

# **PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE**

## **Inquiry into Vaping and Tobacco Controls**

Shepparton – Monday 15 April 2024

### **MEMBERS**

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O'Brien

Aiv Puglielli

Meng Heang Tak



**WITNESS**

Jason Kelly, Detective Superintendent, Anti-Gangs Division, Victoria Police.

**The CHAIR:** I declare open this hearing of the Public Accounts and Estimates Committee Inquiry into Vaping and Tobacco Controls. If you have not already, switch your mobile telephone and your watch to silent.

I will start by acknowledging the traditional owners of the lands on which we are gathered today, and I pay my respects to elders past, present and emerging.

All sessions taken today by the committee are protected by parliamentary privilege. However, comments repeated outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to go ahead and check, and verified transcripts, presentations and handouts will then be placed on the committee's website.

I welcome you, Detective Superintendent Jason Kelly, from the Anti-Gangs Division. I am going to invite you to make an opening statement of about 5 minutes after which time committee members will ask questions and we will have a conversation. I will hand over to you.

**Jason KELLY:** Certainly. Thank you. On behalf of Victoria Police thank you for inviting me to appear before the inquiry today and for the opportunity to share our insights and perspectives on this very important issue. My evidence today is based on my professional experience as a detective superintendent within the state Anti-Gangs Division of Crime Command of Victoria Police. I am presently responsible for overseeing two taskforces, the first one being the Lunar taskforce, and Taskforce VIPER. Both are specialised taskforces tackling organised crime, including the links to the illicit tobacco trade.

The Lunar taskforce was established in October of 2023 to respond to the significant increase we have seen in the state of Victoria in relation to serious and violent criminal activity of organised crime syndicates that are dominating the illicit tobacco and vape trades. Since March of 2023 – so just over 12 months – there have been a total of 71 arsons across the state of Victoria associated with the illicit tobacco and vape trade. Many of these have been subject to significant media reporting. Fifty of the 71 arson attacks were on tobacco stores or vape stores, with the other 21 targeting premises such as gyms, cafes, reception centres and a vehicle repair centre. Fourteen of the arsons were targeting tobacconists in regional Victoria. None of these arson attacks have been in the city of Shepparton local government area. The arson attacks in rural locations have included Bendigo, Wangaratta, Wodonga, Morwell, Moe, Orbost, Ballarat, Lara, Belmont and Seville. There have also been a number of extortions and firearms-related incidents, including non-fatal shootings, and one homicide we suspect is linked to the illicit tobacco trade.

The illicit tobacco and vape trade is a statewide and national challenge and issue, with the illicit products readily available throughout Victoria and incidents of serious criminal and violent offending occurring throughout the state. In the last six months Victoria Police, via the VIPER Taskforce, has executed a total of 84 search warrants, resulting in the seizure of just under 120,000 vapes, just under 3.5 million cigarettes and more than 1 tonne of loose-leaf tobacco. These search warrants also resulted in the seizure of a significant volume of illicit drugs – on one occasion nearly 1 kilogram of cocaine out of one particular shop – weapons, industrial tobacco manufacturing equipment and proceeds of crimes of nearly \$500,000. And on one particular occasion just under \$300,000 cash was seized from a vehicle suspected as directly linked to the illicit tobacco trade.

I can advise the committee that 38 of the 84 search warrants Victoria Police have executed in the last six months were located in regional Victoria. These warrants resulted in the seizure of 948 kilograms of loose tobacco, 2.3 million cigarettes and 55,000 vapes – just over. Six of the search warrants we executed were for stores in the Shepparton local government area, with police confiscating 40 kilograms of loose tobacco, 269,000 cigarettes and just over 31,000 vapes, as I have indicated, from the Shepparton stores alone. The 31,000 vapes in particular seized from the six stores in Shepparton is the largest number of any regional town and represents more than half of all the illegal vapes confiscated by police in the past six months across all of regional Victoria.

