoria are the only Australian jurisdictions with no positive licensing scheme. Current annual fees for tobacco licences in Australia are around \$200-\$300, with wholesale licences in WA costing \$510 annually.

In general, in states that do require a license, the licenses are granted with no further conditions provided the appropriate form is completed and any fees paid.<sup>9</sup> Even in jurisdictions where tobacco retailers are required to be registered, data may be unreliable. Recent Australian research has identified inaccuracies in tobacco retail licence registers in different jurisdictions, including duplication and incomplete records.<sup>10,11</sup> For example, recent NSW research involving an audit of tobacco outlets found the list of notified retailers included a large number of multiple listings and out-of-date retailer records, with one unlisted retailer for about every 13 listed retailers. More than one in four retailers did not comply with retailing laws, either because they were not listed or because they failed to meet in-store requirements, or both. Unlisted retailers and those in disadvantaged areas were more likely to break in-store retailing laws.<sup>10</sup> This illustrates the importance of an up-to-date data collection and registration system as well as systematic enforcement to ensure compliance and data accuracy.

Several jurisdictions have already implemented licensing. For example, the Department of Health WA reported that as at January 2011 there were 3,838 current tobacco licences issued. The Department also reported that the tobacco licensing process is expected to raise \$832,000 in the 2010/11 fiscal year. The total of this income is used to fund the administration of the licensing system and the regulatory compliance program.<sup>12</sup> Experience in other jurisdictions, such as South Australia, has shown that tobacco licensing schemes can be

implemented in an efficient and cost-effective manner and need not impose huge administrative burdens for retailers or governments.

Some vendors who only sell small amounts of tobacco may reconsider and retire from the market; for example, a recent substantial increase in tobacco retail licensing fees in South Australia (from \$A12.90 to \$A200 per annum, with annual indexation) was associated with a significant reduction in the number of tobacco licences purchased or renewed in subsequent years, effectively reducing tobacco points of sale.<sup>11</sup>

Tobacco retailer licensing is a recommendation of a wide range of public health organisations at the state, national and international level.<sup>2,5,13</sup> A report prepared for the Commonwealth Government in 2002 on best practice approaches to tobacco licensing (“the Allen Report”<sup>14</sup>) found that there is a strong case, based on economic and public health rationales, to introduce licensing of tobacco sellers, including that tobacco licensing schemes can:

- enhance the monitoring and enforcement of existing regulatory controls on the availability and advertising of tobacco;
- further reduce illegal sale of tobacco to minors and help reduce sale of illicit tobacco; and
- provide government with a range of appropriate measures for dealing with breaches of tobacco control laws by retailers, by allowing for a graduated system of penalties ranging from warnings and fines to an ultimate loss of licence.<sup>13</sup>

Additionally, accurate knowledge about the number, type and location of tobacco outlets is essential to monitor tobacco industry activity and to enforce comprehensive marketing restrictions;<sup>15</sup> this knowledge is best obtained through retailer licensing.<sup>15</sup>

#### **Table 1: Advantages of a positive licensing scheme**

**Identified advantages** of a positive tobacco licensing scheme include that it:

- is consistent with the message that selling tobacco — a dangerous product — is similar to other activities which carry a potential health risk in that it is a conditional privilege rather than an unfettered right;
- helps ensure that only sellers with a demonstrated record of honesty and compliance with laws are able to sell tobacco (through criteria that identifies whether there are relevant reasons for rejection an application for a licence);

- ensures that those who sell tobacco products are kept informed and are aware of their legal responsibilities, providing an opportunity for targeted education and information for retailers/wholesalers through the licence application process as well as on an ongoing basis for all retailers and wholesalers throughout the state;
- can create a framework where non-compliance with local, state or federal tobacco control laws can result in licence prohibitions or restrictions in addition to financial penalties, which provides a further incentive to comply with tobacco control laws;
- provides funding for education, monitoring and enforcement programs;
- provides administrative enforcement options (e.g., licence conditions, licence withdrawal) which are less costly than legal action through the courts;
- encourage retailers to carefully consider whether they want to sell cigarettes and the value of selling tobacco, particularly those for whom tobacco sales is a marginal source of income; and
- effectively reduces the number of retailers selling tobacco.

## **2.2 Negative licensing model in Victoria**

In the past, the State Revenue Office of Victoria collected tobacco licence fees for the Victorian Government. However, since the requirement to hold a licence to sell tobacco was abolished in Victoria, the Government of Victoria has administered the sale of tobacco under the relevant legislation contained in the *Tobacco Act 1987* (Vic).<sup>16</sup>

Since 2000 Victoria has had a 'negative' licensing system for tobacco. A 'negative licence scheme' is one under which retailers may be prohibited from selling tobacco products for specified periods of time if found guilty of the following offences:

- supplying tobacco to people under 18 years of age;
- illegally possessing or controlling certain forms of illicit tobacco.<sup>17</sup>

Periods for which retailers can or must be suspended for committing these offences currently include the following:

- for a first offence: up to three months;<sup>18</sup>
- for a second offence: mandatory suspension of up to three months or up to 12 months at the discretion of the Magistrate;<sup>19</sup>
- where two or more offences have been committed: a mandatory suspension of five years.<sup>20</sup>

Suspensions can relate to the premises in question where the offence was committed or to any new premises within 5km of those premises.<sup>21</sup>

Quit's understanding is that only a handful of tobacco retailers have been prohibited from selling tobacco following offences such as sales to minors and selling illicit tobacco.

