Annual Report

Local Government Tobacco Control Activities 2025-26



MAV
MUNICIPAL ASSOCIATION OF VICTORIA

This document has been prepared by the MAV as a requirement of the service agreement with the Department of Health for local government tobacco control activities. It is based on figures reported by councils participating in the Tobacco Education and Enforcement Program.



ACKNOWLEDGEMENT OF COUNTRY

The Municipal Association of Victoria acknowledges the Traditional Owners of Country throughout Victoria, and recognises their continuing connection to lands, waters, and culture.

We pay our respect to Elders past and present who carry the stories, traditions, cultures, and aspirations of First Peoples, and who forge the path ahead for emerging leaders.

We support local government's commitment to strengthen relationships with Victoria's First Peoples communities and for it to encourage greater unity, knowledge, cultural awareness and respect for the first occupants of our land - through its strong community links and local representation

DISCLAIMER AND COPYRIGHT

This report has been prepared by the Municipal Association of Victoria (MAV). The MAV is the statutory peak body for local government in Victoria, representing all 79 municipalities within the state. © Copyright MAV

Table of Contents

1 Executive Summary 4
2 At a Glance 5
3 Introduction 6
4 Education and Enforcement Activities 8
5 Proactive Visits 9
6 Cigarette Sales to Minors 17
7 Complaints to Councils 21
8 Illicit Products 27

1 Executive Summary

This report has been prepared for the Department of Health as a requirement of the Local Government Tobacco Control Activity Program. Under this program, the MAV administers funding to councils to provide specific tobacco and vaping education and enforcement activities across the state to reduce the incidence of smoking and vaping in the community.

This report outlines the activities undertaken by councils for the financial year (1 July 2025 to 30 June 2026) funded through the DH program. Many councils also undertake further tobacco education and enforcement activities, based on local priorities.

The partnership between the Department of Health and local government on tobacco control continues to be strong. Seventy-seven of the 79 councils participated in the program in the financial year 2025-26.

Service Agreement priorities

Council targets for the second year of the service agreement were focused on retail setting (making up 50 percent of targeted visits) with 20 percent of targets to eating and drinking areas and 30 percent of targets for outdoor areas. The Cigarette Sales to Minors Program (CSTM) continued to be delivered, with changes to recruitment and training of test purchase assistants (TPA) impacting council ability to engage a TPA.

10,326 proactive visits and 331 visits in response to complaints

During the period 1 July 2025 to 30 June 2026, councils undertook 10,326 visits to a variety of business premises, enclosed workplaces and outdoor locations to meet their targets. They undertook a further 331 inspections in response to complaints.

Councils meeting targets

Councils exceeded all targets for retail, eating and drinking areas and outdoor locations in 2025-26. Councils participating in the CSTM program met their target through a combination of test purchase days and alternative inspections.

72 days of test purchasing were undertaken with 886 purchases attempted

Forty-four councils nominated to participate in the program this financial year. Twenty-six councils undertook 72 days of actual test purchasing in 2025-26. Twenty-nine councils also undertook 1,707 alternative inspections in place of test purchasing where a test purchase assistant was unavailable.

Councils made 386 referrals to other agencies regarding illicit products and were involved in 9 joint operations

Councils received 240 complaints from the community related to illicit products. Council undertook over 80 inspections of locations in response to these complaints and made 386 referrals to responsible agencies. Nine joint operations involving councils and other authorities were undertaken in 2025-26.

2 At a Glance

During 1 July 2025 – 30 June 2026 councils undertook more than **10,600 inspections** of retail, eating and drinking establishments and outdoor areas, including:

Inspection and Enforcement



3,469
Retail inspections



4,319
Eating & drinking area visits



2,844
Outdoor inspections



72 days
Test purchasing



886
Test purchasing attempts



453
Enforcement actions

Illicit Products*



240
Complaints received



404
Observations by councils



386
Referrals to agencies



9
Joint operations

** Note: this is likely an under-representation as it is a new area of reporting, and a number of councils did not have the systems in place to record this information.*

3 Introduction

The partnership between the Department of Health and local government on tobacco education and enforcement activities has been integral to the implementation of tobacco control measures across the state.

