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HEALTH, ENVIRONMENT AND INNOVATION COMMITTEE

Members present:

Mr R Molhoek MP—Chair
Ms SL Bolton MP (via videoconference)
Ms K-A Dooley MP
Mr JP Kelly MP
Mr DJL Lee MP
Dr BF O'Shea MP

Staff present:

Ms K Jones—Committee Secretary
Miss A Bonenfant—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE TOBACCO AND OTHER SMOKING PRODUCTS (DISMANTLING ILLEGAL TRADE) AND OTHER LEGISLATION AMENDMENT BILL 2025

TRANSCRIPT OF PROCEEDINGS

Tuesday, 21 October 2025

Brisbane

TUESDAY, 21 OCTOBER 2025

The committee met at 8.58 am.

CHAIR: I declare open this public hearing for the committee's inquiry into the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025. My name is Rob Molhoek. I am the member for Southport and chair of the committee. I acknowledge the Aboriginal and Torres Strait Islander people of this state and their elders past, present and emerging. I also acknowledge the former members of this parliament who have participated in and nourished the democratic institutions of this state. Finally, I acknowledge the people of this state, whether they have been born here or have chosen to make this state their home and whom we represent to make laws and conduct other business for the peace, welfare and good government of this state.

With me here today are: Mr Joe Kelly MP, member for Greenslopes and our deputy chair; Ms Kerri-Anne Dooley MP, member for Redcliffe; Dr Barbara O'Shea MP, member for South Brisbane; Mr David Lee MP, member for Hervey Bay; and online via videoconference Ms Sandy Bolton MP, member for Noosa.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Can members and witnesses please remember to press your microphones on before you start speaking and off when you are finished, and please turn your mobile phones off or to silent.

BROOKE, Mr Mark, Chief Executive Officer, Lung Foundation Australia

GARDINER, Mr Matt, Chief Executive Officer, Cancer Council Queensland

HUNTER, Ms Laura, Chief Executive Officer, Australian Council on Smoking and Health (via videoconference)

JACKMAN, Dr Danielle, Manager, Government Relations, Cancer Council Queensland

WALLER, Ms Mena, Chief Operating Officer, Cancer Council Queensland

CHAIR: Would each of you like to make a brief opening statement, for a minute or so, before we start questions?

Mr Gardiner: Good morning, committee. My name is Matt Gardiner. I have the honour of serving as Chief Executive Officer of Cancer Council Queensland. I am also an adjunct professor with Health Sciences at Australian Catholic University and Chair of the Council of Social Service. I am joined today by our Chief Operating Officer, Mena Waller, a proud Yawuru woman; and our Manager of Government Relations and Policy Advocacy, Dr Danielle Jackman. We acknowledge the Yagara and Turrbal people as traditional owners of the land we are on today and pay respects to elders past and present.

Thanks for the opportunity to provide very strong support for this bill. I am sure the committee will appreciate that the Cancer Council has a long history of advocating for stronger tobacco control. For decades, indeed, we have worked alongside governments, public health organisations and communities to reduce smoking rates, prevent addiction and protect people from the leading cause of preventable death.

For context and in the interests of transparency, as we would expect from all parties, approximately six per cent of Queensland Cancer Council's total income is derived from Queensland government funding, and only a small portion of this supports public health/prevention activities, primarily skin cancer prevention. We do not receive any state government funding for our tobacco control advocacy, vaping or smoking prevention and health promotion activities.

We fully support this bill and urge that it be passed swiftly and in full, given the rapid growth of illicit tobacco and vaping trade across Queensland. Specifically, we welcome the bill's expanded closure powers to shut down rogue traders; the introduction of controlled purchase operations, including online, to detect illegal activity; and stronger landlord, corporate and executive accountability to ensure those who enable and profit from illegal trade are held responsible.

Our submission provides detailed evidence on the health harms caused by tobacco products. While this inquiry rightly focuses on enforcement measures targeting the illegal supply of tobacco and vapes, it is important to remember the fundamental truth that underpins our concern: tobacco, whether legal or illicit, is deadly. Tobacco use continues to drive health inequities across Queensland. Daily smoking rates are more than three times higher in Queensland's most disadvantaged areas than the most advantaged, and amongst Aboriginal and Torres Strait Islander peoples tobacco remains the leading contributor to disease burden. Its ongoing impact is deeply connected to the legacy of colonisation, with lasting effects on health and wellbeing. We acknowledge and thank community controlled health organisations across Queensland for their leadership in delivering culturally informed, community-led prevention and cessation programs.

Right now we are witnessing a wave of nicotine addiction fuelled by aggressive industry marketing and rapid growth of illicit vape sales. The rise in youth vaping is particularly alarming. It has reached the point where school leaders are contacting our organisation seeking guidance on installing vape detectors in bathrooms and locker rooms to help them manage the problem. We have primary schools that have reached out asking for age-appropriate presentations to year 6 classes. Evidence is mounting on the serious health risks posed by vaping, as outlined in our submission. Scientific studies now indicate that the chemical components of vapes are likely to cause lung and oral cancers.

We have learned from tobacco's history that we cannot afford to wait for decades of harm before acting. In addition, the likely link to cancer studies have also demonstrated a clear gateway effect between vaping and tobacco cigarette smoking. In preparing for today's hearing, the Generation Vape national study, led by the University of Sydney and Cancer Council NSW's Daffodil Centre, provided us with Queensland-specific data on youth vaping that offers compelling evidence for passing this bill in full. In the most recent wave of the study, conducted in April this year, two-thirds of Queenslanders aged between 14 and 17 said that it was easy or very easy to buy vapes and only one per cent said that it was difficult. This is 14- to 17-year-olds. The findings reflect a representative mix of vapers and non-vapers, giving a clear picture of just how widespread vaping has become across Queensland. The current controls simply are not enough. Suppliers can easily get around the law, and existing penalties are too light to act as a real deterrent. This bill closes those gaps.

The bill gives Queensland Health the power and authority to act decisively, in close partnership with law enforcement, to protect the public from harm. It upholds Australia's commitments to the World Health Organization's Framework Convention on Tobacco Control. These reforms must be recognised first and foremost as a public health measure. Tackling illicit tobacco and vaping requires a comprehensive whole-of-government approach grounded in evidence and aligned with international best practice, not one limited to enforcement alone.

Furthermore, Article 5.3 of the World Health Organization's convention requires governments, including this parliament, to shield health policy from the vested interests of the tobacco industry and its affiliates. To uphold that obligation, we respectfully recommend that the actor appearing before this committee with direct or indirect links to the tobacco and vaping industry must be first required to declare those interests and any associated funding. Thanks again for the opportunity to appear here as a witness today. We welcome questions.

Mr Brooke: For those of you who do not know me, my name is Mark Brooke and it is my privilege to be the Chief Executive Officer of the Lung Foundation Australia. Lung Foundation is the health peak advisory body to the Australian government on the National Tobacco Strategy, the National Lung Cancer Screening Program and the National Preventive Health Strategy, all of which have an interconnecting role with the vaping and tobacco reform process.

I echo the comments of our colleagues at the Cancer Council who have already outlined the seriousness of vaping and tobacco to public health, so I will not go into the statistics. One of the reasons we are very clear in our support for this piece of legislation before you is that it is one of a

number of public health strategies that will deter people from smoking or re-entering smoking and vaping. Also, we are very clear in our evidence today that this is the difference between a criminal act and a public health act, and we urge this committee to ensure they do not conflate the two issues. Continuing to have strong public health measures that support people to not smoke or vape, or quit smoking and vaping, is really important, and evidence before you from other submissions will try to conflate the issue between criminality and the illegal sale of tobacco and public health measures. Whilst the two are somewhat combined, it is our evidence that these need to be taken separately and that strong, enforceable measures need to be put in place by this government and governments all around Australia to deter illegal activity from harming Australia's lung health.

Our recommendations, outlined in our submission, are not just pragmatic. We also think the committee should consider taking much broader steps—much more ambitious steps—to stop tobacco and vaping harm not just in Queensland but across Australia, including things like targeted interventions for those who are most at risk, including free NRT and public health systems to help people quit. LFA is really clear that we are not seeking to criminalise smoking or vaping and punish individuals who are addicted to such. We are clearly asking for this committee's support for those criminal elements that are setting back decades of public health.

In our submission and in our research for our presentation today, we found that the cost of a tobacco licence to sell these products is the princely sum of \$419. To put that in context, that would mean that, for a product that kills three out of five long-term users, I can receive a licence to sell these products for less than the cost of my car registration. If we are serious about deterring the infringement of public health, the committee should extend their legislation to include a total armistice on the number of licences issued. Stop issuing licences for tobacco altogether. The public is very clear in its submission to our work that they are sick and tired of seeing tobacco shops and retailers pop up at every intersection of their lives—petrol stations, supermarkets or main streets.

The other piece of work we would commend is a tobacco-free generation policy as part of this legislation which increases the retail sale age for the purchase of tobacco by two years every year for the next decade, in effect outlawing the retail sale of tobacco and vaping products to young people and another generation.

On behalf of the foundation, we again recommit ourselves to supporting Aboriginal and Torres Strait Islander people, who are leading the way in smoking cessation in this state and are doing outstanding work, and supporting our colleagues in ACCHOs in their work to reduce the impacts of smoking.

Finally, I echo the comments about the international framework and declare that, whilst we receive funding from both the federal and state governments for our work in tobacco cessation and vaping, we do not receive any funding from tobacco companies or groups associated with those. We hope that you will question all witnesses today about their links as actors on behalf of tobacco companies and/or vaping groups.

Ms Hunter: I would like to begin by acknowledging the traditional custodians of the land I am joining from today, the Whadjuk Noongar people here in Boorloo, in Perth, and pay my respects to elders past and present. I extend that respect to any Aboriginal and Torres Strait Islander people who are in the room today.

In line with our recommendation for transparency of funding, I would like to declare that we have never provided or received services, assistance or support to or from the tobacco or e-cigarette industry. I echo all of the comments by Mark as well in relation to the FCTC. I am here today on behalf of the Australian Council on Smoking and Health, ACOSH. We are Australia's leading tobacco control advocacy organisation. We have been around for around 50 years and have been at the forefront of many of the major tobacco control reforms in Australia.

As you will see from our submission, we strongly support this bill. It is an essential and long-overdue step to reduce the supply of illicit tobacco and vaping products across Queensland—products that are being sold openly in our communities, sometimes even to children in school uniforms. Tobacco remains the leading cause of preventable death in Australia. It is still, to this day, killing 66 Australians every day. While we have made incredible progress in reducing smoking, that success is now being undermined by the illicit market. These products are cheap, accessible and directly targeting the very people we most need to protect. This bill before you helps to really tackle that through stronger penalties, extended closure powers and greater accountability for landlords and retailers—all of which are really crucial to protecting Queenslanders' health.

We have included several recommendations in our submission which I am very happy to speak to today. Most importantly, we really urge the committee to pass the bill in full. Thanks for your time today. I am happy to address any questions from the committee.

Mr J KELLY: Public health responses to smoking have been gradually scaled up and changed based on research and experience for 50-plus years. Would that be correct to say?

Mr Brooke: Yes.

Mr J KELLY: Over what sort of period of time have we seen illegal tobacco products, be they vapes, illegal tobacco or other products that we now know are on the market as well, escalating in terms of creating problems for public health responses to tobacco that were developed between, say, the early 1970s and about 2012?

Mr Brooke: In the last five years we have seen a dramatic escalation. The availability of chop-chop and other product has been a constant issue over the last 25 years. The mass importation of cheap, unregulated, illicit cigarettes that are clearly branded with the usual suspects' brand names has been an emerging issue for probably the last five years. The trading in vaping, however, has been an issue since 2019. Lung Foundation called for the immediate ban of vaping following some evidence in the United Kingdom of widespread uptake by young people. I think this has been an issue over the last five years.

Mr J KELLY: Would it be fair to say that this is a problem Australia-wide?

Mr Brooke: Absolutely. This is a national crisis.

Mr J KELLY: Would it be fair to say that all governments of all persuasions at all levels have attempted to respond to this issue in an increasing manner based on growing understanding and evidence?

Mr Brooke: Yes, that is true.

Mr J KELLY: In terms of the call for transparency around tobacco donations, I think it is important to point out that there are still Australian political parties accepting tobacco donations. I will seek leave to table a document that outlines that the federal National Party is still taking donations, which I think is something that all political parties should move away from. I have no further questions.

Mr LEE: I have a question for the Cancer Council in relation to the extended closure powers. In your submission you talk favourably in the second paragraph about the experience in South Australia and comparable international jurisdictions in terms of implementing closure powers. Do you have any data to support that assertion? Is that based on any particular analysis?

Dr Jackman: It is a very good question. I can certainly take that on notice, if you are happy for me to do so. I can speak generally around these terms and I may hand over to Laura from ACOSH, who has done a national state-by-state comparison around this. Generally, Queensland has performed well in comparison to other states, but South Australia is stronger on the closure powers that it currently has. This bill brings Queensland into a nation-leading, if not world-leading, position on the closure powers. Laura is in a very good position, coordinating the national scorecard on a state-by-state comparison, to respond to this, if I may defer to her.

