



HEALTH AND ENVIRONMENT COMMITTEE

Members present:

Mr AD Harper MP—Chair
Mr R Molhoek MP
Mr SSJ Andrew MP
Ms JE Pease MP

Staff present:

Ms R Easten—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE TOBACCO AND OTHER SMOKING PRODUCTS AMENDMENT BILL 2023

TRANSCRIPT OF PROCEEDINGS

Friday, 14 April 2023

Brisbane

FRIDAY, 14 APRIL 2023

The committee met at 10.45 am.

CHAIR: I declare open this public hearing of the Health and Environment Committee inquiry into the Tobacco and Other Smoking Products Amendment Bill 2023. Thank you for your interest and your attendance here this morning. My name is Aaron Harper. I am the member for Thuringowa and chair of the committee. I start by respectfully acknowledging the traditional custodians of the land on which we meet today and paying our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all now share. Committee members with me here today are: Joan Pease, the member for Lytton; Rob Molhoek, the member for Southport and deputy chair; and Stephen Andrew, the member for Mirani. There are apologies from Ali King and Sam O Connor.

On 14 March 2023, the Hon. Yvette D’Ath, the Minister for Health and Ambulance Services, introduced the Tobacco and Other Smoking Products Amendment Bill 2023 into the Queensland parliament and referred it to this committee for detailed consideration and report. The purpose of today’s hearing is to hear from invited witnesses to assist the committee in its consideration of the bill.

This hearing 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 intentionally misleading the committee is a serious offence. The proceedings are being recorded today by Hansard. Apologies for our late start; we had some technical issues. All those present should note that it is possible you may be filmed or photographed during proceedings and images may also appear on the parliament’s website or social media pages. I ask everyone to please turn their phones to silent.

BOULTON, Dr Maria, President, Australian Medical Association Queensland (via videoconference)

CLARKE, Ms Laura, Policy Adviser, Asthma Australia

COOMBE, Ms Leanne, Policy Manager, Public Health Association of Australia

HUGHES, Ms Sheree, General Manager, Heart Foundation Australia

MARSHALL, Associate Professor Henry, Deputy Convenor, Tobacco and Related Substances Special Interest Group, Thoracic Society of Australia and New Zealand

PRESTON, Ms Paige, Senior Manager of Policy and Advocacy, Lung Foundation Australia

CHAIR: Welcome. Thank you for your written submissions and your participation today. Dr Boulton, I invite you to make an opening statement, after which committee members will have some questions for you.

Dr Boulton: Thank you very much. I, too, acknowledge the traditional custodians of the land on which I am now, in Ms Ali King’s electorate. I am Maria Boulton. I am the president of the Australian Medical Association of Queensland. First, I thank the committee for the invitation to attend this public hearing on the Tobacco and Other Smoking Products Amendment Bill 2023. As a GP, I see the devastating effects that smoking has on patients, their families, their occupation and their loved ones. I am hearing from more and more worried parents about the threat that vaping and similar products pose to their kids. We must act now to stop our children and young people becoming the next generation to suffer from completely preventable smoking related diseases.

As the president of AMA Queensland, I welcome the bill’s proposed amendments to introduce a licensing regime and require licensees to be fit and proper persons. We have been calling for these reforms for some time. We likewise support the bill’s measures to enhance Queensland Health’s

monitoring and enforcement of the law. This is urgently needed. There are, however, a number of areas in the bill that can be improved. For example, we know that handling and selling tobacco products can normalise smoking, particularly for children.

The amendments to prohibit persons under 18 years of age from supplying smoking products must commence as soon as possible. Delaying this for over two years for some businesses means that children will be unnecessarily exposed to these products for longer. Even more alarming is the fact that the bill intends to allow children working in pharmacies to supply smoking products. There is absolutely no justification for this amendment. It also completely undermines the act's object to improve the health of members of the public by reducing their exposure to tobacco and other smoking products. Last year, an investigative journalist exposed a secret proposal by tobacco companies to pay pharmacies incentive fees to stock vaping products. Such inducements must be condemned, not supported by legislation that puts tobacco and pharmacy profits ahead of our children's health. I urge the committee to scrutinise the origins of the proposal and to recommend the amendments be abandoned.

In addition to our individual submission, AMA Queensland provided joint feedback with the Lung Foundation Australia, Heart Foundation, Asthma Australia, the Australian Council on Smoking and Health and other peak health organisations. These bodies remain concerned about the urgent need to protect Queenslanders, particularly children, from all smoking products. I urge the committee to take on board the input provided in that joint submission in considering the bill. Thank you for your time. I am happy to take questions.

CHAIR: Thank you very much, Dr Boulton. I invite the Lung Foundation to also make an opening statement.

Ms Preston: I thank the chair, deputy chair and committee members for inviting us along today to speak to the bill. We, too, acknowledge the traditional owners of the land on which we are meeting today and pay respect to elders past, present and emerging.

As outlined, we provided a joint submission to the committee, along with ACOSH and AMAQ. That is because, as a health focused collective, we are supportive of tobacco reforms and have been actively involved in the consultation process over the last few years. Each of our organisations continually advocates for policies and programs that will protect and improve health while not stigmatising the individual. We routinely provide advice to all Australian governments on this. We support and encourage working towards the national goal of reducing Australia's daily smoking rate to under five per cent by 2030. Of note, this goal is included in the National Preventive Health Strategy, which Queensland has enforced, and the soon-to-be released National Tobacco Strategy, which Queensland has also endorsed.

The smoking rate currently sits at around 10 to 11 per cent; however, for Aboriginal and Torres Strait Islander Queenslanders that rate is around 40 per cent. In terms of the eight-year life expectancy gap between Aboriginal and Torres Strait Islander people and non-Aboriginal and Torres Strait Islander people, tobacco related illness is responsible for two of those eight years. Therefore, strengthening tobacco control legislation and other investments are vital in helping to close this gap.

As noted in our submission, tobacco smoking increases the risk of multiple cancers, including lung cancer, as well as cardiovascular disease such as heart failure and stroke. It also triggers and exacerbates asthma symptoms, may cause chronic bronchitis and chronic obstructive pulmonary disease and makes users susceptible to chest and lung infections, which is the most common preventable risk factor for pregnancy complications.

We also want to highlight the impact of second-hand smoke, which is an important consideration. For every eight smokers who die from a smoking related disease, one non-smoker dies from second-hand smoke exposure. This is a somewhat unrecognised benefit of some of the proposed reforms. There are also epigenetic effects of smoking, with both paternal and maternal smoking influencing the health of future children and grandchildren via changes to how genes are expressed. Therefore, reform to tobacco control legislation will protect the health of not only current Queenslanders but also future Queenslanders. As noted in the consultation paper, there are profound costs associated with smoking. I will not go into detail of those, but it is estimated at around \$27.4 billion in Queensland, so it is a significant cost. These reforms can contribute to reducing that burden.

We affirm our support for the reforms included in this bill, particularly around the introduction of a licensing scheme. Queensland has fallen behind other Australian jurisdictions in tobacco control over the last few years, and this bill will bring us back in line with a fair number of the other jurisdictions, which is really positive. We note that there is a strong need for other improved

regulations and investment is needed, particularly when it comes to denormalising smoking. While we support this bill, there are opportunities for improvement and tweaking, particularly around prohibiting alcohol consumption in designated outdoor smoking areas and at liquor licensed venues. We are happy to speak more about those, but in the interests of time we may leave that for questions. We have provided some feedback around vending machines in liquor licensed venues and the need to further reduce the access and availability of those. We note that other jurisdictions across both of those areas have stronger reforms, including an entire ban. So it is possible.

In addition, there are other co-benefits around reducing the burden and exposure to second-hand smoke. Again, that is an important consideration. Our feedback and proposed amendments are included in our submission. We also note that there are further opportunities around banning online sales. That is something we would be happy to speak further to. At the end of the day, we, in our submission and today, have spoken to a few areas that we think could be opportunities for further refinement within the bill. Broadly, we reiterate our support for the reforms that are currently proposed. We hope that this bill is passed and implemented as soon as possible, because the health of Queenslanders is important. We would like to continue to provide feedback and support to the Queensland government in protecting the health of Queenslanders.

CHAIR: Ms Preston, you would be aware that we have a vaping inquiry happening at the same time as we are considering this bill. There is a crossover. Certainly, online access to and ease of obtaining tobacco products are major issues that are quickly becoming very evident to the committee. What do you say about how we could better manage the ease of access online? There will have to be federal intervention as well. Can you briefly comment on that?