Since smoking bans were introduced for eating areas in cafes and restaurants in 2000, the MAV has partnered with the Department to administer funding for councils to undertake specific education and enforcement activities. The involvement of the MAV in administering the disbursement of the funds has enabled a local government perspective to be considered in the development of the activities required to be undertaken in the service agreements.

As a result, the activities have been able to be targeted to where they are most required and where councils are best placed to assist.

The specific laws targeted in the service agreements were those which related to tobacco retailers, eating and drinking areas and outdoor locations.

Role of councils in tobacco control

For many years councils in Victoria have been involved in promoting public health and enforcing associated legislation in their local communities. While there are no specific actions required by councils under the Tobacco Act 1987, council environmental health officers are automatically authorised to enforce its provisions. Additional council officers can also be authorised where this is agreed by the Department.

Tobacco control activities are usually included in the Municipal Public Health and Wellbeing Plans that each council is required to develop as a requirement of the Public Health and Wellbeing Act 2008.

Service agreement arrangements

The Department provides funding to the MAV to disburse to councils and for its administration of the program. The amount of funding provided to councils is determined by a funding formula developed by the Department and agreed with the MAV. It is an activity-based formula, using an hourly labour rate of a mid-level environmental health officer. The formula is informed by consultations with councils through a working group convened by the MAV. This group comprises a cross-section of metropolitan, regional and rural councils.

A service agreement between the MAV and councils participating in the program outlines the deliverables councils commit to undertaking, and the funding that will be provided once reports of activities have been provided.

This report covers the second year of the two-year service agreement period from 1 July 2024 to 30 June 2026.

Council requirements

Under the current service agreement, councils are required to:

- undertake a designated number of education visits to tobacco retailers, eating and drinking areas and outdoor locations where smoking/vaping bans apply,
- respond to complaints about smoking and vaping from members of the public,
- report twice a year outlining the activities they have undertaken.

The number of visits required to be undertaken by each council varies, depending on the numbers of premises in the municipality and their remoteness (such as whether they are metropolitan, regional or rural). The funding is paid in instalments, with 40% provided on commencement, 40% following receipt of the report required for the July to December period, and 20% following receipt of the final report for the remaining January to June period of the financial year.

Councils can also elect to participate in the Cigarette Sales to Minors (CSTM) program which provides additional funding for test purchasing activities.

Reporting requirements

Councils are required to provide two reports to the MAV each year outlining the activities undertaken in the previous six months. The first report outlines the activities undertaken for the period 1 July to 31 December of each year. The second report outlines activities undertaken for the period 1 January to 30 June. The MAV collates these reports for the Department of Health. The final report is published on the MAV website.

This report provides the results of the activities councils were required to undertake under their service agreement with the MAV. Please note that this report does not include the other activities councils may have undertaken at their own discretion.

4 Education and Enforcement Activities

Councils are required to visit a target number of tobacco retailers, eating and drinking areas and outdoor locations. Councils are also required to respond to complaints about smoking and vaping from the public. Where these generated a need for a visit, they are included in this report.

Councils that elected to participate in the CSTM Program need to undertake a set number of test purchase days (or alternative education visits in lieu of test purchasing where required).

Table 1 - Total activities reported by councils

Setting	Initiated by councils	CSTM Alternative visits	In response to complaints	Number total
Tobacco retailers	2,788	544	137	3,469
Eating and drinking establishments	3,594	583	142	4,319
Outdoor locations	2,237	580	27	2,844
Enclosed workplaces	n/a	n/a	25	25
Total visits	**8,619**	**1,707**	**331**	**10,657**
Cigarette sales to minors program (actual test purchase days)	72	n/a	n/a	72 days
Cigarette sales to minors program (test purchase attempts)	886	n/a	n/a	886 attempts

Table 2 - Council performance against agreed targets (visits initiated by councils)

Setting	Total initiated visits	Target[1]	% completed	# over target
Tobacco retailers	2,788	2,447	114%	341
Eating and drinking establishments	3,594	996	361%	2,598
Outdoor locations	2,237	1,365	164%	872
Cigarette sales to minors program*	164	164	100%	0

* Number of test purchase days - 72 actual test purchase days and 1,707 alternative education visits in lieu of 92 test purchase days.

5 Proactive Visits Compliance and Enforcement

This section reports the details of the substantiated breaches of the Tobacco Act 1987 identified by council authorised officers. It also covers the subsequent enforcement actions taken in respect of tobacco retailers, eating and drinking areas and outdoor locations during proactive inspection activities.