Ms Hunter: We are a national organisation. We published a scorecard in May for World No Tobacco Day this year. The scorecard looked at significant robust criteria that really focused on the ability of states and territories to actually enforce strong reforms in this area to get on top of the illicit trade issue around tobacco and vapes. Queensland came out with an A on the scorecard and South Australia an A-plus, and it was owing to some of those elements that Danielle mentioned as well. I am not jumping the gun and calling out that Queensland will be on top of the scorecard with the introduction of this bill just yet, but Queensland has been incredibly progressive in tobacco control reforms and this bill really signifies that.

When you talk about the illicit trade and if it has been an issue more in the last five years, like Mark said I think there has always been an illicit trade issue across Australia with tobacco. What we have seen in the last five years is state and territory legislation not catching up to enforce the laws and organised crime really capitalising on that. I hope that answers your question.

Mr LEE: It would be very helpful to have data on that to demonstrate the quantitative impact of the change or the extension of the closure laws.

Dr Jackman: Certainly. I will liaise with my colleagues in South Australia on that in particular and provide that to the committee.

Dr O'SHEA: Thank you very much for coming today and informing us, with the great background you have in this work, and thank you for doing all this work in this area. It is so important. There is obviously broad support for the measures in this bill. I want to ask how you feel about measures going further than the measures in this bill—for example, things like capping the number of licences for tobacco retail premises, maybe banning ATMs in tobacco retail premises and broadening free nicotine replacement therapy to all Queenslanders or any other ideas you might have that we should be focused on.

Mr Brooke: The Australian government's National Tobacco Strategy clearly outlines a number of ambitious recommendations including the tobacco-free generation approach. There is strong evidence of support. Indeed, New Zealand was almost set to introduce that and then a change of government saw it reversed. I think any of you who have children who have worked in pubs and clubs serving alcohol will know that they have to get their responsible service of alcohol certificate, but there is no such thing for tobacco. Again, I put it in the context that we are allowing people who are untrained in public health to sell a product which is damaging public health. We think there needs to be a lot more done to restrict the supply and reduce the number of outlets.

There are substantial bodies of evidence that show people are tempted back into smoking or continue to smoke because of the accessibility. When walking into your local supermarket, of any of the big brands, the first thing you walk past is a service desk which has tobacco on it. There is a whole range of sensible public health measures that continue. One of the things we would say is thought-bubbled across the country by political leaders is the notion that somehow this is connected to the tobacco excise. Increasing the tobacco excise has been one of the most successful ways of reducing smoking in Australia. It is estimated that a million people have quit since the excise has continued, and that is straight from the Department of Health. Reducing the excise is akin to saying to criminals, 'Let's price-match the price reduction of illegal products.' No-one can seriously suggest that the illegal tobacco trade is going to reduce their prices \$10, \$12 or \$15 further. It is just an absolute nonsense.

Continuing to have a strong, multifaceted public health tobacco and vaping response is absolutely critical. Then there is investing in public health campaigns. We have not had decent public health campaigns in this country for over 10 years and it is only recently that we have seen that reinvestment commence. All of those things, hand in glove, contribute to a tobacco-free community.

Mr Gardiner: Thanks for the important question. I am not going to repeat what others have said. I certainly agree with the Lung Foundation position. I think it is important to not stop at legislation; public health and other initiatives and good policy need to continue to be invested in. Young people have told us themselves. A figure that we can provide is that 89 per cent of young people have said they want this reduced: they wanted reduced access; they want a reduction in the availability, the production and the sale of tobacco products in this country and, indeed, in this state. The fact is: we can walk 100 metres down the road and we can buy something that is illegal, without any shame. The company directors are in breach of the Corporations Act and this bill will do something about it that has not been addressed in the past. It is critically important, but we cannot stop there. Good public health measures need be in place. This is the most preventable death.

Ms Hunter: Thank you for the opportunity to address this question. It is a really important question. I am all about ambition in advocacy. In speaking to one of our recommendations around strengthening the tobacco retailer licensing scheme, I would like to bring the bigger picture into play. Right now across Australia, eight per cent of Australians are smoking daily and that eight per cent is serviced by over 40, 000 outlets across the country. To put that in perspective, roughly 70 per cent of the population drive petrol cars and that 70 per cent is serviced by 7,000 petrol stations. There are also fewer than 3,000 major supermarkets in this country. While far fewer people are smoking today, tobacco is still by far one of the most widely available, addictive and deadly products in Australia. It is more available than fuel. It is more available than alcohol or bread and milk, and there is no other product that kills two in three of its long-term users that is available on almost every street corner. If we are really serious about tackling the illicit trade and protecting the health of Queenslanders, that imbalance has to change and how we do that is really important.

I really like what Mark mentioned about the liquor licence. When you look at how the Queensland government regulates other harmful products like alcohol, the difference is staggering. To obtain a liquor licence in this state there is mandatory public consultation, there is probity, there are police checks, there are community impact assessments and ongoing compliance monitoring. Applications even have to be advertised, objections can be lodged and even in some cases hearings are held to determine whether a licence is in the public interest. By contrast, obtaining a licence to sell tobacco in Queensland involves very little of that—all with the capacity to sell a lethal product like

tobacco. We need to lift that bar and we need to do that in the context of the existing licensing scheme that Queensland operates. We need checks in place through that scheme to ensure licences are only provided to those persons or those business entities with governance systems and demonstrated capacity to actually comply with requirements for due diligence, with security requirements and with reporting requirements so that they are appropriately stringent for a product that is addictive and causes premature death in such a high proportion of users. In our submission we argue that this will not only get on top of the illicit trade but also reduce the number of retailers to a level that is more proportionate to the actual demand.

CHAIR: Can you just repeat those stats you mentioned? How many licensed stores, petrol stations and supermarkets?

Ms Hunter: Absolutely. It is pretty damning. Eight per cent of the Australian population are currently smoking and that eight per cent is serviced by over 40,000 outlets across the country. Putting that next to petrol stations, 70 per cent of the general population use petrol cars and that 70 per cent is serviced by 7,000 outlets across the country. There are similar stats that we can use for liquor and supermarkets. It is outrageous how widely available this is. You have an existing licensing system that can be improved upon by requiring the bar to be lifted in terms of the standard of the type of business that is allowed to hold a licence.

Ms BOLTON: Laura, you mentioned compliance enforcement. What would you like to see in terms of public reporting on the effectiveness of these?

Ms Hunter: On the effectiveness of the licence?

Ms BOLTON: On the effectiveness around compliance and enforcement of these.

Ms Hunter: We are very supportive of some of the reforms that the Cancer Council Queensland have put in their submission around public reporting, but, in general, we balance a tough line with transparency around seizures and things like that and what requirements are to be readily available for you to view, owing to the fact that in the past the tobacco industry has used some of those public information documents to actually market their products to retailers. There is a fine line there. In terms of accountability and transparency, we would argue that public reporting needs to be more readily available. I think Cancer Council Queensland also had something in their submission to that effect, Danielle, if I can throw that question to you.

Dr Jackman: Thank you, Laura. Thank you for the excellent question, member for Noosa. It is correct that we have been approached by members of the public, including GPs in Queensland, complaining, first of all, 'Where is the portal where I am able to issue a complaint that smoking laws are being breached in Queensland?' Secondly, when GPs have members of the public who have attempted to put their complaints forward, the burden of proof is too high on those individuals. They are required to provide transaction times and client details. This is the information we have been fed. We would like the reporting portal to be much better publicised and the burden of proof lowered.

Ms BOLTON: Mark, you spoke about vape stores transitioning to pharmacies supplying only vapes. Can you give us an example? I find that astounding.

Mr Brooke: Thanks, Sandy. One of the things we are increasingly concerned about is the online availability rather than the availability over the counter through pharmacy. We understand that several vaping organisations have registered as online pharmacies to prescribe therapeutic vapes. That is against the intent of the regulations which would see an S3 prescribed drug being issued by a pharmacist to a person whom they could see.

In our humble opinion, it shows the lengths to which many of these agencies or corporations that lack the governance that Laura is talking about will go to circumvent quite sensible regulations. The purchase of therapeutic vapes by patients/customers in a pharmacy is a work in progress. We know that, but we do not want to disadvantage people living in rural and remote communities who are seeking to quit and may need to use an online service, but we would strongly recommend significant ring-fencing of that ability to prescribe through a telehealth and/or online approach.

Sandy, if you jumped online now—I sent you the website—you would be asked three questions, you would be prescribed it and it would be in your mailbox within six days. There are no age checks. There is no critical clinical guidance around smoking cessation. None of that happens. It is one area that the federal government and the state governments may need to unite against in terms of their powers.

Ms DOOLEY: Good morning. Thanks to each of you for your presentations and submissions. I really value the work that each of you do. You have alluded to this a little, but I wanted to give you a final opportunity to talk about Queensland Health's enforcement capacity. Your submissions talk to this. Are there any additions in terms of Queensland Health's capacity to enforce the legislation that is proposed?

Dr Jackman: Right now, the challenge is so immense in terms of keeping pace with the illicit trade. It is moving faster than annual budget cycles. We commend the Queensland government for increasing capacity in the latest budget, but our recommendation is that there is a commitment to the periodic review of the need for further capacity in terms of enforcement teams. Some 140-odd enforcement officers spread across the HHSs in the vast state of Queensland is a challenge.

Mr Brooke: I echo the comments about the numbers of public health officers available to conduct inspections. You will note that the Commonwealth has recently issued a multidisciplinary and multisector enforcement group to work with states and territories. One of the things we are very clear about is that there has to be some self-regulation by landlords in this space. They can do the work of public health officers by simply not allowing tenants who are acting illegally to operate. You will hear evidence from others today trying to water down those provisions and talking about ignorance of the law. We are very clear that one of the strongest measures for ensuring people act in compliance with the law is asking landlords to take the necessary steps to ensure they understand who and what is trading in their premises.

CHAIR: We are going to have to wrap it up there. Thanks for your input. Danielle, on the issue of reporting online or notifications, Queensland Health claim to have some sort of portal. Perhaps you could provide some further input on how that is working.

Dr Jackson: Certainly. I am happy to provide the committee with that link. It is just a difficult link to find, but it does exist.

CHAIR: We might get some further comment from you on it. Thank you. There are two questions on notice, too.

**GARTNER, Professor Coral, NHMRC Centre of Research Excellence on Achieving
the Tobacco Endgame**

JONGENELIS, Dr Michelle, Private capacity (via videoconference)

RIMMER, Dr Matthew, Private capacity

CHAIR: Welcome. We will start opening statements with Dr Matthew Rimmer.

Dr Rimmer: Thank you very much. I was reminded of the importance of this inquiry as I wandered past my local shops this morning. Opposite the pharmacy and the doctors is a pop-up tobacconist. It started as a vaping store and then became a tobacco store. It has now morphed into a convenience store and a confectionery store that has a pirate's flag with a skull and crossbones on it. It certainly reinforced to me the importance of this inquiry.

In terms of my submission, I am broadly supportive of the bill and quite complimentary about the Crisafulli government's commitment to take action in relation to tobacco control and public health. I think the minister has shown a keen interest in the topic and has been supported by the Department of Health. It builds upon some of the reforms of the Palaszczuk government—earlier iterations of the Queensland government.

The expansion of the closure powers is an important means of curbing the proliferation of illegal tobacco stores. I think they are well complemented by greater levels of accountability in relation to landlords and some of the other provisions in relation to executive liability and dealing with compromised goods and the issuance of fines.

There was a good question before about what is happening in terms of other states and territories. South Australia has certainly been very active in this regard. On page 45 of my submission I discuss Operation Shutdown by the South Australian government. They claim that they have closed 71 stores as of September, they have two long-term closure orders and another three have been progressed. Chris Picton, the Minister for Health, was Nicola Roxon's former chief of staff so he has had a very personal interest in the matter. The other states and territories are a bit of a mixture. New South Wales was rather ambivalent, but it has finally passed its own legislation to have closure powers. Western Australia and Victoria are currently having a debate about similar sorts of powers. Tasmania seems a little bit overwhelmed by illegal tobacco activity. The ACT and the Northern Territory are still working away.

In relation to national activity, I have a few critical things to say about automatic teller machines and how they have essentially been used for money laundering and tax avoidance. The ABC did a good study of that and prompted the private providers to then withdraw a lot of the automatic teller machines, but I did suggest that the federal government needed to do more. You might have seen on *Insiders* on the weekend that the federal Minister for Home Affairs, Tony Burke, has announced the formation of an Illicit Tobacco National Disruption Group. We only have a press release that came out yesterday which says—

Led by the Australian Border Force, the Group will represent a new era in illicit tobacco enforcement by partnering with traditional and non-traditional federal, state and territory partners, to disrupt mid-level criminals and enablers operating in the illicit tobacco trade.

There seems to have been a bit of a debate within the federal government about who should take leadership or who should take responsibility for action in this area. Tony Burke seems to have claimed leadership in relation to this big issue. It is very hard to tell from that press release what that taskforce will entail.