Ms Preston: I am happy to answer the first part, looking at the tobacco element. South Australia has a complete ban on online sales of tobacco products, so it is also possible at a jurisdictional level. We are looking forward to providing feedback around the e-cigarette inquiry in a month or so. I will be happy to provide more feedback at that time. In terms of the tobacco element of this in the bill, there are other jurisdictions.

CHAIR: From a regional perspective, the increased rates of Aboriginal and Torres Strait Islander smoking—I think you quoted around 40 per cent—are a concern. We heard about chop-chop in our Townsville hearing. How can we better manage that aspect? There are significant issues there. What else is in that product? Are people really informed about what they are smoking? We heard some concerning things in Townsville about tobacco being sprayed with a chemical. Can you comment from a regional perspective? There is definitely a need to reduce the smoking rates in those communities.

Ms Preston: I will hand over to Henry to talk more about illicit tobacco. Broadly, in terms of additional chemicals and those elements you have mentioned, it is a dangerous product. The same applies to vaping. It is a range of chemicals that you are inhaling, so any exposure is not good.

Prof. Marshall: That is a really important point and an important question. The first thing to say is that there is no safer or better cigarette. They are all bad. There are about 7,000 chemicals in every cigarette. You can add a few more or you can take a few away, but essentially you are looking at a really complex mixture of carcinogens and other chemicals that will do damage to hearts and blood vessels. It is worth pointing out—I know this came up in your first public hearing—that illicit tobacco has huge links to organised crime, which is obviously a major concern. There is also a huge cost to the government and the state in terms of lost tax revenue. One of the key reasons tax increases on tobacco are so important is that it is a huge motivator for people to quit smoking. If you increase the cost of tobacco by about one per cent, you reduce tobacco consumption overall by about half a per cent. So a 10 per cent increase in the cost equates to about a five per cent reduction in smoking. Illicit tobacco, or flooding the market with cheap tobacco products where there is no duty paid, completely undermines at least the last decade of what Australia has been a world leader in doing—that is, increasing the price of tobacco to help people make that difficult decision to quit.

A lot of the illicit tobacco—in fact, the majority that we see not just in Australia but also in Europe and the US—comes from big tobacco. It is not locally grown tobacco. We hear about that in the news. There has been a case recently in New South Wales. It is huge. It is millions of dollars. If we look at the ATO figures, the ATO reckon they are missing out on about \$1.8 billion in tax in the 2021 financial year, but \$1.6 billion of that was due to factory manufactured cigarettes being brought in illicitly. A small proportion of that is tobacco that is grown illegally on plantations and whatnot around the country.

That is an important thing to think about—where these cigarettes are coming from. They are being brought in by organised crime working with big tobacco companies. I do not know whether you have heard of the RICO, the racketeering act in the US, which was brought in to combat organised crime and the mafia. The tobacco companies in the US were prosecuted under this act and found to be guilty. There have been several prosecutions around the world—Europe, South America, North America—that have found big tobacco working with organised crime groups to supply and distribute their product.

Ms Clarke: We have mentioned this in our submission, but that is why enforcement of the act and the licensing regime are so important and why you need to make sure you have appropriate investment in the enforcement. For us, we would like to see the ability to test enforcement—the removal of the ban on being able to falsely testify your age when you are trying to buy.

CHAIR: When we were at the Townsville hearing we were given a link and it asked, 'Are you 18?' I pressed it and I could access tonnes of illicit tobacco and/or vapes or smoking products. There is no control over that.

Ms Clarke: Again, trying to separate an online licensing scheme is important to us. It is the same with vaping. If the resources are not behind the enforcement, we are really going to be struggling to combat illicit vapes and illicit tobacco.

CHAIR: Dr Boulton, did you want to make any comments on that theme of questioning?

Dr Boulton: I just want to reinforce that you cannot guarantee what is in these products. It is entirely unregulated. That is part of the education piece as well: people do not know what they are smoking. In terms of the response to people actually smoking, that does require a health response. We saw this in our drug law reform submission in that this does require a lot of investment in doing whatever we can to support people (a) to know that it is not good for you and (b) to stop smoking and stop vaping.

Mr MOLHOEK: Ms Preston, could you unpack your comments around the need to remove the prevention measures defence for supplies in relation to child employees? It is probably more for the record, but I think it is an issue. It would be good to have a clearer understanding of that for the record. I am also curious as to what sorts of recommendations you would like to see or what you would like to see changed.

Ms Preston: That is what Laura was alluding to before around removing that provision. In essence, the way we looked at that was that it would be within the capacity of a business owner to say, if a child was caught selling under-age, 'I advised them,' with no formalisation of if they actually did speak to the child employee or if they did in fact provide the relevant training or if the child got the relevant training. There would be no implications for them in not enforcing it themselves.

Mr MOLHOEK: The intent of the legislation is to basically say that under-18 staff should not sell products. Are you suggesting that there is a loophole in that, in that under-18 staff could actually be selling products and the employer would have no accountability or responsibility in the way the legislation is currently drafted?

Ms Preston: Yes. That is how we have interpreted the exemption there.

Ms Clarke: It just feels like an unnecessary exemption when there are other jurisdictions that do not have that measure. The employer does not have a 'get out' of saying, 'I told them they were not supposed to sell.'

CHAIR: It is interesting, isn't it? My son is in hospitality and got his RSA at 17. Is there a need here to do more in that space for tobacco with what is drafted in the bill? Are there any other suggestions?

Ms Clarke: Again, in our submission, we would like to see cigarettes not sold in licensed venues anyway, so that would remove the ability for your son to sell products like that in licensed venues. For us, we just want to see cigarettes denormalised. They do not need to be in those venues. They do not need to be sold by young people. It is up to those employers to make sure that is not happening.

CHAIR: I know that in the proposed bill there is an extension particularly for small retailers that will sell tobacco products until 2025, from memory.

Ms Preston: I might add to your question around what else we would like to see. There is a large part around training and those aspects for business owners and for anyone who is then going to have a licence to sell tobacco in terms of what is expected of them. There is a whole piece of work

that will come following the hopeful implementation of the bill. My understanding of the consultation RIS and the whole process that has been gone through is that those costs and all of those aspects have been factored into the licence. We hope that that will happen and provide a fair bit of upskilling.

Mr MOLHOEK: I raised this yesterday afternoon with Queensland Health. The concern I have around all of these layers of regulation is that there is a risk of creating a nanny state and government taking on more and more responsibility to interfere in people's lives and the choices they make. I understand the importance of this issue in terms of the cost on the health system and, more importantly, the impact on individuals. It would bother me that in a sense we end up with a system where you can get an RSA at 17 and work at a hotel and serve alcohol, but then there is a whole different set of rules for selling cigarettes and there will probably be a whole other set of rules for food handling. Do we need to look for a more consistent approach across the board or to try to roll some of these things up within other legislation so that things can be a little more streamlined and a bit simpler? I think the chair's example is a good one. We are making it really complex for people to live and people to work and people to run businesses.

Ms Preston: I am sure that we all have comments to make on that. I am happy to start. The fundamental of it is that public health needs to be accounted for. The costs are so significant. In my view, there will always be the need for different acts and regulations for different products. There is a range of reasons for that. It comes down to burden and who has access to them and who does not. Who knows? There might be further reforms in alcohol down the track as well. There is consultation on that at the moment.

From a broad public health point of view, I think we would all agree that there is a strong need to continue to go hard and protect people, because ultimately it is not an individual choice in many regards. We are all influenced by the industry that is around us. The tobacco industry have lobbied hard and have been very strategic over decades to market this product to individuals, and it has and is causing a significant burden. We want to encourage people to be the healthiest version of themselves. All of these levers proposed and more help that. The nanny state argument will always come up, but it is not going to be effective in terms of letting people make decisions for themselves. They are not because they are influenced by the industry and what they see around them.

Prof. Marshall: I would like to throw in my tuppence as well. The nanny state argument comes up a lot, and that is an argument that is beloved by the tobacco industry because it absolutely plays into their hands to keep their customer base going. We are talking about choice. I speak to patients every day who are smokers or who have been smokers with smoking-related disease. Their choice, if they had a free logical choice, would be to quit smoking, but they cannot because they are heavily addicted.