Retail Inspection Compliance

Table 3 – Retail settings inspected

Locations inspected	Number total	% of total
Major Supermarket	406	15%
Independent Grocer	406	15%
Tobacco Chain	143	5%
Petrol Station	1,032	37%
Convenience Store	625	22%
Non traditional retailers	176	6%
TOTAL	**2,788**	**100%**

Table 4 - Substantiated breaches for tobacco retailers

Substantiated breaches	Section of Act	Number of breaches	% of breaches
Tobacco advertisement displayed (not inc specialist tobacconist)	6(2AA)	16	13%
Graphic health warning not displayed on a price board (or non-compliant with Tobacco Regulations, and is therefore considered an advertisement)	6(2AA)	27	22%
Sale of less than 20 cigarettes	14	0	0%
No health warning and/or smoking cessation sign displayed	15C(1)	45	38%
No underage sale sign displayed	15C(3)	25	21%
Sale of a product banned by Ministerial order (s.15N)	15N	7	6%
TOTAL		**120**	**100%**

Table 5 - Enforcement actions for tobacco retailers

Enforcement actions	Number total	% of total
Verbal warnings (including pending)	66	84%
Written warnings (including pending)	12	15%
Fines issued (including pending)	0	0%
Prosecutions (including pending)	1	1%
TOTAL	**79**	**100%**

Note: refer to Section 8 Illicit Products for further detail on illict products and agency referals.

Eating and Drinking Area Inspection Compliance

Table 6 - Eating and drinking area visits
*including vending machines

Locations inspected	Number total	% of total
Indoor dining and drinking areas	1,918	42%
Outdoor dining and drinking areas	2,626	57%
Food fairs	27	1%
Organised events other than food fairs	6	>0%
Other	3	>0%
TOTAL	**4,580**	**100%**

Note: this total is higher than the figure presented in Table 1, as some councils include both outdoor and indoor areas in the detailed breakdown of settings where both settings were inspected in a single visit. The table offers insight into the distribution of settings that were inspected.

Table 7 - Compliance with eating and drinking area laws

Substantiated breaches	Section of the Act	Number total	% of total
Person who smokes in an enclosed workplace	5A(1)	2	1%
Occupier of an enclosed workplace where a breach of Section 5A(1) occurs	5B (1)	2	1%
A person who smokes in an outdoor dining and drinking area where smoking is not permitted	5C(1)	9	3%
A person smoking in an outdoor drinking area if within 4 metres of an outdoor dining area and not separated by a wall at least 2.1 metres high	5C(1A)	0	0%
Occupier of an outdoor dining and drinking area where smoking is prohibited and where a breach of Section 5C(1) occurs	5D(1)	1	0%
Occupier of an outdoor drinking area where smoking is prohibited where a breach of Section 5C(1A) occurs	5D(3)	6	2%
Occupier of an outdoor dining and drinking area where smoking is prohibited who fails to display acceptable no smoking signs	5E(1)	107	38%
A person smoking in an outdoor dining area	5EA	1	0%
Occupier of an outdoor dining area where smoking is occurring	5EB	2	1%
Occupier of an outdoor dining area who fails to display acceptable no smoking signs	5EC	56	20%

Substantiated breaches	Section of the Act	Number total	% of total
Occupier of a restaurant/cafe who fails to display acceptable no smoking signs	5F (1)	79	28%
Occupier of a bingo area or centre who fails to display acceptable no smoking signs	5H(1)	0	0%
Occupier of a gaming machine area who fails to display acceptable no smoking signs	5N(1)	5	2%
Occupier of an enclosed licensed premises who fails to display acceptable no smoking signs	5R(1)	12	4%
Person who places or causes or permits the placement of a vending machine in any premises by a member of the public	13(1)	0	0%
Person selling e-cigarettes from a vending machine	13(1A)	0	0%
TOTAL		**282**	**100%**

Table 8 - Enforcement actions for eating and drinking areas

Enforcement actions	Number total	% of total
Verbal warnings (including pending)	249	95%
Written warnings (including pending)	13	5%
Fines issued (including pending)	1	0%
Prosecutions (including pending)	0	0%
TOTAL	**263**	**100%**

Outdoor Area Inspection Compliance

Smoking and vaping bans are in place for designated outdoor locations. Each council determines the locations they will initiate visits to, based on local priorities.

