

Discussion Paper

Building on our Strengths

Public Health Act 1997

August 2010



Foreword

Tobacco smoking remains the single greatest preventable cause of illness and death in Australia. Each year around 15,000 Australians die because they smoked.¹ Smoking amongst adult Australians remains unacceptably high and the prevalence of smoking in Tasmania is even higher than the national average.

Research shows that there is no safe level of tobacco consumption and no safe level of exposure to environmental tobacco smoke (ETS).

Most people start smoking in their teenage years. Therefore, it is important that efforts are made to de-normalise tobacco to children so they are less likely to view smoking as socially acceptable behaviour, less likely to start smoking and as a consequence, to suffer from the ill effects of tobacco use.

Current medical evidence shows that a high proportion of morbidity and mortality related to ETS is borne by young people.¹ As such, it is vitally important to protect the health of young children as well as adult non-smokers from the harmful effects of ETS both indoors and outdoors. Restricting the places where smoking is permitted is an effective strategy for reducing harm from ETS. It can also motivate existing smokers to smoke less and quit.

Tobacco use costs millions of dollars each year in health expenditure alone. Tackling the issue requires a multi-faceted approach – one of which is strong tobacco control legislation. This discussion paper explores a number of legislative measures designed to improve the health of Tasmanians by preventing and reducing tobacco related harms.

Some of these proposals will impact on those industries who gain financially from the consumption of tobacco, but our first priority must be the health and wellbeing of the Tasmanian community.

I am pleased to release this discussion paper and invite you to comment on the proposals and contribute other ideas which will help us to reduce the prevalence of smoking and achieve a healthier Tasmanian community.

Dr Roscoe Taylor
Director of Public Health

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Background

In Australia, tobacco use is a leading cause of death and disease and contributes to more drug-related hospitalisations and deaths than alcohol and illicit drug use combined.² In 2007/2008, one in five Australians smoked, with many paying the ultimate price for their habit.

The most recent National Health Survey (2007/2008) shows that Tasmania has the second highest current smoking rate of all States and Territories with a figure of 24.9%. This figure includes both daily (23.3%) and occasional (1.6%) smokers. Although this rate has reduced over time, it is still higher than the national average of 20.8%.²

Tobacco use imposes a considerable social and economic burden on the Tasmanian community. It is a major contributor to the differences in health status experienced by the most disadvantaged groups compared with the most advantaged groups in our community.

Research shows a direct link between smoking prevalence and levels of disadvantage. In Tasmania, there are a number of population groups experiencing a disproportionate burden of tobacco related death and disease, including people of low socio economic status.

The health consequences of smoking can further exacerbate the levels of disadvantage already experienced by low income families. As such these households have the most to gain from reduced tobacco use.

However, the burden caused by tobacco is also borne by the whole community, either directly or indirectly through increased health care costs and more importantly, the psychological and financial costs of the suffering and death caused by smoking.

That is why reducing the burden of tobacco is an important objective of the Tasmanian Government. This objective is in line with the Government's social inclusion strategy which aims to address the causes behind the persistent cycles of disadvantage in Tasmania.

To this end we are committed to working with the Australian Government under the National Partnership Agreement on Preventative Health (NPAPH) and supporting Australia's obligations under the international WHO Framework Convention on Tobacco Control (FCTC).

At a local level, Tasmania *Together* recognises reducing smoking prevalence as a key to promoting health in our community. The goals and targets of Tasmania *Together* are incorporated into the *Tasmanian Tobacco Action Plan 2011-2015*, which provides the framework for tobacco control in Tasmania. The Action Plan aims to take a population health approach, targeting smokers and those at risk of taking up smoking.

The NPAPH has set a national smoking prevalence target of 10% by 2020. To achieve this, Tasmania must implement evidence-based measures which prevent people from taking up smoking and support those who already smoke, to quit. This requires a multi-faceted approach at National, State and local levels. The Tasmanian Government is committed to supporting and implementing strategies which reduce the burden that our high smoking rates are placing on our community. There are a number of proven strategies to achieve this aim:

Increasing the price of tobacco

The Australian Government has recently raised tobacco taxes by 25%.

Banning tobacco advertising

The Australian Government intends to further restrict tobacco advertising by introducing plain packaging on tobacco products and is exploring a ban on internet sales and advertising.