Victoria Police has also assisted the Australian Taxation Office with operations involving the growing of illegal tobacco and note that while illegal tobacco crops are scattered throughout regional Victoria the weather conditions in northern Victoria are more conducive to that type of activity. To date Victoria Police has arrested just over 30 offenders for arson, extortion, firearms and associated criminal offences in relation to organised crime linked to the illicit tobacco trade, and that is through our Lunar Taskforce. A further 70 offenders via our VIPER Taskforce are currently before the courts in relation to the sale of illicit tobacco and vapes, so they effectively are the tobacco shops and stores that have been targeted by the VIPER Taskforce.

Victoria Police estimates that there are more than 1100 tobacco stores throughout the state of Victoria, and that is based on our intelligence that we have gathered over the last six months. Our intelligence indicates that most of those stores are selling illegal tobacco and vapes. 295 stores approximately of the 1100 outlets are located in regional Victoria, and 20 of the stores are located in the Shepparton local government area we estimate. This does not include supermarkets, service stations, pubs and bottle shops, which generally sell legal or licit tobacco products.

As the committee is aware, Victoria and Queensland are the only jurisdictions within Australia that presently do not have a tobacco retail licensing scheme. Similar to Victoria, Queensland has also experienced a series of arsons and organised crime infiltration of their tobacco stores. Queensland is to commence a licensing scheme in September of this year.

To summarise, Victoria Police welcomes the state government's announcement to introduce a licensing scheme for the tobacco retailers and sees this as a crucial step in assisting community safety and reducing organised crime's involvement in the tobacco and vape trade. As a result of this, we believe this would aid in reducing serious criminal offending occurring in the illicit tobacco trade when coupled with an enforcement regime or framework as we see interstate whereby health departments or other non-police agencies have the lead for compliance or enforcement in the tobacco industry. Victoria Police welcomes this inquiry and looks forward to providing any further information you may require.

**The CHAIR:** Thank you very much. We are going to go straight to Aiv.

**Aiv PUGLIELLI:** Perfect. Hi, thank you for coming in and thank you for sharing your presentation with us all. There is a series of new laws that have been proposed and are in train at the moment. In your view will someone in possession of an illegal vape under those laws, so no prescription, be charged consequently with a criminal offence?

**Jason KELLY:** It really does depend on the circumstances and where the enforcement – your question was specifically around a vape?

**Aiv PUGLIELLI:** And possession of the non-prescription vape.

**Jason KELLY:** Yes. Currently there is a national working group that has been established involving both health and law enforcement at a state and national level that is looking at developing a national enforcement framework. I would imagine, depending on how that is developed and looks, it will then filter down to how enforcement will occur going forward.

**Aiv PUGLIELLI:** Okay, thank you. In the scenario where that were a criminal offence, with the delivery of this legislation, given historic policing that has occurred in our state, do you foresee a scenario where police would ultimately then be more likely to be charging a vulnerable group in the community, such as people experiencing disadvantage, Aboriginal and Torres Strait Islander populations, people experiencing mental health issues, all of these groups being statistically groups that are more likely to be smoking in the community?

**Jason KELLY:** In terms of vaping, Victoria Police's position is, with the enforcement of vaping and tobacco, the responsibility is with the health department and local councils, as we heard earlier today. It is certainly Victoria Police's position that that would continue. Victoria Police is very mindful of minor offences – and when I say minor, the seriousness of vaping and tobacco is obviously of concern, but it is not certainly an area Victoria Police has a priority on or a focus on, and that national enforcement framework I would suggest will guide us going forward.

**Aiv PUGLIELLI:** Sure, yes. I completely appreciate that. Nonetheless, under the proposed legislation we are talking about new penalties for things like possession of these non-prescription vapes, so then there is that interaction obviously with Victoria Police. In terms of the policing itself, is there a way that you could foresee an approach to policing that does not result in a targeting of those particular groups that are more statistically prevalent smokers across the community?

**Jason KELLY:** The Chief Commissioner of Victoria Police's position is that the enforcement of vaping and tobacco is the responsibility of the health department and other agencies, such as local council, so I cannot see – obviously it is a matter for government – Victoria Police having a focus on vaping per se.

**Aiv PUGLIELLI:** Okay, thank you. With regard to policing generally, including the possession example that I was just giving but more broadly across the frameworks that have been proposed, in your view, is discretion going to be applied in the policing of these matters?

