

Should smokers be banned from lighting up in any public space?

What they said...

'I don't think innocent people should be exposed to a cancer-producing substance just because they are having a meal somewhere'

Professor David Ball, the chairman of the lung service at Melbourne's Peter MacCallum Cancer Centre

'You can't approve the sale of cigarettes then rule that we can't smoke them anywhere. This is hypocrisy...'

Meryl Shenker, letter to the editor writer, published in The Sydney Morning Herald on March 3, 2013

The issue at a glance

In January, 2013, newly elected Melbourne City councillor, Richard Foster, called for smoking to be banned in all public spaces, including footpaths, in the City of Melbourne, including Bourke Street and the City Square. Such a ban would also include open-air dining areas and the space adjoining the entrances to public buildings.

On May 10, 2013, 197 Victorian cancer specialists and clinicians called for the state government to introduce a ban on smoking in outdoor dining and drinking areas.

A spokeswoman for the state government indicated that the government has already banned smoking between the flags at patrolled beaches and has enabled the prosecution of people who smoke in cars with children. She further stated that the government would 'take additional steps over time to reduce the opportunities for smoking in public spaces'. It is currently in the consultation process prior to imposing a ban on smoking in children's playgrounds and at sporting events.

A range of municipalities, restaurateurs and hoteliers have claimed that a total ban on smoking in any public place is too extreme and may well be unenforceable.

Background

Smoking bans in Australia

Federal level

Federal law bans smoking in all Australian Commonwealth government buildings, public transport, airports and international and domestic flights. Further bans are in place but are governed by individual states. Currently all Australian states and territories have banned smoking in enclosed public places, particularly workplaces and restaurants.

Australian Capital Territory

In the Australian Capital Territory (ACT) a smoking ban has applied to all enclosed public places since December 2006. However, if the proportion of the public place that is "open" (open to the outdoors) is greater than 25% of the total surface area of the ceiling or roof (assuming that this is flat) and the walls and windows (whether fixed or able to be opened), then the premises will not be considered "substantially enclosed" and therefore, the smoking prohibition in the Act did not apply.

As of December 2010 all outdoor eating and drinking areas in the ACT were made smoke-free. Exceptions to this rule can be made but only under strict guidelines.

Designated Outdoor Smoking Area (DOSA) requirements include:

- a) may not encompass more than 50% of the outdoor area,
- b) must be separated from smoke-free areas by no less than 4 metres or a non-transparent fixed wall barrier at least 3 metres high.
- c) In addition to this, staff are not allowed in the area to clean during the operating hours of business, unless it has been un-occupied for at least 30 minutes.

As a result of these requirements, the majority of venues did not obtain a DOSA permit as it was considered too complicated. The punishment for smoking in an outdoor area that is not a DOSA is an on-the-spot fine between \$200 and \$2,000 for the individual and \$2,000 to \$10,000 for the business.

New South Wales

A total 'enclosed space' ban was introduced in New South Wales on 1 July 2007.

In this state, a public place is considered substantially enclosed only if the total area of ceiling and wall surfaces are more than 75% of its total notional ceiling and wall area. Windows and doors may be counted as open space only if they are locked open to the outside for the duration of trading hours. 10% of the total ceiling and wall area must remain open to the elements at all times.

From 1 July 2009, smoking in a car with a child under the age of 16 is against the law. The Public Health (Tobacco) Act 2008 creates a new offence of smoking in a car with a child under 16 years of age in the vehicle. A \$250 on-the-spot fine applies to the driver and any passenger who breaks the law. This is enforced by NSW Police.

From 7 January 2013, smoking is banned at public (outdoor) playgrounds within 10 m of children's play equipment, in open areas of public swimming pools, at major sports grounds, within 4 m of any building open to the public and at public transport stops (including outdoor parts of railway stations, bus stops, light rail stops and taxi ranks).

Northern Territory

A ban on smoking in all enclosed areas of restaurants, licensed clubs and pubs came into force in the Northern Territory on 2 January 2010.

Queensland

Smoking is prohibited in all pubs, clubs, restaurants and workplaces in Queensland, as well as in commercial outdoor eating and drinking areas and in outdoor public places (e.g., patrolled beaches, children's playground equipment, major sport stadiums, and within 4 metres of non-residential building entrances).

Since 1 July 2006, premises holding a hotel, club or casino liquor licence can designate up to 50% of the outdoor liquor licensed area as a smoking and drinking area. In this area no food or drink can be served, no food can be consumed, no entertainment can be offered and there must be no gaming machines provided.