My submission also talks a little about the international context. There is the World Health Organisation Framework Convention on Tobacco Control and there is also a protocol dealing with the illicit trade. The illicit trade has long been an issue and long been a problem. As a trademark lawyer, I know it has often been the case that tobacco companies have sued entities that have been selling knockoffs of their products. The current environment has emerged after the latest series of reforms that have taken place in Australia.

It is a global issue. The *Four Corners* report on the tobacco trade made an interesting effort to track down the source of tobacco that had been imported into Australia. It emerged from some free-trade zone in the Middle East which was not really regulated at all. There are larger global challenges in this area. That is a short summation of my submission.

CHAIR: Michelle, would you like to make a brief opening statement?

Dr Jongenelis: Yes, thank you. I appreciate the invitation to appear before the committee and would like to begin by stating that I have not ever received or provided services, assistance or support to the tobacco industry or the e-cigarette industry. In line with previous comments, I think it is important to state that. I also think it is important to state that the Queensland government deserves significant praise for its commitment to strengthening its current Tobacco and Other Smoking Products Act, and I offer my endorsement of all of the proposed legislative changes.

As stated in my submission, Australia continues to face substantial public health challenges from tobacco sales. Tobacco claims the lives of 66 Australians daily, and we must acknowledge that tobacco in all its forms poses universal health risks. We do need comprehensive and persistent interventions against both legal and illicit products. Of course, we are all here today to address the illicit trade and, in particular, those exploitative vendors who harm Queensland communities through the distribution of both nicotine and tobacco products. These operations undermine Queensland's evidence-based tobacco control measures and they create barriers for those who want to quit smoking. I believe Coral Gartner noted in her submission the unplanned, impulse purchases that happen when we are in an environment that is flooded, as Laura Hunter pointed out, with an extraordinary amount of retailers selling tobacco.

It is quite clear that existing penalties do not provide adequate deterrents for these exploitative retailers. These penalties are likely perceived as operational expenses. As an example, in Victoria, where I am based, there was recent enforcement action taken by the TGA and Victoria Police on retailers that were selling illegal vaping products and nicotine pouches on Chapel Street, which is a key entertainment district here in Victoria. While this enforcement action is welcomed and it resulted in the seizure of a lot of illegal product, Victoria does not have closure orders and is not yet enforcing its licensing scheme. The *Herald Sun* subsequently reported that the raided stores were restocked and selling products within 24 hours of those raids occurring.

Our own monitoring work in Victoria confirms Matthew's statement that stores are regularly changing their names in a bid to avoid detection. We are also observing that about a third of stores that sell vape products have an exterior that appeals to children and two-thirds sell other products that appeal to children, with the sale of confectionary items alongside vape products most common. This was detected in 87 per cent of stores that sold products that appeal to children. The proposed legislation in Queensland will ensure this does not happen in that state. It will help assist with combating the illegal trade.

On a final note, having been involved in several government inquiries in recent years, I think this is probably the first inquiry where I have seen almost universal consensus amongst submitters regarding the importance of passing this bill, so I really urge the government to pass this bill without delay. I am happy to take any questions, but I might pass to Coral in case she has a statement.

CHAIR: Thanks. We now go to Professor Coral Gartner.

Prof. Gartner: I will keep my opening comments brief. Good morning, Chair and committee members. I begin my statement by acknowledging and paying respects to the traditional custodians, the Yagara and Turrbal people, their ancestors and descendants. I am appearing here today with my colleague Dr Cheneal Puljevic, and we are from the University of Queensland's tobacco endgame centre of research excellence. We would both like to thank the committee for the opportunity to appear at this hearing and to provide some input into this bill. Our research centre covers a wide range of tobacco policy topics, including the use of illicitly traded tobacco and nicotine products. Both I and Dr Puljevic hold Australian Research Council fellowships specifically addressing the topic of illicit tobacco trade. We lead the largest public health research program on illicit tobacco trade in Australia.

Our research shows that illicit tobacco trade has rapidly grown over the past five years and has become a widespread problem in the retailing sector in Queensland. It threatens the excellent progress that successive Queensland and Australian governments have made on reducing tobacco related diseases and deaths. The reforms that the current and previous Queensland governments have implemented are an excellent start, but it is clear that much more is needed to control this urgent public health and safety issue.

Tobacco supply as a commercial activity needs to be much more tightly regulated and closely monitored. Inadequate regulation has created an opportunity for criminals to exploit. Fundamentally, regulators need to change the way they view the supply of tobacco products. Tobacco is highly addictive, offers no health benefits and causes many fatal diseases. The health burden caused by tobacco is more than the combined total from alcohol and all illicit drugs.

Retailers who willingly supply tobacco products that are not compliant with public health packaging and labelling standards or at prices below current excise rates are showing disregard for the serious health risks of smoking and contempt for the rule of law, so I support passage of this amendment bill as a matter of urgency. However, I also submit that further reforms will be needed beyond these measures, including fundamental changes to tobacco retailing in Queensland, including reducing the number of tobacco retailers and strict security and governance requirements for those continuing to be involved in tobacco supply. I will end there. I will not summarise my submission but I am happy to answer any questions you have about it.

CHAIR: Thank you. I will go to the member for Redcliffe first.

Ms DOOLEY: Thank you all for your presence here today, your submissions and your work in this space. We have heard from a few others around the penalties. Can you speak to the increase that we have put in this bill? Do you think it goes far enough? If not, do you think there should be an increase in the maximum penalties for those selling illicit products?

Prof. Gartner: We have done some interviews with tobacco retailers and so on who have given us some intelligence about what they have heard about the turnover that some of these illicit traders are making. While it is good that there are reasonably high penalties in this bill and in the existing legislation, they really can be absorbed into the cost of doing business. I would definitely support increasing the penalties that are in this bill and also the other existing penalties.

Mr JKELLY: A number of people this morning have mentioned the fact that the issues around illegal tobacco products have rapidly increased over the last five years. Governments have scaled up their responses to that around the nation. To what extent did the COVID pandemic and the diversion of resources around public health contribute to, I guess, the genie getting out of the bottle in terms of illegal tobacco?

Prof. Gartner: It may have been an opportunity for them to increase their supply activities and so on while regulators were busy dealing with a very serious public health issue that needed urgent attention. However, this has been going on for much longer than the COVID pandemic. There was a parliamentary inquiry at the federal level on this issue going back to 2017 that was identifying this as a growing issue. To say that this happened just because of COVID and that situation is not really understanding the full context.

Dr Rimmer: It is an interesting question. From a long historical perspective, there has often been trademark counterfeiting in relation to tobacco products because tobacco products have been profitable. Sometimes it has been very dependent upon what border controls are available and what operations happen locally in terms of local tobacco production.

I can remember during the debate over plain packaging there was quite a bit of discussion about whether or not plain packaging would lead to the creation of a black market. It did not seem that plain packaging as such really caused those issues. There has been a lot of debate and discussion about the ratcheting up of taxation rates in relation to tobacco and whether that has created a kind of interest in trying to engage in tax avoidance.

You might have seen there has been a bit of a byplay between the federal government and the New South Wales government. The New South Wales government were wondering whether or not they needed to do such enforcement and whether there could be a reduction in taxes. The response of the Treasurer, Jim Chalmers, and the health minister, Mr Butler, was that you can have black markets even when tax rates are quite modest. I think the interesting additional element that has been happening recently is the kind of organised crime, Tony Soprano style racketeering that has been taking place, where the sale of illegal tobacco is part of larger networks and operations that have been taking place. It is a good longitudinal question to think about.

Mr JKELLY: Do you think the provisions in this bill will respond to the organised crime aspects of this issue?

Dr Rimmer: This bill is a public health bill. There are obviously some other activities that are raising other legal questions in terms of tax avoidance, extortion and standover tactics, and perhaps blackmail as well. I think this bill is quite cleverly designed in terms of its ability to knock out retail locations for a significant amount of time and then also empower landlords to terminate the lease. That will inhibit the ability to find customers as easily. I think the on-the-spot fine mechanism is also quite an effective mechanism, and there has been an expansion of the seizure and forfeiture provisions which were developed in terms of the other bill.

Prof. Gartner: This bill is really important because it is addressing the retail supply. That is what has been different in terms of this current situation with illicit tobacco trade—that it has been happening through retail outlets, like your bricks-and-mortar stores. People can walk in and do a transaction in an anonymous way; it feels very normal. There are people who probably do not even realise that the products they are buying are illegally traded.

We need to think beyond this as just an organised crime issue. This is also about how we supply tobacco products and the people who are fit to supply tobacco products in this state and throughout Australia. It is like the Swiss cheese model: there are always going to be gaps in the supply chain where illicit products can get through. It happens with illegal drugs and other illegal products.

Border Force have to try to stop the products getting to the border, and they have to stop it at the border as much as possible. They also need to stop the transport and so on throughout the country. The retail supplier is kind of the last stopgap that we have here to stop the products getting to the customers. Therefore, we cannot just leave it up to trying to take out the supply chain further up; we also need to be at each point in the supply chain and have a really strong mechanism for protecting that supply. I want to make sure we keep in mind, too, that this is a really harmful product and we need to be thinking about it beyond it just being an organised crime issue.

Mr J KELLY: I heard a report last week—and I am sorry I cannot reference who it was, but it was a national research organisation—that alcohol consumption rates between the ages of 18 and 30 have stagnated, if not declined quite significantly. I am not sure if you are aware of it, but are there lessons we can learn from the approaches to alcohol consumption, from a public health response, that could be translated into tobacco?

Prof. Gartner: They are quite different in a lot of ways. For example, you can consume alcohol at a low level without the massive health damage that you get from tobacco. As I mentioned, the health risk and the health burden from tobacco is equal to alcohol and all illicit drugs combined. If you think about how many people drink alcohol, there is a lot more lower level consumption going on that is not giving you the same level of health risk that smoking does. Even smoking just one cigarette a day is incredibly damaging to your health and greatly increases your risk of premature mortality. I think we should think about it in those terms.

We do have a lot of overlap in our approach to all substances. For example, we do have a health promotion for reducing harmful alcohol consumption and also smoking. The tax rate is also used in both spaces, but it has been more so used in illicit tobacco and so on. We have to think about the level of consumption for tobacco—that is, there is no acceptable level of harm that we can live with.

CHAIR: Are there any other jurisdictions around the world that are doing better than eight per cent? How do they approach these issues? Is there any country that stands out as being much lower?

Dr Rimmer: There is a lot of interest in various kinds of tobacco endgame proposals. The big bill at the moment is the Tobacco and Vapes Bill in the United Kingdom. It has gone through the House of Commons and it is stuck in the House of Lords at a committee level. They are really focusing upon smoke-free generations, coupled with smoke-free spaces, and they are quite focused on enforcement. As we have heard before, Jacinda Ardern's government had a smoke-free generations law, but that was repealed by the conservative coalition that came into power.

There are various countries that have been exploring those next-level strategies. They all have their own kind of distinctive identity. Australia at the federal level has not gone down the route of having smoke-free generations. The states and the territories have sometimes debated that issue, but they have not gone down that route.

CHAIR: Would there be any other jurisdictions that are at eight per cent or less that stand out that we could learn from?

Prof. Gartner: Yes. We are up there as one of the leading countries in terms of smoking prevalence. I think instead of comparing individual countries, because every country has to think about their own circumstances, we can learn a lot from, for example, the Framework Convention on Tobacco Control. An expert group has just released a report on the next tranche of tobacco control measures that countries should be looking at, particularly those that are at the level Australia is at. That is Article 2.1, which is forward-looking measures. Some of the measures in there have been implemented at a subnational level; some have also been implemented at the national level. For example, the Maldives have passed the tobacco-free generation law already. It has not been in place long enough to do any evaluation of it, but that is a country that has implemented that on a national

basis. The UK are also looking at going down that route. They already have that in a bill. That seems to have bipartisan support in parliament. There are a range of jurisdictions in the United States that have passed tobacco-free generation/nicotine-free generation bills within their local government area or even phased out all tobacco sales within their district.

Dr O'SHEA: Thank you all very much for coming. Dr Rimmer, thank you so much for your very detailed submission. I notice you were exploring the state and federal responsibility for ATMs in the tobacco retail stores. Do you see any responsibility of the state to intervene?

Dr Rimmer: There was a debate about that matter once the ABC started to conduct investigations on the topic and thought it was a systemic issue. There was a bit of byplay between the state health minister, Tim Nicholls, and the federal ministers. I think it was agreed that it was within Tony Burke's portfolio, as it were. As you can see, it is quite an odd occurrence that has taken place. The companies that run the ATMs have voluntarily withdrawn them after various attention and scrutiny has been placed upon them and there has been a highlight in terms of the corruption risk. The shadow minister at the federal level, Julian Leeser, was saying there are always efficiency questions and costs for what level of regulation you have in relation to ATMs, but that seemed to be kind of a key part of the economic model of those small retailers—that they were using those ATMs to have cash transactions that would not necessarily need to be recorded. They were obviously using that to process their own money as well. We are digging at the roots of the economic model of what is going on. That seemed to be a key problem or a key issue. In the stores I have seen in Brisbane, it is quite noticeable that a lot of those ATMs have since been withdrawn.