**Jason KELLY:** Certainly discretion from a law enforcement policing perspective is something that we enact on a daily basis. These are predominantly summary offences, so not offences where we would actually arrest someone and take them back to a police station, so discretion will continue to be a large part of our approach going forward.

**Aiv PUGLIELLI:** Thank you. Probably my last question: with the proposed changes coming through, where we are talking about addictive substances that are being used across the community – they are being accessed by young people, which is of significant concern to many, and that is I think partly why we are here engaging in this subject – is there a risk in your view that if we do not get the balance right we push the access to vaping underground and that would then lead to effectively an illegitimate and illicit market being prolonged for these products across the community, and how do you propose that Victoria Police will be placed to deal with that?

**Jason KELLY:** What I have observed over the last six months, where we have effectively had a real focus on the organised crime, is that there is already a black market. If you walk down any street where there is a tobacco or vape shop in your local community, it is very easy for youth to walk in and unfortunately purchase products that they should not have access to. So there is already a significant and extensive black market out there. Obviously the banning or regulation of any product will create an element of organised crime or a black market, as you suggest, but I think the current situation we have got clearly needs addressing.

**Aiv PUGLIELLI:** Thank you. Nothing further.

**The CHAIR:** Thanks, Aiv. Lauren.

**Lauren KATHAGE:** Thank you, Chair. Thank you, Detective Superintendent, for your time. You have spoken a little bit this morning about the wonderful weather in the north of the state, so coming up from Melbourne today, checking the weather, it was a lovely reprieve.

**Jason KELLY:** Yes.

**Lauren KATHAGE:** The warm weather and then I guess the growing conditions for tobacco up here. I just wanted to check some of what you said. I think you said there were something like 80 search warrants and about a tonne of loose tobacco.

**Jason KELLY:** Correct.

**Lauren KATHAGE:** And then I think you said that there were about 38 regional search warrants within that, and that was 948 kilograms of tobacco. Is that right?

**Jason KELLY:** Correct.

**Lauren KATHAGE:** So the majority of the tobacco – the vast, vast majority of the tobacco – is regional and rural?

**Jason KELLY:** In terms of looseleaf tobacco, there was one particular search warrant we executed in a rural location that was nearly 700 kilos out of that 984 kilograms seized. We execute search warrants on tobacco

shops we will see illicit tobacco that has been imported, we will see vapes and we will see looseleaf tobacco, obviously smaller quantities. But as you are probably aware, the northern parts of Victoria have been known to have crops growing, and that is the focus of the ATO, and Victoria Police supports the ATO and have done more recently as well.

**Lauren KATHAGE:** Okay. So in terms of the control of illegal tobacco, are you saying that Victoria Police is focused on the importation rather than –

**Jason KELLY:** No. Sorry. To explain, the Australian Border Force has responsibility nationally and at the border and works with the Therapeutic Goods Administration. In terms of the growing of tobacco, primacy for that rests with the Australian Taxation Office, and Victoria Police and local Shepparton police often support the ATO when they execute search warrants and the like. Does that clarify?

**Lauren KATHAGE:** Sure. Thank you. I am just wondering, for regional or rural areas, if there is a different type of approach or a different type of harm that police are addressing. It sounds like that is more a supporting role.

**Jason KELLY:** Victoria Police's position is that the enforcement of the *Tobacco Act* is primarily a responsibility of local councils and the health department. Victoria Police, like we have done over the last six months, will become involved when organised crime is involved. Our focus is not on tobacco per se, it is on the organised crime. The two taskforces I have spoken about are looking at the high-end organised crime that are linked to the illicit tobacco trade, just to be clear on that. We do not have an established Illicit Tobacco Taskforce; it is a taskforce that is investigating organised crime linked to the tobacco trade.

**Lauren KATHAGE:** Understood. Thank you for clarifying that.

**Jason KELLY:** That is okay.

**Lauren KATHAGE:** You said that Victoria Police welcomes licensing of the tobacco stores. Can you explain for me why or how that makes your job easier?

