



HEALTH, ENVIRONMENT AND AGRICULTURE COMMITTEE

Members present:

Ms KM Richards MP—Chair
Mr SSJ Andrew MP (via teleconference)
Mr CD Crawford MP (via teleconference)
Mr JR Martin MP
Mr R Molhoek MP
Mr ST O'Connor MP (via teleconference)

Staff present:

Dr J Rutherford—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE TOBACCO AND OTHER SMOKING PRODUCTS (VAPING) AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Wednesday, 10 July 2024

Brisbane

WEDNESDAY, 10 JULY 2024

The committee met at 10.01 am.

ACTING CHAIR: Good morning. I declare open this public hearing for the inquiry into the Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024. I am Kim Richards, the member for Redlands and acting chair of the committee. The chair, the member for Thuringowa, sends his apologies that he is unable to attend as he has a very deep interest in this inquiry. I want to start by acknowledging the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. We are very fortunate in this country to have two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all now share. Other committee members with me here today are Mr Rob Molhoek, the member for Southport and deputy chair, and Mr James Martin, the member for Stretton. Joining us via teleconference are the Hon. Craig Crawford, member for Barron River; Mr Stephen Andrew, the member for Mirani; and joining us at 11 am will be Mr Sam O'Connor, the member for Bonney.

The purpose of today's hearing is to assist the committee with its examination of the Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024. The bill was introduced in the parliament on 12 June 2024 by the Hon. Shannon Fentiman, the Minister for Health, Mental Health and Ambulance Services and Minister for Women, and referred to this committee for detailed consideration and report. This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Witnesses are not required to give evidence under oath, but I remind everybody that intentionally misleading the committee is a serious offence. The proceedings are being recorded and broadcast live on the parliament's website.

LANG, Ms Rebecca, Chief Executive Officer, Queensland Network of Alcohol and Other Drugs Agencies Ltd

TAYLOR, Mr Robert, Manager, Policy and Engagement, Alcohol and Drug Foundation (via teleconference)

ACTING CHAIR: I now welcome our first witnesses. Welcome. Over to you for an opening statement and then the committee will have some questions for you.

Ms Lang: I would like to also acknowledge the traditional owners of the lands we are meeting on here today, the Yagara and the Turrbal peoples, and pay my respects to elders past and present. Our interest in this policy discussion and this legislative reform is that we are concerned that the existing number of adults who wish to use vaping products, not as a smoking cessation device but rather just as an alternative to smoking, will not be sufficiently accommodated to achieve the desire of ensuring that these products are not available to children and young people.

We have a long history of evidence in Australia that criminalising possession of substances is particularly problematic without actually reducing the prevalence of use in the community but rather just adding to the risks for people who do choose to use. Particularly in an environment where tobacco products are still widely available in the community, our argument would be that we need to take a careful look at how we regulate vaping products to minimise the risks around the additives that are a cause for concern for some people while at the same time not pushing so hard into a restricted market so that adults who wish to vape, not for the purposes of smoking cessation—so they do not want to go and get a prescription—will be the people who sustain that unregulated market that then is available to young people and children. That is primarily our interest in this.

One of the things that is really problematic in the current drafting is the reversal of the onus of proof. Asking people to demonstrate to the legal system that they did not intend to sell what was in their possession is a fairly significant departure from the way we normally approach the application of the law. Usually the onus is on the state to prove intent, and that, I think in some part, recognises the power differential between an individual and the state. These decisions are going to be made by frontline police officers in the first instance with people that they come across, so there is the potential for these provisions to interact with other policies like wandering, for instance. We know that young people particularly are being targeted out of a concern around knife crime. We know that those

wandering activities are not finding a lot of knives but they are finding a lot of young people in possession of small amounts of substances, and sometimes that will be vaping products. Whatever we can do to reduce contact for that group of people with the criminal justice system and make more available health promotion advice to reduce the potential harms associated with vaping is the angle we would be supportive of.

ACTING CHAIR: Terrific. Thank you very much, Ms Lang.

Mr Taylor: I would also like to thank the committee for the opportunity to appear today and acknowledge the traditional owners of the country that I am joining you from in Melbourne, the lands of the Wurundjeri people in Kulin nation. I am here on behalf of the Alcohol and Drug Foundation. We have been quite involved in this issue both at the federal and state levels. We share some of the concerns that Bec has raised, particularly around criminalisation of individuals. I know the purpose of the bill is to prevent the retail supply of vapes to individuals and that there are those exemptions that Bec mentioned—those defences—within the bill, but we agree that the reversal of the evidentiary burden should not be placed back on the individual. That puts them in a very difficult position.

What ended up happening at the Commonwealth level where this same issue is playing out with the same offence was that they actually ended up removing the offence for possession under a commercial quantity in the Commonwealth legislation that was eventually passed, so our recommendation would probably be to do the same here so that only possession over a commercial quantity is the offence. That being said, we acknowledge that using threshold quantities at all to determine whether or not someone has engaged in supply is very fraught and really problematic, and we know that from the illicit drug space.

Trying to be pragmatic, we know this is how legislation often functions in Australia. Ideally what would happen is the police should need to prove that someone is engaging in supply using contextual evidence. That should be the point. It should not be on an individual to prove that they are not engaging in supply just because they are possessing a certain amount of a substance, in this case vapes or tobacco. Where that is not possible and if the legislation is structured around threshold quantities, which it is currently, then the federal government addressed this by removing the offence of possession below a commercial quantity. Obviously setting what is a commercial quantity in regulation is really important and getting that right and we would really encourage the government to do that through a process of consultation with people who use vapes and illicit tobacco products because of the wide variation that we know people can have in their possession.

The last thing I would add now—there are some more points—is that currently the definition of vaping devices within the bill, I believe, may capture dry herb vapes which people may use to vape cannabis products, particularly medicinal cannabis, and we know that Queensland has a very high rate of medicinal cannabis prescribing and a lot of people are using medicinal cannabis via dry herb vapes. I think this is something that needs to be looked at because criminalising the individual for accessing their medication is probably not the intended outcome of the bill, so that might need to be made clear as an amendment. I think I will stop there and am happy to take questions.

ACTING CHAIR: Terrific. Thanks very much, Mr Taylor. That was helpful.

Mr MOLHOEK: Mr Taylor, I ask you to elaborate a little bit on, I think the term used in the submission was, further harms. You suggested that by criminalising the use or possession of vaping products there are further harms as a result of that activity. I am just wondering if you could elaborate a little bit on that for the interest of the committee and for the public record.

Mr Taylor: Of course. We see this in a similar way to the criminalisation of illicit drug use and personal drug use and possession in that the majority of the time the harms associated with criminalisation can outweigh the risks of use of a particular substance, whether that is a vape or a drug, and we know that criminalisation for personal use and possession, as Bec mentioned earlier, is not an effective deterrent. It has never been and it continues to not be a particularly effective deterrent, so that is why we advocate for decriminalisation of the use and possession of all substances. We think drug use and vaping and tobacco use are a health behaviour and should be treated as a health behaviour. It should have a health response. People who may be at risk of harm should have access to information, services and interventions that may help them reduce harm and we should not approach this as a criminal issue but rather work on educating and improving people's awareness of risks so that they can reduce their harm.

Mr MOLHOEK: I understand what you are saying, but you talked about further harms, so what would some of those harms be?

Mr Taylor: Specifically if someone is arrested for the possession of a vape and they go through a legal process there are financial harms associated with that if they are fined. If they go through a legal process that ends up with a conviction in a more serious case that can affect employment and it can affect relationships. These are the harms that we are talking about from criminalisation.

Mr MOLHOEK: Okay; thank you. Perhaps Ms Lang would like to comment on that as well?

Ms Lang: I support everything that Robert just said. I would add that we have a good understanding about what health responses are beneficial for people who use substances and actually our expanded police diversion program is an example of how we are moving towards reducing police contact for people who use drugs so that then frees up their time to focus on other things while we increase our health responses. The state is currently investing an additional \$1.645 billion in the mental health and alcohol and other drugs system under Better Care Together. Those services are voluntary and confidential, for the most part, and that is what we would say is the appropriate response to substance use—that is, to make services available for people where they get into trouble, noting that a lot of people who use substances do not experience problems beyond the risk of criminalisation for their use.