Dr O'SHEA: Professor Gartner, thank you again for your submission and for pointing out the tobacco excise as an important factor in fighting all of this. You mentioned a number of key recommendations for future regulatory reforms, including capping and reducing the number of tobacco retail licences. Do you feel that is an important factor in trying to reduce the sale of these items?

Prof. Gartner: Yes, I think that would be very helpful on a number of fronts. Firstly, if we think about it, we are in a population where the goal is to get smoking down as low as possible. The next goal is five per cent by 2030. We have a declining customer base here so we should not need all of these tobacco retailers everywhere. If you think about it from a business perspective, it is not good for those businesses anyway to be competing with all of those. I think that is something we should be doing anyway, to support businesses to get out of a product that is in decline and on the way out, basically. From that perspective, I think we should be looking at this policy anyway.

In terms of this issue of controlling illicit trade, if you have fewer legal sellers selling it then it is easier to keep a tight monitor on those. At the moment, if you think about how many retailers there are that inspectors have to go through routinely to try to keep on top of, that is very difficult. I also have concerns that they can close down a store and we can get a landlord to boot them out, but an organised crime group has other people and they can just use their name to apply for a new licence and start up again under a legal guise. Then you have to go through all of the issues of shutting them down again and so on. We already have too many tobacco retailers in this state. As a first step, we should not be allowing further new applicants into the system. That will also stop that issue of maybe new groups that have already been shut down just restarting under a legal guise.

Dr O'SHEA: Dr Jongenelis, I notice you were nodding there. Would you agree with controlling the number of tobacco retail licences?

Dr Jongenelis: Absolutely. I think in the session before us Laura Hunter presented some pretty damning statistics in relation to the proportion of people who smoke in the population relative to the number of outlets that service them, compared to number of drivers who buy petrol in the population relative to the number of petrol stations. I thought that was a really eloquent way of putting forward how widespread the availability of tobacco cigarettes is for the very low proportion of people who smoke. Certainly, I would echo Coral's statements around creating a just transition for those people who currently serve tobacco—obviously the legal retailers—and making sure they are supported to transition out of that and can start selling products that are not killing people, essentially, if that is the way we want to move forward as a nation.

Dr Rimmer: Jacinda Ardern's legislation had an element that was focused on reducing the density of tobacco retailing. I think the other concern about the widespread availability of tobacco retailing has been that tobacco retailers have often targeted very vulnerable groups and marginalised parts of the community. People with pre-existing health conditions have easy access to smoking, which exacerbates health concerns. We know that Indigenous communities, unfortunately, have been targeted by tobacco retailers. I think that has also been a very insidious part of the tobacco retailing.

Also rural and regional communities have obviously been targeted quite a bit. I note that a number of the members of this committee and members of the Queensland parliament have been very concerned about their regional communities having high concentrations of tobacco retailers.

Mr LEE: Thank you very much for your very substantive submission, Dr Rimmer. In your submission you make a number of comparisons with the different jurisdictions, international and domestic. In relation to enforcement, other jurisdictions split the enforcement between health and police. What is your comment about that?

Dr Rimmer: It is a good question. It is a federalism question in many ways. Health responsibilities are in some ways shared. It is something that the federal government is grappling with. It is quite revealing that Tony Burke's national disruption group includes the Australian Federal Police, the Australian Criminal Intelligence Commission, Austrac, the Department of Home Affairs, the Department of Health including the Therapeutic Goods Administration, the Australian tax office, the Department of Agriculture, the e-cigarette commission and Services Australia. There is a real convergence of portfolios in relation to the problem of illicit trade. At the federal level there seems to be an effort to reorganise how they are doing the enforcement and who is leading the enforcement.

I think in the submissions there is a bit of interplay between what should be the responsibilities of the department versus other authorities. Sometimes it is the Therapeutic Goods Administration and the Australian tax office and the Federal Police joining with state authorities. I would say that the Queensland state authorities have been quite industrious in terms of trying to bring enforcement actions. Not all states and territories are like that. As I mentioned before, Tasmania seems to be completely overwhelmed and in need of support. I think it is a very astute question: what is the right combination of authorities to have the best enforcement outcome? Maybe Coral has views about the right combination or composition.

Prof. Gartner: I think it is good to have a combination of both public health and law enforcement, because law enforcement are dealing with a range of issues and sometimes it can be seen that it is a legal product and as a lower priority. They also are tackling it from a slightly different perspective. I think having that public health focus, where the focus is on reducing all tobacco including illicit tobacco supply and use, is good to keep it up on the priority list. I would certainly not recommend taking it away from health. I would definitely keep them there and have dedicated resources for public health, with dedicated training to deal with this issue, in combination with law enforcement.

Dr Rimmer: In Hervey Bay, the Wide Bay Public Health Unit seems to be the one, alongside the Queensland Police Service, that has been carrying out raids. I think there are sometimes issues around capacity in terms of regional and rural areas, but even in highly populated areas there are sometimes issues. I heard the member for Southport raising his concerns about the high level of illegal trade in Southport.

CHAIR: I think you will find there is a high level of illegal trade everywhere. We will close this session at this point because we are over time.

FOUKKARE, Mr Theo, Chief Executive Officer, Australian Association of Convenience Stores (via videoconference)

CHAIR: Welcome. Would you like to make a brief opening statement before we start our questions?

Mr Foukkare: Yes, I will, thank you. Thank you, Chair, and thank you to the committee for the opportunity to appear today. I want to start by being very clear: Australia's illicit tobacco problem is now a national crisis. We are no longer talking about a handful of rogue traders or opportunistic backyard operations; we are dealing with an organised criminal network that is now out of control, out of reach and outpacing enforcement. In the last two years alone we have seen more than 250 firebombings of small businesses across the country. One innocent person has been killed and countless others—often hardworking small business families—are now living in fear of retribution for simply trying to do the right thing. Retailers who sell legal tobacco are being targeted because the black market has become too profitable to ignore. The insurance premiums are skyrocketing and their customers are being lured away by illegal shops selling counterfeit and smuggled products at a fraction of the legal price.

Over the last four years the retailers that we represent, both in Queensland and around the country, have lost more than \$2 billion in legal sales. The decline in the first half of the 2025 calendar year was reported at 25 per cent. However, between 1 July and 30 September the decline rate has doubled, to 50 per cent in half of the time. Some of our retailers have lost more than half of their overall store gross profit and many are struggling for their long-term survival.

Perhaps most worrying of all, for the first time in decades it has been reported that smoking rates are rising again. Just today the WA government has confirmed that smoking rates have increased, from 10 per cent to 12 per cent, in the last two years. That is a clear sign that tobacco control in Australia has gone backwards. We now have the New South Wales premier, Victoria's minister for tobacco control and regulation and the South Australian premier all saying the same thing: the high cost of tobacco, driven by relentless excise increases, is the No. 1 cause of this crisis. Since 2023, when the federal government imposed an extra five per cent excise increase each year, the price gap between legal and illegal tobacco has exploded. Legal packs are now selling for around \$50 while illegal ones are going for \$10 or less.

When you make something that expensive and easy to smuggle, you do not have to be an economist to see what happens next: you create a black market. Data reported in the *Australian* yesterday tells the story: from 2023 to 2026, illicit tobacco prevalence across reporting OECD nations rose modestly or stabilised, but in Australia it jumped by 31 per cent—the biggest increase in the OECD excluding a few countries that did not report. We are not leading the world in tobacco control anymore; we are leading in illicit trade and now state governments are being left to clean up the mess.

Queensland, New South Wales and South Australia are all spending taxpayer money trying to undo the consequences of federal tax policy that made crime profitable. This bill, the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025, is a welcome step in the right direction. It gives authorities stronger powers to act and shuts down dodgy landlords who want to continue leasing their premises to people doing the wrong thing.

Mr J KELLY: Thanks, Theo, and thanks to all of your members for what they do to keep the community supplied with many essential products at inconvenient times. It is clear that you have a concern with the tobacco excise; however, if the provisions in this bill were effective in deterring or significantly diminishing illegal tobacco sales and supply, would that change your view in relation to the tobacco excise?

Mr Foukkare: Firstly, I will commend the Queensland government on the strong position they have taken in a relatively short period but the question would remain. My personal view is that all governments will need an army. What I mean by 'an army' is a significant number of people responsible for shutting down this illegal trade. We are now in a space where we actually have—how do I put it? In tobacco, it is reported that 64 per cent of the total adult consumption of tobacco is now illegal. If I talk about vaping, more than 95 per cent of adult consumption is illegal. The true measure of success will be stores ceasing to operate and legal retailers starting to report sales flowing back in to their retail outlets.

If the measures in place can achieve that—what I mean is, if we start to see stores closing down for three months and/or a year, if we start to see leases being terminated—then that would be considered a good measure of success. However, if we do not see that, I actually do not know what the outcome will be because modelling would suggest that within two years the total legal tobacco

industry, if there is not a significant step change in enforcement, will cease to exist and the whole market will be run by crime groups. At that point we then start to say, 'Well, what is the tobacco control policy actually achieving?'

Ms BOLTON: I want to go a bit further into a couple of your comments regarding enforcement. You said this is outpacing enforcement. We have heard in a previous submission that, basically, illegal tobacco retailers have no intention of complying with legislation. If we have that on the one hand and we have enforcement issues on the other, what would you say is the main barrier to effective enforcement?

Mr Foukkare: It is the number of people on the ground. As an example, South Australia is often held up as the gold standard in terms of approach. For a small state, South Australia has 35 dedicated officers who are specifically targeting the sale of illegal tobacco and vaping products. In Queensland I do not know the exact number because I understand it is building, but I do not believe that Queensland has the same number of people on the ground as South Australia. If I were to estimate based on population size and the scale of the problem, I would suggest that Queensland would need somewhere between 50 and 60. My basis for that really comes down to using the metrics applied across population and looking at New South Wales, Victoria, Queensland and South Australia and trying to understand how many people you would need to cover the geography as well as the number of available outlets selling these illegal products.

CHAIR: I should note that I think Queensland has 150 employees in that space at the moment.

Mr Foukkare: Thank you for clarifying that. I think the biggest question would be: are they health officers, are they authorised officers or are they a dedicated taskforce? I do not know the answer to that. If someone has that and can furnish it, that would be appreciated. In South Australia they have a dedicated taskforce, similar to Queensland, but it sits outside of the health department. It sits in their Consumer and Business Services team, which has absolute direct control and the same powers as the authorised officers. There is a difference between a health inspector and someone who is dedicated to actually targeting this specific problem.

Mr LEE: I am genuinely curious about this. In your submission you touched on the relationship between the excise tax and the perpetuation of illegal tobacco sales. You seem to suggest that if the excise tax were lowered then somehow that would resolve the issues around illicit trading. Am I misunderstanding that?

Mr Foukkare: No. In simple terms, you can buy an illegal packet for, on average, \$15 but as cheap as \$7.50. That same equivalent packet is \$45 to \$50 from a legal retailer. If I look at what has happened to tobacco volumes in relation to excise increases over the last 12 years, there is a direct relationship between an increase in excise and a significant decline in legal consumption. On what has happened to the actual smoking rates, federal government say they are at their lowest rates ever at about 8½ per cent; Roy Morgan say they are at 12 per cent.

I am not suggesting we make cigarettes \$10 a packet, but when you have a four to five times gap between a legal and an illegal product then that demand will still be there. Our modelling, and we have run some independent modelling through an economist, would suggest that the 2018 year is the catalyst for when legal tobacco volumes started to decline. That would see approximately a 50 per cent decline in the excise rate. If we went back to what the pricing was in 2018, it would put a legal packet at around \$25. Most Australians, we strongly believe, would buy regulated products from legal retailers if it were a little bit more expensive; however, four to five times more expensive is, in our view, the sole reason that consumers are actually feeding this black market and continuing to allow it to grow.

Mr LEE: Can we request for the committee a copy of that report you refer to, that economic analysis?

Mr Foukkare: Absolutely.

Mr LEE: I would be genuinely interested. Other submissions today have alluded to research that says the exact opposite. It would be useful to be able to compare that.

Mr Foukkare: I am happy to share that. I am also happy to share, if the committee would like to receive it, some information that I know is floating around that no country in the world has reduced excise and had a direct impact on the black market—namely, Canada. I am happy to share the actual report rather than commentary around that report. When the excise in Canada was reduced by 60 per cent, there was an immediate flow from the illegal trade back to the legal trade. As a direct result, the black market was dismantled within a period of 12 months because the volume or the demand was taken away. If there is interest, I am happy to share some information around that as well.

I might add, there are a lot of conflicting views. Some people would suggest that retailers just want to sell tobacco to make more money. Let me be clear: if consumers were stopping smoking we would not care, but our retailers are surrounded by illegal stores that continue to get away with this. They are not just stealing tobacco sales; they are actually stealing sales of coffee, sandwiches and grocery products. If I fast-forward 24 or 36 months, what we will see is that a large number of people will start to be unemployed and we will see businesses close. It cannot be considered a measure of success if the organised crime groups continue to control this trade.