**Jason KELLY:** Yes. We have executed nearly 100 search warrants across the state in the last six months, and one of the challenges we have is holding the people or persons or syndicates responsible for actually operating the store. If we execute a search warrant and you have an 18-year-old sitting behind the counter who is selling the items, we may choose to prosecute that person. But really what we are interested in is the higher level, the people who are actually coordinating the stores, and out of the 1100 stores, we have identified syndicates that sit across multiple shops. One of the challenges we have is holding those people to account; because there is no licensing scheme, it makes it very difficult. Most of them are sheltering themselves, as organised crime does, and putting people forward to run shops. It is very similar to other regimes that we have – *Liquor Control Reform Act* – where it is a lot easier to hold people to account for activities happening on a premises that they are operating.

**Lauren KATHAGE:** I think you said there are something like 30 people who run shops who are currently before the courts. Is that the sort of situation you are talking about, where I am not saying there is a patsy but like a proxy or a –

**Jason KELLY:** The 30 I mentioned have been charged by the Lunar Taskforce. The Lunar Taskforce is looking at the high-end organised crime – so they are people charged with arson, extortions and firearms-related violence. The other 70 are those that have been charged by the VIPER Taskforce, who are predominantly those operating stores or shops throughout Victoria. They have been charged as a result of us executing search warrants finding illicit tobacco and vapes and loose-leaf tobacco.

**Lauren KATHAGE:** So the licensing regime would increase the number of crimes or broaden the –

**Jason KELLY:** The licensing regime will assist law enforcement, assist council and assist health in terms of identifying who is really running that shop and therefore will allow us to hold that person to account. Most of them are operating with a cash situation. For want of a better definition, the person sitting behind the counter is often paid cash. Often when we speak to them we will know the person's first name and maybe a mobile

number and that is probably the extent of it. That way it makes it very difficult for us to hold the actual operator to account.

**Lauren KATHAGE:** Then in terms of reducing crime or preventing crime in the first place, would the new licensing regime just be a deterrent in terms of they would see what happens to people who are charged under it, or is there another way that it will prevent the harm or prevent the crime?

**Jason KELLY:** The term 'low risk, high reward' is what we often refer to in the tobacco trade, because with the people we do put before the courts, and half a dozen of them have already been before the courts and had their matters finalised, the penalties are fairly low. A number of them are diversions or fines in the vicinity of \$1000 to \$2000, and some of these stores would make that in half a day. So high returns, low risk – people are prepared to take I suppose the gamble to run these stores. Does that answer your question?

**Lauren KATHAGE:** Yes, right. So it shifts the incentives.

**Jason KELLY:** Yes. I think the fact is that organised crime are making millions of dollars through the illicit tobacco trade. Estimates from industry are that at least 30 per cent of the industry is illicit. As I said, out of the 1100 tobacco stores we have identified, we have had to identify those through local intelligence. That has taken time, whereas a licensing scheme would make it very clear to everybody how many stores we have, who operates them and where they are. I would anticipate probably a reduction in stores with a licensing scheme due to the fit and proper person test – I would expect it may be a part of that. But I preface all that on the basis that it is a matter for government, obviously.

**Lauren KATHAGE:** Thank you. Thank you, Chair.

**The CHAIR:** Thank you, Lauren. Michael.

**Michael GALEA:** Thanks, Chair. Thank you, Detective Superintendent, for joining us. I would like to pick up on illicit tobacco as well. You mentioned it earlier in the discussion with Ms Kathage around the growing, especially in different parts of Victoria, such as here in the north. To the best of your knowledge what proportion of illegal cigarettes sold in Victoria are home grown versus imported?

**Jason KELLY:** It is probably a question on notice. But what I will answer is we see certain brands of cigarettes – for example, there is a brand, Double Happiness and Manchester – that are illegally imported into Australia.

**Michael GALEA:** Like this?

**Jason KELLY:** Yes. And what we find in most of the shops that we execute search warrants on is most of the tobacco appears to be imported, so they are not making their own cigarettes. That is the loose-leaf tobacco, which is separate and has been described to me as 'pouches' or 'loose leaf'. I suspect that a lot of that will be coming from importation but also is locally grown.