Do you know what is more addictive—heroin or nicotine? It is about the same, but you can buy your smokes at any corner shop or supermarket when you go and get your bread and your milk. It is incredibly hard for people to quit smoking. It is not that they do not want to and it is not that they have not made some sort of active choice. They have been hooked in as teenagers when their brains are developing. They have become highly addicted to a highly addictive substance that they can easily and readily access. I absolutely agree with what Paige has said. We have to go hard on tobacco. It is a separate entity really. We cannot just bracket it in with anything else. If we look at chronic disease in Australia, 10 per cent is caused by tobacco and about five per cent by alcohol, hypertension or whatever. It is the stand-out cause of disease in this country.

Mr MOLHOEK: I understand your comment. In the same supermarket you can buy hundreds of products that are loaded with fat and sugar that are addictive. You can buy alcohol across the aisle and alcohol is a major concern. In fact, some lobby groups would argue that it is a much bigger issue than any other in respect of domestic violence and family breakdowns and addictions and that they are all interrelated. Now we are being bombarded with a daily diet of banning mobile phones and the addictive endorphins that are released by viewing social media.

I am certainly concerned about this issue. I am not for a moment suggesting that we would not support some of the measures that are in the legislation. I worry that so much of the burden just keeps getting put on to government. We are going to start telling people what to eat and when to drink. We are going to start regulating the internet providers to shut the internet down for certain hours of the day so people cannot develop RSI from so much scrolling. It is an interesting challenge given that we are so proud to be living in a nation that has all of these freedoms.

CHAIR: We might take that as a comment, Deputy Chair.

Mr MOLHOEK: Yes, sorry. I would be interested in the professor's response.

CHAIR: Just in the interests of time, I will go to the member for Lytton.

Ms PEASE: Thank you for your passion and all of the great work that you do. One of the things that you talked about in your opening statement that I found very disturbing was secondary smoke. Could you quote those numbers again for me and the impact that that is having on our communities?

Ms Preston: No problems. For every eight smokers who die from a smoking related disease, one non-smoker dies from second-hand smoke exposure. We would happily provide further information. There is a lot of information around the impact of second-hand smoke and specific disease burdens. Also one thing we did not even touch on in our opening remarks was around third-hand smoke, which is also an important consideration.

Ms PEASE: Would you be able to elaborate on that for us then perhaps and speak to third-hand smoke?

Ms Clarke: In terms of second-hand smoke and exposure as an infant or whilst in utero, it damages the development of lungs which persists into adulthood and that then leads to asthma or other respiratory issues. It really is an ongoing issue just because of that exposure, either maternal or paternal smoking.

Ms PEASE: What is the third-hand smoke?

Ms Clarke: Henry, would you like to speak to that?

Prof. Marshall: Yes. Third-hand smoke is the smoke that sticks to clothes and hair and skin, so you can smell it on someone who has just had a cigarette—you can smell that sort of fume coming off them—and then curtains and sofas and carpets and all the rest of it, so the smoke sticks everywhere and then is just slowly released back into the atmosphere and then people can breathe it in. Second-hand smoke is the smoke that a smoker breathes out and someone breathes in whilst they are in the room, but third-hand smoke is where the smoker could have left the room hours ago but there is still smoke vapour being slowly released back into the atmosphere.

Ms Preston: That is particularly damaging for young kids as well because if you think of toddlers crawling around on the floor that is where those chemicals have fallen and they, as Henry said, get recirculated back into the air.

Ms PEASE: Climbing over furniture, being picked up by a smoker, all of those things; I understand that. Thank you for explaining that. You also mentioned the cost to the economy of smoking in terms of health. You said that you had some figures to talk about. Do you have anything that you can share with us?

Ms Preston: Yes. Again I am happy to take that on notice and provide further statistics, but it is also acknowledged in the paper by Queensland Health. Coming from the consultation paper, from 2015 to 2016 the total cost of smoking in Queensland was estimated at \$27.4 billion. This includes tangible costs associated with premature death, hospitalisations and other medical and social care costs, workplace absenteeism and tobacco spending.

Ms PEASE: Thank you for sharing that.

CHAIR: I am thankful that it is Friday and, given that we had a clunky start, we can adopt a bit of latitude and we are going a little bit over time. This is an important part of the bill. I just wanted to check the member for Mirani, and I apologise if I did not acknowledge you this morning.

Mr ANDREW: Thank you, Chair; no, that is fine. You said that there were other things that the bill lacked and you said that you would like to expand on that. Could you please do that for us while you are here so we can understand exactly if the bill is adequate?

Ms Hughes: Thanks for having us here today. One of the things that we were referring to in that statement is around the DOSAs. Currently the bill states that you can still have an alcoholic beverage in those DOSAs. Originally when we were advocating for the DOSAs to become a more strict place for smoking only you were not allowed to take alcohol into the DOSA. I noticed from your hearing with Queensland Health there were some questions around that with potentially under-age staff coming in to the DOSAs to be able to clear glasses. It was, I think, decided that an under-age person could be going through a DOSA but not necessarily staying in there. Our point is if there were not any alcohol in there in the first place there would not be any glasses to collect and so then the designated smoking area becomes for smoking only. However, we would not want that improvement to hold up the bill. The bill, as we see it, needs to go through as soon as it can. Maybe that is something that we could consider in the future along with what the deputy chair said before around the licensing scheme and maybe rolling something in together with alcohol and tobacco in the future, but it should not be something that holds up the bill at this point in time.

CHAIR: I have one final question for the Lung Foundation regarding the feedback on the bill and the third point—

Omit an existing clause that inhibits controlled test purchasing that is an effective enforcement measure.

I know we spoke about that. Can you unpack that a little for me on what controlled test purchasing actually is?

Ms Preston: In essence, I think that is basically to test and see if the person who is selling tobacco is doing their due diligence and making sure they are not selling tobacco to an under-age person. Basically that would involve someone who is under-18 being allowed to go in and sort of dummy buy and then someone else would be coming in after them saying, 'Gotcha! You didn't do the right thing and you were selling it to someone under 18,' so it is that ability to monitor and enforce if they actually are a fit and proper person and doing the right thing.

CHAIR: Thank you. With that, thank you all for coming in this morning and for your patience, Dr Boulton included. It has been very informative. It is helpful to the committee to hear from you. We do thank you.

HOGAN, Mr Bernie, Chief Executive, Queensland Hotels Association

NIPPERESS, Mr Daniel, General Manager, Clubs Queensland

STEELE, Mr Damian, Deputy Chief Executive, Queensland Hotels Association

CHAIR: I welcome representatives from Clubs Queensland and the Queensland Hotels Association. Thank you for your patience this morning. I know we have gone a little bit over time. I invite you to make an opening statement.

Mr Hogan: Thank you, Chair. Good morning, committee members, and thank you for the opportunity to provide input into the committee's consideration of the Tobacco and Other Smoking Products Amendment Bill 2023. The QHA is the peak representative body for the hotel, hospitality and accommodation industry here in our state. Our member hotels and accommodation businesses span the length and breadth of the state in virtually every town, providing jobs, entertainment and hospitality to Queenslanders and visitors alike. Members include over a thousand businesses such as the traditional pub you have all envisaged in your heads right now, international accommodation providers and family owned enterprises. These are the employers of over 80,000 Queenslanders.

The QHA is concerned about two aspects of the bill relating to the changes in liquor licensed premises. These are mostly regarding the tobacco product vending machines and minors working in licensed premises. Firstly, the bill proposes to remove vending machines to a service area behind the bar which is not accessible to patrons. According to Queensland Health's own options paper, the sale of smoking products from vending machines in licensed venues represents 0.1 per cent of total tobacco sales—not one per cent, 0.1 per cent. This is negligible to say the least and the proposal appears to be seeking a solution that really is not a problem. In fact, total sales of tobacco in licensed venues totals 0.3 per cent or, conversely, 99.7 per cent of sales happen in other places apart from licensed venues. We need to keep in mind that licensed premises are restricted areas with strict compliance requirements under the Liquor Act for constant supervision, ID checking, monitoring of patron behaviour and maintaining a safe environment for patrons and staff. Minors can only be in the direct company and supervision of a responsible adult.