Social marketing campaigns

Ongoing national and local social marketing campaigns which promote the quit message and provide information on the adverse health, social and economic effects of smoking and how to access smoking cessation support.

Smoking cessation programs

The Tasmanian Government provides a range of smoking cessation services through the Alcohol and Drugs Service and funds other services through community sector organisations such as Quit Tasmania.

Strong tobacco control legislation

Tasmania already has strong legislation in place to protect the community from the effects of ETS and to regulate the display and availability of tobacco. This legislation includes:

- A ban on smoking in cars when a child is present.
- Restrictions on tobacco display sizes.
- Controlled purchase operations testing retailer compliance on selling tobacco to children.
- Smoke-free enclosed public places and workplaces.
- From 2 Feb 2011, it will be against the law to display tobacco and tobacco products in any premises other than specialist tobacconists.

This discussion paper presents a number of proposals for building on these legislative strengths. Research shows that de-normalising tobacco to children and restricting the areas where people smoke can be effective strategies for reducing tobacco related harm in our community.^{3,4} The harmful effects of smoking and ETS are already well established^{1,4} and this paper does not intend to revisit this evidence. This discussion paper aims to inform stakeholders and the community on a range of options available to further protect Tasmanians from tobacco related harm.

We invite your feedback on the specific proposals in this discussion paper and ask you to identify other tobacco related issues you believe to be important to the implementation of best practice tobacco control in our State.

Summary of proposals

There are twelve proposed legislative changes to the *Public Health Act 1997* (the Act). Proposals 1-7 aim to protect people from ETS and de-normalise the use of tobacco in our community by further restricting smoking in public places.

Proposals 5-7 focus on sport and separating its association with tobacco. Put simply, sport and tobacco do not mix. For many years, children received mixed messages about the connection between tobacco and sport with many of their favourite sports stars being paid to promote tobacco. However, sport should be about promoting healthy living and healthy living cannot be achieved through using tobacco.

The remaining proposals (8-12) impose further restrictions on the availability and display of tobacco products and allow for tobacco to be confiscated from children.

Proposal One

Ban smoking in all outdoor dining areas.

Proposal Two

Remove the 3 metres exemption which permits patrons to smoke at tables within 3 metres of an entrance/exit to an eating establishment.

Proposal Three

Ban smoking in all Pedestrian Malls, Bus Malls and covered bus shelters.

Proposal Four

Ban smoking within enclosed children's playgrounds or within 10 metres of any children's playground equipment in unenclosed areas.

Proposal Five

Ban or further restrict smoking in outdoor sporting stadia and cultural venues.

Proposal Six

Ban smoking within 20 metres of the competition area at all sporting events where children are participating.

Proposal Seven

Ban smoking at all public swimming pool complexes.

Proposal Eight

Ban tobacco product vending machines.

Proposal Nine

Ban or restrict specialist tobacconist's displays and/or phase out specialist tobacconists.

Proposal Ten

Remove tobacco and tobacco products from reward schemes.

Proposal Eleven

Ban tobacco sales at all temporary events such as music, sport or art festivals or where the majority of patrons are likely to be under 18.

Proposal Twelve

Enable confiscation of tobacco and tobacco products in the possession of a child.

Protecting our Community

ENVIRONMENTAL TOBACCO SMOKE

Prior to the 1970s, public health authorities' tobacco control initiatives focussed on people who smoked but gave little consideration to the impact of smoking on others. Since this time, there has been a particular focus on ETS and the serious damage it causes to non smokers, particularly children. The importance of smoke-free air as a requirement for good health outcomes is acknowledged internationally through the WHO Framework Convention on Tobacco Control. As a signatory to the convention, Australia has made a commitment to protect the rights of people to achieve the highest attainable standard of health.

There is no safe level of exposure to ETS.^{4,5} Even outdoors it represents a risk. Recent research shows that outdoor ETS exposure in areas where people congregate can result in serious health risks.⁶⁻¹¹ Strong legislation which further expands outdoor smoke-free areas is an essential step in protecting the public from the damaging effects of ETS, in particular children who are most at risk.¹

Outdoor smoke-free policies are gaining momentum both nationally and internationally. Many jurisdictions throughout Australia have introduced bans in specified outdoor areas.^{12,13} Internationally, jurisdictions in countries including Canada, New Zealand and the USA, have also enacted laws prohibiting smoking in outdoor areas and some have adopted a 100% smoke-free outdoor dining policy.¹⁴⁻¹⁸

Tasmania has long recognised the harmful effects of ETS and has legislated to introduce smoke-free areas in Tasmania. These proposed reforms will expand smoke-free areas to include many outdoor areas where Tasmanians meet, enjoy social activities, play sport and work.