Retailers who wish to be classified as a specialist tobacconist must seek certification from the Victorian Minister for Health under the *Tobacco Act 1987* (Vic). Certified specialist tobacconists are not subject to the complete ban on point-of-sale displays that came into effect in Victoria on 1 January 2011.

There are a range of problems associated with the current tobacco retailing arrangements in Victoria. In particular<sup>4,13</sup>:

- Rather than being pro-active and prevention-oriented, the current arrangements are reactive and primarily a mechanism for responding to problems after they occur;
- There is no ability in Victoria to determine whether a tobacco retailer is a "fit and proper person" to sell tobacco;
- Enforcement agencies must rely on tobacco manufacturers and wholesalers to provide detail of retailers who sell tobacco. The accuracy and comprehensiveness of this data is difficult to verify;
- There is no capacity to provide a revenue stream to support education, monitoring and enforcement programs;
- The fact that tobacco can be sold without the need to first apply for a licence sends a weak message to retailers about the importance of obligations under tobacco control laws and contributes to the view that selling tobacco is a 'right' and can be undertaken lightly.

### **2.3 Licensing schemes internationally**

Most states in the USA and many provinces in Canada require licensing of tobacco retailers. As in Australia, sub-national policies govern tobacco retailer licensing in Canada and the

USA, and some jurisdictions issue licenses without a fee.<sup>15</sup> Ireland has a national registry of tobacco retailers and requires a one-time fee of 50 Euros.<sup>15</sup>

In California, tobacco licensing is regulated at the community level by local governments. As a result, a wide range of provisions and restrictions are placed on Californian tobacco retailers, including type of retailer, limits on location and density of retailers, who can sell tobacco, smoking restrictions within and near the premises, fees and sales conditions. The fees range from \$30 to \$655 annually.<sup>9</sup>

In New York, licensing is similarly regulated at the community level. Researchers in New York have also developed a model ordinance (yet to be fully implemented) which includes a detailed strategy to gradually reduce the total number of tobacco retailers by restricted licence availability. In this case, local level action on licensing results in much stronger laws than those managed at a state level. They recommend that the licence fee is high enough to cover administration and enforcement.<sup>9</sup>

In Singapore, tobacco licensing laws are strictly enforced: tobacco retailer licences are suspended and completely revoked for infractions, with a publicly accessible online listing published of all tobacco retailers with licenses suspended or revoked. For example, as of April 2014, fourteen retailers had licences completely revoked and more than twelve had a licence suspension for six months in the past year.<sup>9</sup>

### **3. How does availability of tobacco influence tobacco use? A summary of the evidence**

#### ***3.1 Young people's access to tobacco contributes to the initiation of smoking***

Smoking rates among Australian teenagers are continuing to decline. In 2014, 5% of 12 to 17-year olds were “current smokers” who had lit up in the week prior to the survey. This is down from 7% in previous surveys in 2011 and 2008.<sup>22</sup>

While the overall trend is encouraging, 5% is equivalent to approximately 81,000 12 to 17-year-olds in Australia being current smokers. It is troubling that so many teenagers are able to get their hands on cigarettes at least weekly – despite bans on sales to minors.

Although it is illegal to sell tobacco products to children under the age of 18 years in all states and territories of Australia, national data from 2011 Australian Secondary School Students' Alcohol and Drug (ASSAD) Survey found that 18% of 12 to 17 year old student

smokers reported buying their last cigarette from a retail source. These student smokers reported that they purchased their last cigarette from convenience stores, milk bars, supermarkets and petrol stations (each outlet reported by 2-3% of current student smokers).<sup>23</sup>

The Victorian picture is similar to national rates with 14% of current smokers reporting the source of their last cigarette as a retail source. In 2014, among current smokers aged 12 to 15 years, 8% reported buying their own cigarette, and current smokers aged 16 to 17 year-olds 18% reported buying their own cigarettes.<sup>24</sup> The most common retail outlets for purchasing cigarettes were convenience stores.<sup>24</sup>

In 2011, Victorian students who were current smokers were asked about their recent experiences when trying to purchase tobacco from a retail source. Overall, 6% of 12 to 17 year-olds had tried to purchase tobacco from a retail source in the past year. Of these, only around two-thirds reported being asked for proof of age (67%), while only 55% reported being refused purchase. Fewer younger students (12-15yo, 58%) reported being asked for proof of age compared with older students (16-17yo, 71%); this may be due to their more obvious youth, as shopkeepers may reject the attempted purchase without the need to ask for proof of age. However, only 61% of 12-15yo reported that they were refused purchase, compared with 53% of 16-17 year-olds.<sup>24</sup>

Adolescent access to cigarettes has been shown to contribute to the initiation of smoking.<sup>25</sup> Research in jurisdictions as disparate as New York and New Zealand has shown, consistent with other research, that increased exposure to tobacco retail outlets is associated with increased odds of smoking initiation.<sup>26,27</sup> Similarly, other New York research has demonstrated an association between high tobacco retail density and young people believing that smoking made them “look cool” and helped them “fit in”.<sup>28</sup>