The QHA disagrees that smoking vending machines in licensed premises constitute advertising and promotion of smoking products and has seen no evidence to support the assertions that they trigger recent quitters to relapse or encourage people to take up smoking. Vending machines are not advertisements or promotions by their mere presence; they are anonymous drab units which are without any promotional signage. There is no branded content on them and in fact if somebody did approach a vending machine the only sign that they would see is a 'quit smoking' sign. Vending machines in licensed premises are already subject to strict controls. They must be in line of sight and located within five metres of a bar area so they can be under constant supervision. The tobacco act also prevents suppliers from using promotional strategies to increase the sale of smoking products in these venues. Loyalty programs and upselling tobacco is all prohibited, and this includes through vending machines.

Secondly, the bill proposes to prohibit the selling of smoking products by minors. Minors working in licensed premises should be distinguished from minors working in non-licensed retail environments. Minors working in licensed premises, as was mentioned before, are trained. They have demonstrated experience in selling other restricted types of products such as alcohol and they are trained to check IDs and verify proof of age. Liquor licensees must obtain written evidence from each employee acknowledging that they have received this training, which includes taking reasonable steps to ensure that a child does not obtain a tobacco product, including from a vending machine, even if the product is for, or claimed to be for, an adult and citing acceptable evidence for the age of the person before allowing any person to obtain a tobacco product, including from a vending machine.

The hotel sector continues to face staff labour challenges post pandemic, particularly in regional and remote areas across Queensland. Member feedback has indicated that minors working in hotel retail trading environments, including a bottle shop, compliantly serving customers is necessary considering the very small amount sold and the small population for the workforce in these areas. The QHA proposes that we should look at a grandfathering of anything in those areas and with existing infrastructure. An extraordinary amount of money would be needed to change these environments in hotels for an extraordinarily small amount of total tobacco sales. There would be a real wage cost for affected venues that would have to roster extra or alternative staff in replacement of minors selling those products. These country and regional hotels are experiencing challenging trading conditions already with increased costs of energy and insurance, cost of goods, interest rates and wages. We do not want to see this added to.

Finally, as sellers of only 0.3 per cent of smoking products, licensed premises have been required to have a smoking management plan, an SMP, since 2006. We have handouts of these. They have come from Queensland Health. Hotels and clubs have been subject to Queensland Health audits and inspections during this 17-year period. They have become smoke-free environments where smoking has been managed through substantial capital investment in creating designated outdoor smoking areas. As you can see, the SMPs include detailed information. DOSAs have to be explained in terms of the location, the boundaries, the buffers, the percentage of the total floor space and no entertainment and gambling products are allowed in DOSAs. Display locations and types of signage are required. Staff training that must be complied with and the ID checking and the banning of tobacco promotions, free samples, gifts and merchandise are already included in a smoking management plan that every licensed venue already has to have.

We feel that our industry has been partners with the government and hotels have invested heavily in managing their smoking environments which have contributed to the reduced smoking rates of adult Queenslanders which has more than halved from 24 per cent in 1998 to 10 per cent to 2020. Thank you for the opportunity to appear here today and we are now in your hands regarding any questions.

CHAIR: Thank you very much, Bernie, and that was as comprehensive as we expected. Thank you for your contribution. Mr Nipperess, did you want to make an opening statement?

Mr Nipperess: Yes, thank you, committee. My name is Dan Nipperess. I am the General Manager of Clubs Queensland. Clubs Queensland thanks the committee for the opportunity to provide feedback on the Tobacco and Other Smoking Products Amendment Bill 2023. Clubs Queensland represents registered and licensed clubs across Queensland, including all forms of sporting clubs, surf lifesaving supporters clubs, RSL and services clubs and all other general interest and cultural clubs. A large majority of our members permit smoking in outdoor areas, in designated outdoor smoking areas, and also sell tobacco products. Clubs Queensland supports the overall intention of the bill which seeks to reduce the smoking rate in Queensland and provide the community with further protections from second-hand smoke. However, as set out in our submission, Clubs Queensland has sought further clarification in relation to and some consideration to the proposed measures. Despite this, from the beginning of the consultation relating to this bill, Clubs Queensland reiterates that it supports proposals that have the practical benefit and health of Queenslanders at heart and supports the government's consideration of the impact that vaping is having on our communities, especially that which relates to younger Queenslanders.

We share a lot of the same views that Bernie has outlined in his opening statement and so in the interests of time I am going to raise a few additional matters that we have set out in our submission. In our view clubs should not be required to submit a retail licence—liquor—and application fee, rather that there should be a simplified registration process whereby clubs can be deemed a licence holder for the purposes of supplying smoking products. Clubs Queensland does not support the proposal that minors be banned from selling tobacco products in clubs as minors who work in clubs already work in strict regulatory environments and are acutely aware and trained in compliance obligations as they relate to the provision and sale of restricted products such as liquor and gaming. Clubs Queensland supports, however, the proposal of banning minors in designated outdoor smoking areas. However, given a large number of our members operate large outdoor licensed areas, such as bowls and golf clubs, Clubs Queensland seeks to work with Queensland Health in relation to how such a restriction may apply in larger licensed outdoor areas within such clubs in collaboration with other sporting peak bodies. The club industry has been supportive of preventative measures that reduce the impacts of smoking, smoking in licensed premises was banned in 2006, and want to continue working in collaboration with the Queensland government in relation to this issue moving forward.

CHAIR: I might open it up to questions. Deputy Chair, do you want to start?

Mr MOLHOEK: One of the questions that has been running through my mind around the proposed changes to outdoor smoking areas is have you looked at what the likely additional capital costs of that would be to clubs and hotels? Is it an area of particular concern or do most smoking areas pretty much already comply with the regulations that are being proposed? The new regulation is about an additional two or three metre buffer, is it not?

Mr Nipperess: Obviously the requirement in relation to buffers already exists in terms of the separation of the designated outdoor smoking area and other areas outdoors. Now what the bill proposes is that an additional buffer be put in place in between the designated outdoor smoking area and an immediate adjacent area or an indoor area of a licensed venue. Obviously there are going to be clubs, and I can assume hotels as well, that will be impacted by this new requirement. It is Brisbane

important to note, however, that there are simple measures which licensees can adopt to be able to comply with the existing requirements such as where there is a door that opens into a designated outdoor area, that that door remain closed. That can either be done by way of automatic operation or simple signage that is available on the door accessible by patrons that the door remain closed behind them. Obviously we have a number of members that will have to undertake remedial works in order to comply with this legislation. Those remedial works will require capital investment and it will depend on the nature of the club, and I am speaking of the hotels as well. It will require that remedial work. It will differ from licensee to licensee. We would support any practical measures to be able to ensure that licensees having to comply with these measures have the ability to do so.

Mr MOLHOEK: It has not really been raised as an issue of concern at this stage though?

Mr Steele: No, it has not. Since 2006 when DOSAs were introduced there was a lot of capital investment to establish these areas. I will just step sideways on something you mentioned earlier, member for Southport, in relation to the suggestion that we should not be able to drink in DOSAs. I think there is a bit of a misconception that those DOSAs would then remain in that same state. What we would simply be doing is having DOSAs either close down or you would be forcing people out into public areas where then the public would be exposed to secondary smoke whereas the DOSA is purpose built and is a choice for people who wish to smoke that legal product to do so in a controlled environment and those who do not want to be exposed to it are not. We would not like to have an unintended consequence that then resulted in venues not investing in their DOSAs and forcing people out into public areas exposing the general community to second-hand smoke.

Ms PEASE: Thank you very much for coming in. Talking about the vending machines, you said that only 0.1 per cent of cigarettes are sold through vending machines. I am trying to get a good understanding of what actually happens in clubs and hotels. Can you sell cigarettes only through vending machines or are you able to have them behind the counter?

Mr Hogan: No, we have the option of having it in a machine. Alternatively, some may be selling it through their drive-through. It depends on the make-up of the hotel where that may be.

Ms PEASE: Thank you for that. Do you have any data or any evidence or information that you could share with regard to the number of your patrons who are smokers and use DOSAs?

Mr Hogan: There is no other area they can smoke in on the licensed premises.

Ms PEASE: The percentage of your patrons.

Mr Hogan: I would suggest that the number of people who come through hospitality venues in Queensland, the number would be startlingly similar to the population numbers.

Ms PEASE: Ten per cent of your patrons would be smokers.

Mr Hogan: Yes, 10 per cent of the population are smokers so I would hazard a guess—just from the sheer number of people who come through hospitality venues—the way the stats would work is it would probably skew towards the population.

Ms PEASE: I am just trying to clarify in my head, with the small number of people who buy cigarettes through vending machines, what the point of having them is?