Increasing outdoor smoking bans is also about supporting social change and creating a culture where smoking is not considered the norm – of which surveys are finding community support.¹⁹⁻²⁰ Research shows that limiting opportunities for smoking is a successful strategy for supporting smokers who wish to quit and can also reduce cigarette consumption - smokers are less likely to light up and are more motivated to quit.²¹⁻²²

De-normalising Smoking

When children are exposed to tobacco in a range of social settings, they are more likely to see smoking as a socially acceptable behaviour and consequently are more likely to commence smoking.³ Yet smoking is far from a normal activity. Tobacco is a lethal product of which there are no safe levels of consumption.

Most people who smoke start before they are 18 years old and young people who do smoke are likely to continue doing so for up to 25 years.²³⁻²⁴ Children and young people underestimate the addictive nature of tobacco and are at risk of becoming dependent before they are old enough to be fully aware of its damaging effects.²⁴

The earlier a person starts to smoke, the harder it is for them to quit²³ making prevention of uptake a key objective in tobacco control. De-normalising tobacco through restricting the places where people can smoke helps to change social norms and can result in lower tobacco use amongst young people.³

Many international and national jurisdictions have already acknowledged the importance of de-normalising tobacco to children.^{25,26} As well as extending smoke-free areas, other de-normalisation strategies include advertising bans and point of sale display bans.²⁵ To this end we are proposing a number of amendments which further restrict tobacco displays and availability of tobacco products.

Tasmania has already taken important steps to de-normalise tobacco use in social settings where young people gather by legislating to ban smoking in pubs, nightclubs and other entertainment venues. It has banned smoking in vehicles when a child is present and has also legislated to ban the display of tobacco products from 2 February 2011 (excluding specialist tobacconists).

The proposals in this discussion paper will build on our existing strengths by helping to advance new social norms in which tobacco is 'less desirable, less acceptable and less accessible'.²⁷

Enforcement

Due to large community support for the expansion of smoke-free areas the Government anticipates high levels of compliance with additional laws as the community becomes more aware of its obligations. Further, the Tasmanian business sector takes seriously its responsibilities to ensure compliance with smoke-free areas.

Department of Health and Human Services staff and nominated officers empowered under the Act are responsible for enforcing tobacco control provisions in the Act.

Council Environmental Health Officers are empowered to enforce the legislation. Although in most cases Council Environmental Health Officers will not be enforcing smoking bans, some councils may choose to do so in association with other routine health and safety checks of premises.

Proposal One

Ban smoking in all outdoor dining areas.

This proposal would expand the current smoke-free provisions from a ban on smoking in 50% of outdoor dining areas to a smoking ban in 100% of outdoor dining areas.

This ban will also apply to licensed premises. However, they may have a designated outdoor smoking area which must comply with the requirements of an outdoor smoking area as defined under the Act (see Glossary).

Additionally, food would not be permitted to be consumed in an outdoor smoking area. If the outdoor dining area and outdoor smoking areas are one and the same then smoking would not be permitted during the period of time when meals are served.

A smoking ban in 100% of outdoor dining areas has been successfully introduced in a number of Australian jurisdictions including Queensland, Western Australia and the Northern Territory.

Proposal Two

Remove the 3 metres exemption permitting patrons to smoke at tables within 3 metres of an entrance/exit to an eating establishment.

This proposal would expand on the current smoke-free provision which bans smoking in at least 50% of outdoor dining areas.

With this amendment, smoking would be prohibited within 3 metres of the entrance/exit to any eating establishments such as cafes and restaurants.

This would make Tasmanian legislation more consistent with other Australian states and allow for consistent and fair application of smoke-free legislation to all eating establishment owners.

Proposal Three

Ban smoking in all pedestrian malls, bus malls and covered bus shelters

This proposal would expand on current smoke-free provisions which ban smoking within 3 metres of doorways and 10 metres of air conditioning intakes, so that smoking would be prohibited in all Tasmanian pedestrian malls, bus malls and all covered bus shelters.