Due to their nature, council visits and inspections of outdoor locations will often not include face-to-face meetings. Officers may check locations that have been the subject of complaints from the public or make general observations of whether smoking and vaping is occurring in particular locations. Councils can undertake meetings and inspections at complex locations, such as hospitals and other public buildings, where smoking and vaping bans apply.

Table 9 - Council visits to outdoor locations by type

Location	Number total	% of total
Patrolled beaches	105	5%
Public swimming pools	117	5%
Outdoor children's playground equipment	665	30%
Outdoor skate park	84	4%
Underage sporting events	168	8%
Early Years services	558	25%
Schools	322	14%
Children's indoor play centres	18	1%
Public Hospitals	89	4%
Community Health Centres	30	1%
Victorian public premises (eg, courts, public hospitals, certain Victorian Government buildings)	81	3%
TOTAL	**2,237**	**100%**

Table 10 - Compliance with outdoor smoking laws

Substantiated breaches	Section of the Act	Number total	% of total
Patrolled beaches			
A person who smokes between the red and yellow flags or within a 50 metre radius of a red and yellow flag	5RA(1)	0	0%
A person failing to comply with an inspector's direction to cease smoking between the red and yellow flags or within a 50 metre radius of a red and yellow flag	5RA(4)	0	0%
Public swimming pools			
A person smokes within the outdoor area of a public swimming pool complex	5RC(1)	0	0%
A person who fails to comply with an inspector's direction to cease smoking within the outdoor area of a public swimming pool complex	5RC(3)	0	0%
Outdoor children's playground equipment			
A person smokes at or within 10 metres of outdoor children's playground equipment	5RE(1)	6	27%
A person who fails to comply with an inspector's direction to cease smoking at or within 10 metres of outdoor children's playground equipment	5RE(4)	0	0%
Outdoor skate park			
A person smokes at or within 10 metres of an outdoor skate park	5RG(1)	0	0%
A person who fails to comply with an inspector's direction to cease smoking at or within 10 metres of an outdoor skate park	5RG(4)	0	0%
Underage sporting events			
A person smokes at or within 10 metres of an outdoor sporting venue during an organised underage sporting event, interval or practice session	5R1(1)	10	45%
A person who fails to comply with an inspector's direction to cease smoking at or within 10 metres of an outdoor sporting venue during an organised underage sporting event, interval or practice session	5RI(4)	0	0%
Childcare ('education and care services' and 'children' services premises')			
Person smoking in an outdoor area of an education and care service premises or children's service premises	5RB(1)	3	14%
Person smoking at or within 4 metres of any part of a pedestrian access point to education and care service premises or children's service premises	5RB(2)	1	5%

Substantiated breaches	Section of the Act	Number total	% of total
Failure to comply with an inspector's direction to cease smoking in an outdoor area of, or at or within 4 metres of any part of, a pedestrian access point to education and care service premises or children's service premises	5RB(5)	0	0%
Schools			
Person smoking in an outdoor area of school premises	5RD(1)	0	0%
Person smoking at or within 4 metres of any part of a pedestrian access point to school premises	5RD(2)	1	5%
Failure to comply with an inspector's direction to cease smoking in an outdoor area of, or at or within 4 metres of any part of a pedestrian access point to, school premises	5RD(5)	0	0%
Children’s indoor play centres			
Person smoking at or within 4 metres of any part of a pedestrian access point to a children's indoor play centre	5RF(1)	0	0%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of any part of a pedestrian access point to a children's indoor play centre	5RF(4)	0	0%
Public Hospital			
Person smoking at or within 4 metres of any part of a pedestrian access point to Victorian public premises	5RH(1)	0	0%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of a pedestrian access point to Victorian public premises	5RH(4)	0	0%
Community Health Centre			
Person smoking at or within 4 metres of any part of a pedestrian access point to Victorian public premises	5RH(1)	0	0%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of a pedestrian access point to Victorian public premises	5RH(4)	0	0%
Public Premises			
Person smoking at or within 4 metres of any part of a pedestrian access point to Victorian public premises	5RH(1)	0	0%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of a pedestrian access point to Victorian public premises	5RH(4)	1	5%
TOTAL		**22**	**100%**