Mr Hogan: The other way of looking at it is 99.7 per cent is sold at other places apart from licensed venues and until such time as that is curtailed it is going to make no difference in a licensed venue or at a sporting ground or at a church fete. It is going to make no difference because the availability is elsewhere.

Ms PEASE: And that is my point.

Mr Steele: The 99.7 per cent of people selling at the moment, which I know the member for Southport was quite amazed to learn during the previous public briefing, it is an unlicensed selling regime.

CHAIR: We have heard of the illicit tobacco industry going into venues and selling. They pull up with a van and they will sell or give them to patrons. Can you make any comments on that particular issue?

Mr Steele: Totally unaware of any instance of that happening in our venues. Any criminal activity that that represents is something that obviously, like any other criminal activity, is not encouraged, as it would be in any other part of the community.

CHAIR: Fair point.

Mr Hogan: It is exactly as Damian said. We would not support any activity that is quite obviously illegal. Again, when you are looking at the percentage, and this is something we are always very keen to make sure of, that we look at any law that does not just suit George Street, does not just

suit Mirani or Thuringowa, it has to be broader because that is where it is going to be applied. We look at it and we reject anything that is illegal, absolutely, but smoking is a legal product at this point in time.

CHAIR: I take the member for Lytton's point, do we actually need them if such a small percentage of people are actually accessing them? Is it up to the individual hotel or operator whether they actually have vending machines and have you got some data around that? I do not know if you said it in your opening statement. Out of all the hotels, how many would actually have a vending machine?

Mr Hogan: The rough figure is about 800 across hotels and clubs that have vending machines. When you say it is such a small number, when you are talking about a business that is running on a margin of less than one per cent for a regional pub, anything you take out of that puts it on a knife edge. Again, that is what I am saying: it is different if you are talking about a pub that is in Surfers Paradise or in Caxton Street to one that is Einasleigh. We cannot be stripping out revenue, however that is derived, or increasing costs because that just squeezes the margin to an already marginal business.

CHAIR: Fair point.

Mr ANDREW: Thank you for coming in. I go around to the pubs and talk to people all the time. You do not see a lot of vending machines in Mount Morgan either. I do not see a lot of illegal tobacco there, thankfully. Generally, across the board, what else in the bill would you consider to be needed or should be taken away?

Mr Hogan: As Dan said before, there is a lot in this bill that we support. The deputy chair mentioned before the overall intent of the bill is something that is very important. We understand the health of Queenslanders and the broader community support. We support that; absolutely. What we are looking for more than anything is protection of those businesses that are already in existence doing what is a legal activity. I did mention that we would like to see some kind of grandfathering clause for those people who are invested already not being required to suddenly change and invest thousands of dollars in removing something and building more, an outlet behind the counter, for an incredibly small number when most people who come into a DOSA have bought that product elsewhere and have carried it out with them. So really we are asking a business to invest thousands of dollars, depending on where it is, to make no difference to the figures of who is smoking. Maybe it is 0.1 of a per cent but it is materially not very many.

Mr Steele: Member for Mirani, also we certainly support the licensing of that unlicensed selling entity and, as Bernie has mentioned before, we can distinguish licensed premises from other businesses that sell these products because we have already passed probity. To get a liquor licence you have to have met the fit and proper person test. We are subject to audit. They know who we are. They know where to find the person who is responsible for the operation of products and services under that licence. In that same context then that leads to the ability for inspection and audit. Again, we are subject to rigorous inspection and audit across multiple products where the rest of the retail industry, the 99.7 per cent, may not be.

Mr ANDREW: I see that too. I see a lot of that because we have to stay at those places because a lot of times we do not have actual accommodation so they talk about that. Thank you for your information.

CHAIR: We have gone well over time. Thank you for your contributions. We will move on to the next witness.

CHIN FAT, Ms Sharyn, Senior Manager, Information and Programs, Cancer Council Queensland

CHAIR: Would you like to start with an opening statement?

Ms Chin Fat: Thank you. Good morning, chair and committee members. Thank you for the opportunity to appear before the committee on behalf of Cancer Council Queensland in relation to this bill. Cancer Council Queensland congratulates the Queensland government on the development of the bill. It represents an important step towards protecting Queenslanders from the harms of smoking. More than 30,000 Queenslanders are diagnosed with cancer each year. This is expected to increase to over 40,000 cases a year by 2030 as the population grows and ages. Cancer Council Queensland is here to support all Queenslanders affected by cancer by reducing cancer risk, improving early diagnosis and improving the quality of life for Queenslanders impacted by a cancer diagnosis. Our mission is to lead Queenslanders in a partnership against cancer.

While Queensland's adult smoking rate has more than halved from 24 per cent in 1998 to 10 per cent in 2020, there are still ongoing impacts related to tobacco and other smoking products. Smoking is the lead cause of preventable death and disease, including cancer, in the developed world. In Australia, smoking causes one in five cancer deaths which includes more than 3,400 deaths in Queensland each year. Smoking is known to cause lung cancer and is the major risk factor for oral, oesophageal, laryngeal, pharyngeal, stomach, cervical, kidney, liver, pancreatic and bladder cancers and acute myeloid leukaemia. In addition to this, there are known harmful effects to people who do not smoke through second-hand or passive smoke with babies and children particularly at risk.

Cancer Council Queensland is in support of the bill with a number of areas to be taken under consideration. We recommend that the bill be amended to prohibit the sale of smoking products online. To the extent that it allows for the sale of smoking products online, the proposed scheme is inconsistent with Australia's obligations under article 13 of the framework convention on tobacco control. The guidelines to article 13 specifically state that the online sale of tobacco should be banned as they inherently involve advertising and promotion. If the online sale of smoking products is not prohibited, we urge the Queensland government to, at a minimum, ensure that the relevant regulations are amended to clearly prescribe a requirement for age revocation procedures at both point of sale and upon delivery.

Tobacco vending machines in licensed premises continue to promote the association between socialising, alcohol and smoking. A prohibition on vending machines would help to further denormalise the use of smoking products and eliminate a strong visual cue which has the potential to trigger smoking relapse. Evidence suggests the presence of tobacco vending machines can prompt unplanned purchases of tobacco and undermine attempts to quit smoking.

We note that the bill does not propose to introduce any requirement for the provision of sales data by retailers. We urge the government to consider introducing such a requirement. Tobacco sales data from retailers would be extremely valuable for monitoring trends in tobacco use and evaluating the effectiveness of tobacco control initiatives. Reporting requirements for retailers should cover sales volumes by product type, brand, pack size and variant. If it is not considered feasible to include these amendments as part of the bill, we urge the Queensland government to impose reporting requirements for retailers as a general condition of each licence.

The proposal that does not require liquor licence venues to pay a fee and undergo assessment for a separate tobacco licence is problematic. Under the proposed arrangement, there would be no disincentive for liquor licensed premises to sell smoking products. This completely overlooks the established link between smoking and alcohol consumption. Numerous studies demonstrate that concurrent tobacco and alcohol use is associated with greater nicotine dependence, significantly higher levels of consumption and high risk of excessive use of alcohol. The requirement to obtain and pay for a separate licence would likely provide a significant disincentive for some liquor licensed venues to sell smoking products.

Declaring outdoor markets smoke-free will reduce risks of acute exposure to tobacco smoke for many vulnerable Queenslanders. The five-metre buffer zone is a sensible inclusion. However, we maintain our opposition to allowing a designated smoking area at all. The presence of a designated smoking area would greatly reduce the benefits of smoke-free legislation in sending a clear message to the community about the harmfulness of smoking and exposure to environmental tobacco smoke.

We welcome the amendment to the designated outdoor smoking areas that restricts access by children to these areas. In line with the amendment to the act that prohibits the serving of food or drink and the provision of entertainment in the designated smoking area, we would recommend that

this further be expanded to prohibit consumption of alcohol in these areas. We would also ask for consideration to be given to restricting the size of the DOSA to no more than 25 per cent of the outdoor liquor licensed area, rather than the current 50 per cent. Thank you again for inviting us to appear.

CHAIR: Thank you very much, Sharyn. It is interesting. You would have heard the previous comments around the hotel industry on those vending machines. I did not know until you pointed out in your submission that the ACT licences can no longer be granted or renewed for those vending machines. Was there any pushback from industry in the ACT that you aware of?

Ms Chin Fat: I could not answer that, sorry.