This will reduce the exposure of ETS to non-smokers who visit malls, those waiting for a bus in bus malls or under covered bus shelters.

It will also eliminate the amount of ETS drifting into adjacent business premises in malls and bus malls, particularly those with large entrances as well as eating establishments where patrons are eating inside.

A ban may also encourage local employees who smoke to quit if they can no longer smoke close to their business premises in the Mall.⁸

From 1 August 2010, the Hobart City Council (HCC) has banned smoking in the Elizabeth St Mall and Bus Mall, and Wellington Walk. A survey conducted by the HCC shows the majority of business owners in the Elizabeth St Mall support the ban.²⁸

Proposal Four

Ban smoking within enclosed children's playgrounds or within 10 metres of any children's playground equipment in unenclosed areas.

Smoking would be prohibited within enclosed children's playgrounds to which the public have access. If a playground is not enclosed then smoking is prohibited within 10 metres of any children's playground equipment to which the public have access.

Many councils throughout Australia have already introduced bans on smoking near children's playground equipment, including the Hobart and Launceston City Councils and this has been met with little opposition.

A ban will protect non-smoking parents, carers and children from ETS and will help to de-normalise tobacco to children.

This law has been successfully introduced in a number of Australian jurisdictions including Queensland, New South Wales and Victoria.

Proposal Five

Ban or further restrict smoking in all outdoor sporting stadia and cultural venues.

Under the Act, smoking is currently prohibited in any area of an outdoor sporting or cultural venue that provides reserved seating.

This amendment would prohibit or further restrict smoking in all outdoor sporting stadia to which the public have access and would be enforceable on patrons congregating before, during and after the sporting or cultural event.

These are the options –

1. Ban smoking in all areas of the stadium or cultural venue. Smoking would be banned within all areas of the sporting stadium or cultural venue. Patrons would need to exit the stadium or venue complex if they wished to smoke. It would be at the facility operator's discretion whether to provide pass outs to enable patrons to temporarily leave the complex to smoke.
2. Prohibit smoking within 10 metres of any seating area in the stadium or cultural venue.
3. Prohibit smoking in all seating areas of the stadium or cultural venue.
4. Prohibit smoking in all areas of the stadium or cultural venue except for designated smoking areas.

Many sporting stadia around Australia have banned smoking in all or part of their stadium complexes. Queensland has legislated to ban smoking in major sporting complexes with smoking permitted in car parks or picnic areas within the sports facility. New South Wales, South Australia, Victoria, Australian Capital Territory (ACT) and Western Australia have a prohibition on smoking in enclosed public areas which may apply to particular areas in outdoor sport stadia. As well, many individual sport stadia throughout Australia have implemented smoking bans of their own accord.

In Tasmania, this proposal would apply to stadia which meet the criteria under the definition of stadium (see Glossary).

Proposal Six

Ban smoking within 20 metres of the competition area at all sporting events where children are participating.

Smoking will not be permitted by any person within 20 metres of any competition areas where children participate. This includes all sports, irrespective of the type of ground.

Little Athletics Tasmania's by-laws state that smoking is only permitted in designated areas. Their Codes of Behaviour advise that smoking is prohibited in the arena and grandstand areas of all competitions conducted under the rules of the TLAA.

The AFL Kids First Tasmanian Code of Conduct advises parents that smoking is unacceptable at junior sport.

Proposal Seven

Ban smoking at all public swimming pool complexes.

Smoking would be prohibited in all areas both inside and other external areas within the perimeter of public swimming pools. Patrons would need to exit the complex if they wished to smoke. Many public swimming pool operators in Tasmania have already banned smoking or have designated smoking areas in their swimming pool complex.

Proposal Eight

Ban tobacco product vending machines.

Tasmania currently allows for tobacco product vending machines (vending machines) to be situated in most types of premises and as such places fewer restrictions on the placement and number of vending machines compared with other Australian States and Territories. The Australian Capital Territory has banned vending machines.

Banning vending machines completely in Tasmania would eliminate the availability of tobacco 'after hours' in venues such as pubs and clubs, which in turn would prevent impulse tobacco purchase and help smokers who are trying to quit.²⁹ One study on 'intending quitters' found that along with other smokers being nearby, smokers are more likely to smoke if cigarettes are for sale in their vicinity.³⁰

Proposal Nine

Ban or restrict specialist tobacconists' displays and/or phase out specialist tobacconists*.