### ***3.2 Perceived ease of access to cigarettes influences the risk of smoking among young people***

There is evidence that young people who perceive that tobacco is easily available are more likely to experiment with smoking and to progress to heavier smoking.<sup>29-31</sup>

Research has shown that there are a number of young people in Victoria that believe that purchasing cigarettes for themselves would be easy.<sup>24</sup> The perceived ease of purchase for Victorian students was reported by smoking status, comparing students who had used tobacco in the past year and those who had not, as perceptions might be expected to differ

for students with some recent smoking experience compared with those with no recent experience. All students were asked how easy they thought it would be to obtain tobacco from local retail sources by either purchasing it themselves or by asking someone else to purchase it for them. Among those who had smoked in the past year, just over one-third (34%) of all 12 to 17 year-olds thought it would be easy or very easy to purchase tobacco themselves. In comparison, of those who had not smoked in the past year only 17% thought it would be easy or very easy to purchase tobacco themselves. Among both smoking-status groups, older students were more likely to believe they could purchase tobacco for themselves.<sup>24</sup>

In 2011 Australian students were asked to indicate their perceptions of how easy it would be for them to purchase cigarettes from local shops themselves and to get someone else to buy cigarettes for them. Nationally, 16% of all students thought it would be easy or very easy for them to purchase cigarettes themselves. The proportion believing this increased significantly with age, peaking among 17-year-olds at 28%. Among current smokers aged 12–17 years, 43% of male and 35% of female students thought it would be easy or very easy for them to buy cigarettes themselves.<sup>23</sup>

Tobacco is highly accessible in Victoria, and it is likely to be similarly accessible for Queenslanders living in non-remote areas. In Victoria, two out of five smokers can reach a retailer from their home within three minutes, and more than three-quarters of smokers can reach a tobacco retailer within six minutes.<sup>32</sup>

### ***3.3 Proximity of tobacco retailers to schools influences smoking behaviour among young people***

The evidence available suggests that both density of retailers and proximity of retailers to schools influences smoking behaviour and tobacco purchasing by youth.<sup>9,33-35</sup> A Californian study found the prevalence of current smoking to be three percentage points higher at schools in neighbourhoods with a high density of retail outlets (more than five tobacco outlets) compared with neighbourhoods without tobacco outlets.<sup>33</sup> Similarly, Canadian research examining tobacco outlet density around schools in Ontario found that the more tobacco retailers there were surrounding a school, the more likely teenage smokers were to buy their own cigarettes and the less likely they were to get someone else to buy their cigarettes.<sup>36</sup>

A recent study investigating density of tobacco retail outlets near schools in Victoria combined a survey more than 2,000 secondary school students (aged 12 to 17 years) with

tobacco outlet audit data, including cigarette price at local milk bars. The study found that the more retail outlets there were around a school, the heavier the consumption of cigarettes among teens. Importantly, there was no relationship between cigarette consumption and cigarette price at nearby milk bars, contradicting the idea that density is a proxy measure of increased price competition, and thus lower cigarette prices around schools.<sup>37</sup>

### **3.4 Relationship between tobacco availability and smoking behaviour is influenced by outlet type**

There is evidence to suggest that the relationship between tobacco availability and smoking behaviour may be influenced by outlet type.<sup>11</sup> For example, Australian research suggests that supermarkets and tobacconists encourage larger purchases, meaning they are likely to contribute to higher levels of consumption by the most price sensitive smokers.<sup>9</sup> There is also evidence that particular types of retail outlets decrease the likelihood of cessation success and are more often associated with spontaneous purchases and relapse behaviour among light smokers and recent quitters. Convenience stores, mixed businesses, licensed premises and vending machines are favoured much more by lighter smokers and are more commonly associated with impulse purchases.<sup>11,38</sup> In venues where alcohol is served, a significant portion of smokers report smoking more than they normally would. Consuming alcohol, especially in social settings like bars and clubs, increases smoking and undermines quit attempts.<sup>3</sup> Lighter smokers also report purchasing more often from these types of venues, indicating that the availability of tobacco products at these venues can lead to impulse purchasing and smoking.<sup>9</sup> This may be due to cueing effects, where the sight of a tobacco vending point or exposure to other smokers creates a desire to smoke, and the increased likelihood of smoking when consuming alcohol.

Another survey in Victoria, conducted in the first six months of July 2015, asked current smokers where they had made unplanned purchases, i.e. “impulse buys” of cigarettes, in the past month.<sup>39</sup>

**Table 2: Usual place of purchase of tobacco products and places of unplanned purchases (multiple responses allowed) in last month among current smokers who buy their own tobacco products.**

Retailer Type	Place of usual purchase (N=1093)	Place of unplanned purchase in last month

		(N=1093)
	%	
Large supermarket	56.5	43.3
Petrol station	7.3	32.1
Convenience store / Milk bar	7.6	28.5
Tobacconist	15.7	24.2
Small independent supermarket	9.3	21.4
Newsagency	0.5	3.3
Vending machine	0	2.9
Duty free	0.2	1.2
Internet	0.2	0
Other	1.4	1.4
Don't know / can't say	1.5	0

Smokers from high SES areas were most likely to report having made at least one unplanned purchase in the past month. Just under three quarters of smokers (74%) from high SES areas had done so compared to two-thirds (67%) of smokers from low SES areas. It could be that smokers from high SES areas are more susceptible to making unplanned purchases as they may have more discretionary dollars available to spend.