CHAIR: It is an interesting comparison. You are urging us to follow the ACT model. Maybe that is something we can undertake.

Mr ANDREW: We have just spoken with people from the Queensland Hotels Association. It seems that there is a very small chance of people buying cigarettes or whatever from there. What do you think about their statement around forcing these people out of the DOSAs and into other public areas to go and smoke? You are showing bad after good. If you reduce the smoking areas where they are not doing any harm and push these people out to another area, where do—

Ms Chin Fat: We are not saying that there should not be designated smoking areas in liquor licensed venues. We talked about there should not be designated smoking areas at outdoor markets. In regards to liquor licensed venues, we are not saying that we do not think there should not be a DOSA. We are saying that we think you should not be able to drink alcohol in that DOSA and that the size of the DOSA should be limited. That is not pushing people out into public.

Ms PEASE: Thank you for coming in today. My mother-in-law passed away; she had five different primary cancers that were all related to smoking. I appreciate what you were saying on how impactful cigarette smoking is. I am very mindful of the position that you take with regards to the DOSAs. Queensland has been a world leader in regards to changing the culture and the mindset of smokers; would you agree with that?

Ms Chin Fat: Yes, I think there has definitely been a change in the mindset in relation to cigarette smoking.

Ms PEASE: I find it interesting, going into clubs and hotels, that there are not a lot of people in the DOSAs as a general rule, certainly the places that I go to. At a footy game or something like that, there might be. Do you think that smoking numbers have declined in Australia? In Queensland, around 10 to 11 per cent of the population are smokers. Do you imagine that these changes to the legislation will help to decrease the number of smokers?

Ms Chin Fat: Yes, I think it will.

Ms PEASE: Why do you think that that will change?

Mr ANDREW: The standout part of the legislation will change the smoking habits of Queenslanders, I think.

Ms Chin Fat: I think denormalising smoking is what changes people's behaviour. If it is a normal behaviour, if everyone else is smoking, why would you not smoke? I think the denormalisation of smoking behaviour will change people's attitudes to smoking. We have already seen it has halved since 1998. We are obviously doing something right, but we still need to keep working to make sure that we are not having 3,500 deaths in Queensland related to smoking a year.

CHAIR: The earlier contribution talked about the South Australian laws on banning advertising. Can you comment on that? I think that is important. Should we be following the SA approach in regards to the ease of access to products online?

Ms Chin Fat: We do agree that buying cigarettes online should be banned. As we said in our submission, if it is not prohibited, then we need to have some stricter rules in place around verification procedures. I know you said earlier that you could jump online and buy cigarettes, but there also needs to be some verification at point of delivery, not just when you purchase it—when it is actually delivered to you. If we cannot ban or prohibit the sale of online cigarettes, then we can at least put in some controls to stop people underage from purchasing them.

CHAIR: There will be an enormous effort to do that. We have had such progress in reducing the smoking rate over the last 20 years. As you know, we have the other inquiry looking into the increase in vaping. The online access is a huge issue, particularly for minors. There are just no controls around that so that is something the committee will take on board. Your submission is very comprehensive and, there being no further questions, we thank the Cancer Council for being here today. Thank you very much.

GARTNER, Professor Coral, Director, NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame, School of Public Health, University of Queensland

RIMMER, Dr Matthew, Professor, Intellectual Property and Innovation Law, Faculty of Business and Law, Queensland University of Technology

CHAIR: I now welcome representatives from the University of Queensland and the Queensland University of Technology and invite you to make your opening statements.

Prof. Gartner: Thank you, Chair, Deputy Chair and members of the committee for the opportunity to present before you today and give some input into this important public health bill. For context, I am a professorial research fellow at the University of Queensland and have 17 years experience in tobacco control policy research. I am an Australian Research Council future fellow and the Director of the National Health and Medical Research Council Centre of Research Excellence on Achieving the Tobacco Endgame. Firstly, I would like to commend the Queensland government for implementing through this legislation, if it is passed, a tobacco retail licensing scheme. This is an important legislative framework to improve monitoring and enforcement of Queensland's tobacco control laws regarding supply of tobacco and vaping products. We know that there has been an increase in the supply of illicit tobacco and noncompliant vaping products, including to children in Queensland, so this is an important public health measure to curtail this illicit supply.

It is also important from the perspective of giving greater recognition to tobacco products as harmful and addictive substances. The fact that tobacco products are allowed to be sold by general retailers as a consumer product is a regulatory anomaly. In terms of regulation of tobacco supply, requiring a licence to sell is the bare minimum that should occur with this product. Indeed, this legislation is very overdue and I welcome it.

I have made several recommendations in my written submission where the legislation could be further strengthened, and there is also a lot more beyond what I have detailed in that written submission that we could do to better manage tobacco supply and to protect people in Queensland from the harmful effects of smoking. We want to try to regulate tobacco products in line with how harmful they are. However, I appreciate that some of these recommendations may be better considered separately, and I would not wish to delay the implementation of this bill and the associated licensing scheme which is an important step towards addressing tobacco supply. Hence, I will restrict my comments today to some key issues that I feel are most important or that I think can be relatively quickly implemented. In the first instance, I will address the provisions related to the supply of tobacco products.

There appears to be no provision for covert compliance surveys and controlled purchase operations within the amendment bill. Such covert operations are part of routine compliance monitoring and enforcement activities in other Australian states and territories, and it would greatly enhance the effectiveness of this legislation if such activities were included in the suite of monitoring and enforcement activities undertaken in Queensland. We want to give our enforcement officers the best opportunity to make this legislation work and to be able to proactively monitor and enforce. For example, Western Australia's Tobacco Products Control Act includes provisions to facilitate compliance surveys and control purchase operations, with section 95 allowing the authorisation of control purchase officers to include children, and the act also allows for concealment and misrepresentation of their identity for the purpose of conducting covert compliance surveys and controlled purchase operations. Queensland should also allow such activities.

Also related to compliance activities, I encourage setting an adequate licence fee to ensure there is sufficient resourcing to undertake compliance activities, including proactive monitoring activities. While retailers may wish to minimise the fee that they pay, it is also in their interests for there to be sufficient enforcement activities to reduce the illegal market that they are competing with. Adequately resourcing the licensing scheme is a necessary feature to make sure that it is going to be effective.

I also encourage that a zero tolerance approach is taken towards retailers who are found to be supplying illicit tobacco products, with licence cancellation used as an early deterrent, rather than only monetary fines given out in the first instance. Fines can be less effective as they can simply be factored into operations as a business cost, whereas licence cancellation carries more ramifications for the business owner.

The proposed licensing scheme does not include separate licence types for specialist tobacconists and general mixed retailers who also sell tobacco. These are two different types of tobacco retailing outfits. I think it would be advantageous to distinguish between these two different

types of retailers in the licensing scheme because this would allow for better monitoring of tobacco supply in Queensland and how it is being supplied—whether it is through specialist retailers or general retailers. There may be times when communications may need to be targeted to specialist or to mixed business retailers. Being able to easily generate a list of those different licence categories would be very useful for communications and monitoring.

Concerning exemptions for licensing requirements for pharmacy supply of mixing vaping products for smoking cessation purposes: I do not believe that the intent of this bill is to curtail people's access to smoking cessation support in pharmacies. The PSA have highlighted that it needs to be clarified that devices that do not contain a scheduled substance are able to be supplied from pharmacies without having a tobacco retail licence. Finally, concerning strengthening the provisions for smoke-free laws: I was surprised, I could not see the removal of the exemption for the premium gaming rooms. I believe that is still in place; is that correct? It is not included in this amendment.

Mr West: That is correct.

Prof. Gartner: I would strongly recommend removing current exemptions for premium gaming rooms. When it comes to protecting the health of workers and customers in these environments, there is no reasonable justification for continuing to allow smoking in these enclosed spaces. This is 2023. The fact that you can still expose workers in an indoor enclosed environment is not acceptable any more. I think that is something straightforward that could be easily done.

In summary, this is an important piece of legislation and the licensing scheme should be implemented as a matter of urgency. While it is disappointing that the bill does not go further to protect the Queensland community from tobacco products, I hope this bill is the start of renewed action on reducing smoking in Queensland. Further reforms will be needed if Queensland is to achieve the national prevalence goal of less than five per cent by 2030 and increase equity by reducing smoking amongst populations with a very high smoking prevalence. I encourage the committee to see this bill as a first stage and to continue to consider additional measures beyond this amendment bill.