From 2 February 2011, only specialist tobacconists will be permitted to display tobacco and tobacco products. This is intended to minimise children's exposure to tobacco and tobacco products because they are unlikely to enter these premises. However, an anomaly is created when specialist tobacconists are situated in shopping complexes. While other stores will be required to place their tobacco and tobacco products out of sight, an adjacent specialist tobacconist will still be able to display tobacco and tobacco products that are visible to passers-by. Children visiting the shopping centre will see these displays, undermining the intention of the display ban which is to further de-normalise tobacco to children.

These are the options –

1. Extend the 'out of sight' display ban that will apply to general tobacco retailers from 2 February 2011, so that it will also apply to specialist tobacconists (but with a later commencement date).
2. Cap the number of specialist tobacconist licences to remain at the existing level.

3. Phase out specialist tobacconists over time, by not renewing licenses as businesses change hands.
4. Any person wishing to obtain a licence to trade as a specialist tobacconist must apply for a 'specialist tobacconist licence'. (Currently under the Act a person obtains a licence to sell tobacco and then trades as a specialist tobacconist as defined under the Act).

These options are not necessarily mutually exclusive – for example Options 1, 2 and 3 could all be applied.

The central goal of the FCTC is to reduce tobacco use and its associated harms. Specialist tobacconist's sole income is derived from and is dependent upon the sale of tobacco/tobacco products. Therefore the issuing of a tobacco licence to specialist tobacconists is inconsistent with the FCTC goal as it is inarguable that the retailing of tobacco products contributes to large scale health consequences.

Extending the tobacco/tobacco product display ban to specialist tobacconists would be consistent with the impending display ban for other retailers and reinforce the message to children that tobacco is not like other products.

Most other Australian jurisdictions have size or display restrictions on tobacco in specialist tobacconist stores. From January 2011 in the ACT and from July 2013 in New South Wales, specialist tobacconists will not be permitted to display tobacco products.

Under the phase-out proposal (3) tobacco licences would no longer be issued to businesses whose sole income is derived from the sale of tobacco/tobacco products. Existing specialist tobacconist stores would be permitted to continue trading. However, if they ceased trading as a specialist tobacconist, a licence would not be issued to another person who purchased or leased that business with the intention of trading as a specialist tobacconist.

*as defined in the Act - see Glossary.

Proposal Ten

Remove tobacco and tobacco products from reward schemes.

Under this proposal, tobacco and tobacco products would no longer be included in shopper loyalty programs. No points/rewards would be accrued for their purchase and no points/rewards would be redeemable for purchasing tobacco and/or tobacco products.

These popular schemes give customers discounts and rebates for groceries, petrol and other products. Reward schemes also enable companies to obtain data on the purchasing habits of their customers and to build profiles on the types of customers who purchase their products. By including tobacco and tobacco products in these schemes, customers are in effect rewarded for smoking with higher rewards going to those who purchase the most tobacco.

Tobacco is banned from reward schemes in the ACT, New South Wales, Queensland and South Australia.

Proposal Eleven

Ban tobacco sales at all temporary events such as music, sport or art festivals or where the majority of patrons are likely to be under 18.

Under this proposal, a tobacco seller's licence will no longer be issued to a person intending to sell tobacco at any temporary event or where the majority of patrons are likely to be under 18 years old. These events include - but are not necessarily limited to - events that involve the provision of music in any form, are largely organised for the attendance by children under the age of 18 years, are open to members of the public and take place in premises or areas other than a private residence.

It is already an offence under existing legislation for a child to smoke or use any tobacco or tobacco product, therefore smoking will also be prohibited by children under 18 at these events.

However at present a tobacco seller's licence can be issued to a person to sell tobacco at events where many of the patrons attending would be less than 18 years old. This glamorises tobacco use and portrays it as a 'cool' activity.³¹

Many temporary social and community events in Tasmania attract young people. The use of tobacco at these events not only exposes people to ETS but reinforces a message that smoking is part of having a good time.^{31,32} While it is illegal for tobacco companies to advertise their products as part of sponsorship of social events, they are able to sell their products.^{31,32}

In Tasmania, this would mainly include events such as Falls Festival; Soundscape; MS Fest; V8 Supercars; Royal Agricultural Shows and Regatta Day.