Table 11 - Enforcement actions for outdoor locations

Enforcement actions	Number total	% of total
Verbal warnings (including pending)	19	100%
Written warnings (including pending)	0	0%
Fines issued (including pending)	0	0%
Prosecutions (including pending)	0	0%
TOTAL	**19**	**100%**

6 Cigarette Sales to Minors

As part of the service agreement councils can nominate to participate in the Cigarette Sales to Minors Program (CSTM). The following details activities undertaken by councils who are participating in this program

Cigarette Sales to Minors Program

The Cigarette Sales to Minors Program (CSTM) funds councils to educate tobacco retailers on their obligation not to sell cigarettes to minors, and to enforce breaches where these occur. Under the CSTM Program councils recruit a young person from outside the local area and supervise the young person closely as they attempt to purchase cigarettes from local retailers.

This is a voluntary program, and councils nominate whether they will participate or not. If councils are not able to undertake their target number of days of test purchasing, their funding is reduced accordingly.

Forty-four of the 78 councils nominated to participate in the CTSM Program as part of the current service agreement.

As with previous years councils have been able to undertake a mix of actual test purchasing and alternative education visits in lieu of test purchasing where council is having difficulty sourcing a test purchase assistant. Alternative activities include visits to tobacco retailers, priority eating and drinking areas and outdoor areas where children and young people spend time.

Table 12 - CSTM summary (including actual test purchasing and alternative activities)

CSTM activity	Number total
Councils nominated to participate in CSTM	44
Test purchase days conducted	72
Percentage of test purchases resulting in a sale	5%
Number of enforcement actions (test purchasing)	50
Alternative education visits*	1,707
Number of enforcement actions (alternative visits)	42

* Undertaken in lieu of 92 test purchase days

Test Purchasing

Table 13 - Results of test purchasing activities undertaken

Actual test purchasing	Number total
Test purchase days	72
Test purchases undertaken	886
Sales resulting from test purchases	44
% of test purchases resulting in a sale	5%

Table 14 - Test purchase attempts by setting

Test purchase attempts by setting	Number total	% of total
Major Supermarket	169	19%
Independent Grocer	108	12%
Tobacco Chain	87	10%
Petrol Station	366	41%
Convenience Store	156	18%
TOTAL	**886**	**100%**

Table 15 - Test purchasing substantiated breaches

Breaches	Number total
Person who sells a tobacco or e-cigarette product to a person under 18 years (includes a manager unless prevention measures are taken)	44
Person who sells cigarettes in a package containing less than 20 cigarettes (single cigarettes), s.14	0
TOTAL	**44**

Table 16 - Test purchasing enforcement actions

Enforcement actions	Number total	% of total
Verbal warnings	5	10%
Written warnings (including pending)	28	56%
Fines issued (including pending)	16	32%
Prosecutions (including pending)	1	2%
TOTAL	**50**	**100%**

CSTM Alternative Education Activities

Where a council has had difficulty delivering the CSTM Program they have been able to undertake alternative education activities in lieu of test purchasing. The number of councils undertaking alternative education visits is decreasing as the program returns to normal operations. Twenty-nine councils reported alternative visits during this reporting period.

Table 17 - Alternative education activities

Activities	Number total
Education visits undertaken in lieu of test purchasing	1,707
Number of councils reporting alternative activities	29

Table 17 - Alternative education activities - types of businesses and settings visited

Setting	Number total	% of total
Tobacco retailer	544	32%
Eating & Drinking Areas	583	34%
Outdoor locn	580	34%
TOTAL	**1,707**	100%

Table 18 - Observed breaches of the Act by settng

Setting	Number total	% of visits
Tobacco retailer	16	38%
Non-traditional retailer	1	2%
Eating & drinking areas	22	52%
Outdoor locations	3	7%
TOTAL	**42**	**100%**

Table 19 - Alternative education activities – enforcement actions undertaken

Action	Retailer settings	Other settings	Number total
Verbal Warnings	13	20	33
Written warnings	3	6	9
Fines issued	0	0	0
Prosecutions	0	0	0
TOTAL	**16**	**26**	**42**

7 Complaints to Councils

Under their service agreements, councils receive funding to respond to complaints from the public, with numbers varying according to community reporting. Many breaches of smoking and vaping laws cannot be substantiated without an authorised officer witnessing the activity, so not all complaints result in an immediate site visit, for example, in outdoor locations without premises, officers may check signage at a later date.