I would like, if possible, to address the issue brought up by the Queensland Hotels Association. They were arguing that they need to continue having vending machines in their premises because—

Mr MOLHOEK: Margins.

Prof. Gartner:—they had small margins. Because they are only making, I think it was 0.1 per cent of turnover, it is curious that they are arguing for that so much. I ask the committee to consider: what is the plan here? If we want smoking rates to go down, the business argument of 'we are making money from this', should we stop people quitting smoking because Queensland hoteliers are making some profit from this? It does not make logical sense. Our goals are to make Queensland a healthy place for people to live and to improve the health and wellbeing of people. I think that also needs to be taken into account here. There is a real business opportunity. It would be good for business to remove vending machines because of all the hassle that comes from them. They are not making very much from them; they have compliance issues. A logical solution would be for them to stop selling tobacco all in all and have a plan to get out of selling tobacco.

CHAIR: Fair point.

Prof. Gartner: Thank you.

CHAIR: Dr Rimmer, welcome.

Dr Rimmer: Thank you very much. I am Professor Matthew Rimmer. I am a professor of intellectual property and innovation law at the QUT Faculty of Business and Law. I am affiliated with the Australian Centre for Health Law Research; the BEST centre which focuses on behavioural economics; and the NHMRC centre which is doing work on tobacco control. I have had a long interest in the topic of tobacco control. Thankfully, I sent Nicola Roxon an email about the case for plain packaging of tobacco products which was taken up and then run with by the Rudd and Gillard governments. I have appeared before federal parliament defending the legitimacy of the plain packaging regime. I was an eyewitness to the battle royal at the High Court of Australia over the constitutional validity of the plain packaging of tobacco products regime and I followed some of the later disputes in the World Trade Organization and investment tribunals in which Australia successfully defended its pioneering public health regime.

First of all, in terms of my submission, I note that Queensland has been a great leader in terms of public health and in dealing with tobacco control. The former chief health officer Dr Jeannette Young said that one of her proudest achievements was reducing the rates of smoking in Queensland. In becoming Governor, she has emphasised that she aspires towards achieving a smoke-free state in Queensland. I certainly agree with her, and the essence of her ambition has certainly been reflected in my submission. It is very heartening to see the Premier take such a personal interest in driving

down smoking rates. The health minister has many years of experience in dealing with tobacco control, both as a federal MP and as a state minister. In some ways, she is ideally placed to spearhead law reform in this area given her combination of expertise. It is also heartening to see this committee take such a strong personal interest in this topic. I know this committee has been deliberating on some great bioethical questions around euthanasia and abortion rights and what to do in a COVID crisis. I certainly think that dealing with the global tobacco epidemic is a really important and challenging public health issue that is on par with some of those other issues.

Secondly, I support the intent of the legislative bill that has been prepared. In many ways, I think it lays down some important foundations for further work in relation to tobacco control. As many other speakers have said, a licensing regime is critically important to ensuring proper regulation of tobacco control. I think that the legislative bill has some very elegant solutions to try to ensure stronger enforcement of tobacco control laws in Queensland, and that has often been an issue in terms of the efficacy of a legislative regime. There has been some further expansion of smoke-free spaces and environments, and that is welcome. There is a recognition of some of the impacts of smoking upon children and youth in particular and there are efforts to try to provide some greater protection for certain communities.

Thirdly, as you can see in my long submission, I make the case for pushing forward further and using this bill as an intermediate steps towards Dr Jeannette Young's ambition of achieving a smoke-free state. Our neighbours New Zealand have shown great ambition under the leadership of Jacinda Ardern with their package of law reforms to achieve a smoke-free New Zealand. Some of those elements are within the Queensland regime, but I think the New Zealand regime goes much further. Not only does it deal with retail, but it has a very strong focus on trying to have smoke-free generations—raising the age in relation to smoking. Many other jurisdictions are contemplating what should be comprised in a tobacco endgame. What would be an effective set of measures? The federal health minister Mark Butler is very interested in this issue and he has been promising that he will have a package of law reforms looking at tobacco control, and he wants to work very closely with state and territory governments to ensure there is a unified approach.

In my submission, I suggest a number of ways in which you could think about reframing Queensland's tobacco control policy: focusing upon that greater ambition of achieving a smoke-free state; thinking about boosting critical human rights, recognised in terms of Queensland's current regime in terms of the right to life, children's rights and the right to health access. There are other possibilities in terms of pushing forward with further smoke-free spaces to try to reduce some of the concentration and clusters of tobacco retail. In addition to the current enforcement measures, there is a lot of interest in taking legal action against tobacco companies—civil action and criminal action. I am always curious when you have hearings that talk about the legality of smoking.

As a scholar, I note there have been many actions that are currently in progress and have been previously taken against the tobacco companies. In terms of law reform, it is important to ensure there is not tobacco interference and there is a need to ensure tobacco companies do not try to cut down or minimise or undermine some of the tobacco control regulations that are there. I encourage you to be bold and ambitious, not only in terms of taking this bill forward but in thinking about the next generation of tobacco control reforms that are coming along.

CHAIR: Thank you to both of you. As we heard this morning, the ease of access to products online is an issue. Can I hear some commentary on how best to tackle that particular issue, particularly for young people in Queensland who are accessing tobacco products?

Prof. Gartner: I would say that you need to look not only at the online sale but also the delivery point. There is an example where delivery has been banned through let's say the postal service in the US. There are things you could do at the delivery point. Is it an acceptable product to be delivered to people's homes? Particularly with vaping products, we know that young people are ordering those and having them delivered. There are international sales, too. We may be able to do something locally about selling online in Queensland, but it does not stop people ordering things online. You could look at that delivery point as well.

Dr Rimmer: It is certainly a matter of international concern. I remember appearing as a guest expert before the World Health Organization that were thinking about how to apply World Health Organization Framework Convention on Tobacco Control to the online environment. There was a lot of interest amongst various different member states about how you could devise laws to deal with a range of different issues, including advertisements, promotion and sponsorship online. There was a great deal of concern at the international level that tobacco companies were using social media to engage in international communications about tobacco, vaping and e-cigarettes which may not have been properly disclosed or compliant with the laws.

It is certainly also an issue that the federal government has been very concerned with. Previously Nicola Roxon, when she was finishing up, was expanding the national regime to try to properly deal with digital communications about tobacco and the now Queensland health minister was there speaking on that bill. That is certainly an important issue, especially given that we are dealing with a global tobacco epidemic. We are not just dealing with Queensland or Australia, we are dealing with big multinational companies that are trying to sell their products across multiple different jurisdictions by a variety of different means. I am sure that is something that the federal health minister Mark Butler is contemplating in terms of trying to have a unified approach by Australian governments to deal with some of those issues.

Mr ANDREW: You have a broad outlook. I am wondering about the black market side, because a lot of this has been forced behind closed doors. The increase in taxes, the increase in cost has blown this out of the water as far as the black market is concerned. You have obviously dealt with this issue internationally; have they used an approach to curtail that?

Dr Rimmer: It is a bit late in the submission but by about page 101 onwards I track some of the actions that have been taken in relation to the illicit trade in relation to tobacco. I think you are quite right: taxes being raised in relation to tobacco has led to much more debate about whether there will be further illicit supply.

It has been interesting to see the actions that have been run in that space in Queensland and elsewhere. In the past there have sometimes been questions about who is bringing those actions. This bill partly tries to deal with some of those questions in terms of how the Australian tax office work together with health authorities in terms of some of these issues. I think there is quite broad consensus amongst a lot of the submissions to this inquiry about the need for effective enforcement in this space. Looking at the press releases for the cases that have been prosecuted, it seems to me that the authorities are now taking that issue very seriously in terms of bringing action, prosecuting individuals and taking them to court. To me, it also shows that criminal law does have interesting new applications in the field of tobacco, which is kind of interesting looking at some of the litigation that has been happening elsewhere.

It is to be expected that black markets will appear when there is regulation in place. It is important that there is effective enforcement action. If you have a look at that list of actions, I think that that will have a substantive deterrence effect for those who might be interested in engaging in illicit trade in tobacco. There are some quite heavy and profound consequences for engaging in that kind of behaviour. I guess it is also going to be an aspect of the vaping inquiry as well. I will leave that discussion to later. Federal Treasurer Jim Chalmers is quite interested in this topic. Taxes are within his portfolio. He thinks taxation is an effective means to nudge people to make healthy choices.