Mr MARTIN: Thank you for those submissions. The committee has heard evidence that vaping does not actually assist smokers to quit, and I heard in your initial submission that your organisation might have a different opinion to that. Do you have other evidence or is there an argument about that evidence?

Ms Lang: The reality is most people who cease smoking do so spontaneously with no support. Where people do access aids to stop smoking, sometimes their goal is to reduce their use of tobacco, rather than stop it all together. I think this sometimes clouds the evidence about effectiveness. I suspect that all of the differences we have about whether it is an effective smoking cessation device or not are actually framing issues in the research rather than fundamental issues around whether or not it does work. The nicotine replacement therapy is very well-established in the evidence base. You can walk into any supermarket in Queensland and purchase lozenges or gum that have nicotine in them. Our Quitline regularly prescribes these things to people. For some people, that method of consuming nicotine will not satisfy the cravings or the habit that they formed in smoking an actual cigarette, which is where vaping can be useful. We step outside that.

One of the things I find really strange about this policy conversation is the focus on the therapeutic use of the vape, and I think partly that is because the public health lobby has been leading the conversation from the civil society perspective. Our argument would be that having someone transition from smoking tobacco to vaping is a win from a harm reduction perspective because the tobacco, when smoked, has obviously really strong associations with a range of cancers and a whole range of other health problems. While the evidence base around vapes is emerging, what we are seeing is that a lot of what is causing the issues are the additives. Our argument would be regulate the additives, quality control the market and you reduce a lot of the harm because the harm of nicotine is also well understood. If we just focused on applying the things that we know, which is educating the public about the real risks that they might be facing, as well as the opportunities to exit from any type of nicotine consumption, that will be our best bet.

Mr MARTIN: The other thing that the committee has seen is a massive increase in vaping of so-called vapes that do not contain nicotine, but when they are sent off for testing, we are finding a large percentage of them do contain nicotine. Is there not a public-good argument, would you not agree, to try to reduce the spread of these vapes amongst the community?

Ms Lang: I agree with that entirely, but how we get there is the conversation that we are having. Arguably, those vapes that are billed as not containing nicotine but actually contain large amounts of nicotine are a by-product of the policy decision that was made by the former federal government to make liquid nicotine only available by prescription. In limiting the market's ability to sell nicotine-containing vapes, then you get the enterprising individuals who sneak things in by not labelling them properly. We argue that a properly regulated market that adults could access legally would have more effect at reducing the prevalence of those types of vapes in the market than our current approach. You close off people's access. In drug policy, it is known as the balloon policy—you squeeze one end of the balloon, the air does not disappear; it goes to the other end of the balloon. Where we restrict access to legal avenues to access substances, people will choose non-legal ways to access those same substances because we have never been effective in reducing use to zero, and any policy that seeks to reduce use to zero is likely to fail.

ACTING CHAIR: You see that moving into a more underground criminalised area, organised crime?

Ms Lang: I have been in this role for 12 years now and it is only in the last two years that organised crime has start attacking tobacconists, so that to me says something is wrong with our policy settings. I do not have evidence to support this other than my own eyes, but there are more tobacconists available; they are popping up everywhere all of a sudden, which tells you how the free market works. Where there is a demand for a product, people will step in to meet that demand. When we focus on restricting supply, we are not doing anything about demand, and demand is really where the main game is at.

Mr MOLHOEK: I do not know if you read my statement of reservation on the previous report, but I raised concerns about prohibition versus regulation of the industry. Other mainstream tobacco products are regulated, but now we are seeing chop-chop shops opening everywhere. I am not sure that regulating is going to work when there are issues around price and you can buy a packet of cigarettes for \$20 versus \$100 or \$70. How do you deal with that illegal element that is still functioning? Neither option seems to be working.

Ms Lang: Great question. There is an argument that what is going on with chop-chop is a different issue. The indexation of taxation on legitimately sold cigarettes has been in place for a long time now, such that we have pushed the legitimate market price beyond the reach of some parts of the community. Again you see people do not stop. The reason we indexed cigarettes in the first place was to put a bit of price pain on people who use, to encourage people to smoke less or to stop. There is a point at which the effectiveness of that as a strategy starts to wane. I think we are there. I know there are people who will disagree with that. The existence of the chop-chop market, which was very small 10 years ago, now is estimated to be as much as 25 per cent of the market, is evidence again that our policy approach is not quite working. I do not know how we bring the price of regular cigarettes back, because we are not very good at reversing taxation decisions in this country, or reconsidering our taxation decisions, but, absolutely, moving people into vapes might have some impact on that illegal chop-chop market as well. However, if we keep the limitations around that really strict, then we will not see the full benefit.

Mr MOLHOEK: If you regulated vapes in the same way you do normal tobacco products, it would be interesting to see whether the illegal market or the illicit market would continue or discontinue?

Ms Lang: Alcohol is the good example here. In the 1920s in the US, nobody was selling beer and wine, they were selling spirits and moonshine because it was easier to move those products around without detection, but they are higher-harm forms of alcohol than beer and wine. Our alcohol regulation market is not perfect by any means, but it does give us a bit of a model for how we might approach these things as we have licensing for the suppliers of the substance and we have rules around age limits for who can access it. Sure, we get some leaking out into the market so that people we do not want to be drinking do get access to it, but what they get access to is labelled and we can tell them exactly what is in it. Information is power, I suppose. The other thing I think we should be moving towards is monitoring our systems a little more closely so that we can pick up these trends and see how the policy is working in real life and adjust our policy settings on the way through. We tend to set and forget, and then wait until we notice that there is a really big problem and then react to that. If we could move our system to one where we keep an eye on how things are going and are more agile in the way we can respond, then we will get a better result.

Mr Taylor: Will it be okay to jump in and add a couple of things?

ACTING CHAIR: That is fine, Mr Taylor.

Mr Taylor: All of the points that Bec has raised around where we position our supply status around a product is going to determine the types of harms we experience. It is all things that we agree with. Certainly, the situation where we have had very limited access to vapes here has been a big factor is creating the illicit market, but also, because of the way we went down this pathway, regulating vapes as therapeutic goods, we have had a very poor enforcement framework of the states in terms of shutting down illicit supply. We have these two things happening at once which may alter the market. Thinking pragmatically about where we are, the decision to regulate vapes as therapeutic goods have been made. It is not going to work within this framework at the moment. The down scheduling from schedule 4 to schedule 3 that is happening where vapes will be available via a pharmacist without a prescription will go some way, we hope, to lowering barriers to access and, therefore, lowering the incentive for people to access vapes illicitly.

Enacting the Commonwealth legislation that has just passed around being very clear in the states' powers to shut down supply through retailers—which is a bit of a difference between illicit drugs because they are not supplied generally through legal store fronts—I think we will have to wait and see what the outcome is. I agree with Bec's point that having data, having systems that are responsive is very useful.

I will add that New Zealand has gone down the path of regulating vapes more like tobacco. The vaping rate in young adults, the 18 to 24-year-old age group, is the highest in Australia at 9.3 per cent. In New Zealand, 25 per cent of 18 to 24-year-olds are vaping daily. I am not saying that it is necessarily just because of that approach, but you see higher rates of daily vaping in young adults in countries where it has been regulated, like tobacco. Whether that is worth half a per cent less smoking, or three per cent more vaping, half a per cent less smoking—is that a good trade-off? I do not know. It is a health economics question, but we do have a lower vaping rate than a lot of other countries, so that is something to keep in mind.

ACTING CHAIR: Thank you, Mr Taylor.

Mr ANDREW: I cannot get over what I was just hearing about the fact that we are failing on the policy side of it and we are not actually addressing it. Sorry, I do not know your name; I am not in the room at the moment, as you know. What do you think is the correct way we can fix this as far as policy development or review? Could you just expand on that for me, please?

Ms Lang: I think the principle for the way we approach regulating substances is we accept that there will be a latent level of demand in the community. What can we do as policy-makers to set the frame such that we make the legal market broad enough that people will choose it, because people do follow the law—they look to follow the law where possible—and that relates to where you can purchase the substance, the type of substance you can purchase and, in this instance, it would be what flavours are available to people and what strengths are available to people. There are some concerns that what will be available through pharmacies will not be of sufficient strength that people will choose it, rather than choosing what they can currently access in the illicit market. If we can get the adult consumers of the products to shift to a regulated market, then that will choke off demand. What is the exact point of that? We do not know. We only have, on the one end, alcohol regulation as a bit of a guide and then illicit drug prohibition as the other end of it.