The most commonly reported location where an unplanned purchase had been made within the past month was at a large supermarket – large supermarkets were also where most smokers reported usually buying their tobacco. However, a disproportionate percentage of unplanned purchases appear to take place in smaller stores, such as petrol stations, convenience stores and small supermarkets. For example, whereas just 7% of smokers who buy their own tobacco usually do so at a petrol station, approximately one third (32%) had made at least one recent unplanned purchase from a petrol station. It is also noted that while no smokers identified vending machines as being their usual place of purchase, 3% of smokers had made an unplanned purchase from a vending machine during the previous month.

### **3.5 Retail density and proximity can negatively affect quitters and contemplators**

While there is a paucity of research related to the impact of tobacco retailer density on smoking cessation, preliminary studies suggest that close proximity may make quitting less likely.<sup>9</sup> A recent longitudinal study examining the effect of tobacco outlet density and proximity on residents' smoking abstinence six months after a quit attempt observed an association between quitting success and proximity of the quitter's home to a tobacco retailer, but not with retailer density.<sup>40</sup> A study of nearly 9,000 smokers in Finland showed that living within walking distance of a tobacco store lowered the likelihood that men who were moderate or heavy smokers stopped smoking by 27% compared to those living more than walking distance away from a tobacco store.<sup>41</sup>

Although Australia is described as a 'dark' market, because of the country's ban on advertising and point-of-sale display and the requirement for plain packaging, tobacco companies are still, according to the Marketing Director of British American Tobacco Australia, actively "driving their market position". In fact, according to the Marketing Director, British American Tobacco employees from other countries come to Australia on study tours to learn marketing techniques to "take them back to the Europe or Latin America or to the United States or to Africa..."<sup>42</sup>.

There is both anecdotal and research evidence to suggest that the marketing techniques referenced by the tobacco industry are the promotion of tobacco at point-of-sale (POS) by brand prominence on price boards<sup>43</sup> and by lower prices in areas likely to contain more price-sensitive smokers<sup>44</sup>, i.e. in areas with low socioeconomic status or with a high population of people under the age of 18 years.

Studies from as far back as 1999, have shown that 'neutral stimuli' can be classically conditioned with smoking, and cue an urge to smoke.<sup>45</sup> For some smokers, the mere sight of a retail outlet prompts thoughts about smoking or buying cigarettes, even though tobacco must now be out of sight in stores.<sup>3</sup> Recent NSW research involving an audit of tobacco outlets found that convenience, route and impulse retailers made up almost 80% of tobacco outlets. These outlets are known to present temptation to people not intending to smoke.<sup>10</sup> In the USA, a study tracking real-time exposure to POS marketing with cigarette cravings among recent quitters showed that relapse back to smoking was significantly more likely on days with any POS exposure.<sup>46</sup>

New, unpublished data derived from a large population survey in Victoria in 2014 has interrogated the usual place of purchase of cigarettes among current smokers and the place of purchase after relapsing after a recent quit attempt (Table 3).<sup>32</sup>

**Table 3. Place of usual purchase of cigarettes compared with place of first purchase after relapse from a quit attempt.**

Retailer Type	Place of usual purchase, all current smokers (N=661)	Place of first purchase after relapse, recent quit attempters (N=126)
	% (N)	% (N)
Large supermarket	55.3 (366)	41.2 (52)
Tobacconist	12.4 (82)	5.7 (7)
Convenience store / Milk bar / Newsagent	9.6 (63)	9.9 (13)
Small independent supermarket	8.1 (53)	12.4 (16)
Petrol station	6.3 (42)	10.8 (14)
Other	3.0 (20)	12.7 (16)
Internet	0.3 (2)	0 (0)
Vending machine	0 (0)	2.1 (3)
Don't know	4.8 (32)	5.2 (7)
Refused to answer	0.2 (1)	0 (0)

Large supermarkets were the most common places of purchase of tobacco products for both usual purchases (55%) and purchase after relapse (41%). For usual purchases, tobacconists were the second most common retail type (12%), followed by convenience stores, milk bars, and newsagents (10%), small independent supermarkets (8%), and petrol stations (6%). For purchases after relapse, 'other' vendors were the second-most common (13%), followed by small independent supermarkets (12%), petrol stations (11%), and convenience stores, milk bars, and newsagents (10%). This survey is sufficiently sized to be representative of the Victorian population, therefore the results for the place of usual purchase for all current smokers can be extrapolated across the population. Given the small sample of recent attempters, however, comparisons between place of purchase after relapse and usual purchase should be made with caution. It appears a slightly higher proportion of

relapse purchases were made in petrol stations (11%) compared to the proportion of usual purchases that were made in petrol stations (6%), while more usual purchases were reported to be made in tobacconists (12%) than were purchases after relapse (6%). Interestingly, although this reflects only 3 observations, 2% of purchases after relapse were made in vending machines while no current smokers reported usually purchasing their tobacco from vending machines.