Mr ANDREW: Unfortunately that does not check containers.

Dr Rimmer: It has certainly been the case for a number of treasurers in the past as well. That has been part of Australia's effective tobacco control policies. Taxation is designed to encourage people to think about some of the costs involved in relation to buying tobacco.

Prof. Gartner: This bill is important for tackling that issue of illicit tobacco because it does help streamline enforcement in Queensland. One of the issues has been with the jurisdictional boundaries in terms of the tax office being responsible, it not being a Queensland police issue and so on. By giving powers to law enforcement and health staff in Queensland to tackle this issue, it makes it a little easier to do something about it. I think that that will certainly have an impact. Like I said, having those sort of covert compliance activities also being allowed in here will really help. We have seen journalists going into stores and recording themselves purchasing illicit tobacco products and so on. There is no reason we should not also have some enforcement officers going in and doing the same and checking that people are not being offered illicit tobacco. I am hearing lots of anecdotal reports about people going up to people buying tobacco at a service counter at a supermarket and being offered a card where you can go and purchase an illicit product and things like that. It is something that is happening around the state that we need to be aware of and do something about.

In terms of this just being an impact on tax and so on, I would like to raise that in other countries that have much lower tax rates than Australia or have much less tobacco control activity, they have worse illicit tobacco supplies. It is not just a matter of greater tobacco control equals more illicit supply; it is about our enforcement and our monitoring and activities, because wherever there is an opportunity to sell a product illicitly to make more money there will be people trying to jump into that space. It is not necessarily about our tobacco control laws being too strict; it is about needing to do more about enforcement and monitoring.

Mr MOLHOEK: I note that both of you have presented fairly significant research information. A lot of what you are saying is supported with all sorts of evidence. Has there been any research around addictions more broadly? Is there any data around what happens when people give up smoking or are cornered in a sense to a point where they can no longer afford to do it? Is there a transference of those addictions into other substances and what are the consequences of that? I do not think we are looking holistically at the issues of social isolation and some of the other driving factors that we are seeing around poorer social outcomes and the use of alcohol and illicit drugs. Is there any research that has been done that looks at all of these issues more holistically around the issue of addictions?

Prof. Gartner: Particularly with smoking, we know that there is a really strong correlation between mental health symptoms and smoking. People who have mental health disorders who are more likely to smoke. With people who quit smoking we find that their mental health improves. Even for people with mental health disorders, it is worse for their mental health to keep smoking. In terms of being concerned about, say, someone being isolated and then smoking to relieve symptoms of boredom or isolation, it is going to make them feel worse. Quitting smoking is going to improve their mental health and wellbeing. My understanding is that it helps also if you tackle all addictions, so all substances of dependence. We are starting to see better acknowledgement of that in substance use treatment services. They are now starting to recognise that they cannot ignore smoking, because smoking is what is killing most of their clients. It does not interfere with treatment. They get good treatment outcomes and better even if they also address smoking.

Dr Rimmer: I think you raise a good question about how do we regulate different sorts of dangerous products of one kind or another. I certainly remember that question being raised in the High Court of Australia when there was the debate over the legitimacy of the plain packaging of tobacco products. Chief Justice French and now Chief Justice Kiefel really dealt with that at that particular time saying that they were going to focus on this particular legislation. It might have implications for regulation of food, alcohol and other areas but they will deal with that at another time when those cases come up. Being part of a health law centre, I have just been part of a big collection and we have had experts looking at different non-communicable diseases. I think your point is a correct one. We have developed these very specialist regimes for tobacco, alcohol and food and they have been sometimes driven by different forces and different factors. Sometimes there are learnings that are drawn upon from one sector to another in terms of what we can do to achieve healthy outcomes. Tobacco control in some ways is more advanced than some other areas in terms of it has very tight restrictions, for instance in relation to advertising. We already have a combination of measures in place. Whereas we are not really at the same stage with alcohol, for instance, in terms of some of the regulations there or even in relation to food.

It is an interesting point to make in terms of there being some different regulatory approaches across different sectors in terms of what has been sought to be achieved. Often there are very different stakeholders involved in some of those different sectors. The debates have fought out a little bit differently. With tobacco control, you have this big World Health Organization Framework Convention on Tobacco Control which really provides a guide to nation states in terms of how to put in place tobacco control measures. In some ways that has provided guidance about what options you can use in terms of public policy means to achieve good public health outcomes. I do not think in some of those other areas you have something quite as systematic as that.

CHAIR: I was going to say 'serendipity' here. As we talk about this, New Zealand has passed legislation imposing a lifetime ban on young people buying cigarettes if they are born after 2009—very bold.

Prof. Gartner: Could I also just add to that? It is actually on the sale of cigarettes. It is not making it illegal for the young person; it is not criminalising young people, but it is addressing selling tobacco. You cannot sell tobacco to people born after—

Ms PEASE: The first of January 2009

Mr ANDREW: But how do you police that? That is ludicrous. When people in a different age group go out there and buy these products, you create another black market there. Is that true?

Prof. Gartner: No. This is part of a whole package of measures, I would point out.

Ms PEASE: It is a suite of measures.

Prof. Gartner: This is not just one measure on its own; there is a suite of measures. They are also reducing the number of retailers in the country by 90 per cent. That will be the maximum. They are reducing from 4,000 retailers in the whole country down to 400. There is going to be fewer supply

outlets to monitor, to check compliance for and so on. They are also bringing in a standard that only cigarettes that contain very low nicotine content will be allowed to be sold in the country. They will not have that addiction issue of young people experimenting with tobacco and then taking up smoking. Yes, illicit market issues are something that they have to deal with—and they have already acknowledged that—but we have to deal with that anyway. We do not have these measures in place in Queensland and we have an issue here that we have to deal with. That is just part of standard monitoring and compliance and making sure that there is not an illicit market.

Mr ANDREW: Like a phase-out situation.

Prof. Gartner: That is right.

Ms PEASE: One of the things that this bill will also do is remove the ability for parents to buy cigarettes for their children. That in itself is a very big step which is overstepping what they thought was the right thing to do at the time. It is another form of illicit providing cigarettes to people. With regard to the New Zealand case, 50 per cent of smokers in New Zealand die from smoking-related disease.

Dr Rimmer: It is worth adding as well that in New Zealand one of the key drivers for law reform has been the concern of Indigenous communities about the tragic impact of smoking upon life spans. I remember the Maori Party was very keen on plain packaging when it came in in New Zealand, but within the Labour caucus there was a deep, abiding concern about how tobacco companies had targeted Indigenous communities and what terrible health impacts that had. It was interesting to read Jacinda Ardern reflect upon cabinet deliberations about their legislative package. Much like you, she thought it was a critical question around children's and youth rights as well. To her mind, it was a bold package of measures but, nonetheless, necessitated by some of the harms that were being inflicted upon particularly vulnerable communities and populations.

CHAIR: We are seeing that in our state as well—remote, discrete Indigenous communities still with 40 per cent smoking rates, as you heard today. There is a lot of work to be done here. I think the bill is a good step forward. Yes, we need to be bold.

Dr Rimmer: Chair, I agree with you entirely in terms of the terrible impact smoking has had on regional and rural communities in Australia. My wife is from Coonabarabran. My mum is from Shepparton. My late grandfather was a Country Party kingmaker. There is a deep, abiding concern in some of those communities about the impact of smoking upon health care and compounding existing issues in terms of getting access in regional and remote Australia. Unfortunately, over many years the tobacco companies have targeted rural and regional Australians. Think back to the Marlboro campaign. Sometimes there have been very targeted advertising directed at some of those communities. I certainly share those concerns. I used to be in a centre focused on law and agriculture for a good 14 years. I do think there is a distinctive component of the debate over tobacco control about having comprehensive tobacco control and particularly working out good strategies in vulnerable communities.

CHAIR: How far we have come. We just have to cast our minds back to the advertising—the Winfield Cup. In the mid-1980s I was working at the old Townsville General Hospital where everyone smoked—patients, doctors, staff. I always have that image of the patient going out just to have a pause from being sick for a while, having a smoke and then going back. We have come a very long way in this state, and there is more work to be done. We are out of time. We appreciate both of your being here today. Your submissions have been very much welcomed. Thank you for your contributions. This concludes the public hearing. I thank everyone for being here today. Thank you to Hansard. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 12.30 pm.