Prohibiting the sale of tobacco at such events coupled with the advertising ban will help to reinforce to children that smoking in a social situation is not a normal activity.

Restrictions or bans on the sale of tobacco at temporary sport, music or art events or under 18 events currently exist in New South Wales, Victoria and Western Australia.

Proposal Twelve

Enable confiscation of tobacco and tobacco products in the possession of a child.

While it is already an offence under the Act for a child to smoke or use tobacco or a tobacco product in Tasmania, there is no provision for a penalty to be imposed. To date, the Department of Health and Human Services has preferred to take an educative rather than punitive approach when dealing with children. By contrast, any adult found to have sold tobacco or tobacco products to children is automatically prosecuted.

There are no legitimate circumstances for children to be in possession of tobacco or tobacco products when they cannot legally purchase it or smoke it and it is illegal for an adult to supply tobacco to a child. Currently, a nominated officer under the Act may seize tobacco or tobacco products being smoked or used by a child, but cannot confiscate tobacco or tobacco products in the possession of a child.

This new provision would allow a nominated officer to confiscate any tobacco or tobacco products in the possession of a child whether or not they were being smoked or used. It is proposed that no penalty be applied for the offence of a child to possess tobacco or tobacco products.

Children using or possessing tobacco is a sensitive subject and the Department wants to ensure that only a select group of authorised people are permitted to perform these functions. The Department welcomes suggestions as to appropriate people who would be given this authority.

Tobacco products can be confiscated from children in Western Australia and South Australia.

Have your say.....

SUBMISSIONS

There is clear evidence that de-normalising tobacco and reducing exposure to ETS helps to reduce the uptake of smoking and tobacco related harms. These are two of the goals of the *Tobacco Action Plan 2011-2015* and *Tasmania Together*.

An invitation is extended to individuals and organisations to have your say on how we can reduce tobacco related harm and achieve a healthier Tasmanian community.

In making your submission, we ask that you consider the following questions

- 1. Do you support the proposals in this paper to achieve these outcomes? If you do *not* support a proposal, please provide your reasons.**
- 2. Can you suggest *additional* proposals which will help achieve our goals? Please provide your evidence for these suggestions**
- 3. Can you suggest *alternative* proposals which would be more effective in achieving these goals? Please provide your evidence for these suggestions.**

A response template is included in this discussion paper for your convenience; however other written submissions are also welcome.

Your submission will be taken into account in the formulation of recommendations for amendments to the Act, which will then be submitted to the Minister for Health for approval to commence the Parliamentary legislative reform process. In the interests of openness and transparency your submission will be published on the Department's website.

Copies of this Discussion Paper are available electronically from <http://www.dhhs.tas.gov.au>

Printed copies may be requested from the Department by telephoning (03) 6222 7724 or by emailing public.health@dhhs.tas.gov.au

Submissions must be received by 5.00pm on Friday 1st October 2010.

Submissions may be:

Emailed to
public.health@dhhs.tas.gov.au

Posted to:
Tobacco Control
Public and Environmental Health Services
Department of Health and Human
Services
GPO Box 125
HOBART TAS 7001

Personally delivered to:
Public & Environmental Health
Level 3
25 Argyle Street, Hobart.

Each submission must be in writing and clearly address the questions. Anonymous submissions will not be accepted.

Each submission must:

- state the author's name, postal and email address and occupation (although submissions are public, individuals' contact details will not be published on the internet)
- state whether the response is submitted on behalf of an organisation, agency or industry
- state the author's interest (eg parent, public, health professional, tobacco company employee)

Glossary

CHILD

Under the Act, a child means a person who has not attained the age of 18 years.

ETS

Environmental Tobacco Smoke (also known as second-hand smoke)

FCTC

(WHO) Framework Convention on Tobacco Control. A global treaty which requires its members to implement effective, evidence-based tobacco strategies.

NOMINATED OFFICER

Under the Act, a nominated officer means – the Director of Public Health, a health officer, environmental health officer and a medical officer of health, a police officer or other person approved by the Director of Public Health.