### **3.6 Social disadvantage and availability of tobacco**

There are numerous social, economic and cultural factors that influence high smoking rates in disadvantaged population groups, increasing uptake and reducing quit rates.<sup>47-49</sup> People from disadvantaged groups are more likely to be in environments where smoking is the norm<sup>50</sup> and this normalisation of tobacco is being exacerbated by greater retail density and availability of tobacco in low SES areas/neighbourhoods.<sup>8</sup>

A range of studies from the US have found greater densities of tobacco outlets in areas with lower socioeconomic status (SES), in areas with lower household incomes and with greater proportions of minority groups<sup>8,35,51-53</sup> and there are growing number of Australian studies showing the same.<sup>8,54</sup>

Consistent with US research, the findings of more recent studies in West Australia, NSW and Queensland have found significant associations between tobacco retail outlet density and socioeconomic status. A 2011 cross-sectional study in Western Australia investigated the relationship between area SES and the density of tobacco retail outlets in suburbs and towns for the Perth metropolitan area, as well as at the regional and state level.<sup>8</sup> The research found a strong relationship between area SES and tobacco outlet density: across all WA suburbs and towns, those areas with low and very low levels of SES had a far greater number of tobacco outlets (two to four times) than those areas with the highest category of SES. This differed by location: for example, there were almost 50% more outlets in metropolitan suburbs in the lowest SES category compared with those suburbs in the highest SES category. In regional WA, however, there were over five times the number of outlets in the lowest SES ranking areas compared with those areas in the highest SES category. This study's findings are among the first Australian evidence of a strong relationship between area SES and tobacco outlet density.

Further Australian research compared tobacco retailer density and cigarette prices between high and low socioeconomic status suburbs in South-East Queensland.<sup>7</sup> The study found a significant relationship between SES and the number of tobacco retail outlets: lowest SES areas were found to have a larger number of tobacco retailers. In this study, researchers

also collected data on outlet type and the prices of four leading cigarette brands in Australia. They concluded that cigarette prices were significantly lower in socioeconomically disadvantaged suburbs; however, the difference was not statistically significant when outlet type was taken into consideration. This research also found a difference in retail outlet type and SES area: in high-SES suburbs, newsagencies and petrol stations were the predominant tobacco outlets, while in low-SES suburbs a broader range of outlet types were identified, and tended to be Asian grocery stores, supermarkets, newsagencies and specialist tobacconists.

Recent NSW research used state tobacco retailer register data to examine the potential relationship between tobacco outlet density, socioeconomic status and geographical remoteness.<sup>54</sup> The median tobacco outlet density was found to be 21.72 outlets per 100 000 people, and tobacco outlets were concentrated in areas of higher disadvantage that are at a greater risk of poor health outcomes. The significant association was found even after controlling for smoking prevalence, which the authors suggested may be related to a deliberate marketing strategy by the tobacco industry, rather than a response to higher demand for products in low SES communities. There was also a strong relationship between tobacco outlet density and living in a remote community.

### **3.7 Price discounting and location**

In addition to a higher concentration of tobacco retail outlets is evidence of price discounting in low SES neighbourhoods. Victorian research demonstrates that price discounting of leading youth cigarette brands is occurring to a significantly greater extent in milk bars near secondary schools in low SES neighbourhoods, with between 23 per cent and 33 per cent of milk bars in these neighbourhoods selling the leading youth cigarette brands at below the recommended retail price. There is also evidence of significantly greater occurrence of price discounting for popular adult brands in these disadvantaged areas.<sup>55</sup>

Similarly, a recent NSW audit of tobacco retailers found that cigarettes were cheaper in disadvantaged areas and in areas with a higher percentage of children. The researchers noted that young people and those from lower SES populations are more price-sensitive, so lower prices are likely to increase consumption.<sup>3</sup>

In addition a study of tobacco retailers in Melbourne<sup>56</sup> found that of the stores audited that there was evidence of the top positions on the price boards being owned by the same tobacco company and whether brands at the top of the board were from the value, mainstream or premium market segment was often dependent on socio-economic status

(SES) area. The number of top price board positions given to premium brands differed significantly by SES, with much higher percentage found in mid and high SES areas than low SES areas (56%, 62%, 39% respectively). The number of prominent positions occupied by value brands varied by SES area also. Low SES areas had more value brands listed in top positions than stores in mid -or -high SES areas (43%, 23% and 15% respectively). The greater promotion of premium brands in high SES areas where smokers can afford to pay higher prices provides a greater profit margin for the tobacco industry and retailers and the greater promotion of value brands in low SES continues to promote smoking as affordable for those on lower incomes.

Greater tobacco retailer density and overall lower prices in low SES suburbs are likely to produce greater consumer awareness, present more frequent opportunities for purchase and consequently lead to higher sales and consumption.<sup>7</sup>

#### **4. Public opinion related to decreasing the availability of tobacco**

Public opinion surveys consistently show high levels of public support for tobacco control regulation in Victoria. The majority of the community support increased measures to restrict the availability of tobacco products such as the introduction of retailer licensing, making it harder to purchase tobacco in shops, and reducing the number and type of tobacco outlets.