Dr O'SHEA: Thank you, Mr Foukkare, for joining us today and for advocating on behalf of your members. You mentioned that one of the problems was the number of these illicit tobacco retail stores popping up. Would you be in agreement with looking at more stringent controls for receiving a tobacco licence and also the capping of numbers for tobacco retail stores in a particular area?

Mr Foukkare: To answer the first part of your question, I would suggest that Queensland has the strongest laws possible. Now we just need to see them implemented, including the licensing framework where you need to have a fit and proper person test.

To the second part of your question, I think if you started to limit the number of stores selling legal tobacco you would actually make the problem worse because you would be effectively providing more opportunity for illegal outlets to operate in any community where legal stores stop selling tobacco. The other concern is that you would introduce significant security concerns around stock control and inventory holding and then the less number of stores that are holding product would become targets more so. I think what we need to do is enforce the laws that are in place, we need to shut down the hundreds if not thousands of stores that are breaking the law and then we need to understand whether the current framework in place is actually achieving its intended outcomes, which is stopping the illegal trade.

CHAIR: We will need to wrap up there.

Mr Foukkare: Thank you, all.

EVERETT, Mr Oliver, Policy Adviser, Shopping Centre Council of Australia

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

CHAIR: Welcome. Would you like to make an opening statement?

Mr Newton: Good morning, 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 leading voice for shopping centre owners in Australia. Across Queensland our members collectively own and manage around 140 shopping centres, with approximately 10,000 retailers. The Shopping Centre Council engages with governments, including the Queensland government, on public health and retail crime issues, carefully assessing measures aimed at improving community safety and reducing retail crime.

I have been pleased to collaborate with the Queensland government and Queensland police on initiatives such as Jack's Law, restrictions on the sale of knives and replica gel blasters to minors and the state's community safety plan more broadly. We also participated in the Queensland parliament's committee process during deliberations on the previous closure orders bill between June and August last year. While we supported the intent of closure orders at the time, we noted a gap in that lessors had no clear mechanism to terminate the lease of a tenant subject to a government imposed closure order. The SCCA is pleased to support the bill, which amends and addresses the prospect of such instances.

From our perspective, the bill has five key elements that enable lessors to confidently respond to the issuing of a closure order. First there will be a legislated right to terminate a lease if a short- or long-term closure order is issued, critically, on the basis of repudiation rather than a breach, which recognises that a lessee has demonstrated a refusal to fulfil their obligations under the lease, enabling lessors to claim damages or draw down on rental bonds to deal with any unpaid rent or deficit costs.

Secondly, lessees' rights to remediation, dispute resolution and compensation are effectively disapplied by the bill. Without being specifically legislated, lessees would otherwise have the right and ability to initiate mediation, disputes and compensation claims under a number of laws which would give effect to disrupting and delaying lease termination which we feel—and we think government feels as well—is entirely unwarranted in the circumstances. Thirdly, lessors would be immune from any claim for damages or compensation. In short, if a lessor terminates a lease on the basis of a closure order being issued by a government, they would not subsequently be liable if the closure order was found to be erroneously issued. We would not expect that scenario to come to pass very often, if at all, but it is an important safeguard nonetheless.

Fourthly, the party in closest proximity to the store operator is the relevant lessor. It is often a franchisor that is the effective lessor as the franchisor is subleasing to and granting a franchisee the right to operate. Finally, the lessor offences provision of the bill is based on clear knowledge criteria. For our viewers, it is appropriate that any offences attributable to lessors are based on clear knowledge criteria, reflecting that only government regulators can make a determination on alleged or actual illegal activity and also that lessors are typically unaware of any regulatory compliance or enforcement activities being undertaken against a lessee or a sublessee.

To summarise, the Shopping Centre Council fully supports the bill, which removes existing barriers and enables lessors to terminate the lease of a lessee on issue of a closure order, which is a desirable outcome for government and lessors. Further, we would like to acknowledge the staff at Queensland Health who briefed the committee the week before last and whom we engaged with throughout the consultation process.

Mr LEE: Do the shopping centres of Australia receive any funding from the tobacco industry?

Mr Newton: No, we do not.

Mr LEE: In relation to the landlord liability provisions, do you see that as presenting any risks or having potential unintended consequences for lessors?

Mr Newton: For lessors?

Mr LEE: My apologies, landlords.

Mr Everett: For landlords, the critical thing for us was having the termination provision so that the landlord offence does not really come into play. The intention of our members, if tenants are trading in illicit tobacco, would be to not have them there once they are subject to a closure order, so we do not see the risk of the offence, provided we can effectively terminate the lease of those tenants.

Mr LEE: Are you satisfied with the reasonable excuse defence? Do you have any comments about that?

Mr Everett: Yes, we are.

CHAIR: You mentioned franchise operators and that often the franchise will lease and then sublease. Do you see that the proposed changes will adequately deal with where there are perhaps multiple arrangements in place?

Mr Newton: Yes, Chair. The concept of relevant lessor is something we discussed with the department and is appropriate and necessary now that there is a landlord defence—and also determining who would be responsible for acting on a closure order, if they so choose. Yes, that is adequately covered.

Mr J KELLY: Have any of your members provided any feedback to you that they have in fact had coercive tactics used by anybody to encourage them to sell or engage in illegal products?

Mr Newton: I am representing the landlords. I am sorry, Mr Kelly; I am just trying to—

Mr J KELLY: Is there any anecdotal evidence that you have received that the landlords' tenants have been coerced or forced into selling a product?

Mr Everett: We have not received any advice like that from our members.

Dr O'SHEA: In terms of the landlord knowing that this illicit activity has been taking place, do you have any concern about these conditions allowing landlords to go in and inspect premises that they are leasing?

Mr Newton: Dr O'Shea, that is one of the issues: we do not have capacity as landlords to go beyond the lease line. That is inconsistent with retail leasing legislation, and that is why our position and the feedback of members is that we do not know what we do not know, and that is the role of Queensland Health and enforcement.

Dr O'SHEA: Do you think with this bill it will be an improvement that when somebody is applying for the licence they have to say who they are leasing from and give the details of the landlord?

Mr Newton: I am sorry, I am not quite sure what you are driving at.

Dr O'SHEA: Now when people apply for a tobacco shop licence, they have to actually say the name of the person they are leasing the premises from and give their contact details so that if there is, for example, a closure order given then that notice will be given to the landlord as well.

Mr Newton: Our understanding, from the very few closure orders that have been issued to tenants within shopping centres, is that Queensland Health will approach either the landlord or the franchisor to understand who closure orders are best served on.

Dr O'SHEA: Do you feel there will be a need for an education and public awareness process for landlords when these new laws come in?

Mr Newton: Not necessarily. We have engaged with our members on this issue for over a year now, given it was Queensland parliament that first introduced the concept of closure orders. The New South Wales parliament has since followed suit and South Australia has as well. From a shopping centre perspective, we engage very closely with our members who are absolutely across this bill and closure orders as a concept generally. It might be that landlords outside of shopping centres would benefit from that but not our members, no.

Ms DOOLEY: Do you think the bill gives sufficient definition of knowledge versus reckless indifference or wilful blindness?

Mr Newton: I think the lessor provision is fair. Ultimately—I will go back to what I said earlier—we do not know what we do not know. We cannot go beyond the lease line. We cannot make a determination what is and is not legal. That is a determination for Queensland Health to make. Certainly the lessor offence has written into it the issuing of a closure order which will certainly prompt and is one of those kinds of thresholds for 'knowingly'. We need to be told that that activity is occurring. It is not for us to make the determination on our own.

CHAIR: Thank you. We will wrap up there and adjourn for 20 minutes.

Proceedings suspended from 10.38 am to 11.00 am.

BEAVON, Ms Katrina, Chief Operating Officer and General Counsel, Real Estate Institute of Queensland (via videoconference)

CHAIR: Good morning and welcome. Would you like to make a brief opening statement before we start our questions?

Ms Beavon: Good morning. Thank you for the opportunity to provide our views and input in relation to the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025, which I will hereafter refer to as 'the bill'. The Real Estate Institute of Queensland, or the REIQ, is the state's peak body for the real estate profession and has proudly represented the industry for more than 107 years. Our membership includes over 30,000 property professionals across Queensland, including a number of commercial property managers.

The REIQ provides training, advocacy and professional support to the Queensland real estate community and we are committed to ensuring that our members are equipped with the knowledge and tools to operate in compliance with legislative and regulatory requirements. We also work closely with government agencies, including the Office of Fair Trading, to ensure that the interests of the real estate sector are presented and that policy changes are practical, effective and evidence based.

In the context of this bill, the REIQ wishes to highlight the need for guidance and education surrounding these potential implications for commercial property managers and lessors. We note that there are over 211,000 commercial properties in Queensland with approximately 35,000 categorised as retail and wholesale trade buildings. Commercial lessors and their managing agents are often responsible for leasing premises to a wide range of tenants, including retailers and hospitality operators. The introduction of new compliance obligations relating to the sale or use of tobacco and smoking products may be perceived as placing additional responsibilities on these property professionals. We encourage the committee to consider the need for clearer guidance on how property managers should respond to suspected illegal activity and the extent of their obligations in monitoring or reporting tenant conduct.

The REIQ further recommends that clear and practical guidance be developed for commercial property managers and lessors regarding their responsibilities under the proposed legislation. This guidance should form part of a targeted education campaign to ensure that changes have been communicated to lessors and clarifying the threshold for knowingly permitting illegal activity. For example, would a lessor or property manager be liable if they received an anonymous complaint but had no evidence to substantiate it? It is obviously different if the report formally came from Queensland Health and the enforcement team. Also, it should provide a clearer definition of reasonable steps for lessors and property managers, including specifically what steps are to be taken to avoid liability, and that any compliance expectations placed on property professionals be proportionate and aligned with their role as managing agent and not enforcement bodies. Finally, we encourage ongoing consultation with industry stakeholders such as these events be maintained to ensure the legislation is workable and does not impose unintended burdens on property professionals.

The REIQ supports efforts to dismantle the illegal tobacco trade and uphold the integrity of the Queensland commercial property sector. Our view is that it is essential that the bill strikes an appropriate balance between enforcement and fairness, particularly for lessors and property managers who may be unaware of unlawful conduct occurring on their premises. This is where we believe education will be key. We would love to collaborate with the department and the committee given our advocacy and training background. We thank you for the opportunity and look forward to your questions.

Ms DOOLEY: Thank you for your presentation. How do you think that real estate agents currently engage with law enforcement when there is suspicion of illegal activity? I am sure you have had that experience where landlords have been worried that there is something untoward going on. How is that currently managed?

Ms Beavon: Obviously as part of the agency arrangements property managers have an obligation to ensure that there is lawful conduct happening within the premises. They have an obligation to ensure that, should they identify there is any unlawful activities occurring within the tenancy—and when they have of course—they are able to notify the relevant authorities as required by law depending on what that may be.

Mr JKELLY: Thanks for your presentation and your submission. In your submission there are a number of dot points and you talk about clarifying the threshold for knowingly permitting illegal activity, providing a clear definition of due diligence and ensuring protections for real estate agents acting in good faith. It almost sounds like we need to develop some sort of guidelines for real estate agents to know how to apply this legislation.

Ms Beavon: Absolutely. Any time any legislation is introduced by the government we always encourage that there is prescriptive information. Given your role within the industry is to educate our members to ensure that they remain compliant, we genuinely believe that having guidance and a reasonable criteria so they are set up for success is key to ensuring that property managers within this sector are able to comply.

Mr JKELLY: Would the REIQ be well placed to assist in developing those guidelines and rolling those out?

Ms Beavon: Absolutely. We welcome the invitation to work on that.

Ms BOLTON: One of the greatest difficulties, as we all know, is that you can provide clear and concise information, including through frequently asked questions, but often we find these are not read. Do you have any suggestions as to whether that type of material is better in clip form? What is the methodology to garner more interest, because we are increasingly seeing that materials are not read?

Ms Beavon: That is an excellent question. We have found that in campaigns such as this we really have to ensure that we target every audience. Whilst I like things in writing, being a lawyer by background, agents are very busy, so we need to ensure we are creating content that is succinct. We also find we do not just develop content for the property managers themselves and the professionals themselves; we tailor it so they are able and empowered to notify their clients as well. Whilst the property managers know that they have to do certain things, lessors absolutely must be informed of this obligation. It is important that we develop content that is succinct and virtual as well in terms of webinars, quick clips et cetera or easy learning management systems where it is a process almost like online training so they are actually absorbing the information and we then provide that information that is lessor facing. Only doing it through the lens of a professional does not work because property professionals have to educate their lessors as well, so we must ensure we do both.

Mr LEE: In your view does the definition of 'lessor' impose any additional obligations on the property manager?

Ms Beavon: Because there is an agency relationship between the lessor and the property manager, the property manager as the individual appointed by that lessor to act on behalf of them in terms of property maintenance and operation, tenant management, financial management and all the activities that fall within the services, they become the representative of that lessor and as a result wear the onus of ensuring they take these matters into consideration as part of their management of the property. Whilst there is no express provision or note within the bill that this extends to property managers, by virtue of that agency relationship, we believe that the commercial property management sector is captured.