Where complaints relate to a business premises, councils may follow up with an education visit for the proprietor, guided by local policies and priorities. Many councils also direct complaints about illicit products via their websites to the relevant enforcement agencies, such as the Therapeutic Goods Administration (TGA) or the Illicit Tobacco Taskforce.

The complaints included in this section relate to breaches, or possible breaches, of the *Tobacco Act 1987*. Complaints about illicit products are reported in Section 8 of this report.

Complaints received by councils

Councils received **401** complaints from the public covering retail settings, eating and drinking areas, enclosed workplaces and outdoor locations.

Table 20 - Number of complaints received by councils

Setting	Number total	% of total
Tobacco retailers	150	37%
Tobacco retailers in response to sales to minors	40	10%
Eating and drinking areas	156	39%
Outdoor locations	29	7%
Enclosed workplaces	26	6%
TOTAL	**401**	**100%**

Visits in response to complaints

Councils reported undertaking **331** visits to retailers, eating and drinking areas and outdoor locations in response to the complaints received.

Table 21 - Visits in response to complaints

Setting	Number total	% of total
Tobacco retailers	105	32%
Tobacco retailers in response to sales to minors	32	10%
Eating and drinking areas	142	43%
Outdoor locations	27	8%
Enclosed Workplaces	25	8%
TOTAL	**331**	100%

Note: Visit numbers appear lower than complaint numbers, as councils can receive multiple complaints relating to the same premises. This table is likely an under-representation as some councils visit settings multiple times when following up on complaints and do not necessarily report the full number of visits undertaken.

Identified breaches of the Tobacco Act 1987 while responding to complaints

Councils identified a total of **107** breaches of the Tobacco Act 1987 while responding to complaints by the public. The majority of these were in eating and drinking areas (68 breaches, 64% of breaches identified).

Table 22 - Breaches as a result of complaints to councils by setting

Setting	Number total	% of total
Tobacco retailers	28	26%
Eating and drinking establishments	68	64%
Outdoor locations	11	10%
TOTAL	**107**	**100%**

The following tables break down figures for retail settings, eating and drinking areas and outdoor locations. The tables show both the number of breaches identified and the percentage of breaches across the three settings (retail, eating and drinking areas and outdoor locations).

Table 22a - Breaches as a result of complaints to council (retail settings)

Substantiated breaches as a result of complaints (Retail Settings)	Section of the Act	Number total	% of total
Tobacco advertisement displayed (not inc specialist tobacconist/e-cigarette retailer)	6(2AA)	12	11%
Graphic health warning not displayed on a price board (or non-compliant with Tobacco Regulations, and is therefore considered an advertisement)	6(2AA)	3	3%
Sale of less than 20 cigarettes	14	0	0%
No health warning and/or smoking cessation sign displayed	15C(1)	6	6%
No underage sale sign displayed	15C(3)	3	3%
Sale of a product banned by Ministerial order (s.15N)	15N	4	4%
TOTAL		**28**	**26%**

Table 22b - Breaches as a result of complaints to council (eating and drinking areas)

Substantiated breaches as a result of complaints (Eating and Drinking Areas)	Section of the Act	Number total	% of total
Person smoking in an enclosed workplace	5A(1)	8	7%
Occupier of an enclosed workplace where a breach of Section 5A(1) occurs	5B(1)	1	1%
A person smoking in an outdoor drinking area where smoking is not permitted (roof and walls covering more than 75% of total notional wall area)	5C(1)	33	31%
A person smoking in an outdoor drinking area if within 4 metres of an outdoor dining area and not separated by a wall at least 2.1 metres high	5C(1A)	3	3%
Occupier of an outdoor drinking area where smoking is prohibited where a breach of Section 5C(1) occurs	5D(1)	2	2%
Occupier of an outdoor drinking area where smoking is prohibited where a breach of Section 5C(1A) occurs	5D(3)	3	3%
Occupier of an outdoor drinking area where smoking is prohibited who fails to display acceptable no smoking signs	5E(1)	10	9%
A person smoking in an outdoor dining area	5EA	5	5%
Occupier of an outdoor dining area where smoking is occurring	5EB	0	0%
Occupier of an outdoor dining area who fails to display acceptable no smoking signs	5EC	1	1%
Occupier of an enclosed restaurant/cafe who fails to display acceptable no smoking signs	5F(1)	1	1%
Occupier of a bingo area or centre who fails to display acceptable no smoking signs	5H(1)	0	0%
Occupier of a gaming machine area who fails to display acceptable no smoking signs	5N(1)	1	1%
Occupier of an enclosed licensed premises who fails to display acceptable no smoking signs	5R(1)	0	0%
Person who places or causes or permits the placement of a vending machine in any premises by a member of the public (other than locations specified in s.13(2).	13(1)	0	0%
TOTAL		**68**	**64%**