The 2014 Victorian Smoking and Health Survey found there was a high level of public support for reducing the number of places where cigarettes can be purchased, with 72% of Victorians supporting the concept.<sup>57</sup> Surprisingly, 42% of current smokers supported this concept and, unsurprisingly, the support from former smokers (72%) and never smokers (80%) was even higher. There were similarly high levels of support for reducing cigarette availability across Victorians from low (70%), mid (71%) and high (75%) SES areas.

The proportion of Victorians specifically opposed to reducing the number of places where cigarettes can be purchased was 22%: current smokers 49%; former smokers 22%, and; never smokers 14%.

A similar study conducted in 2011 showed that support for reducing cigarette accessibility was highest among current smokers who mainly purchased their cigarettes from petrol stations (61%) and milk bars/convenience stores (50%) and was lower among those who purchased their cigarettes from supermarkets (43%) and specialist tobacconists (37%).

Results of the 2013 National Drug Strategy Household Survey (NDSHS) show that 67% of Australians aged 14 years and over support the implementation of a licensing scheme for tobacco retailers and 65% support making it harder to buy tobacco in shops. In addition, 90% of Australian respondents support stricter penalties for the sale or supply of tobacco products to minors and 88% support stricter enforcement of laws against supplying tobacco products to minors.<sup>58</sup> All of these options, which have majority community support, would be more feasible with a strong positive licensing system.

## 5. Policy options for decreasing the availability of tobacco

Quit Victoria advocates for the introduction of a positive tobacco retail licensing schemes and the banning of tobacco vending machines. Other advocacy points include:

- Data collection and public release of data.
- Mapping tobacco retail outlets.

### 5.1 Tobacco retail license scheme

A tobacco licensing scheme would provide an important policy tool for the government to influence the availability of tobacco and provide the framework required to systematically reduce the availability of tobacco. Table 4 summarises some of the potential features and advantages of a tobacco retailing scheme.

**Table 4: Specific features of a tobacco retailing scheme**

**Specific features** of a tobacco retailer licensing scheme could include:

- Licences for all retailers and wholesalers lasting 12 months/ renewed annually. A licensing scheme that requires retailers of tobacco products to pay an annual fee in the order of \$500 would reflect the seriousness of the responsibilities that come with selling tobacco products. License fees would also provide revenue to fund a more comprehensive regime to ensure that tobacco retailers comply with laws banning sales to children, promotion of tobacco and sale of illicit tobacco;
- No transfer or sale of tobacco licences;
- Probity tests for potential tobacco licensees to ensure they are a fit and proper person to sell tobacco;
- Requirement for tobacco retailers to provide proof of licence to purchase tobacco

products from wholesalers and a requirement for tobacco wholesalers to check retailers are licensed before they sell tobacco;

- Approved training and information for licence holders and sellers on tobacco legislation, including regular refresher courses;
- An appropriate fee structure for tobacco retailers and wholesalers. The fee should be adjusted annually based on projections about the requirements for education, monitoring and enforcement of retailer laws;
- Fees set for every point of sale rather than every operator (so a fee for every supermarket in a chain rather than just a fee for the whole chain in the state).
- A range of sanctions for retailers who do not comply with tobacco licensing laws;
- Mandatory reporting of selected data on tobacco wholesale and retail sales;
- Ability to restrict future tobacco retail licences.

## **5.2 Banning tobacco vending machines**

Vending machines within licensed venues continue to promote the association between socialising, alcohol and smoking. Vending machines in casinos and gaming areas also encourage the addiction link between gaming and smoking. The banning of vending machines from licensed premises, casinos and gaming areas will be vital to further denormalise smoking and eliminate a potential visual cue which may trigger relapse or make it more difficult for people trying to quit, particularly in an environment where willpower may already be depleted by alcohol consumption. Data captured in Victoria show that vending machines are not a usual place of purchase of cigarettes; they are used only after relapse (Table 3) and for impulse buying (Table 2.)

A ban on vending machines in Queensland would implement the recommendation in the World Health Organizations guidelines for implementation of Article 13 of the Framework Convention on Tobacco Control, that:

*“[v]ending machines should be banned because they constitute, by their very presence, a means of advertising and promotion.”<sup>59</sup>*

## **5.3 Other options to reduce tobacco retail availability**

A tobacco licensing scheme would provide an important policy tool for the government to influence the availability of tobacco and provide the framework required to systematically

reduce the availability of tobacco. Table 5 sets out a range of measures further targeted at reducing availability that could be considered as part of a licensing scheme.

**Table 5: Measures targeted at reducing availability**

A range of specific measures could be put in place to reduce availability of tobacco, including:

- capping the number and location of tobacco retail outlets, for example, restricting or granting no new licences for retail outlets near schools or in low SES areas with a high number of existing tobacco retailers;
- limiting the proximity of tobacco outlets to other locations such as hospitals, universities and government buildings;
- establishing a minimum distance between tobacco outlets;
- prohibiting the sale of tobacco products in establishments where smoking is already prohibited, such as airports and hospitality venues;
- reframing the process to place the onus on the retailer to prove a new licence was needed in a particular area, rather than providing an automatic 'right' to a licence;
- restricting selling of tobacco by particular types of outlets, and phasing out of particular types of outlets if this were deemed to be desirable at some stage, i.e. petrol stations because of the disproportionately high proportion of impulse buys;
- limiting eligibility for a tobacco retail licence to shops permitting entry only to persons over the age of 18 years, i.e. liquor store.

