

# Submission

Regulatory Impact Statement –  
Tobacco Business Licensing Scheme  
April 2025



As the peak body for the Victorian local government sector, the Municipal Association of Victoria (MAV) offers councils a one-stop shop of services and support to help them serve their communities.

This submission has been prepared by the MAV in consultation with councils. While it broadly reflects the perspectives of local government, it does not capture the full diversity of views across all councils. Individual councils have been encouraged to provide their own submissions to ensure local priorities and community perspectives are appropriately represented.



## **ACKNOWLEDGEMENT OF COUNTRY**

We acknowledge the traditional custodians of the land on which we live. We recognise their continuing connection to land, waters and culture and pay our respects to their Elders past and present.

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# 1 Introduction

Local government welcomes the introduction of the Tobacco Business Licensing Scheme as an important tool to monitor and enforce the *Tobacco Act 1987* and to combat the growing incidence of illicit tobacco and increasing involvement of organised crime in the tobacco industry. A well-structured and resourced licensing scheme will help ensure that only legitimate businesses sell tobacco products, strengthen compliance measures, and improve regulatory oversight.

## Local Government's Role in Tobacco Control

For over 20 years, local government has played a key role in tobacco control through education and enforcement of the *Tobacco Act 1987*. This has included:

- **Retail compliance inspections** focused on signage, display restrictions, and sales to minors.
- **Enforcement of designated smoke-free areas**, protecting the community from second-hand smoke.
- **Sales to minors program.** Local government has operated a highly successful program aimed at preventing the sale of tobacco products to minors, which has been instrumental in reducing underage tobacco consumption. Through regular inspections, retailer education, and testing, councils have effectively deterred illegal sales and raised awareness among retailers about their responsibilities. The program has also included training for store staff to identify and refuse sales to minors, reinforcing compliance with the Tobacco Act.
- **Education and engagement with local businesses** to improve compliance with tobacco regulations.

While councils have an established role in enforcing tobacco retail laws, there is currently no explicit role for local government in the enforcement of illicit tobacco. Investigations and enforcement actions related to illicit tobacco are appropriately the responsibility of the Victoria Police and the Illicit Tobacco Taskforce. However, councils are well-placed to support compliance efforts within the licensed retail sector and provide valuable intelligence to the regulator.

## Clarification of Council's Ongoing Role

Councils are seeking clarification on their ongoing role in tobacco enforcement under the amended Act. While they appear to remain authorised as inspectors, the introduction of new, expanded powers for Victoria Police and licensing inspectors raises questions about how responsibilities will be shared. Clear guidance is needed on the scope of council involvement, particularly in relation to retail compliance, education, and enforcement activities, as well as smoke-free areas.



## Key Features of an Effective Licensing Scheme

Local government supports a licensing scheme. In previous submissions to inquiries, councils have stated they would support a scheme that is:

- **Administered by a state agency** to ensure consistency and strong regulatory oversight.
- **Cost-recovered** to ensure the scheme is financially sustainable and enforcement efforts are properly resourced.
- **Enhanced enforcement** powers for Victoria Police to tackle illicit tobacco, including stronger penalties and increased capacity to investigate illegal sales.
- **A clear role for local government** in supporting compliance in licensed retail settings through education, monitoring, and reporting of non-compliance.
- **Prohibition on minors selling tobacco products** to strengthen protections for young people.
- **Inclusion of a sales to minors program** to prevent underage tobacco sales, building on local government's proven success in this area.
- **An online training component as a licence condition**, ensuring retailers and staff understand their obligations. This training should include a focus on preventing sales to minors, and proof of completion should be accessible to regulators and enforcement officers.
- **A public register of licensed retailers** to improve transparency and support enforcement efforts.
- **A requirement for licences to be prominently displayed**, preferably visible from outside the store, to assist with compliance checks and public accountability. For online tobacco retailers, consideration should be given to prominently displaying licence details on their websites.
- **Substantial fines and consequences for breaching licence conditions**, ensuring that penalties serve as a genuine deterrent to non-compliance.

## 2 Support for the Preferred Regulatory Model

Local government supports the regulator's preferred option for licensing, as outlined in the Regulatory Impact Statement (RIS):

- **Basic categorisation for retailers and wholesalers** to avoid confusion and ensure clear regulatory oversight.
- **Option 2: Advanced conditions**, which includes prohibiting minors from selling tobacco products and requiring businesses to maintain sales records.
- **A flat fee structure for licensing**, which reduces complexity in the scheme's establishment and ensures consistency across the sector.

# 3 Implementation Considerations

While local government broadly supports the preferred model, the RIS is light on details regarding implementation. To ensure the scheme's effectiveness, we support and/or recommend:

- **Enhanced enforcement powers for Victoria Police** to inspect and act on illicit tobacco sales.
- **Clarification of local government's role in retail and smoke-free area enforcement**, as councils appear to remain authorised under the Tobacco Act 1987, but new expanded powers for Victoria Police and licensing inspectors may impact their responsibilities.
- **Ongoing collaboration between councils and the regulator**, including the sharing of local knowledge to support compliance and enforcement efforts. This should include clear lines of communication, such as a central point of contact or a dedicated liaison area within Victoria Police and the regulator, to facilitate timely and effective information-sharing with councils.
- **Ongoing role for local government in compliance monitoring**, noting that if councils are not engaged in ongoing tobacco education and enforcement in licensed premises, local intelligence on retailer behaviour will diminish over time. If councils are to support compliance activities, there would need to be consideration of how follow-up enforcement is handled. It may be challenging for councils to sustain a role that involves monitoring without an associated enforcement function or appropriate support.
- **Incorporation of existing programs**, such as test purchasing and staff training requirements, to support compliance and enhance monitoring efforts. These programs have a proven track record in ensuring retailer accountability and helping identify non-compliance, strengthening the overall enforcement of tobacco regulations.
- **Prominent display of licences** at physical retail premises, preferably visible from outside the store, to support compliance checks and public accountability. For online tobacco retailers, consideration should be given to prominently displaying licence details on their websites.
- **A continuation of a funded opt-in tobacco service agreement between councils and the regulator**: This would enable councils to support the regulator's work at the local level, ensuring a strong enforcement presence across Victoria. Without a local compliance presence, there is a risk of increased non-compliance if businesses perceive that the regulator has limited capacity to conduct regular inspections. This approach will also free up the regulator to focus on business non-compliance and the wholesale sector.
- **Timing of implementation and councils' role**: Councils will need sufficient notice regarding any changes or continuation of their role in tobacco education and enforcement. The current service agreement is set to end in June 2026, and councils will require time to plan for budget and program adjustments. Early communication is crucial to ensure councils can align their resources and services accordingly.

The MAV submission focuses on the role of local government in supporting education and enforcement within the retail sector. We support the recommendations outlined in Quit Victoria's submission, which reflect their expertise in smoking prevention and cessation and contribute to reducing smoking prevalence and uptake across the community.

# 4 Conclusion

Local government appreciates the opportunity to provide feedback on the RIS and acknowledges the Department's engagement to date. We are keen to continue this discussion as the implementation plan is finalised, ensuring that the scheme is effective, enforceable, and delivers the intended public health benefits.

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