**Michael GALEA:** So the packet or the pouches is more likely to be a mixture, whereas these cigarette packs almost –

**Jason KELLY:** Imported.

**Michael GALEA:** Imported – yes, thank you. You have spoken about, quite frankly, some amazing numbers that you have actually already captured through these various taskforces. I am curious: again, a hard thing to be definitive about, but to the best of your knowledge what proportion of the market are you actually getting or actually capturing through these taskforces?

**Jason KELLY:** In terms of our focus?

**Michael GALEA:** In terms of what your best estimate is of the whole size of the illicit tobacco market in Victoria and how much you are actually confiscating.

**Jason KELLY:** Look, I would like to sit here and say we are having an impact, but unfortunately when you see the stats provided by the Australian Border Force, there are billions of cigarettes being imported into this

country on a yearly basis. What we are finding is we will go in and raid a shop and the very next day it will be restocked. I do not think we have got to the end of the street and they are probably coming in through the back door to restock it. I would like to sit here and say that we are having an impact, but I think our impact has been more of a disruption, which is one of our tactics in terms of disrupting the illicit tobacco market. I believe the introduction of a licensing scheme will see us in a better position once that goes live, coupled with an enforcement and compliance regime. I think they are the two key parts.

**Michael GALEA:** Thank you. You used the word ‘distraction’ – and I think I know the answer to this – but you also said ‘low risk, high return’. The profit margins, I am guessing, are not really being cut into that much by current enforcement activity without the tobacco registration scheme. Is that right?

**Jason KELLY:** A pack of illicit cigarettes probably sells for about \$15 in a shop, and they are probably purchasing that somewhere around the \$5 mark. So they are making a significant profit on what they are selling. Some shops we have raided are metropolitan and suburban shops where we are seeing a million dollars turned over – just a little shop out in the suburbs. It is significant money – you know, thousands of dollars a week and tens of thousands of dollars a week of profit – and very low output for them. One of the disruption tactics we have obviously is the seizure of what we have, but percentage-wise it is a very small amount compared to what is coming into the country.

**Michael GALEA:** I would imagine it would have to be on an exponentially larger scale, which will obviously be very hard to do, in order to actually cut into the profit that these organised crime gangs are making. Is that fair?

**Jason KELLY:** I think the introduction of Commonwealth legislation and Victoria’s announcement to bring us in line with other states in terms of a licensing scheme – I do not think we will ever reduce organised crime to the level we would like to have of zero organised crime, but we have to be realistic about it. I believe we can reduce and suppress it to a level that we can then monitor going forward.

**Michael GALEA:** Great. Thank you. Of course none of this is to diminish the work that you are doing, and I note it is very considerable and very much appreciated. I am just trying to get a sense of the best way to get to where we need to get to. You have cited those new law changes, both federal and state, and I note Ms Kathage has already asked a few questions about that. Just before I wrap up, in organised crime in particular, what sorts of challenges are brought in or enhanced by the fact that many of these networks are based overseas?

**Jason KELLY:** It is significant, and that is one of the challenges for Victoria Police and no doubt for local council and the health department, who have the lead with council on enforcement and compliance. We are talking global organised crime syndicates with people offshore, and we have been fairly public with this in the media. We are dealing with both interstate, national and Victorian based organised crime syndicates but global syndicates. That is a significant challenge, but we have excellent relationships with our law enforcement partners at the Commonwealth level, so the Australian Federal Police; the ABF; and Australian Criminal Intelligence Commission, ACIC. We are working very hard with them to try and get a result for the Victorian and Australian community.

**Michael GALEA:** Thank you. We have already, again, spoken about the state regulation. Are there any particular tools that you need from that federal level with how you engage with border force and other national agencies? Is there anything that you need from the federal sphere?

**Jason KELLY:** It is a matter for government. I want to be very careful here in terms of my role in terms of enforcement, but we welcome again the investment at the Commonwealth level – \$188 million, I believe it was – for the Australian Border Force, which I think will assist with a vaping framework and other activities going forward.