## **6. Impact on business**

The impact on business should be considered when discussing the introduction of a retail licensing scheme, but this consideration should be in the context of the enormous cost to government and society of tobacco use. The Cancer Council Queensland estimates that smoking costs Queensland approximately \$6.1 billion every year in health costs resulting from 36,000 hospitalisations, lost productivity and premature death. These health and social costs should provide a sufficient rationale for any government to regulate the distribution of

tobacco. Impact on small business and the addition of “red tape” are inevitable, but the greater good of reducing death and disability cannot be discounted.

### **6.1 Retail data availability as a first step to informed legislation**

One of the first advantages of introducing a positive licensing scheme would be the ability to obtain high quality data on the number, location and type of tobacco retail outlets within the jurisdiction and, potentially, the volume of tobacco product sales. Availability of tobacco retail data will allow the development of informed, considered regulation that does not tip the playing field in favour of large retailers.

In 2010, it was estimated there were around 35 000 tobacco retail outlets in Australia.<sup>60</sup> Around Australia, the quality, public availability and reliability of data collected on tobacco retailers by state and territory governments differs significantly between jurisdictions; for example, Western Australia has the only searchable public register of all tobacco retail licenses.<sup>9</sup> In other jurisdictions, data has been accessible through the equivalent of freedom of information requests.<sup>10,54</sup>

### **6.2 What is the real picture for small tobacco retailers right now?**

It has been reported by a leading market analyst, Steve Koukoulas, that: “[Australian Bureau of Statistics] ABS data show the volume of tobacco consumed in Australia fell 22.2 per cent from the December quarter 2012 [to the December quarter 2015], a staggering fall in context of 5 per cent population growth and the on-going expansion of the economy.”<sup>61</sup>

In June 2015, the Sydney Morning Herald analysed the drop in tobacco consumption, again using ABS data, noting that household tobacco consumption and expenditure volume fell 10.1% over the past 12 months, and 17.5% in the past two and a half years, according to the seasonally adjusted data.<sup>62</sup>

In March 2016, The Age reported that a health policy specialist had analysed the volume of tobacco sales across Australia and found that it had fallen 48% over 10 years. That’s a drop of 4.8% sales volume, on average, each year. The conclusion was that remaining smokers are smoking at least 30% less than they did 10 years ago.<sup>63</sup>

The following section uses Victorian data, assumption and informed speculation to attempt to provide some basis for Quit Victoria’s opinion that tobacco is already unlikely—and becoming even less likely—to be the consumer good keeping small retailers across the state in business. In Victoria, only about one-third of all cigarettes (33.1%) are purchased in small

businesses—convenience stores/milk bars, tobacconists, small independent supermarkets and newsagencies—across the entire state (from Table 2).

The smoking prevalence in Victoria is 12.6%, meaning there is an upper estimate of 720,000 daily smokers in Victoria. (The number of cigarettes consumed by people smoking less than daily has dropped significantly across Australia, as mentioned above, but for ease of calculation is not factored into these speculations.) Assuming that each smoker consumes, and thus purchases, one packet of cigarettes each day (an overestimate based on NDSHS data on tobacco consumption), a back of the envelope calculation using the usual purchase place of cigarettes suggests about 238,000 packets of cigarettes are being collectively sold by small businesses each day across the state. If we have approximately 8300 retailers across Victoria (based on figures provided to the Department of Health by the Municipal Association of Victoria in 2013), that would mean only 29 packs were being sold each day in each small business outlet. And, of course, that assumes an equal sale in each business. In reality, some city businesses in good locations will sell more and some rural and regional shops might sell only a handful of packs each day.

Retailing groups, including Master Grocers Australia, report there are low profit margins from the sale of tobacco products (and have been for many years). It is worth considering, too, the outlay for the stock in hand is likely to be quite a burden on small retailers. There are approximately 20 brands of cigarettes typically available for purchase at retail outlets and, with multiple packs of each brand “needing” to be stocked, there is an expensive volume of stock sitting on the shelf of a small business. A high stock outlay and a slow turn-over are not good for a small retailer.

Putting this all together begs the question: are small businesses **really** relying on tobacco sales as a principle income stream?

Quit Victoria expects that, given the low profit margin from cigarettes and the low turn-over of cigarettes, the implementation of any retail licensing fee may result in some taking the business decision to not sell tobacco products. From a public health perspective, this is a good outcome. This could potentially be a good business outcome, too; freeing up prime retail space and the cost of holding expensive low profit stock that can be used to sell more profitable items. A proactive decision by a small business to drop cigarette selling could also be celebrated for its approach to corporate social responsibility.