A 'buffer', which can be either a 2 metre wide area or a 2.1 metre high screen that is impervious to smoke, must be on the area's perimeter wherever it is adjacent to other parts of the outdoor area usually accessed by patrons. Premises that choose to have such an area must have a smoking management plan for the premises that complies with legislative requirements.

For all other liquor licensed premises, and non-liquor licensed premises, from 1 July 2006 there is no smoking at any outdoor eating or drinking place.

In May 2009 it was announced that smoking in cars where children under the age of 16 are present was banned and that the power to regulate smoking at pedestrian malls and public transport waiting points such as bus stops, taxi ranks and ferry wharves was transferred to local government.

South Australia

A total enclosed public place smoking ban was introduced in South Australia on 1 November 2007. However, under the SA Tobacco Products Regulation Act 1997, a place or area is only 'enclosed' if it is fully enclosed or is at least partially covered by a ceiling and has walls such that the total area of the ceiling and wall surfaces exceeds 70 per cent of the total notional ceiling and wall area.

It is illegal to smoke in the car while children are in the car.

Tasmania

Tasmania was the first Australian state to introduce a total indoor smoking ban in January 2006. As of 1 January 2008, smoking in cars with passengers under the age of 18 is banned and will incur a \$110 on the spot fine. In 2012, Tasmania moved to ban the purchase of tobacco by anyone born after the year 2000.

Victoria

A total enclosed public place smoking ban was introduced in Victoria on 1 July 2007. However, smoking is permitted in non-enclosed dining or drinking areas if the area has a roof and walls that cover no more than 75% of the total notional wall area (i.e. if the combined wall and roof space is 25% open to the outdoors).

Smoking is also allowed in: balconies; verandas; courtyards; marquees; and footpaths. The sale of tobacco products to people under 18 carries a fine but there is no age limit to legally possess these products.

Western Australia

Western Australia was the second Australian state to ban smoking in all indoor areas of pubs, bars and clubs from July 2006. Smoking is permitted in alfresco and courtyard areas (outdoor eating areas) and the international room at the Burswood Casino. The Health Minister has regulated to allow footpath drinking without food to accommodate smokers.

Internet information

On May 10, 2013, the ABC ran a news report detailing the call from a wide range of Victorian medical authorities, calling on the state government to ban smoking in outdoor eating areas.

The report can be accessed at <http://www.abc.net.au/news/2013-05-10/govt-told-to-ban-smoking-in-outdoor-dining-areas/4681062>

On May 10, 2013, Perth Now published a news report titled 'Ban outdoor dining smoking: Vic doctors'.

The full report can be accessed at <http://www.perthnow.com.au/news/breaking-news/ban-outdoor-dining-smoking-vic-doctors/story-fnhrvfuw-1226639138763>

On April 17, 2013, Fox News ran a report detailing the campaign by a range of public health organisations to have smoking banned in cafes and restaurants.

The full text can be accessed at <http://www.fox.com.au/fox-news-feed/a-push-for-smoking-bans-in-alfresco-dining-and-drinking-areas/>

On February 2, 2013, Crikey published an opinion piece by Alan Davies titled 'Should smoking on streets be banned?'

Davies argues that banning smoking in all public places in the city of Melbourne may not be appropriate.

The text can be found at <http://blogs.crikey.com.au/theurbanist/2013/02/02/should-smoking-in-the-streets-be-banned/>

On January 31, 2013, The Conversation published an opinion piece written by Dr Becky Freeman, a public health researcher at the University of Sydney. The piece is titled 'Blanket bans on outdoor smoking no panacea for tobacco control'.

The piece argues that such bans may not be necessary.

The full text can be accessed at <http://theconversation.com/blanket-bans-on-outdoor-smoking-no-panacea-for-tobacco-control-11868>

On April 26, 2012, the Brisbane Courier ran a news report titled 'Ballarat hotelier backs call to curb outdoor smoking'. The full text can be accessed at <http://www.thecourier.com.au/story/63787/ballarat-hotelier-backs-call-to-curb-outdoor-smoking/>

On March 24, 2012, The Latrobe Valley Express published a news report titled 'Smoking ban in the air'. The report gives views for and against banning smoking in a range of outdoor public spaces.

The full text can be found at

<http://www.latrobevalleyexpress.com.au/story/218726/smoking-ban-in-the-air/>

On February 22, 2012, The Conversation published an opinion piece by Dr Andrew Penman, the chief executive officer of the Cancer Council of New South Wales. The piece is titled 'Smoke-free outdoor laws herald better community health' and praises the new more stringent anti-smoking legislation introduced in New South Wales.

The full text can be accessed at <http://theconversation.com/smoke-free-outdoor-laws-herald-better-community-health-5493>

On February 21, 2012, The Sydney Morning Herald ran a news report on proposed regulations that will ban smoking in outdoor eating areas in New South Wales from 2015.