**Michael GALEA:** Thank you very much.

**Jason KELLY:** Thank you, Michael.

**Michael GALEA:** Thanks, Chair.

**The CHAIR:** Thank you. Mr Hilakari.

**Mathew HILAKARI:** Thank you, Detective Superintendent. I really appreciate you being here and your thoughts. We do not have a licensing scheme in Victoria, and we have made some announcements about that. With your colleagues interstate, what do you see as or what have they talked about as being effective for countering some of the illegal trade in their licensing regimes?

**Jason KELLY:** I think the partnerships with health departments in particular – in other jurisdictions the health departments have the lead in terms of compliance and enforcement – and our ability to support the health departments or local councils, which again is a matter for government, who have the role or responsibility going forward. Those relationships are strong ones, but the legislative framework will certainly assist us going forward.

**Mathew HILAKARI:** And in terms of states that are doing enforcement well, are there any ones that you think are doing really well across the country?

**Jason KELLY:** Interestingly Queensland, who have had similar issues to us, as I said, go live in September. And I believe they have got a risk assessment model whereby the health department will take the lead and where organised crime is identified the law enforcement agencies will assist as required. I think that is a model that government may want to consider going forward.

**Mathew HILAKARI:** And the fit and proper person test you mentioned earlier – are there any other elements that you think are important for that licensing regime that have been proven to work well interstate?

**Jason KELLY:** I think again it is a matter for government, but in terms of a fit and proper person test it will be very important. But then the ability to hold the person who has that licence to account – so whether, like the *Liquor Control Reform Act*, the person is onsite or not, it can be very easy for somebody to say, ‘Well, look, I operate that store but I left an 18-year-old in charge and they’ve gone and done things I wasn’t aware of.’ I think having the ability to hold that person to account, like the liquor control legislation, will be very important.

**Mathew HILAKARI:** You mentioned the different aspects between those shops that have been set up rapidly and those larger supermarkets and retailers. Can you sort of unpack a little bit what is driving the difference between an assessment of illegal tobacco at one and generally not at the other? What do you think is driving that?

**Jason KELLY:** I think your supermarkets, your service stations and the like are generally well maintained and have a lot to lose if they were to be apprehended selling illicit products. These pop-up stores we have seen over the last 12 months, two years are effectively run by individuals – I need to be careful here, not all of course, but the vast majority – who have some sort of interest in selling illicit products to make a profit. They are more run by individuals than corporations or companies.

**Mathew HILAKARI:** So their main business is basically something else and cigarettes are part of their sales, for those supermarkets and petrol stations et cetera – so they have got a lot more of a buy-in to a mainstream way of selling goods.

**Jason KELLY:** Correct.

**Mathew HILAKARI:** Organised crime – have you got some assessments of what they are using their funds for after they have been selling illegal cigarettes?

**Jason KELLY:** We suspect that the money they are making, which is in the millions of dollars – probably a billion dollars is not out of the ballpark – is being funnelled back into other illicit activities, whether that is the importation of harder type drugs such as methylamphetamines or cocaine, firearms-related activity, money laundering. So it is an investment back into the illicit tobacco to keep the operations going, but we suspect they are laundering that into other activities – purchasing properties with the proceeds of crime and establishing themselves in other businesses potentially as well.

**Mathew HILAKARI:** You mentioned the ATO is the body that has got primary responsibility around tobacco farms. Do you have an assessment of how many raids or how many farms there are operating across Victoria and how much of an impact the ATO, in conjunction with you, have had on that?

**Jason KELLY:** That would have to be a question to the ATO. I would not hold that data or that information. But I can say we have supported them in some recent operations and there are some ongoing matters.

**Mathew HILAKARI:** It is amazing – that industry I think in the mid-2000s formally ended in Victoria.

**Jason KELLY:** Correct.

**Mathew HILAKARI:** So it has been some time –

**Jason KELLY:** I think it was 2006 where it was effectively banned or stopped.

**Mathew HILAKARI:** Yes. In terms of the illicit tobacco trade we think that we are catching, have you got an assessment of what you think that is?