Table 22c - Breaches as a result of complaints to council (outdoor locations)

Substantiated breaches as a result of complaints (Outdoor Locations)	Section of the Act	Number total	% of total
Patrolled Beaches			
A person who smokes between the red and yellow flags or within a 50 metre radius of a red and yellow flag	5RA(1)	0	0%
A person failing to comply with an inspector's direction to cease smoking between the red and yellow flags or within a 50 metre radius of a red and yellow flag	5RA(4)	0	0%
Public Swimming Pools			
A person smokes within the outdoor area of a public swimming pool complex	5RC(1)	0	0%
A person who fails to comply with an inspector's direction to cease smoking within the outdoor area of a public swimming pool complex	5RC(3)	0	0
Outdoor Children's Playground Equipment			
A person smokes at or within 10 metres of outdoor children's playground equipment	5RE(1)	6	6%
A person who fails to comply with an inspector's direction to cease smoking at or within 10 metres of outdoor children's playground equipment	5RE(4)	0	0%
Outdoor Skate Park			
A person smokes at or within 10 metres of an outdoor skate park	5RG(1)	0	0%
A person who fails to comply with an inspector's direction to cease smoking at or within 10 metres of an outdoor skate park	5RG(4)	0	0%
Underage Sporting Event			
A person smokes at or within 10 metres of an outdoor sporting venue during an organised underage sporting event, interval or practice session	5RI(1)	0	0
A person who fails to comply with an inspector's direction to cease smoking at or within 10 metres of an outdoor sporting venue during an organised underage sporting event, interval or practice session	5RI(4)	0	0%
Early Years' Service			
Person smoking in an outdoor area of an education and care service premises or children's service premises (child care centre or kindergarten)	5RB(1)	0	0%
Person smoking at or within 4 metres of any part of a pedestrian access point to education and care service premises or children's service premises (child care centre or kindergarten)	5RB(2)	2	2%

Substantiated breaches as a result of complaints (Outdoor Locations)	Section of the Act	Number total	% of total
Failure to comply with an inspector's direction to cease smoking in an outdoor area of, or at or within 4 metres of any part of, a pedestrian access point to education and care service premises or children's service premises (child care centre or kindergarten)	5RB(5)	0	0%
Schools			
Person smoking in an outdoor area of school premises	5RD(1)	0	0%
Person smoking at or within 4 metres of any part of a pedestrian access point to school premises	5RD(2)	1	1%
Failure to comply with an inspector's direction to cease smoking in an outdoor area of, or at or within 4 metres of any part of a pedestrian access point to, school premises	5RD(5)	0	0%
Indoor Play Centres			
Person smoking at or within 4 metres of any part of a pedestrian access point to a children's indoor play centre	5RF(1)	0	0%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of any part of a pedestrian access point to a children's indoor play centre	5RF(4)	0	0%
Public Hospitals			
Person smoking at or within 4 metres of any part of a pedestrian access point to Victorian public premises	5RH(1)	1	1%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of a pedestrian access point to Victorian public premises	5RH(4)	0	0%
Community Health Centres			
Person smoking at or within 4 metres of any part of a pedestrian access point to Victorian public premises	5RH(1)	0	0%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of a pedestrian access point to Victorian public premises	5RH(4)	0	0%
Public Premises			
Person smoking at or within 4 metres of any part of a pedestrian access point to Victorian public premises	5RH(1)	1	1%
Failure to comply with an inspector's direction to cease smoking at or within 4 metres of a pedestrian access point to Victorian public premises	5RH(4)	0	0%
TOTAL		**11**	**11%**

Note: the percentage totals 101% due to rounding.