We are seeing some emergence of what a good market or a good regulation policy settings looks like with medicinal cannabis, as we shift from a purely illicit market into having some access for people, but there are obviously issues with again the TGA being the regulatory body for that. My understanding is that there is no approved product that has been brought to market; everyone is still on the special access scheme. I think we are playing a bit of regulatory catch-up as well, as community expectations change about substance use. We only have systems that are capable of either enforcing a ban on something or systems that are capable of prescribing or gatekeeping prescriptions for something. We do not really have a regulator who is capable of understanding that adults will choose things. We might not agree with those choices, but in a free society, we accept that people will make choices that we do not agree with. So long as they are not hurting anyone else, we accept that that is going to happen.

Mr MARTIN: Mr Taylor, you mentioned in your submission a dry vape for use with medical cannabis. Can you expand on that? How is that different from a normal vape that we have been dealing with?

Mr Taylor: A dry herb vape is a slightly different device, but to my reading of the bill, it fits within the definition of 'vaping device'. A dry herb vape usually has a chamber into which dry herb is placed and then it is heated and that generates vapour. It does not combust, so it is a vape in that sense. That differs from a nicotine vape in that it obviously does not contain nicotine inherently. Generally these dry herb vapes, because they have a chamber that herbs are placed within, are not like a nicotine vape that uses liquid, and hence I think it could be differentiated relatively simply. Someone with more expertise would need to look at that, but I think it is something that the committee should investigate.

Mr MARTIN: Would it not be covered with a prescription anyway?

Mr Taylor: I am not sure if Bec knows, but I do not believe you actually access the vape device through the script. I believe you get the cannabis through your script and then the device is gained separately.

Mr MARTIN: Then you put it in your own device.

ACTING CHAIR: It is a separate device; got it. Thank you very much for appearing before us today. You have made very useful contributions. I note that no questions were taken on notice. Thank you again for your time this morning.

GERANDONIS, Mr Leo, Queensland State Manager, TSG Franchise Management

WRIGHT, Mrs Pamela, Tobacconist

ACTING CHAIR: I now welcome representatives from TSG. Pamela, I believe you have come all the way from Townsville to be with us here today. Thank you very much for making the time to come here.

Mrs Wright: That is all right.

ACTING CHAIR: Would you like to make an opening statement and then the committee will have some questions for you?

Mr Gerandonis: I am the state franchise manager for Queensland and the Northern Territory. I am here representing the TSG Franchise Management group as well as TSG franchisees who are small business owners. We are not big tobacco. TSG supports the government's proposed amendments to the Tobacco and Other Smoking Products Act 1998. TSG management and franchisees support the recognition of police officers as authorised persons under the TOSPA, but have concerns regarding the Police Service's shortage of 4,000 officers and the lack of resource to meet government demands, as stated by David Littleproud MP on 27 March 2024.

TSG and franchisees would recommend the suggested amendment, 'seized goods to be returned within six months with a requirement that they be returned within 12 months', be reconsidered and further amended to allow for the destruction of seized goods within 60 days. The intention to return seized goods may have unintended consequences in, firstly, providing an undue burden on the state to store seized goods for 12 months and, secondly, returning prohibited products to their source leading to further incriminating acts under the legislation. Once evidence of the products seized is obtained and documented, this should act as appropriate evidence without the need to store physical goods. Thank you for the invitation to appear today.

ACTING CHAIR: Mrs Wright, would you like to make an opening statement?

Mrs Wright: I am here representing not just the tobacconists in Queensland; I am here representing small business—the little corner shop that sells tobacco. We are all being affected by the illicit trade. I am really pleased to see that we have larger fines, which I advocated for. In the last inquiry I advocated for a lot of things that are happening now, but, unfortunately, it is like closing the gate after the horse has bolted.

We have big problems in North Queensland—massively big problems. The federal government has banned vaping. All vapes are not to be sold as of 1 July but they are easily accessible. Because all these illicit shops know who I am, I have to use other people to go and investigate for me. We were easily accessing liquid vapes last week at \$60 a pop when they are bringing them into Australia at \$2 and \$3. Forget about the ban at the border and forget about the ban of retail because it is still happening. It will continue to happen until we actually enforce the legislation that we have and that we are proposing now. We can make all the legislation that we like and all these policies, but it is not transferring on the ground. When I report it to the health department, like I did last Thursday, they say, 'It's not our jurisdiction. That is a federal policy. We have not been advised and we probably won't be advised on it until 1 September, when licensing comes in.' What is happening out there? What is happening with this government?

ACTING CHAIR: This is for you to make a statement and not to provide the questions. We are going to question you next if you have finished.

Mrs Wright: Yes.

Mr MOLHOEK: Mr Gerandonis, could you clarify the statement that you have made around seized goods? Are you suggesting that seized goods should or should not be returned? Is there a distinction between seized goods that are illicit and seized goods that may have been seen as being illicit but were subsequently proven to be not illicit?

Mr Gerandonis: It is for the illicit product that has been seized to not be returned. At the moment we are seeing officers taking out of the shops, for example, legitimate product because they are not aware of whether they are legitimate or not, so they can be returned. Obviously, any vapes that are being taken away need to be destroyed. They cannot be returned because of the legislation that is in place.

Mr MOLHOEK: To be clear, what you are saying is that the provisions of this draft legislation would be such that if vaping product were seized then that too would be destroyed and not returned?

Mr Gerandonis: No. The way that the legislation is in place it just says 'seized goods to be returned'. It does not distinguish between illicit or non-illicit.

Mr MOLHOEK: I guess that is something that we should have a look at in terms of technical scrutiny. Mrs Wright, I think you raised some interesting points. We are seeing so many of these illicit retailers springing up. I have probably six or seven in my electorate. It is no longer behind the counter; it is blatantly obvious that they are selling illegal products. Would you say that the Queensland government is failing to address this issue?

Mrs Wright: Failing terribly. These are photos of some of the shops that have opened since the laws came in July last year. These shops opened from September onwards. We have one every 10 days. There are photos of them. They are getting smarter. The first photos are 'tobacco and vapes'. The sign is still there, 'tobacco and vapes', but now they are the Indian Grocer or they are the Townsville Convenience Store.

ACTING CHAIR: You are suggesting that the Townsville Convenience Store is selling illegal product?

Mrs Wright: Yes. They were Townsville Tobacconists and now they are Townsville Convenience and they have moved location. They were the tobacco and vapes store and the sign is still up for tobacco and vapes, but now they are the Indian Grocer. They are trying to confuse. Keep in mind that the health department does not visit those. Very few health department workers will go in there. They will come and visit the legal shops twice in a month. As you are probably aware, licensing does not come in until 1 September. All my stores are licensed. They go and get a search warrant.

ACTING CHAIR: That is the federal government laws from 1 September, just to be clear. You have made a few comments but, to be clear, that is federal legislation.

Mrs Wright: What I am saying is that the Hon. Mark Butler stands in front of the media and says, 'Nothing can be sold. No vapes can be sold. They are illegal.' Aren't they illegal in Queensland, too?

ACTING CHAIR: They are illegal across the country.

Mrs Wright: Yes, they are illegal across the country but they are still being sold.

ACTING CHAIR: You have made a few allegations within your contribution thus far. Probably it would be better for us to talk about those in private after this hearing rather than in the public domain.

Mrs Wright: The other thing that I would like to mention is that people are losing their businesses. In North Queensland, two tobacconists have had to close their businesses in the last month. Those people had been in business for 10 and 20 years. They were not fly-by-night operators. They knew what they were doing. It is because of the illicit trade. It has to stop. Our policies are not working or the action behind them is not working.

Mr Gerandonis: I would add that in Queensland there are seven TSGs that within the last six months have closed and there are two more closing.

ACTING CHAIR: Were TSGs selling vapes?

Mr Gerandonis: They were selling non-nicotine vapes.

ACTING CHAIR: How do you know that they were non-nicotine?

Mr Gerandonis: Health officers have been visiting and they have been testing them and then the suppliers that we were—

ACTING CHAIR: So you have seen reports that have done that scientific testing?