**Jason KELLY:** Sorry?

**Mathew HILAKARI:** The percentage of the illicit trade that you think we are catching.

**Jason KELLY:** As I say, out of the 1100 tobacco shops, our intelligence suggests, unfortunately, most are selling illicit tobacco. I want to make it clear, though, that there are a number of people who are trying to run a legitimate business, people who unfortunately are caught in the current situation. If we can put those to one side and acknowledge that there are people trying to run businesses that are not, out of the 1100 I would suggest most are is our intelligence. Our 100-odd search warrants probably support that position. The feedback we are getting is that people running legitimate businesses are victims of extortion. They are victims of the situation where they are finding it very difficult to make a profit if they do not then venture into illicit activities, unfortunately.

**Mathew HILAKARI:** I apologise if I missed this earlier. Of the 100-odd search warrants that you have done, what percentage found tobacco or tobacco products?

**Jason KELLY:** Ninety-nine – all but one, and that unfortunately was an address that had burnt down as a result of arson and had not reopened. So effectively it is a 100 per cent strike rate.

**Mathew HILAKARI:** Thank you.

**The CHAIR:** Thank you. Heang.

**Meng Heang TAK:** Thank you, Chair. I just want to follow on and thank you for your presentation. I am interested in what factors are contributing to the growth of illicit tobacco and e-cigarettes, especially in Greater Shepparton.

**Jason KELLY:** I think what is contributing to it is the cost of living, which is obviously an issue. Unfortunately, as an unintended consequence, the tax on legal tobacco is probably forcing people towards buying illicit products, and I think the fact that we do not have a licensing scheme is also contributing to that. We are seeing more stores pop up, so they are a lot more accessible for people, and unfortunately people are making decisions to buy illicit products over legal products.

**Meng Heang TAK:** Okay. Thank you. In terms of prevention, what successful joint agency operations have been undertaken in an area like Shepparton?

**Jason KELLY:** As I mentioned in my submission, Victoria Police has executed some six warrants in the local government area of Shepparton, and again that was a disruption activity. I believe that unfortunately the industry will continue until that licensing scheme is brought in and appropriate compliance is added to that.

**Meng Heang TAK:** Yes. Perhaps one last question: in terms of the penalties, you said somewhere that the penalties may not be strong enough. What would be strong enough to promote compliance?

**Jason KELLY:** Again, it is a matter for government, but out of the half a dozen matters we have had go to court – and these are people without prior convictions, so I am conscious of that – and that have been diverted into appropriate diversion programs, the penalties really do not deter the activity. If you get a \$1000 fine but

you are making \$3000, \$4000 a day, it is probably a cost of doing business, unfortunately. So I think an increase in penalties, at both the Commonwealth and state levels, would be welcomed. But again, it is a matter for government.

**Meng Heang TAK:** Okay. All right. Thank you. Thank you, Chair.

**The CHAIR:** Thank you, Heang. Just in the last couple of minutes that we have got, have any other committee members got any questions?

**Mathew HILAKARI:** You have mentioned that there was a quick refill of stores after there were compliance checks. Having those stores closed down for a significant period of time after finding illegal tobacco on the premises – do you think that would be an effective way to control some of the effects?

**Jason KELLY:** Absolutely. If a licensing scheme allowed for the closure of a premises, like the *Liquor Control Reform Act* process, absolutely. One of the biggest challenges – and some of the research we have done – is how we actually close these places down. We have researched certain Acts, and our legal advice has been to not go down certain routes, because they probably do not fit the criteria. But one of the greatest frustrations for law enforcement is to go in, execute a search warrant, arrest and charge, but then the very next day it is happening again. The closure of stores and the removal of licences would be pivotal to success, because those licences should be held very closely to someone's chest if they have invested in a legitimate business.

**Mathew HILAKARI:** Thank you.

**The CHAIR:** Thank you. Any other questions, anyone? No. Thank you, Superintendent, very much for your time and for appearing here before the committee today. That is going to bring this hearing to a close. The committee will follow up on any additional questions or questions taken on notice in writing, and responses are required within five working days of the committee's request. The committee is now going to take a short afternoon tea break, with hearings to resume at 1:40 pm. I declare this hearing adjourned.

**Witness withdrew.**