The full text can be accessed at <http://news.smh.com.au/breaking-news-national/nsw-delayed-outdoor-smoking-ban-criticised-20120221-1tkv7.html>

On January 19, 2010 the ABC ran a news report titled 'Hotels group opposed to more smoking bans'

The full text of the report can be found at <http://www.abc.net.au/news/2010-01-18/hotels-group-opposed-to-more-smoking-bans/1212616>

The Asthma Foundation Australia has a section of its Internet site given over to detailing the smoking bans being implemented in New South Wales.

These bans are detailed at

http://www.asthmafoundation.org.au/NSW/MR/new_outdoor_smoking_laws_take_effect.aspx

Arguments in favour of smoking being banned in any public space

1. Smoking is a threat to the lives and health of smokers and non-smokers

The ill-effects resulting from smoking for both smokers and non-smokers are incontrovertible.

The Cancer Council of Australia has noted, 'Tobacco smoking remains the leading preventable cause of death and disease in Australia. Smoking leads to a wide range of diseases including many types of cancer, heart disease and stroke, chest and lung illnesses and stomach ulcers. It claims the lives of 15,500 Australians every year.'

Professor David Ball, the chairman of the lung service at Melbourne's Peter MacCallum Cancer Centre, has stated, 'Every day I have to tell some Victorians and their families the bad news. With 80-90 per cent of lung cancers caused by smoking, I witness a lot of suffering that could have been avoided.'

It has been claimed that passive smoking, that is, non-smokers breathing in the second-hand smoke of smokers may be equally injurious.

The Cancer Council of Australia has stated, 'Tobacco smoke contains more than 4,000 chemical compounds. Second-hand smoke contains many of the same chemicals that are present in the smoke inhaled by smokers. Side-stream smoke contains higher concentrations of many of the toxins found in cigarette smoke, because it is generated at lower temperatures and under different conditions than mainstream smoke.'

Second-hand smoke has been designated as a known human carcinogen (cancer-causing agent) by the United States Environmental Protection Agency, the United States National Toxicology Program, and the International Agency for Research on Cancer, and as an occupational carcinogen by the US National Institute for Occupational Safety and Health.

The Cancer Council of Australia has further stated, 'The human and health care costs caused by exposure to second-hand smoke are staggering.

In 1998-99, passive smoking in the home caused 224 deaths, more than 77,000 hospital bed-days and over \$47million in hospital costs. Children under the age of 15 years accounted for a large proportion of hospitalisations and hospital costs.'

2. Non-smokers, including children and those working in hospitality, should not have to endure second-hand smoke

Health authorities have long warned that inhaling second-hand smoke can be just as hazardous as smoking.

The Australian Government's Department of Health and Ageing has stated, '[Second-hand smoke] exposes non-smokers to most of the same toxic gases, chemicals and fine particles that smokers inhale directly with tobacco smoke.

The particles in the unfiltered smoke that drifts from burning cigarette tips can be finer and more concentrated, meaning that they can be inhaled deeper into the lungs and stay longer in the body of the passive smoker than in the person who is smoking.'

It has been stressed that second-hand smoke or passive smoking is particularly dangerous for children. The Australian Government's Department of Health and

Ageing has indicated, 'Even before it is born, a developing baby can be affected by environmental tobacco smoke if the mother smokes or if she is exposed to tobacco smoke during pregnancy. Many harmful substances can reach an unborn baby through its mother's bloodstream.'

The Department has further stated, 'Children exposed to environmental tobacco smoke are 40% more likely to suffer from asthma symptoms than children who are not exposed. An estimated 8% of childhood asthma in Australia is attributable to passive smoking and is estimated to contribute to the symptoms of asthma in 46,500 Australian children a year.'

The Department also claims that environmental smoke inflicted on children has also been linked to childhood obesity, impaired growth, reduced lung-function, increased incidence of middle ear infections and increased absenteeism from school.

It has also been noted that second-hand smoke is particularly hazardous when people are forced to inhale it for long periods of time, as is the case with hospitality workers in outdoor eateries where customers are smoking.

Action on Smoking and Health (Australia) has stated, 'Second-hand smoke is a serious health hazard. It contains more than 250 toxic substances - including 43 known human carcinogens, some of these in the worst category of cancer-causing substances. It also causes heart disease, strokes, chronic respiratory illness and much more... Even low typical doses can cause serious health harm, especially when repeated, for example, where employees are exposed in workplaces...'

A 2009 study of air quality in outdoor dining areas of 12 Perth cafes and 16 hotels has confirmed smoke particles at average levels double recommended exposure limits.