Mr Gerandonis: I physically have not seen it. The store owners get those reports. Obviously, if they are found to have a trace of nicotine then they are confiscated. That is the only thing that I know.

ACTING CHAIR: It would be fair to suggest that the rapid rise in the usage of vapes, which is within the last 18 months, would be the significant impact on your traditional tobacconists. In terms of the rise of vapes and trying to keep up with that, it would be a significant impact to some of your businesses, Mrs Wright?

Mrs Wright: Yes. It is not just the vapes. It is the illicit tobacco shops that are selling the vapes.

ACTING CHAIR: It is a combination of both.

Mrs Wright: It is a combination of both. The fact is that it is the foot traffic and the continual excise prices that the federal government insists on putting on, trying to drill more revenue. The illicit trade in vapes and tobacco is a \$9 billion industry now. The federal government is losing about \$4.68 billion in excise. That is excise alone. It is a \$9 billion industry. Rohan Pike, who was an AFP policeman in charge of things, will say that you cannot stop it.

ACTING CHAIR: Ultimately, Mrs Wright, you are very much in support of this bill because what it seeks to achieve is to stamp out the illicit trade of tobacco and vapes?

Mrs Wright: As long as there is action.

ACTING CHAIR: That is why the bill is here and it is why we have you here before us today. Enthusiastic supporter. Member for Stretton, do you have a question?

Mr MARTIN: No, questions.

ACTING CHAIR: Member for Barron River, do you have a question?

Mr CRAWFORD: No questions, thank you, Chair.

ACTING CHAIR: Member for Mirani, do you have a question?

Mr ANDREW: I have a question. It is good to hear your voice, Pam. It is usually a frustrated one over the phone. I am sorry to hear that you are still having to go through this. Could you furnish the committee with a list of illicit tobacco shops that you know of so that maybe we can—

ACTING CHAIR: Member for Mirani, I am not sure if you were listening before but I have asked to have that conversation in private with Mrs Wright after the hearing rather than in the public domain.

Mr ANDREW: I was not going to ask for it right now. I was going to see if we could actually request the list.

ACTING CHAIR: We will have that conversation off line, member for Mirani. If you want to move on to the next question, that would be terrific.

Mr ANDREW: Obviously, they are morphing and changing their names. What else have you seen that the government should be looking out for with the illegal trade?

Mrs Wright: Leo will probably be able to tell you a little bit more. They are bringing in a little satchel that they buy in a tin. It is full of nicotine. It has not hit North Queensland yet or I have not seen it out there, but it is rife in the southern states. It is a little satchel that they stick in their mouth.

ACTING CHAIR: They are like little pods.

Mrs Wright: It is like a little pod. Once these illicit traders cannot sell vapes anymore, guess what they are going to be doing? They will be selling those to our kids. I do not want young children or my teenage grandchildren to be smoking or doing any of this sort of thing, but it is so accessible because of the illicit shops. It all boils down to us shutting the supply down and making it inaccessible or not easy to get out of your car and walk into a shop. That is where it has to go now because we cannot stop it any other way. We have to have the resources and the government has failed, federal and state, to supply those resources.

Mr Gerandonis: So enforcement is the key.

ACTING CHAIR: Enforcement is the key but we actually have to have the legislation in place in the first instance, which is what we are here today to do.

Mr ANDREW: It has morphed into a nicotine teabag?

Mrs Wright: Yes.

Mr ANDREW: That is the next step?

Mrs Wright: Yes.

Mr ANDREW: Do you have any photos of those that you could give to the chair in your private conversation so that we can understand what they look like? That would be great, thanks, Pam.

Mrs Wright: I do not have any but we can dig them out.

ACTING CHAIR: As the member for Southport rightly points out, this bill absolutely addresses nicotine as a liquid substance which, in my understanding and interpretation—

Mr MOLHOEK: And any other forms.

ACTING CHAIR: And any other forms. It is covered. We are trying to be ahead of the bell curve, Mrs Wright.

Mrs Wright: Okay.

Mr MOLHOEK: I wanted to make the comment that the legislation has been designed to deal with other products beyond vapes, thankfully.

ACTING CHAIR: 'Illicit nicotine products' is definitely in the explanatory notes. There being no further questions, thank you very much for both appearing before us today. There are no questions taken on notice, however we will catch up in a private session to discuss further some of those issues that you raised. Thank you for appearing before us.

NEWTON, Mr James, Head of Policy and Regulatory Affairs, Shopping Centre Council of Australia

ACTING CHAIR: I now welcome from the Shopping Centre Council of Australia, Mr James Newton, Head of Policy and Regulatory Affairs. Thank you for joining us here today. I invite you to make an opening statement and then the committee will have some questions for you.

Mr Newton: Good morning, Acting Chair and committee members. Thank you for the opportunity to speak today. As the committee would be aware, the Shopping Centre Council of Australia is the industry group for shopping centre owners and operators in Queensland and across Australia. Our members own, operate and manage over 140 centres throughout Queensland which comprise more than 10,000 retailers. The Shopping Centre Council has engaged on health and retail crime-related matters with governments, including the Queensland government, over a long period of time, and seriously examines proposed measures which aim to aid public health outcomes and address the rising incidence of retail crime. For instance, we have been pleased to recently work with the Queensland government and Queensland Police on Jack's Law, laws banning the sale of knives and replica gel blasters and other items to people under 18 years old, and the state's Community Safety Plan. We welcome the opportunity to once again assist parliament through this important committee process.

From the outset, the Shopping Centre Council is pleased to support the objectives of the bill, being to enhance enforcement around the rising availability of illicit tobacco and illicit nicotine products. As committee members would be aware, our interest relates solely to sections 209A and 209B, the proposed closure powers. To be clear, we agree with the premise and support the intent of removing the capacity of a business to continue trading for continued and/or egregious breaches of the TOSPA Act. Our sector would have no interest in having or retaining a tenant undertaking illegal activities where they may be unresponsive to enforcement action and continue to engage in the illegal trade of illicit tobacco and/or nicotine products. However, we are concerned about the potential for adverse outcomes brought on by an extended closure order, and that the bill would complicate landlords' ability to exercise their rights under the Retail Shop Leases Act and ultimately regain control of the premises. For instance, it would be a poor outcome if a tenancy were to remain idle for up to six months in terms of reduced foot traffic for the other tenants of the shopping centre, and the costs and administrative burden for landlords and government.

We have recommended that section 209A be amended so that landlords are informed about any intent to issue a 72-hour closure order. However, this goes to the heart of our concern that the bill and explanatory notes do not provide for landlords to be informed about and aid effective enforcement. We are mindful of the concern raised by Mr Martin earlier in the inquiry that part of the issue has been with landlords. We understand the closure orders could be viewed as a necessary threat to landlords and thus an effective enforcement power. Respectfully, though, this assumes that landlords are aware of and turn a blind eye to any illegal activity which is simply not the case with our sector. It is critical then the landlords are informed about any enforcement action undertaken, as we do not know what we do not know. It should not be captured and is an innocent bystander if this is the case. We submit that it would be preferable and likely give rise to an expedited and more effective outcome if those undertaking enforcement actions were obliged to liaise with landlords, and that landlords should be afforded the capacity and position to issue a breach notice and ultimately terminate a lease on their own accord under the Retail Shop Leases Act if the breach is not remedied. However, we would need to establish a clear basis through being made aware of such activities and enforcement actions taken earlier on in the piece.

In short, while we support the ultimate objective of closure orders, we submit that a closer engagement with landlords effecting an outcome under the Retail Shop Leases Act is a far better approach that has not been considered to date, enabled by the bill or acknowledged in the explanatory notes. We do have some concerns as to the form and adequacy of what is documented and may evidence a breach under this approach or otherwise to regain control of a tenancy if it is served with a closure order under TOSPA. We appreciate the opportunity to appear before the committee today and discuss the matters raised in our submission.

We have also discussed these at a higher level with Queensland Health in recent weeks and understand that they are appreciative of our perspective and our want to work more closely with them. We have also discussed the bill with the Australian Association of Convenience Stores which has acknowledged the difficulties the closure orders would pose to landlords in their current form.