CHAIR: I do not think we have any more questions. I think you made a good point about the education aspect of this rolling forward. I raised a similar issue around a lot of the more traditional convenience store operators as to whether they were well educated around their obligations. I think it will be very important to have a strong education campaign coming out of this legislation if it is passed. Thank you. We will move on in the interests of time.

O’GORMAN, Mr Terry, Vice-President, Queensland Council for Civil Liberties

CHAIR: Would you like to make a brief opening statement this morning?

Mr O’Gorman: The bill’s explanatory notes refer to ‘controlled purchase operations’, which will allow Public Service employees and health service employees to be appointed as controlled purchase officers for the purpose of testing compliance—and I underline that term—with three prescribed offences; namely, unlicensed sale of smoking products, supply or possession of illicit tobacco or illicit nicotine as part of a business activity.

The explanatory notes observe that covert operations of this kind are a proven enforcement tool and that the QPS, Queensland Police Service, uses similar techniques to investigate drug trafficking and weapons offences. In fact, if one looks at the schedule to the Police Powers and Responsibilities Act, the Queensland Police Service controlled operations scheme covers a very wide range of criminal offences. A controlled purchase officer will be able, under this bill, to act as a customer under an assumed name and make inquiries about cheaper or off-market products, handling and purchasing illicit and legal products, creating online profiles or retail membership, arranging delivery and purchasing of goods. This is a wide range of covert activities indeed.

The explanatory notes observe that to ensure the integrity of an operation, each operation must be supervised by an authorised person who will be responsible not only for the overall management but also for the oversight of the operation and for ensuring that all officers comply with the terms of the operation. Before authorising an operation, the chief executive of Queensland Health must also be satisfied that the operation will not be carried out in a way that is likely to induce a person to commit a prescribed offence. The explanatory notes claim that the bill establishes a robust framework for controlled purchase operations.

It is the Queensland Council for Civil Liberties’ submission that there is nothing robust at all in the bill that will control the behaviour of those engaged in covert operations to the extent that those engaged are minded to misbehave and break the law. The explanatory notes and comments of Queensland Health representatives at the public briefing held a week ago before this committee made a number of references to organised crime being involved in the illicit tobacco trade, including very serious arson offences being committed. One of the primary points the council seeks to make today is that, however it is dressed up, the officers who will be conducting covert operations will be exercising police powers. They are named differently, they are under the tobacco act, but for all intents and purposes that is what they are, yet the explanatory notes and the transcript of last week’s public briefing make no reference to the very detailed and comprehensive controlled activities and controlled operations regime introduced into the Queensland Police Powers and Responsibilities Act in the early 2000s and variously amended up to as recently as 2023.

The council’s written submission to this committee refers to the history of egregious and serious misuse of covert powers that has occurred historically in Queensland and other states of Australia and the UK which, along with the mid-1990s case of Ridgeway in the High Court, was the impetus for the Queensland police powers and responsibilities controlled operation regime being introduced. The civil liberties council finds itself in the position of submitting in common with the CCC; namely, that the bill should be amended to include the efficient controlled operations regime which binds the QPS, and in our submission that should be introduced in effect holus-bolus into the bill.

In our submission, the accountability regime outlined in this bill is not robust. It is weak and will lead to controversy and lengthy court cases challenging misbehaviour, including allegations of fabricated evidence arising from tobacco stings. I commend the article by Professor Eric Colvin, formerly of Bond University, titled ‘Controlled Operations, Controlled Activities and Entrapment’ in the *Bond Law Review*, volume 14, issue 2, 2002. Despite its age, it is our submission that this article is still relevant to the topic of this bill and provides good examples of how covert powers of the type proposed in this bill can be misused.

The article argues in considerable detail as to the necessity for the Queensland Police Service and the CCC controlled operations regime and gives a number of illuminating examples as to why the Queensland Police Service needed to be bound by an actually robust accountability mechanism. I would interpolate to comment that, to my knowledge, since this controlled operations mechanism has been inserted into the Police Powers and Responsibilities Act there have been no controversial undercover operations mounted by the QPS or the CCC.

Queensland Health, in its proposed controlled purchases and covert evidence gathering regime under this bill, needs to have the controlled operations regime as its outline in the PPRA transplanted in its entirety into the bill.

CHAIR: Thank you, Mr O’Gorman. Would you like to elaborate a little on your concerns around that particular instrument or regime? Do you have any examples from the past where it has been an issue within police operations that we could—

Mr O’Gorman: The new controlled operations regime?

CHAIR: Yes. Can you perhaps give us an example as to how that would be an issue for health officers with tobacco stores and what particular concern you have or examples of how that could be misused?

Mr O’Gorman: If health officers using covert powers are allowed to lie in order to carry out covert operations and if it is in the context of an organised crime activity, history shows that unless those powers are strictly confined they will be abused. Operation Trident was an operation in Queensland that occurred in the early 2000s. In that case the Queensland Police Service set up an undercover operation involving police to try to break a stolen car ring using two civilian covert operatives. In fact, they created a stolen car ring, and a special commission of inquiry had to be held in order to work out what went wrong.

There is an abundance of evidence interstate. The Wood inquiry that followed the Fitzgerald inquiry similarly made findings of police abusing—not all, obviously—covert powers. I am sure that the McMurdo royal commission into the lawyer Gobbo needs no explanation to anyone in this room. The concern the council has is that, given these quite considerable powers, unless they are closely monitored history shows they will be abused. The latest 2024-25 Controlled Operations Committee annual report that was tabled in parliament relatively recently showed that the Queensland Police Service—and I think the CCC, but at least the Queensland Police Service—had 10 controlled operations in that period netting about, I think, \$6 million in proceeds. I have not seen anything in the material to indicate how many controlled operations as distinct from controlled activities Queensland Health expects to conduct, but I would not think it would be any more than the number the QPS and CCC conduct each year.

Mr JKELLY: Thanks, Mr O’Gorman, for all of the work you have done for our state over a long period of time. I could not quite tell from your presentation, but you seem to find it a bit surprising that you are on the same page as the CCC.

Mr O’Gorman: I do, and of course I am sure so do they.

Mr JKELLY: I have been thinking about this issue and the environmental health officers, which I do not believe are a registered profession in Queensland. There are a number of health professionals on the committee. It would seem to me to be quite extraordinary for someone in any branch of the health professions to put themselves in a position where you effectively have to lie to people. It seems to be quite a step away from your normal way of operating and your ethical behaviour in most circumstances. I am sure other health professionals would be able to explain there are times when you have to be honest all the time. It is extremely difficult in many cases. Applying the powers that you refer to from the PPRA regime, would this put those environmental health officers in a situation where they could reasonably satisfy their ethical obligations as a health professional versus their obligation to try to prevent another form of harm?

Mr O’Gorman: I think so, because the Controlled Operations Committee is currently headed by a retired Supreme Court judge. The current way in which it works, very simply, is that the investigating officer or the senior sergeant of that group puts a submission to his superior officer that there be an application for an approved controlled operation. If his or her superior officer rejects that application, that is the end of it. If the superior officer approves the application, then it goes to the committee. If the committee then grants the controlled operation—and I note from the most recent annual report that it granted all 10 of the applications—it then lays down conditions, things that covert operatives can and cannot do. It then requires a report back, so I would think that any person with a medical background—after that process has been gone through—can deal with the morality of having to lie in a controlled operation actual activity with some ease.

Mr JKELLY: It is almost similar to getting ethics committee approval for certain things you have to do in a double blind study.

Mr O’Gorman: I think so.

CHAIR: You have certainly given us a bit more to think about.

Mr LEE: You have been around for a long time and I echo my thanks for the contributions you have made to the state. In terms of the controlled operation regime, is it your proposal to incorporate the relevant controlled operation regime in the PPRA into this bill?

Mr O’Gorman: Yes. On the basis that when one reads the steps that have to be taken, they are quite detailed, they are quite prescribed, but they have worked for in excess of 20 years. Yes, the proposal would be that a proposed controlled operation would go to the Controlled Operations Committee in the same way that a CCC application goes to the committee or a QPS application goes to the committee.

There is one other point that should be made—that is, police who conduct covert operations do it generally by the time they have been eight to 10 years in the Police Service. They have had training. They have had eight to 10 years of experience. Here you are using public servants with no police training, no police experience and you are asking them to go out and deal with organised crime and stick within the parameters of what the controlled operations certificate says you can and cannot do.

It is quite clear in the Police Powers and Responsibilities Act that, unless it is urgent, if you go outside the parameters of the authorisation of the controlled operation certificate you have problems. There is a perception, at least amongst some lawyers, that if you are part of a controlled operation you have complete immunity. You do not. The immunity ends if you go outside the conditions that have been approved. That is why it requires so much detailed supervision by the person who is heading up the controlled operation. As I read this bill, the chief executive of the health department is both going to conceive and set out what is hoped to be achieved by a controlled operation and manage it, ensure that the operatives remain within the parameters of—well, they do not even have a controlled operation certificate.

Dr O’SHEA: Again, thank you very much for all of your work over the years and for doing your submission when you were on holiday. If the relevant controls from the PPRA were implemented, would you also feel there would need to be a mechanism for a review of those covert operations after a particular time period, maybe two years or something?

Mr O’Gorman: Yes, because I am reasonably confident in saying that the only entity in Queensland that is legally enabled to do controlled operations is the Queensland Police Service. As I understand it from having been around for a while and from legal practice, from which I retired 12 months ago, I am not aware of any other state government department that exercises controlled operation powers, so it would be very sound policy implementation to have a review simply to see how it is working.

Dr O’SHEA: Do you think there will be less need for covert operations seeing there is now a change from the onus on having to prove supply to just possession of these illicit tobacco products?

Mr O’Gorman: Yes, because as part of preparing for this—I think it was in the Colvin article that I referred to; it might have been elsewhere—I came across a UK case where they were regulating tobacco in a roughly similar manner to what this bill proposes as far back as 2011. They were having problems with covert operations then. I think it reached the House of Lords because there was an allegation that covert operatives simply misbehaved and fabricated evidence. That is another reason you have to have someone with experience like the Supreme Court judge who currently chairs the Controlled Operations Committee. You know from practise as a Supreme Court judge where things can go wrong.

I have argued in the submission that it should be mandatory, for example, for covert operators to, at all times, tape record their contacts with targets. I accept there could be some occasions where a covert operative could be in a situation where the target wants to pat them down, but if you do not have something like mandatory tape recording you run the risk of the covert operator being verballled himself—where the accused says, ‘I didn’t say that at all.’ It is as much a protection for the court process as it is for the covert operative to have mandatory tape recording.

This scheme, whichever way it is implemented, is a first in Queensland. There is in Victoria something called the Inspectorate of Undercover Operations. However it is done, there has to be regular review of it.

Ms DOOLEY: Thank you, Mr O’Gorman. Lovely to meet you. Have there been any examples to date of covert operations? My understanding from the Queensland Health presentation is that they already conduct operations, not with the powers that it could potentially have going forward, but they do have cameras and record. I do not know if it is mandatory, but they did explain that they do turn their cameras on when they go into the store. Are you aware of any examples of that happening?

Mr O’Gorman: No, I’m not. I resigned from practice 12 months ago. I think you would have to ask the Law Society if they can give you those examples, if they exist. The body worn camera regime that police have—whenever police go into a raid, whether it is a drug raid or any other raid, they turn

on the body worn camera—is a superb, contemporaneous record of what occurred and it protects the police against being verballed by suspects. If Queensland Health do not have the equivalent of body worn cameras then they only have themselves to blame when they are accused of things that they say they did not do.

Ms DOOLEY: That is a very good point.

CHAIR: Thank you so much for your submission and for giving us your time. You have raised some interesting points.

Mr O’Gorman: Thank you, Chair and members of the committee, for inviting me.

PROOF

CAUGHLIN, Mr David, Executive Director, Legal, Risk and Compliance, Crime and Corruption Commission

LANDERS, Ms Brigitte, Principal Lawyer, Crime and Corruption Commission

CHAIR: We will now move to representatives from the Crime and Corruption Commission. Would you like to make an opening statement?

Mr Coughlin: Yes, thank you, Chair. I am pleased to appear before the committee on behalf of the Crime and Corruption Commission at this hearing to discuss the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill. I am the Executive Director, Legal, Risk and Compliance, at the CCC. I appear today with Ms Bridget Landers, Principal Lawyer. I extend the apologies of the chairperson, Mr Barbour, who was unable to appear today due to other commitments.

The CCC made a written submission to the committee regarding the bill on 10 October 2025. That submission has been made publicly available on the committee's website. The bill is directed to combating the illegal tobacco trade in Queensland. Illicit tobacco and illicit nicotine is not just a public health issue. As with any illicit trade, illicit tobacco and nicotine provides a market for organised crime to profit. The link between illicit tobacco and organised crime syndicates in Queensland and Australia is well established, using profits from the illegal trade to bankroll other criminal activities. Evidence of small businesses across Australia being threatened or coerced into supplying the products and even having their business premises fire bombed is a major concern for the community—elevating this market to go beyond a public health issue into matters of public safety.

