



28 August 2015

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

Dear Research Director

Tobacco and Other Products (Extension of Smoking Bans) 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 Products (Extension of Smoking Bans) 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 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 areas.

The following issues have been identified and should be taken into account in consideration of the Bill:

Consistent Approach

In summary, the LGAQ supports in principle a consistent approach to smoke free areas across the State. A consistent approach removes doubt over where people can smoke and those areas that are prohibited. However the LGAQ maintains that flexibility and discretionary powers for councils to take enforcement action is required and deemed most appropriate giving consideration to local circumstances.

Enforcement

Further to the above, support for this Bill is conditional on the fact that enforcement of the laws is to the discretion of councils and any mandatory enforcement is carried out by the State Government. The Bill proposes to expand smoke free areas including outdoor malls, public transport waiting points, skate parks, government buildings, public swimming pools, and pop up stores. 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. Current joint patrols with Queensland Police Service do assist in achieving compliance with legislation, however are both labour intensive and require a coordinated approach across agencies.

Councils currently have the discretionary powers to impose bans. The removal of the discretionary powers of councils to respond to smoking issues and designate smoke free areas, does have the capacity to create unrealistic community expectations and jeopardise a balanced approach to enforcement currently adopted by councils. The removal of this discretion could give rise to an inability for councils to meet increasing community expectations around enforcement.



Education

The LGAQ provides conditional support of this Bill with the development and implementation of a comprehensive State-wide education and awareness campaign to ensure success with behaviour change. This should be followed up by a proactive enforcement strategy prior to and at the commencement of legislation.

Infrastructure

There are 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 Bill would have significant impacts on councils in removing existing infrastructure (eg. "butt bins"), relocating infrastructure to suitable/permitted areas and the installation of revised/new signage to proposed extension areas.

The LGAQ recommends a further analysis of the infrastructure costs on local governments and that adequate resourcing is available to offset associated cost impacts.

Penalties

The proposed penalty for a person (i.e. 20 penalty units) is considered by some councils as excessive. Some councils currently provide a 10 penalty unit fine for a person smoking in a smoke free area. Unpaid fines are referred to SPER and as such a higher penalty amount would likely mean a greater proportion of unpaid fines being transferred to SPER.

Additionally, the proposed penalty unit provision for suppliers (i.e. 40 penalty units) could be considered to be too low given the commercial nature of the activity and the need to provide a deterrent to the suppliers.

The LGAQ recommends a more detailed analysis of the proposed penalty units and subsequent impacts prior to implementation.

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 (07) 3000 2212 or at Robert.Ferguson@lgaq.asn.au.

Yours sincerely

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