On a final note, I regret that our initial submission contained an error with respect to recommendation 1. To be clear, that pertains to section 209A, not section 209B, and I have provided an amended copy to the secretariat. I thank you again for your time this morning. I will endeavour to answer any questions or queries you might have or take them on notice.

ACTING CHAIR: Thank you, Mr Newton. Thanks you for the clarification on your submission.

Mr MOLHOEK: In looking at your recommendations, I understand the intent of recommendation 2 and would not consider that to be an unreasonable expectation. I am not sure about the practicalities of recommendation 1 in terms of intent to issue a closure order. It seems to me like you are asking us to give you the heads-up that we are about to raid a tobacconist or an illicit trader. Can you perhaps just explain recommendation 1?

Mr Newton: I take your point, Deputy Chair. The intent of recommendation 1 could be applied more broadly. It is essentially that there is nothing in the bill or explanatory notes that obliges or suggests that those undertaking enforcement action should speak to the landlords. That might be an appropriate juncture if and when a notice is issued or before when fines are issued. There are a number of different enforcement tools that the bill provides to enforcement officers, but essentially the thrust of that recommendation is a want to be informed as a graduated enforcement response is carried out. Whether it is at that juncture or earlier, essentially it is a want to just be informed. Our read now is that the only juncture that that would happen is when a landlord is served with a six-month closure order and becomes party to legal proceedings.

Mr MOLHOEK: Essentially, what you are saying is that if there were minor breaches or earlier breaches that could lead to a 72-hour closure, the landlord would be interested to know that their tenants are actually breaching the law or at risk of breaching the law?

Mr Newton: Yes, absolutely.

ACTING CHAIR: Is that not something that could be built into a lease agreement with the landlord and its tenant? I would have thought that that was built into lease agreements, that you would have a requirement for your tenant to notify you as the landlord if they had broken the law.

Mr Newton: I can take that on notice and come back to you.

ACTING CHAIR: I would have thought that that is something in a lease agreement; you could manage that process without legislation.

Mr Newton: My understanding is, no, not typically a part of a lease agreement, but I will take that on notice for clarity.

ACTING CHAIR: I would have thought that it would be something that could be quite simply inserted within those.

Mr MOLHOEK: Just on that theme, the other question I had was: in your current leasing arrangements, is there a requirement for a tenant to provide evidence that they are actually a licensed retailer under the new laws that will be coming into effect, I think, in September?

Mr Newton: In current lease agreements?

Mr MOLHOEK: Yes.

Mr Newton: Sorry, the laws on 1 September?

Mr MOLHOEK: There are new laws coming into play where, to actually sell tobacco related products, you have to apply for a licence. Whether you a hotel or a convenience store or a TSG, you have to have a licence that is issued by the Department of Health that says you are a licensed retailer. I would have thought that any standard lease would require a tenant to provide evidence or provide some sort of guarantee that they are legally compliant.

Mr Newton: Absolutely. I would not anticipate that leases on foot would have that as part and parcel. I know that our members are acutely aware of the new licensing regime that is coming into effect shortly. Most of our shopping centres, and in talking to our members, have one, maybe two tobacconists, so I suspect their leasing teams will be in contact to have assurance that that is the case.

Mr MOLHOEK: If it is not, it is probably something that your association should be.

Mr Newton: Certainly.

ACTING CHAIR: It is probably how you approach food handling or anything else that requires licensing.

Mr MOLHOEK: Food handling or liquor licensing, yes.

Mr MARTIN: Thank you, Mr Newton, for raising the issue about landlords. It has really become a key point in what we are looking at. Can I ask from the outset, you are representing the Shopping Centre Council of Australia, would you say that these vape shops that are selling illegal vapes and chop-chop, making a lot of money, currently make good tenants; they pay their bills on time?

Mr Newton: I would not suggest that any of our tenants are chop-chop shops, so to speak.

Mr MARTIN: That is a good answer.

Mr Newton: They are typically franchisees. In preparing to speak to the committee today, I spoke to half a dozen of our members. They have no concerns whatsoever with those tenants. What they did report back is that some of them in regional areas or in CBD locations—for instance, Brisbane—they are aware of less legitimate operators, operating outside of shopping centres that are affecting their trade and turnover. However, from what I have heard from our members, they do not have concerns with tobacconists as tenants or any links to illicit trade of tobacco and nicotine products.

Mr MARTIN: The Shopping Centre Council of Australia is more about the large shopping centres—they are your members?

Mr Newton: Yes. I should delineate us from strip retailers or high-street locations, if you will. That is not our membership.

Mr MARTIN: From my electorate, my understanding would be that in the shopping centres it is managed reasonably well; you do not find these operators in shopping centres, but they are, unfortunately, in other locations. Your concern is that your members do not get caught up in the regulations we bring in?

Mr Newton: Absolutely. Ultimately, what we are trying to say is that we agree with the intent of the bill. If there is continued egregious breaches of the expectations of government, then arguably that retailer should be out of business. Our issue is with the closure orders which would make it difficult. It may make us a party to an up-to-six-month long proceeding. Ultimately, it is similarly intended to force a retailer into insolvency. What we are asking is that if we are able to engage with those undertaking enforcement, and with the appropriate documentation and proof, we can initiate a separate process to find a tenant in breach of their lease. We can issue a breach notice and have a period of time for them to remedy it, and then we can take steps under the Retail Shop Leases Act which would essentially be looking to achieve the same outcome as the bill does, but without the complications of a closure order. That is essentially what we are asking for.

Mr MARTIN: But you do not have a problem with the idea that a shopping centre owner has an obligation to make sure that one of their retailers is not engaging in illegal activity; you do not have a problem with that?

Mr Newton: What do you mean by 'an obligation', sorry?

Mr MARTIN: I think you mentioned in your statement that you do not know what you do not know, but the truth is you can look the other way. People can look the other way if people are paying their rent on time and they are a good tenant; they happen to be making money selling illegal vapes. I think, from what I am hearing, from what you are saying, is that the Shopping Centre Council of Australia does not have an issue with having legitimate retailers and you would not support having your own retailers essentially breaking the law?

Mr Newton: There are a few points to that. To be very clear, in speaking with our members, they do not turn a blind eye to this. That is not in their nature. Many are publicly listed companies or with private investors. That is a risk and it is a risk that would be brought to the shopping centre's reputation and from a criminal perspective as well. It is absolutely not in our interests to have or maintain those tenants.

Mr CRAWFORD: I am interested in this theme that we are talking about here. What happens in relation to other regulated things? I will use an example of a massage therapy shop in one of your centres that is investigated by police for, say, illegal prostitution activities or something like that? Is it managed better in that frame from a tenancy-landlord perspective? Are there notifications and those sorts of things there? I am trying to work out if there is already a system in place involving the shopping centre management through things that are regulated by law? Are there any examples that you know of?

Mr Newton: I would probably draw the parallel with food safety inspectors. That is regulated by government and they will come in and do have the capacity to shut a tenancy for a period. The difference there, in contrast with section 209B, is that it is generally a short-term closure and it

provides that tenant with the opportunity to remedy the breach. An up to six-month closure does not. That is regulated effectively and then we can work with the tenant to bring them back up to trading again.

Mr CRAWFORD: I understand. Obviously with a food situation it is about enforcing clean-up and hygiene standards but there is every chance that the tenant is going to be able to trade again, whereas in the situation we are talking about with illegal tobacco and the like, they are probably out for good. It is a really interesting area and it is probably something we had not really thought much about or heard much about before in respect of that. We do not want to see you having a boarded up shop in one of your shopping centres for six months unnecessarily. Thank you.

Mr Newton: Thank you for that. That essentially goes to the heart of the concern. There is a want to work with those enforcing the act and essentially aid them. We can expedite a process and do it much more efficiently and effectively if it is done under the Retail Shop Leases Act and with accepted processes, norms and procedures we have in place at the moment.

ACTING CHAIR: Thank you very much. Our time for this session has expired. Thank you very much for appearing before us. We had one question taken on notice with regard to the insertion of criminal behaviour within existing lease agreements and the way it would be dealt with. If you could have that back to us by 17 July that would be terrific. Thanks very much.

Mr Newton: Thank you.

ACTING CHAIR: I call our next witness.

MADDOX, Dr Raglan, Associate Professor, Tobacco Free Program, National Centre for Aboriginal and Torres Strait Islander Wellbeing Research, Australian National University

ACTING CHAIR: Welcome. Would you like to make an opening statement and then the committee will have some questions for you?