The Crime and Corruption Commission acknowledges the importance of strong reforms to tackle these issues. The bill proposes to protect public health and safety by increasing the powers of Queensland Health to disrupt and deter supply of these products such as expanding interim and long-term closure periods, introducing new offences for the possession of components of smoking implements or knowingly leasing the premises for the supply of illicit products, and introducing an increased ability to enter and search business premises. While the CCC is generally supportive of these measures, there is one area of the bill on which the CCC's attention has particularly focused.

The bill introduces increased investigative powers, allowing Queensland Health to conduct controlled purchase operations. Controlled purchase operations are designed to enable covert evidence collection to support more efficient and targeted enforcement by authorising officers to engage in transactions with persons suspected of committing prescribed offences. As you have heard from the Council for Civil Liberties, the CCC's position is that, while such authority will assist in detection and investigation of offences relating to the distribution of illegal tobacco and nicotine products, the scheme should incorporate additional safeguards to ensure that operations are conducted lawfully and effectively. Those safeguards would include independent consideration of requests for authorisation and reporting at the back end in relation to the lawfulness and effectiveness of those operations.

The bill further proposes to expand Queensland Health's ability to seize and forfeit compromised goods—being products that are sold alongside illicit tobacco and illicit nicotine products that would otherwise be legal to possess and sell. These powers are designed to have a more immediate financially punitive impact upon businesses and provide a greater deterrence to other business owners considering engaging in the illegal tobacco trade. Mandating reporting requirements for all compromised goods seized and/or forfeited by Queensland Health would ensure these powers are being exercised appropriately, in compliance with the bill's policy objectives, and will maintain public confidence through transparency, pointing to quantifiable outcomes.

Finally, the CCC recommends that the bill mandate the review or evaluation of the effectiveness of controlled purchase operations and increased seizure and forfeiture powers after a specified timeframe to ensure that those powers are being exercised appropriately, including to the extent that the new powers achieve the policy objectives of the bill. Thank you again for the opportunity to appear before the committee. I am happy to answer any questions.

CHAIR: We will go to questions from the deputy chair.

Mr J KELLY: The PPRA regime that has been referred to in your submission and that of the Queensland Council for Civil Liberties has obviously been in operation for a pretty significant time in relation to other matters or other situations. Does the CCC have any advice around how that particular regime has helped to prevent some of the mischief you are trying to prevent or have you seen where it may not have prevented the mischief?

Mr Caughlin: In relation to the way in which the committee functions in Queensland, our chairperson is a member of the Controlled Operations Committee. If it assists, I can actually give a bit of background in relation to how controlled operations work.

Mr J KELLY: That would be very useful, thank you.

Mr Caughlin: Controlled operations are a common part of the Australian law enforcement landscape. They were introduced in the 1990s, originally in NSW in response to a decision of the High Court in the matter of *Ridgeway v the Queen*. That was a case where the Australian Federal Police were involved in an undercover drug importation operation. The case revealed a substantial gap in law enforcement methodology—that is, there being no lawful basis on which law enforcement investigators could engage in otherwise unlawful conduct to detect and investigate offending. In investigating offences, law enforcement officials were themselves involved in the commission of the offences that they were investigating. That is what the proposal in this bill is designed to address.

Controlled operation schemes were introduced into law throughout Australia, including in Queensland, to provide that mechanism for lawful authority to engage in such conduct, but, recognising the seriousness of the government sanctioning otherwise unlawful conduct by state actors to facilitate the detection and investigation of offences, those schemes were marked by a range of safeguards, including mechanisms for external approval as well as external oversight once investigations have been undertaken.

The High Court had occasion again to consider the controlled operations regime in 2008 in the case of the *Gedeon v Commissioner of the New South Wales Crime Commission*. There the court considered an investigation undertaken by the New South Wales Crime Commission under a controlled operation authority. The investigation involved distribution of cocaine. The application for the authority proceeded through the ordinary channels. The authority proceeded on the basis that, because no specific harm to an identified individual could be predicted, the criterion, which was included in the relevant New South Wales law, of considering risk of harm had been satisfactorily addressed. The High Court ultimately said that was not good enough. It held that the operation authority was invalid on the basis that the committee should have considered the consequences of the broader public safety risk of what was effectively the uncontrolled distribution to the community of several kilos of cocaine.

That is a fairly extreme example, but I raised these as it is important to understand the need for scrutiny and oversight of controlled operations, and particularly understanding how they can go wrong, and to understand the need for accountability and transparency, particularly at the back end of those operations.

Mr J KELLY: If we did adopt this regime, the bill anticipates giving public servants equivalent powers to police in a certain set of circumstances. Are there other safeguards, protections or things that police do that should also be considered? Are these appropriate things to be giving to public servants—to non-sworn officers?

Mr Caughlin: The controlled operations regime in the Police Powers and Responsibilities Act extends to Crime and Corruption Commission investigations in relation to major crime. There are also equivalent provisions in the Crime and Corruption Act facilitating controlled operations for corruption investigations by the Crime and Corruption Commission Committee. I flag that because those investigations can incorporate not just police officers but also CCC officers as the people undertaking that controlled activity.

The PPRA provisions contemplate the use of what I have referred to as civilian participants. It can be people who may otherwise be human sources of information who may participate in those otherwise unlawful activities. One of the benefits of having the Controlled Operations Committee consider those matters is that—as Mr O’Gorman rightly observed—the independent member on the committee is a retired Supreme Court judge as well as the chair of the CCC and the Police Commissioner as the other members of the committee. They are highly experienced in law enforcement and have a keen understanding of the issues that might arise.

The provisions in the PPRA and the Crime and Corruption Act require consideration of the qualifications, training and circumstances of the people who are proposed to be authorised. There is provision under this bill for the chief executive to consider the training and qualifications of the person who is proposed to be authorised, but having that external perspective on those matters is an important thing—where you have that experience in a law enforcement context being brought to bear on those important decisions.

Mr J KELLY: Given that your organisation engages in investigations around organised crime and you use both sworn officers and other officers, are there other things that Queensland Health should be doing to protect the people who will be conducting or engaging in these activities, given that they are similarly going to be dealing with people who are perhaps connected with organised crime?

Mr Caughlin: Again, I think one of the advantages of the controlled operations regime under the Police Powers and Responsibilities Act is that the committee considers not just the direct risks of harm but also the structures and safeguards that are in place around those officers to deal with the psychosocial risks of engaging in that sort of conduct and the risks of harm to safety from the prospect that a controlled purchase officer's identity might become known to organised crime figures. Those are risks that the committee is well versed in dealing with.

Mr J KELLY: Your submission says that the CCC considers that the bill raises some areas of vulnerability to corruption risks that ought to be addressed. Can you step us through what those are?

Mr Caughlin: Those are really in relation to the controlled operations. One of the advantages of the controlled operations scheme is the reporting in the back end. That is absent from this bill. There is initial authorisation but there is no mechanism, as there is under the PPRA, for a report back to the principal of the agency in relation to the conduct of the controlled operation and then reports to the committee, to the supervising entity and a report to parliament in relation to the conduct of those controlled operations.

Mr LEE: In relation to the conclusion in your submission, to clarify, when you talk about the independent review mechanism to promote public confidence you are contemplating the controlled operations regime committee providing oversight; is that correct?

Mr Caughlin: No, it is something more than that. In many instances legislation, particularly where it is an untested area, will incorporate a mechanism for review by an independent body after a fixed period. The CCC, for example, is engaged in relation to the child protection offender reporting and prohibition order legislation. There was a statutory mechanism built in for the review of those provisions five years after their introduction. The CCC undertook that review to consider the operation and effectiveness of those provisions. That is the kind of thing that we are contemplating.

Mr LEE: Thank you for that. You made comment about appropriate records and statistics in circumstances where goods are seized and that might be illicit as well as compromised goods. Do you contemplate that being subject to some audit procedure like through the Queensland Audit Office in terms of the completeness and accuracy of those reported statistics?

Mr Caughlin: That would certainly be one mechanism for it, having it available for QAO review. I guess the point in raising that was to recognise that where the CCC has been involved in doing those statutory reviews one of the most important things is to ensure that there is useful data for us to actually assess the effectiveness of the scheme. Whatever mechanism is considered appropriate for review, an important part of it, as that process is being undertaken, is data gathering to enable that assessment to track the effectiveness.

Mr LEE: What I am alluding to is that the public who view those statistics need to have a degree of confidence in terms of the veracity of the statistics that are reported. That leads me to the next question: if this were to be publicly reported or even if it is not publicly reported, do you have any comments around the chain of custody with respect to the seizure of goods? Are there any concerns around how that could be better managed if Queensland Health is collecting the seized goods?

Mr Caughlin: I guess one of the difficulties in extending those investigative powers to civilians is that there is a question about experience and training. With controlled operations in particular, but where investigations are being undertaken by persons without law enforcement experience or background, obviously there need to be arrangements in place to ensure that there is appropriate training around those matters of lawful seizure and maintaining an appropriate chain of custody to ensure the integrity of evidence. That is both from an integrity perspective and also in terms that any future prosecution obviously is in jeopardy if there is not a satisfactory capture of the evidence. I do not have visibility in relation to what investigative experience those health officers have, but obviously it would be crucial to ensure that whoever is undertaking that activity has appropriate training and supervision to make sure that those issues are properly addressed.

Mr LEE: Finally, does the controlled operations regime touch on matters around the chain of custody?

Mr Caughlin: Not in its own right, no. The chain of custody is dealt with through usual investigative processes. If evidence is gathered then obviously it needs to be retained as with any other that is obtained in an investigation. To the extent that an investigation gathers evidence through a controlled purchase then officers would be expected to ensure that custody was appropriately accounted for as it would be if it was obtained through a search or through any other mechanism by which that evidence is obtained. It is not part of the controlled operations scheme per se. There is provision in reporting under the PPRA, I believe, in relation to recording what was obtained through the activity so that that can be reported on, but that is a slightly different issue.

Dr O'SHEA: I have two quick questions. Was the CCC consulted in the drafting of this legislation?

Mr Caughlin: Not as far as I am aware, no.

Dr O'SHEA: Thank you for outlining the makeup of the independent committee under the PPRA. Looking at setting up a similar committee, would you see a similar background in the expertise of the people on that committee or it being more health aligned?

Mr Caughlin: One option, of course, would be to simply shift these operations and the approval of them to the existing Controlled Operations Committee. Already there is that infrastructure and experience on that committee. The focus of the committee in its deliberations is really in relation to ensuring the integrity and risk management of the investigations. There would likely be benefit in having that similar law enforcement focus because really the risk that is being guarded against is that a controlled operation is either insufficiently safeguarded at the front end or goes off the rails during the course of an operation.

Dr O'SHEA: Would you agree that body camera wearing and electronic recording would be advantageous during these covert operations?

Mr Caughlin: Yes, with the caveat, as Mr O'Gorman rightly noted, that obviously there may be practical difficulties. Body cameras, as operational police wear them, are fairly obtrusive. There are undoubtedly more covert means of doing that. Certainly recording any interaction would be valuable from an integrity of evidence perspective.

CHAIR: Can you elaborate on the concern you identified with respect to the compromised goods proposal?

Mr Caughlin: Given that it is a relatively new concept in catching goods that are one step removed from the primary contraband, there may be value in collating that data to ensure that in any review an assessment can genuinely be made in relation to the effectiveness of those arrangements.

Dr O'SHEA: I asked Mr O'Gorman this. Do you think there will be a less likely need for covert operations now that, instead of needing to prove supply, possession is going to be enough for these orders?

Mr Caughlin: Quite possibly.

Mr LEE: In relation to the review process for the legislation, did you have a time period in mind that you thought would be appropriate for the review?

Mr Caughlin: I think I heard two years suggested earlier. That is a reasonable time to allow an assessment to be made.

CHAIR: I think we are done. Thank you very much.

Proceedings suspended from 11.55 am to 12.04 pm.

COOK, Ms Bridget, Senior Policy Solicitor, Queensland Law Society

JOLLY, Mr Peter, Vice-President, Queensland Law Society

SMITH, Ms Sonia, Special Counsel, Legal Policy, Queensland Law Society

CHAIR: I welcome representatives from the Queensland Law Society. Would you like to make a brief opening statement?

Mr Jolly: Thank you for inviting the Queensland Law Society to appear today. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which we meet. As the committee is no doubt aware, the Law Society is the peak professional body for the state's legal practitioners. We are an independent, apolitical representative body and we represent over 14,000 lawyers in Queensland. We have a very strong policy committee structure which comprises members of the profession in key areas, and that enables us to tap into the views of our members.

The society recognises the significant and growing challenge in Australia posed by illegal tobacco and vapes. These illegal activities undermine public health objectives, threaten community safety and create economic harm by fuelling organised crime, so addressing this issue does require a concerted effort across all levels of government. The bill's objectives—including disrupting and hopefully eliminating the activities of organised crime groups involved in facilitating illicit tobacco and smoking products sales—are admirable. These are matters about which the government and police must undoubtedly be concerned, and the society supports all appropriate measures to achieve this. The society also welcomes the amendments made to the bill following our earlier feedback.