In the past several months, Quit has noted a small but growing number of outlets (including two large petrol station chains) have greatly decreased the marketing "real estate" and

exposure given to cigarettes (recalling that marketing is still happening at point-of-sale by virtue of price boards and visible, but closed, cabinets). In one instance, the cigarette cabinets were out of sight under the front counter, and not visible to customers, with the wall behind the counter displaying small electronic goods. In several other instances, the cigarette cabinets are hidden behind large posters (for another product) and the “price-board” has been a laminated A4 piece of paper stuck to the side of the cabinet and barely visible. The insight from an experienced marketing professional working at the national level in fast moving consumer goods is that this suggests the profit, and thus prominence, of tobacco has decreased to the point that cigarettes are being actively relegated to lesser prominence in outlets that have rapid turn-over of other consumer products.

We note that Aldi, the fastest growing supermarket chain in Australia, does not sell cigarettes.

### ***6.3 How to cap retail outlets to mitigate risk of small business loss***

The Queensland Parliamentary Committee requested we consider whether it would be possible to introduce a cap for retail outlets in order to meet the public health objectives of reducing supply but, at the same time, introduce measures to mitigate the potential loss of small tobacco retailers.

With respect to capping the outlets, Quit Victoria believes that the public health objective must be considered paramount. Large supermarkets are, in our opinion, far less likely to be in breach of tobacco legislation as they provide extensive training and are far more risk averse with respect to sales to minors. Additionally, the place of unplanned purchase (“impulse buy”) is more likely to occur in petrol stations, convenience stores/milk bars, tobacconists and small independent supermarkets, particularly when close to the smoker’s or quit attempter’s home (refer 3.4 and 3.5).

Quit suggests that such a cap can only be modelled when data on the proximity of retailers to schools, the location of retailers within neighbourhood zones and the density of retailers are known.

## **7. Conclusion**

Quit Victoria congratulates the Queensland Parliament for continuing to lead the Australian charge to reduce the physical, financial and social costs of tobacco use. Victoria should certainly be looking to Queensland as a role model when it comes to smokefree legislation.

With 3,700 Queenslanders killed by cigarettes and \$6 billion of Queensland's tax dollars going to combat tobacco-related diseases every year, there is a compelling need for brave decisions that will reduce access to cigarettes.

We thank the Health, Communities, Disability Services and Family and Domestic Violence Prevention Committee for the opportunity to make this submission and commend the Queensland Parliament for considering the introduction of a retail licensing scheme and the regulation of retail outlets that sell such a toxic, addictive product.

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## **Appendix I. Policy frameworks supporting regulation of tobacco retailing**

### ***The World Health Organization's (WHO) Framework Convention on Tobacco Control***

The WHO Framework Convention on Tobacco Control (FCTC) supports licensing schemes: it frames references to licensing in terms of a means to control advertising, promotion and sponsorship (Article 13 Guidelines), to provide cessation support services (Article 14 Guidelines), to help prevent illicit trade in tobacco products (Article 15 (7)), as well as using licensing fees to provide potential funds for administration of tobacco product regulation (Articles 9 and 10 Guidelines).<sup>59</sup>

As a Party to the FCTC, Australia has an obligation to implement a range of measures dealing with demand reduction, supply reduction and international cooperation.

The Guidelines for implementation of Article 13 suggest that licensing of tobacco manufacturers, wholesale distributors, importers and retailers can be an effective method for controlling advertising, promotion and sponsorship. The guidelines state that with deterrent sanctions in place such as withdrawal, non-renewal or cancellation of a licence if licensees failed to comply with legal requirements, court proceedings could be avoided and illegal practices ended through means such as contacts, meetings, warnings, administrative decisions and periodic penalty payments.

### ***The National Preventative Health Taskforce***

In 2009, the National Preventative Health Taskforce included regulating the manufacturing and further regulation of the packaging and supply of tobacco products as one of the key action areas for tobacco control.<sup>2</sup> Specifically regarding the supply of tobacco products, the Taskforce recommended tightening and enforcing legislation to eliminate sales to minors and any form of promotion of tobacco at retail level, including that all state and territory governments should:

- require all tobacco retailers to be licensed to aid communication of government regulations and as a means of ensuring enforcement of those regulations (for example, any retailer who knowingly sells tobacco products to minors is unfit to hold a licence);
- legislate to preclude sales through vending machines, internet, at hospitality and other social venues

- review and if necessary legislate to put the onus of proving age on retailers and to increase the penalties for breaches, and
- ensure licence fees are high enough to cover the cost of education on the legislation, compliance testing and investigation of prosecutions at levels necessary to ensure universal compliance.

### ***National Tobacco Strategy 2012-2018***

Among the priorities articulated in the *National Tobacco Strategy 2012-2018*<sup>5</sup> is consideration of further regulation of the supply of tobacco products, including:

- Strengthening efforts to monitor and enforce legislation prohibiting the sale of tobacco to minors
- Considering and exploring further regulatory options to implement tobacco licensing schemes for retailers and wholesalers.
- Examination of the potential benefits, feasibility and best practice regulatory approaches of placing controls on the number and type of tobacco outlets in the community.

The Strategy states: *“A positive tobacco licensing scheme, which links compliance with tobacco control legislation to the right to sell tobacco products, is generally recognised as best practice. Licensing schemes provide a mechanism to vet potential retailers and ensure they are aware of their responsibilities and are a ‘fit and proper’ person to sell tobacco.”*

The federal government and all state and territory governments have endorsed the National Tobacco Strategy.