Dr Maddox: First of all I want to acknowledge the traditional owners of the land on which we meet and their elders, past and present. I also want to acknowledge youth and young people. I want to acknowledge those future generations that will hopefully be taking nicotine-free futures into tomorrow and living healthy, prosperous lives. I also want to give my strong support for the bill. It is responsive to community needs and asks, and helps to uphold the fundamental right to health.

We have known for over 70 years that when use is directed, commercial tobacco kills and yet we sell it pretty much as an everyday consumer product. We know that the vast majority of people who use tobacco want to quit or wish they had never taken it up. We also know that in recent years we have seen an exponential growth in vaping and vaping retailers, as we have heard this morning, which needs to change. We have heard communities probably since COVID—and I appreciate that communities have gone through a lot in recent years. The health department and others have done a lot in terms of responding to COVID and other challenges, but we have seen an exponential increase in retail availability and exponential growth, particularly among young people and people who do not smoke.

As we have heard this morning, obviously the recent federal changes will help to address that or help to enforce those pieces. Importantly, I think it will give confidence to Queenslanders across the state—across urban, regional and remote locations—to have consistent public health messaging and support addiction-free behaviours. I think that is what is really encouraging. I think that sort of responsiveness to community asks is really important. Our centre has done a lot of work across Queensland in the last couple of years in response to community asks and we have heard of the frustrations about stores and predatory behaviour in regularly selling highly addictive products that are harming people without the ability to enforce that. I wanted to start there.

The last thing I want to say is there was frustration in terms of expectation from community members across the state that more work would happen. There were calls for an inquiry into the tobacco industry and also vaping. I want to make sure that was clear and acknowledge all the hard work that you do. Thanks very much.

ACTING CHAIR: Thanks very much.

Mr MOLHOEK: Thanks for appearing today. Just reading through your submission it sounds like if we could wind the clock back, you would be wanting to ban everything. I do not say that in a disparaging way. I understand your frustration. I think for the public record it would be helpful to talk about the impact of tobacco and other illicit products on your communities.

Dr Maddox: It is an interesting statement. Thanks for the question. I think if we go back in history it is quite an interesting lesson. I will give a quick recap on some of those things but also acknowledge that it was not that long ago that we were saying that if we knew about all the harms of commercial tobacco products, it would not be at every Woolworths and Coles and every convenience store. We have a new product that is coming out and we continue to learn about the harms that it is generating and learn from other mistakes and other things we might have wanted to do better and how we can learn from that.

To recap, commercial tobacco products were brought over by Captain Cook and used through the colonial process. They were used in reciprocity to have good relations. Aboriginal and Torres Strait Islander people were excluded from the cash economy and the education system and were paid in rations of flour, sugar, tea and tobacco, obviously a highly addictive product that when used as directed kills. Two out of three people who use tobacco products will die from tobacco and, on average, 10 years younger. If we are thinking about commercial interests and other things, if our consumers can live another 10 years longer we can continue to profit and the knowledge and languages and other things can continue to thrive.

Aboriginal and Torres Strait Islander people were paid in rations of tobacco up until the late sixties and that entrenches and normalises a behaviour that is highly addictive and also harmful. We know today that 37 per cent of Aboriginal and Torres Strait Islander people die from tobacco related disease. We know that of those aged 45 and over, it is one in two; so 50 per cent of Aboriginal and Torres Strait Islander people will die from tobacco use.

It is interesting as I sit here today during NAIDOC Week celebrating Aboriginal and Torres Strait Islander people and everything they bring to this diverse country to think about life without systematically embedding a highly addictive product that is killing people. The types of celebrations, the languages, the culture obviously continue to thrive but there could be a lot more. One of the things we have heard is frustration in people who are trying to quit that they know when they leave the doctor they can buy tobacco products at every convenience store. If they were trying to give up crack or any other highly addictive product, they would not have to walk past their dealer to get to the doctor, whereas they do with tobacco products—and anyone who has had an addiction knows how hard it can be to give up an addiction. These are highly addictive products.

The other thing I want to raise—and I note the discussion about taxes—is there are people who do not use products. It is a lot easier not to take up a product than it is to quit. We know addiction is hard. If those young people do not have access to addictive products, they will not use them. We have an opportunity to learn from the last 70 years of tobacco control. I acknowledge the work of communities; we have seen a 10 per cent reduction in tobacco use since 2004-05 amongst Aboriginal and Torres Strait Islander peoples, so there have been massive declines, particularly among young people. We know that people want to quit and are quitting. How do we support them? Things that communities have been asking for include reduced retail outlet availability. That should help them quit because they do not want to be smoking; they do not want to be dying. They want to be healthy and strong and good role models for their communities.

Mr MARTIN: I have a quick question in relation to some of the research that you and your organisation have been doing. I want to ask about the uptake in Indigenous communities of vaping and in particular non-nicotine vapes, although the committee has heard that a lot of those vapes do contain nicotine. Could you share your thoughts with the committee on that?

Dr Maddox: That is a great question. I think the federal legislation helps to address that loophole between nicotine and non-nicotine vapes. One of the challenges we have heard across the state is that people might be taking up or purchasing 'non-nicotine products' with the idea that there is no nicotine in them. However, we know that the vast majority of non-nicotine vapes actually have nicotine in them. I wish I could count the number of focus groups and interviews I have had, including with young people, who would talk me through how they use their vapes, including sleeping with their vape under their pillow so they can suck on these vapes. As we talk through it they realise, 'Actually I'm probably addicted to this product. This product probably has nicotine in it. I get head spins. I need to have my vape on me at all times otherwise I get anxious. If I don't know where my vape is I get anxiety. I need to know if I am going to the mall that I can duck out and have a vape.'

One of the challenges we see with vaping is the social restrictions that Australia has embedded within our society for tobacco use—we do not smoke in here but you could probably vape and get away with it. We see that in shopping centres and movies and I have seen that on planes and all sorts of places. One of the challenges and one of the things we have heard across the state regardless of whether they are labelled nicotine or non-nicotine is that they would like structures and societal rules essentially embedded that mean we have some restrictions so that they cannot vape everywhere; they cannot smoke everywhere because having those sorts of restrictions helps them to stop or to wean off an addictive product.

Across urban and regional and remote locations across Queensland we have heard that people will take up smoking to get off the vapes because there are restrictions. That is for a couple of reasons. One is because it is expensive; it is way more expensive than vaping, as we know, but also you cannot light up a cigarette in a theatre or in your car. Your aunty, your uncle and your mum will know if you are smoking, but you can probably get away with vaping. Those types of restrictions to support particularly young people grappling with addiction, mental health and social media and everything that comes with that, peer groups, everyone having access to that product is something that communities have been asking for. 'How do we get off this highly addictive product because when we were sold that product or when we took it up we didn't know it was going to be as addictive as it is?'

Mr ANDREW: It is sad to hear it is so prevalent and those people are so addicted.

ACTING CHAIR: Absolutely. Thank you very much.

Dr Maddox: I have one last little thing I was thinking about as I responded to that question. One of things that parents, teachers and principals have particularly said to us is if it is less available, it is a lot easier to make sure that people are aware of the harms. A lot of schoolteachers, a lot of parents and a lot of grandparents are saying, 'We keep telling our kids that it's harmful. Then we could be sitting in a group where we'll have a kid, a mother and a grandparent together and they will

say, 'It's available everywhere. My kids can get it everywhere. I can get on social media and order one in nine minutes.' I wanted to congratulate you on the work you are doing. If there is anything I can do to support that, let me know.

ACTING CHAIR: It is a real challenge for our young people and I think as members of parliament we will have all spoken with teachers and our school communities about what a problem they are and about their accessibility and their prevalence. Anything that we can do to improve the health future for our young people is very important. Thank you for appearing before us today. There were no questions taken on notice.

Dr Maddox: Thank you very much.

HUGHES, Ms Sheree, General Manager, Heart Foundation

PRESTON, Ms Paige, General Manager, Policy and Advocacy, Lung Foundation Australia (via teleconference)

ACTING CHAIR: I now welcome witnesses from the Lung Foundation and the Heart Foundation. Ms Hughes, I invite you to make an opening statement and then we will hear from Ms Preston when she joins us. Over to you.