The society's key interest of course is to ensure that fundamental legal principles are not undermined or impacted by any law reform. We want to make sure that innocent parties who may be caught up in the commercial structures used by organised crime groups are not unintentionally and perhaps disproportionately affected by the proposed reforms.

The society does have some concerns that the proposed lessor's right to terminate a lease following a short-term closure order may lead to unintended consequences. This is particularly concerning where a magistrate has not yet issued a long-term closure order or the lessee has not yet been found to have committed an offence but the lessor may feel compelled to take action to protect their position. Lessors may also face financial loss or personal safety risks when terminating leases. If the lease is part of an organised crime group or one involved in criminal activities, the lessor may naturally be reluctant to terminate a lease due to fear of reprisals or repercussions. In our view, these issues are not adequately addressed in the bill.

Further, the lessor offence provision is a substantial shift in the law which affects the legal responsibility and risk allocation between lessors and lessees. The society does have concerns that the offence is cast in very broad terms and that the defence that 'the lessor has a reasonable excuse' is unclear and does not adequately address those concerns. The reforms may also disproportionately affect smaller or even regional lessors who may have fewer options when it comes to securing tenants for their premises and so are possibly more vulnerable to commercial risks.

Additionally, the society holds fears that the provisions will add more legal complexity to the retail leasing process and possibly increase legal fees as a result which are charged to both lessors and lessees. For example, we contemplate the lessor will now need to obtain specific legal advice before leasing their premises to businesses such as tobacconists, vape stores, convenience stores, newsagents, gift shops and even service stations. That cost is likely to be passed on to lessees, including lawfully operating lessees, through an increased rent and that might ultimately be passed on to consumers.

The cost of going through a court process to obtain compensation is also of concern. While the society strongly supports the right to compensation when a closure order is revoked, wrongly made or invalid, the court process will increase legal costs and complexity and might also delay payment of compensation to an innocent party.

Today I am joined by Sonia Smith, Special Counsel, and Bridget Cook, Senior Policy Solicitor at the Queensland Law Society. We welcome any questions the committee might have.

Dr O'SHEA: I notice you were suggesting that the short-term closures should be a maximum of 28 days and that that should be enough time for a magistrate to order for a long-term closure if the charges were proven. We have been provided with information from Queensland Health that currently it is taking six months on average before the magistrate can issue a long-term closure order. How do you see that would work in the current situation?

Mr Jolly: It does work in other jurisdictions. I think South Australia has 28 days, so perhaps there is a way to expedite those types of hearings.

Dr O'SHEA: In South Australia, are they finding they can have a short-term closure for 28 days and there be enough time for it to be before the magistrate for a long-term closure order?

Ms Smith: I do not think we have the specifics of the timeframes within South Australia, but that is what their legislation is saying—that 28 days is for a short-term closure order and then after that you get the magistrates order. It could be a matter of resourcing magistrates and prioritising these sorts of matters so they can be issued at a faster pace.

Dr O'SHEA: I think it was also from the department's point of view in terms of having to compile all the evidence to present before the Magistrates Court; it is the length of time that takes. I suppose if we are moving towards more orders being issued, it is that volume as well that might be an issue. Thank you.

Mr LEE: In your submission you talked about the lessor offence provision. The current 'reasonable excuse' is drafted into the explanatory notes. Do you think that requires further legislative clarification? If so, what would you suggest?

Ms Cook: I think the short answer is yes. Further clarification would be helpful, particularly because this offence is a novel offence. For potential landlords who are impacted by this—and that includes potentially the law-abiding ones under a suspicion that these types of activities are occurring on their premises—I think further clarification in the bill as to what constitutes a 'reasonable excuse' would be welcomed. It was indicated at the public hearing that the type of conduct that is looking to be stamped out by having this offence provision introduced is of an increasingly violent nature, so we would welcome further clarification around whether a lessor has a reasonable belief that their safety is compromised is a reasonable excuse not to take steps to cease a tenancy agreement.

CHAIR: A threat to safety could be quite difficult to prove.

Mr Jolly: Yes, agreed, it could, but I think we are aware that the people who are operating in this space are not very nice people and they do not operate within the boundaries of the law so I think we need to have some mechanism that does allow for the possibility that someone is in real fear for their safety. How that might be documented or proved might be a little more problematic.

CHAIR: I suspect that not all of these illicit shops are necessarily filling out beautifully formal REIQ lease documents either. It opens up some interesting discussion around how you terminate or enact leases and bonds for leases that may not be properly constructed and may be a little bit grey. Is this an issue that your members are alive to? Have there been many members who have come to the Queensland Law Society in recent weeks or months with specific cases or concerns around leases and tenancy arrangements and threats, or is it just a concern that is being raised at this stage?

Mr Jolly: I do not think there has been a significant number of practitioners who are expressing that specific concern. I think this is probably a synthesis of a number of viewpoints and also primarily coming from a property or a leasing perspective, looking at the practicalities of advising landlords, and many of our members obviously advise landlords or are landlords themselves. That is probably the significant area, I think, where there is some pressure to provide some clarity.

Mr J KELLY: Further in relation to the reasonable excuse aspects that have been discussed already, would people be able to demonstrate actions as being a reasonable excuse? You have tried or taken steps to determine whether or not the claimed business that is being notified to the landlord is actually the one that is being conducted?

Mr Jolly: It is an interesting question because it probably assumes a level of involvement that landlords have in the business of their tenants which probably does not exist. I think most landlords are, once the lease is entered into, whilst there is a permitted use in the lease, probably not there every day—and indeed the lease says they cannot be there every day—looking at what is going on. That does become a bit more problematic as to how they become aware of these activities and then, once aware, what they should do about it.

Mr J KELLY: Do you think there should be guidelines developed for landlords to work through the issues as a result, if this bill is introduced and enacted?

Mr Jolly: I think that is always going to be helpful, with an opportunity perhaps to get further input from the profession—from the landlords themselves, from landlord groups.

Mr J KELLY: Do you foresee any legal implications of the powers to seize secondary goods—things that are not necessarily illegal but are obviously housed and contained in the same premises as other illegal products?

Ms Smith: With respect to the compromised goods provisions, we really think, again, a court order should be obtained before legal goods are seized, and there could be some flow-on effects to do with that. Particularly, we are concerned if an innocent business owner is involved in this and their lawful goods are seized at the same time. There could be a rogue employee or someone who is selling illegal tobacco on the side, but all of the compromised goods can be seized and forfeited, and that is something which I think should not be done lightly, and we would prefer to see a court order before those sort of goods are seized.

Mr J KELLY: Would that situation that you just described there of a rogue employee illegally selling vapes, for example, or tobacco—the business owner and the lessor is not aware—would the business owner potentially be able to seek insurance against that type of a situation, or is that just going to be something that insurance cannot manage and insure against? You could be closed for three months, but it is not your fault.

Mr Jolly: I suspect that might be problematic. I think in regard to the whole area, insurance generally for these types of products is going to become more problematic. I think landlords are already finding that the cost of insuring premises that may have legal tobacco products—we are not even talking about illegal ones—is increasing to the point where that might become an issue for landlords and even—

CHAIR: A landlord spoke to me the other day who had a tenancy in a body corporate structure, and the body corporate wrote and said, 'Our insurance cost for the building has gone up. We are going to pass the \$100,000 extra premium onto you because you have that illegal vape store,' and so the landlord obviously evicted the vape store because they did not want to pay an extra 100 grand a year and the vape store was not about to pay it either. It would be interesting, actually, to get some input from the insurance industry around these issues as well. It does open up a can of worms.

Mr Jolly: It does. I had some fairly informal conversations with a friend who is a commercial leasing agent and his view of these things is always generally 'follow the money' and he meant in that sense that if it becomes too expensive for a landlord, then it may become uneconomical for landlords to enter into leases for not illegal shops but any type of tobacco shop. Whether that is in the best interests of consumers is debatable. I think all of these things will ripple out.

CHAIR: It may be a way of self-regulating the industry somehow, seeing that reduction in the number of outlets that we heard the tobacco council talk about.

Mr Jolly: That is right. You can do away with the bill!

Ms DOOLEY: Would you support interim short-term orders covering the period from when an application is brought to the Magistrates Court until a long-term closure order can be made? You were saying that in South Australia it is only 28 days, but we are proposing a three-month closure.

Mr Jolly: Sorry, I do not understand the question you are asking.

Ms DOOLEY: Would you support interim or short-term orders covering the period from when an application is brought in the Magistrates Court until a long-term closure order could be made by a magistrate, noting that they can extend beyond the 28 days? You have suggested interim orders.

Mr Jolly: I guess we have not really considered that. I think that might be of some concern if it just develops into a practice of issuing a short-term order because, once you have done that, then there is no incentive to get a longer-term one because the short-term one prevails. I am not sure whether that would be something we would support.

Ms DOOLEY: That is okay. It is just a question that we have come up with. Would you suggest a mediation process in relation to the compensation provisions?

Ms Smith: Yes, definitely. Under the bill, to get compensation you have to go to court, and obviously that is a costly and lengthy process. If you are seeking compensation, you are probably an innocent party in all of this. I do think that could be a barrier to innocent parties getting compensation. So a mediation model where you can mediate with the government for the compensation package before having to go to court is a really great idea and it should reduce the costs which ultimately the government might end up having to pay if they have to pay compensation. We would support that.

CHAIR: Would that be with someone like QCAT, or is there some other structure already in place that could do that?

Ms Smith: There is the Small Business Commissioner.

Mr Jolly: QCAT could be a venue. The only reservation I have there is I already know there are significant delays in QCAT; there are separate resourcing issues around QCAT. That might end up defeating the compensation process. It might take longer than the court process. There could be a process by which a private mediator could be agreed and, if not agreed, appointed by someone perhaps just to try to short cut things. There are some possible ways.

Ms O'Shea: I noticed in your section about post termination rights, you raise the issue about the state covering any losses or expenses by the lessor. Is there any precedent for that in other cases? This would be where the lessor has incurred expenses and they cannot recoup them from the lessee.

Ms Smith: I do not know if there is any precedent for that but we are following on from the other compensation provisions which are in the act which would apply to presumably tenants who have been wrongfully issued with a closure order, that sort of thing. There is a model in that act for the state to compensate those people. In this case, you would normally have a security bond and that should cover a lot of the landlord's losses, but it might not cover everything because there could be leases in existence now where this has not been contemplated by any of the parties that this could be a possibility. There may be costs that are not covered by the security bond, and an innocent landlord is going to be out of pocket. They may be able to take action against the lessee, but if the lessee has gone out of business, gone bankrupt or become insolvent, they are not going to be able to recover those costs.

Mr Jolly: This is a fairly unique situation, so I am not sure there is anything we could really offer as an example, and I might be drawing a slightly long bow here, but it is almost akin to a compulsory acquisition scenario where you are being forced to give up an item of property. In that scenario, there is a compensation payment. It is not identical, but it is kind of going down that path.

Ms O'Shea: I suppose if you looked at just a regular situation at the end of a lease and there has been damage done to a property which is not covered by the bond, what mechanisms does the lessor have to pursue that?

Mr Jolly: In the ordinary course of a commercial lease, if the bond is insufficient, then they have to rely on either personal guarantees, or they either pursue the guarantors or the landlord for that amount of money. No, there is no short cut there.

CHAIR: It is a bit of buyer beware, is it not? Get a big deposit up-front.

Mr Jolly: Yes.

CHAIR: It is quite challenging.

Mr Lee: I am interested to know whether you think the terms 'knowledge', 'wilful blindness' and 'reckless indifference' that are used require any further legislative guidance?

Mr Cook: Thank you for that question, which is a complicated one in the context of the criminal law. We are supportive of the iterative changes that have occurred to the drafting of the offence provision in the consultation leading up to the introduction of this bill. The concept of knowledge in this offence provision is difficult for the reasons that we have mentioned before in the context of it being applied to a law-abiding landlord. It is welcome to have actual knowledge of conduct that is occurring unlawfully on the premise. Our position is that the reasonable excuse defence offers a protective measure against the potential uncertainty around how knowledge may or may not be proved, based on the current drafting of the offence provision. We consider that more clarification is better at this point.

Mr Lee: On those terms?

Mr Cook: On those terms. We do note that the specific records in the offence provision at the moment is 'knowingly permit', so that clarity is welcomed because of the phrases you have just used, for instance, are not explicitly referred to, and that would be helpful.

CHAIR: There being no further questions, we thank you. That concludes our public hearing for the morning. I want to thank everyone who has participated. I want to thank Hansard. A transcript of these proceedings will be available on the committee's webpage in due course. A public briefing from the Police Service and Queensland Health will start at 1.20 today. There are quite a few questions on notice for the different groups, but none for QLS, unless you want to provide us with a more fulsome definition of 'wilful blindness'. Those responses need to be to the committee by Wednesday, 29 October. On that note, I declare this public hearing closed. Thank you.

The committee adjourned at 12.30 pm.