OUTDOOR SMOKING AREA

Under the Act, an area is an outdoor smoking area if

(a) it is provided for the use of customers who smoke by the occupier of premises to which a licence or permit under the *Liquor Licensing Act 1990* applies, being premises where the provision of beverages rather than food is the primary function: and

(b) it is not serviced (includes the delivery of beverages and snacks or other food to customers in that area); and

(c) it is an area that –

(i) does not have a roof; or

(ii) has a roof and a perimeter where not more than 50% of the perimeter consists of walls and windows (whether open or closed); or

(iii) is of a class determined by the Director by notice in the Gazette to be an open area; or

(iv) on the application of an occupier of premises to which a licence or permit under the *Liquor Licensing Act 1990* applies, has been determined by the Director by notice provided to that occupier to be an open area.

PHA

Public Health Act 1997 (the Act)

SPECIALIST TOBACCONIST

Under the Act, specialist tobacconist means –

(a) premises that are operated independently and apart from any other retail business and where only tobacco, tobacco products, matches and cigarette or pipe lighters are sold: or

(b) premises that, under section 72B of the Act are determined to be specialist tobacconist premises.

Section 72B of the Act provides –

The Director, by notice in writing, may determine that specified premises are or are not specialist tobacconist premises.

STADIUM

The Macquarie Dictionary defines stadium as ‘a sporting facility, often enclosed, comprising an arena, tiers or seats for spectators, parking, etc’.

TOBACCO PRODUCT

Under the Act, tobacco product means -

(a) tobacco in the form of any cigars or cigarettes; or

(b) any product of which tobacco is an ingredient; or

(c) any device designed or intended only for the use of tobacco.

TOBACCO PRODUCT VENDING MACHINE

Under the Act, a tobacco product vending machine means - a machine from which tobacco or tobacco product is dispensed

WHO

World Health Organisation

| Proposal Number | Proposal | Support | Do not Support | Reasons |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | Please ✓ | | |
| 1 | Ban smoking in all outdoor dining areas. | | | |
| 2 | Remove the 3 metres exemption permitting patrons to smoke at tables within 3 metres of an entrance/exit to an eating establishment. | | | |
| 3 | Ban smoking in all pedestrian malls, bus malls and covered bus shelters. | | | |
| 4 | Ban smoking within enclosed children's playgrounds or within 10 metres of any children's playground equipment in unenclosed areas. | | | |
| 5 | <u>5.1 Ban smoking in all outdoor sporting stadia and cultural venues, OR</u> | | | Please indicate whether you do or do not support a ban or restriction on smoking in outdoor sporting stadia. If restrictions are your preference, then please indicate which of the options is your preference. |
| | <u>5.2 Further restrict smoking in all outdoor sporting stadia and cultural venues by:</u> | | | |

| Proposal Number | Proposal | Support | Do not Support | Reasons |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|--------------------------------------------------------------------------------------------------|
| | | Please ✓ | | |
| | <p>5.2.1 Prohibiting smoking within 10 metres of any seating area in the stadium or cultural venue, OR</p> <p>5.2.2 Prohibiting smoking in all seating areas of the stadium or cultural venue, OR</p> <p>5.2.3 Prohibiting smoking in all areas of the stadium or cultural venue except for designated smoking areas</p> | | | |
| 6 | Ban smoking within 20 metres of the competition area at all sporting events where children are participating. | | | |
| 7 | Ban smoking at all public swimming pool complexes. | | | |
| 8 | Ban cigarette vending machines. | | | |
| 9 | 9.1 Ban specialist tobacconists' displays: | | | Please indicate which of the proposals you do or do not support. You may choose several options. |

| Proposal Number | Proposal | Support | Do not Support | Reasons |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------------|-------------------------------------------------------------------------------------------------------------------------------------|
| | | Please ✓ | | |
| | 9.2 Cap the number of specialist tobacconist to remain at the existing level: | | | |
| | 9.3 Phase out specialist tobacconists: | | | |
| | 9.4 Introduce a new category of specialist tobacco licensing. | | | |
| 10 | Remove tobacco and tobacco products from reward schemes. | | | |
| 11 | Ban tobacco sales at all temporary events such as music, sport or art festivals or where the majority of patrons are likely to be under 18. | | | |
| 12 | Enable confiscation of tobacco and tobacco products in the possession of a child. | | | If you support this proposal, indicate who you think would be most suited to be given authority to confiscate tobacco from a child. |

References

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