Ms Hughes: Good morning, Chair and members of the committee. I also want to acknowledge the country that we are all meeting on today and acknowledge elders past, present and emerging. Thank you for the opportunity to speak to you today regarding the proposed amendments in the bill. For over 60 years the Heart Foundation has been the trusted peak body working to improve heart disease prevention, detection and support for all Australians. Our mission is to reduce heart disease and improve the heart health and quality of life of all Australians through our work in risk reduction, support, care and research.

The impacts of smoking and vaping on cardiovascular disease are an important area of focus for us. The Heart Foundation fully supports the aims and objectives of the bill. The legislation is needed to reduce the health burden from tobacco and e-cigarettes. There is clear evidence that tobacco has negative impacts on cardiovascular health. People who use tobacco are 2½ times more likely to have a heart attack, two times more likely to have a stroke and five times more likely to develop peripheral vascular disease. Additionally, we know that vaping can be a gateway to tobacco use and can also negatively impact cardiovascular health. For example, young people who have used e-cigarettes are three times more likely to take up smoking compared to non e-cigarette users. A 2023 review found that any use of e-cigarettes was associated with a 33 per cent increase in the risk of having a heart attack. A study just this year found that people who used e-cigarettes at any point in time were 19 per cent more likely to develop heart failure compared to people who have never used e-cigarettes.

We commend the Queensland government for taking decisive steps to reduce the prevalence of smoking and vaping to protect community health. We are supportive of the new and comprehensive definition of illicit nicotine products, as has been talked about today, covering all vaping goods regardless of nicotine content or therapeutic claims. This prevents the deceptive labelling as being nicotine free. It also prohibits the supply and possession of illicit nicotine products by businesses, targeting wholesalers, retailers and online businesses that use deceptive tactics to evade enforcement. We support these measures as well as the exceptions for pharmacy under the Commonwealth's framework.

We are supportive of the new offences against advertising, promoting and displaying illicit nicotine products, combating efforts that target children and young adults. We support the strengthened enforcement regulations allowing state and local authorities to seize illegal vaping products and close noncompliant retailers. We are supportive of the new proposed higher penalties to deter retailers from viewing fines as just a cost of doing business and close loopholes on online retailers. Furthermore, the proposed updated definition of nicotine products will hopefully futureproof the legislation as new products emerge, as has also been spoken about this morning.

In conclusion, the Heart Foundation believes that the amendments in the bill represent a significant and necessary advancement in Queensland's public health policy. We urge the committee to pass these important amendments promptly and continue to prioritise the health and wellbeing of Queenslanders. Thank you.

ACTING CHAIR: Thank you very much, Ms Hughes. We do not have Ms Preston on the line yet, so we will go to her when she comes online. I just want to acknowledge that Sam O'Connor, the member for Bonney, has now joined us online along with the member for Barron River and the member for Mirani.

Mr MOLHOEK: Your submission is pretty comprehensive and it is pretty clear where you stand. Are there any other comments you would like to make in respect of the proposed laws? Do they go far enough? Has there been any discussion at the Heart Foundation around what has been proposed and the management of these new laws?

Ms Hughes: What is interesting is the timing of the different levels of legislation that are changing and the potential confusion that is out there in the community. While we welcome the Commonwealth changes, as we have heard today from Mrs Wright, enforcement is lacking behind those Commonwealth changes and we really look forward to prompt action from the bill. As the chair

explained, it is a process that we need to go through, but we are very keen, along with Mrs Wright, to see this happen as promptly as we can. We also need to be very comprehensive. The other witnesses that I heard this morning brought up interesting points that obviously need to be pursued so that we can make sure that we make these amendments long lasting and can appropriately improve the health of Queenslanders.

The registration of businesses is super important. We have heard that a couple of times today with the different witness statements and answers to questions. We know that that does not come in until 1 September. When I was sitting here for the vaping inquiry that was one of my concerns that it was just too long. We have been advocating for decreased tobacco use, and unfortunately now vaping and other smoking products, for a very long time. Ten years ago we were starting to advocate for a pharmacy model, so it has taken over 10 years for us to be successful in that regard. While I think it is important to make sure that we are not acting against retailers who are registered and who are working with the current legislation, I realise probably more today than I ever have about the illicit trade, and that is not something that we are experts in. What we do know is that tobacco use and vaping, particularly vapes with nicotine, do harm the heart health of Australians.

Mr MOLHOEK: There has been a lot of discussion around the fact that vaping is a pathway to giving up. Are you aware of any evidence that would support that view or do you have a view on that perception or statements that are being made to that effect?

Ms Hughes: It is interesting in that the evidence is still emerging. We know that people who use e-cigarettes are more likely to revert maybe or convert to tobacco if it is easier to access. That is why we are supportive of adults being able to still obtain vapes through the pharmaceutical model that has been passed at a federal level. It strikes me that Queensland is a very big state and we have very different retail environments in different parts of our state. While I have heard the other witnesses this morning, there are nuances to that accessibility. I think it is important to remember that we are not banning vapes; we are just reducing that accessibility, and we just heard how important that is so that there is not necessarily a vape available on every corner. The Commonwealth legislation has taken care of that anyway. It is just a matter of us being able to have this act amended and get on with enforcing that Commonwealth legislation.

ACTING CHAIR: It is an interesting point of comparison between access to vapes and access to tobacco, as we have heard again throughout today.

Ms Hughes: Absolutely. In terms of the data we have just heard, we have really reduced tobacco consumption. There has been such a multipronged approach to decreasing tobacco consumption and I would really hate to see us go backwards in that regard.

ACTING CHAIR: We now have online with us from the Lung Foundation Ms Paige Preston. Ms Preston, would you like to make a little bit of an opening statement and then we will continue on with questions?

Ms Preston: Yes, of course. Good morning. Apologies also for my delay.

ACTING CHAIR: No, that is okay. We have been juggling.

Ms Preston: Perfect. I am happy to keep my opening statement short because I know you are deep in question time and I know Sheree has done a fabulous job in doing her opening statement. Briefly, as an organisation, the Lung Foundation Australia are the leading lung health peak body and national charity. We work to protect the lung health of all Australians and reduce the impact of lung disease and lung cancer. With respect to the vaping part of the discussion today, the Lung Foundation has been actively working in this space for over five years now. We are strongly invested in research and have developed a number of resources and been a strong advocate for policy change. I want to acknowledge this committee in particular for its ongoing efforts to address and shine a light on what needs to be done to tackle vaping in Queensland, so I am really pleased to be able to speak today.

More broadly to the tobacco aspect of the amendments in this bill, I just want to emphasise that when it comes to tobacco we have come such a long way. With Queensland heading to the very imminent full implementation of the positive licensing scheme coming in on 1 September, this is a really great step. As outlined in the explanatory notes of this bill, these amendments will tweak and refine and make this a better reform. When it comes to individuals, I really want to emphasise that we do not want to stigmatise any individual for an addiction, whether that is tobacco or e-cigarettes. At an individual level we should be leading with empathy and encouraging and supporting those to access cessation, but really where our efforts can and should be on is reducing access and focusing on industry. We are really very supportive of this bill.

ACTING CHAIR: Terrific; thank you. Member for Bonney, did you have a question? If not, I will go to the member for Stretton.

Mr MARTIN: Thank you, Ms Hughes and Ms Preston. I have a question for both of you. The committee has heard from other witnesses giving evidence about the regulation of selling tobacco and vapes, but I wanted to hear the opinions of your organisations about tobacco sales in general. Do your organisations have an opinion that maybe in the future—if we cannot do it now, at some time in the future—in Queensland and in Australia we will not be able to sell tobacco?

Ms Hughes: That is an interesting question. Did you want to go first, Paige?

Ms Preston: Yes, happy to. To take a broad view, if we knew what we know now about how devastating and harmful tobacco products were back when they were put on the market and industry kept the harms very secret for a long time, I am sure that there would have been stronger policy frameworks to protect people from developing the addiction. That is not to say that it is feasible right now to stop selling tobacco. I think there are some risks there, but the Lung Foundation would be very supportive of going down that path. Other countries, including the UK, are starting to explore a generational phase-out of tobacco products in general.