8 Illicit Products

Council role and responsibilities

During this service agreement period, councils have been asked to provide information on illicit products. While councils do not have an explicit enforcement role regarding the sale of illicit tobacco or vaping products, they may:

- provide education to retailers about illicit products during site visits
- observe these products during tobacco retail education and enforcement activities
- receive complaints from the public, and
- report these observations or complaints to state and federal agencies.

This section outlines councils' observations, complaints received, and any follow-up actions taken. These are in addition to complaints reported in the previous section.

Note: figures reported in this section may under-represent actual activity, as this is a new reporting item and many councils have only recently begun capturing this data.

Council observations of illicit products

Councils have reported widespread availability of illicit tobacco and vaping products, with many independent retailers, gift stores, and specialty shops openly selling these products, including to minors. Community awareness of where to purchase illicit products is high, and even typically law-abiding consumers are engaging in these purchases. Some businesses attempt to conceal illegal products during inspections, making detection difficult.

While councils receive reports from the community, public reporting remains limited. There is strong council and community support for enhanced enforcement by Victoria Police and the Therapeutic Goods Administration (TGA) to address the sale of illicit products.

Councils receive complaints from a range of sources, including community members, council staff, and other agencies. Many complaints relate to vaping products, closely followed by illicit tobacco.

Council action, visits, referrals and joint operations

Councils are not required to enforce illicit tobacco provisions under the Tobacco Act 1987. Given the significant safety risks and the links between illicit trade and organised crime, enforcement is best led by specialist agencies such as Victoria Police and the Therapeutic Goods Administration (TGA).

In most cases, councils respond to reports about illicit product sales by referring complaints and observations to the appropriate state or federal enforcement agencies. Depending on the nature of a complaint and local policy, councils may also conduct education visits to provide retailers with information about illicit products and compliance obligations.

Some councils choose to participate in joint operations to support broader public health efforts, but only after careful risk assessments to ensure staff safety. During this reporting period, councils were involved in at least 9 joint operations with other agencies.

Table 23 – Number of complaints received by councils regarding illicit products

Product	Number total	% of total
Vapes	123	51%
Illicit tobacco	113	47%
Nicotine pouches	0	0%
Other products (inc bongs, flavoured papers etc)	4	2%
TOTAL	**240**	**100%**

Table 24 - Source of complaints

Source of complaints	Vapes	Illicit tobacco	Nicotine pouches	Other Products	Number total	% of total
Community Members	98	82	0	2	182	76%
Council Staff	5	3	0	0	8	3%
Other Agencies	16	21	0	1	38	16%
Other	4	7	0	1	12	5%
TOTAL	**123**	**113**	**0**	**4**	**240**	**100%**

Table 25 - Council authorised officer observations of stocking or sale of illicit products by business types

Business Type	Product type				
	Vapes	Illicit tobacco	Nicotine pouches	Other products	Number total
Major Supermarkets	2	10	0	0	12
Independent Grocers	0	1	0	0	1
Tobacco Chain Stores	24	31	0	1	56
Petrol Stations	4	6	0	0	10
Independent Retailers	117	114	2	3	236
Non-Traditional Retailers	54	35	0	0	89
TOTAL	**201**	**197**	**2**	**4**	**404**

Table 26 - Inspections/education visits in response to illicit product complaints

Action taken	Number total
Number of visits by councils in response to complaints	83

Table 27 – Council referals to agencies

Agency	Vapes	Illicit tobacco	Other products	Number total	% of total
Dept. of Health (Vic)	4	17	0	21	5%
Victoria Police	36	51	0	87	23%
Illicit Tobacco Taskforce (ITTF)	17	62	0	79	20%
Therapeutic Goods Administration (TGA)	90	34	1	125	32%
Dept. Health, Disability and Ageing (Cwth)	2	1	0	3	1%
Other	16	45	10	71	18%
TOTAL	**165**	**210**	**11**	**386**	**100%**

Table 28 - Number of joint operations involving councils and other agencies

Number of Joint Operations	Number total
Joint operations with other agencies	9

Municipal Association of Victoria
Level 5, 1 Nicholson Street, East Melbourne VIC 3002
PO Box 24131, 15 Southern Cross Lane, Melbourne VIC 3000
Telephone: 03 9667 5555 Email: inquiries@mav.asn.au
www.mav.asn.au