Ms Hughes: Similarly, we would agree. Something that Paige would not have necessarily heard was Raglan talking about the introduction of tobacco a very long time ago before we were in a retail environment. It was interesting that he talked about tea, coffee, sugar and tobacco, and we are having similar problems with sugar. One thing that I was thinking about when I was listening to Raglan's information was how important it is to try and establish that evidence base early around some of these things that are harmful to health so that we do not end up getting so far down the track like we are with tobacco and then having to get our skates on to reduce access.

ACTING CHAIR: I am just going to go back to the member for Bonney knowing that he has joined us. I think he has his audio connected. Member for Bonney, did you have a question?

Mr O'CONNOR: No, all good; thank you.

Mr MOLHOEK: I am interested in Ms Hughes's comments about other products and Paige's comments about a generational phase-out of tobacco products. I wonder if the same should apply to McDonald's, Coca-Cola and Pepsi.

Ms Hughes: That is a discussion I would be willing to have, yes.

Mr MOLHOEK: It would be a very interesting debate. I am sure there would be a whole lot of people who would raise concerns about freedoms and basic rights. How do you find the balance in that debate?

Ms Hughes: That is tricky. Obviously, I do not want to take us off topic too much, but I think something we are learning from this process is that we are not banning anything really. We are decreasing the availability of vapes, with a different model of being able to access vapes through a pharmacy in a moderated way. I do not think banning anything is necessarily a good idea. Looking at how we can regulate, control and decrease accessibility I think is the way to go.

Ms Preston: Just to add to Sheree's point, when we look at cigarettes, the percentage of people who die from using this product is very different, if using this product as intended. There are definitely differences there. At the end of the day, it is definitely something to consider further down the track but I want to re-emphasise that what we are talking about now is really important to pass and will help people and protect health. This bill is definitely supported and needed.

Ms Hughes: I think too the point about not affecting other people—because it could come up in conversations that we potentially have about other products—is a very narrow view. We know that passive smoking is a problem. If you think more broadly, I have given you the statistics about people who have heart health issues when they smoke tobacco and use e-cigarettes. They are potentially in our hospitals taking a hospital bed from some other Queenslanders who needs it. I would argue against the argument about personal use and it not affecting anyone else.

ACTING CHAIR: Thank you. As there are no further questions, I thank you both for appearing before us today. They were very helpful contributions.

YIM, Dr Nick, President, Australian Medical Association Queensland (via teleconference)

ACTING CHAIR: Welcome. I invite you to make an opening statement and then the committee will have some questions for you.

Dr Yim: Thank you for inviting me to attend. We have been advocating for action against vapes for several years now, particularly to stop their sale to children. My predecessor, Dr Maria Boulton, also appeared before this committee in May last year during its vaping inquiry. She called on the Queensland government to take urgent action to prevent a new generation suffering the devastating impacts of smoking. Like her, I am a GP and my practice is based in Hervey Bay. I too have witnessed the alarming rise in nicotine addiction due to the insidious marketing of vapes as non-harmful smoking alternatives. It has been particularly upsetting to see the uptake of these dangerous products amongst children and young people. That is one of the reasons why I started visiting schools in my local community to educate kids about the health risks by talking to students, teachers and parents. The situation has been getting worse, not better, and unfortunately quite quickly as well.

Governments across Australia have been far too slow to act. Their failure means that we are now dealing with the consequences. AMA Queensland was therefore pleased to see the Australian and Queensland government promise to bring in strict laws to regulate the supply of vaping products. As doctors, our preference would be that vapes are treated for what they are—unproven and potentially dangerous. These are not first line or even second line smoking cessation treatments. There are so many clinically proven options that we know work and are readily available. I prescribe some of these products to my patients every day of the week. I would not be prescribing vapes to anyone, especially not a child. This is why I am concerned that current government approaches may inadvertently legitimise vapes as a therapeutic product when no such robust evidence exists.

AMA Queensland's preference is that children and adults do not vape and are directed to proven quit therapies instead. That is the best way to protect the health of our community. If governments are nonetheless going to implement a prescription or pharmacy only model, we would urge careful consideration of the points made in our submission. Most importantly, there must be separation between prescribing or authorising of a vaping product and its sale. We have seen big tobacco unscrupulously target our hardworking pharmacy colleagues to induce them to stock their products. I used to be a pharmacist and I have spoken to many of my colleagues who work in pharmacies and they do not want to be pressured to sell vapes or other unproven treatments. They especially do not want to sell them to kids. Doctors and pharmacists must be protected from exploitation from those with vested interests in profiteering from vapes. They also must be supported to direct patients to proven therapies.

I would like to highlight that the Queensland government has recently passed laws to prevent children from being exposed to smoking and vaping in places they go, like school car parks. We wholeheartedly welcomed those changes as being vital to protect children from the associated harms. It would therefore be nonsensical to create a situation where those laws may need exemptions so children who are addicted to nicotine and allowed to use vapes are not forced to stay at home from school.

Finally, we would urge the committee to recommend controls on the vaping products to reduce the risk of unrestricted access, such as the inclusion on QScript or in a relevant departmental standard. Thank you all for your time and I am happy to take questions.

Mr MOLHOEK: You just mentioned something about children being required to stay at home from school. Could you expand on that? I did not quite understand the point you made.

Dr Yim: The Queensland government, to my understanding, recently passed laws to prevent children from being exposed to smoking and vaping. So obviously if children are prescribed—

ACTING CHAIR: Dr Yim, can I just clarify. Are you actually referring to the Commonwealth legislation that has been passed in terms of banning vapes?

Dr Yim: No. This is the Queensland government legislation about access in places they go, like school car parks.

Mr MOLHOEK: Sorry, that was not the question I was asking. You made reference to kids actually being required to stay home from school. I am just wondering what you were referring to and how that relates to this legislation.

Dr Yim: There is a confusing aspect with the passing of the legislation. Hypothetically, if children are prescribed vapes, how will that be managed in a school environment when the Queensland government has recently passed law to prevent children from being exposed to smoking and vaping, so they cannot be in car parks et cetera?

Mr MOLHOEK: Okay. I will go back from that a bit. You mention in your submission that you reject all proposed amendments in the consultation paper that would enable vape prescribing or dispensing to children. Are you suggesting that the current legislation makes provision for pharmacists to supply children with nicotine product?

ACTING CHAIR: That is absolutely the question. What is the AMAQ's position on doctors prescribing vapes to young people under the age of 18? I would be very interested in that.

Mr MOLHOEK: Doctors and pharmacists.

Dr Yim: Currently, there is no robust evidence to prescribe vaping-based products to children. There is no TGA approved product that is I guess safe and evidence-based for children.

ACTING CHAIR: I guess the question is though are you aware of a doctor who would prescribe a person under the age of 18 years with a vape? As representing the peak body for GPs and doctors—

Dr Yim: Not to my knowledge.

Mr MOLHOEK: Then why have you raised that as a concern in your submission?

Dr Yim: At the moment, with the federal legislation—

ACTING CHAIR: So it is not part of this. That is good for that clarity. In terms of your issues with the Commonwealth legislation, that is a matter to be taken up with them.

Dr Yim: Correct.

ACTING CHAIR: We are looking at the legislation before us here today in regards to the state of Queensland.

Dr Yim: Correct.

Mr MOLHOEK: I do think you make an interesting point. If a child were to be prescribed a vaping product, given that there are bans at schools, it is kind of counterintuitive.

ACTING CHAIR: I would be concerned to be aware of any doctor who would prescribe that.

Mr MOLHOEK: Correct. It is an interesting point that you raise.

Dr Yim: I guess to highlight from a federal perspective, children can potentially be prescribed a vape. Obviously, it is something from our position that we do not feel is the first line, second line or even third line but there is something just for your committee to be aware—

ACTING CHAIR: I would not think it was any line for a GP.

Dr Yim: Correct.

ACTING CHAIR: From a medical perspective, in terms of what a doctor is there to do, I would be very surprised and concerned to hear of any doctor doing that. As there are no further questions, I thank you very much for appearing before us today. We appreciate your contribution and look forward to continuing the dialogue on the matter of tobacco and vapes. That concludes this public hearing. Thank you to everyone who has participated today. Thank you to our Hansard reporters and our secretariat. A transcript of today's hearing will be available in due course. I declare this public hearing closed.

The committee adjourned at 11.41 am.