The study found exposure levels caused by just two people smoking are a health risk - especially to children and people with heart or respiratory conditions.

Professor David Ball, the chairman of the lung service at Melbourne's Peter MacCallum Cancer Centre, has stated that second-hand smoke kills hundreds of thousands of people around the world each year.

Professor Ball has likened second-hand smoke in outdoor eating areas to asbestos contamination. The Professor has stated, 'If a restaurateur allowed asbestos dust to be sprayed around the outdoor dining area, there'd be an outrage. So it's interesting to me that there's a double standard about two cancer-producing substances... I don't think innocent people should be exposed to a cancer-producing substance just because they are having a meal somewhere.'

3. Banning smoking in public places will discourage non-smokers from taking up the habit and will encourage smokers to quit

It has been claimed that banning smoking in public spaces will have a large educative impact.

Those who have not yet begun to smoke will see far fewer people smoking and so have fewer smokers upon whom to model their behaviour. Prohibiting smoking in public places will also encourage non-smokers to ask smokers to butt-out and this too will serve to discourage the habit among potential smokers or waverers.

Prohibiting smoking in public places will also supply as large incentive for current smokers to surrender the habit.

Micaela Driberg, the mayor of Monash, has stated, 'It's more about creating a community understanding of what is acceptable.'

Fiona Sharkie, Quit Victoria's executive director, has stated her belief that outdoor smoking bans would help people who had quit smoking avoid relapsing and serve to 'de-normalise' smoking.

Referring to those who have quit smoking and are in danger of returning to the habit, Dr Andrew Penman, the chief executive officer of the Cancer Council of New South Wales, has stated, 'For those wanting to give smoking up, it's that much more difficult to quit when surrounded by smokers in playgrounds or while enjoying an alfresco meal.'

Professor David Ball, the chairman of the lung service at Melbourne's Peter MacCallum Cancer Centre, has similarly stated, 'A ban on smoking in outdoor dining and drinking areas will protect Victorians from second-hand smoke and help quitters to avoid relapse.'

4. Banning smoking in outdoor restaurants and other open spaces where people eat and drink will not harm business

It has been claimed that banning smoking in all outdoor areas where people eat and drink will prove popular and will not harm the businesses concerned.

Dr Andrew Penman, the chief executive officer of the Cancer Council of New South Wales, has stated, 'Businesses can be reassured that the announcement [to ban smoking in outdoor eating and drinking areas] will be good for them; the 2008 New South Wales population health survey showed that for every person who objects to smoke-free dining, seven people favour the move. This means smoke-free dining is good for health, good for dining and good for business.'

The Cancer Council of Australia has supplied the following data: 'Most Australians support smoke-free dining (89%), workplaces (87%), pubs and clubs (73%) and shopping centres (72%). Indeed more and more Australians are choosing to avoid places where they might be exposed to second-hand smoke. A 2004 survey found that two in five (39.2%) non-smokers always avoided places where they might be exposed to other people's tobacco smoke; one in 25 (3.8%) smokers did so.' Supporters of a ban in all public places argue that the numbers are firmly on the side of non-smokers and that businesses can only gain by catering for the non-smoking market.

There appear to be many restaurateurs and hoteliers who share this view. Simon Coghlan, the part-owner of Ballarat's Golden City Hotel has indicated that he believed Victoria should rule eating areas smoke-free.

Mr Coghlan has stated, 'From the perspective of any venue that's involved in food I think it's an entirely appropriate step to take. I think it's reasonable to expect anyone can sit down and enjoy a meal and not be hindered by smoking nearby.'

5. A number of jurisdictions have already banned smoking in public spaces

Anti-smoking campaigners have noted that Victoria has now fallen behind a number of other states and international jurisdictions in protecting its citizens from second-hand smoke.

The potential for hospitality staff and diners to be exposed to second-hand smoke has led to smoking bans for alfresco dining areas in several Australian states including Queensland, the ACT, and Western Australia with New South Wales to follow in 2015. No Australian state has completely banned smoking in outdoor drinking areas, but in Queensland, all outdoor smoking areas prohibit patrons from being served and no food or entertainment is permitted.

Professor David Ball, the chairman of the lung service at Melbourne's Peter MacCallum Cancer Centre, has stated that Victoria was once a leader in anti-tobacco legislation, but is now lagging behind the rest of the country which has either banned smoking in outdoor dining areas or has proposed to do so.

Professor Ball has stated, ‘The doctors who treat cancer patients are very disappointed and frustrated that a world leader now seems to have stalled in implementation of what we regard as very progressive legislation.’

There is widespread community support for the prohibition of smoking in public spaces. Fiona Sharkie, the executive director of Quit Victoria, has noted that seven out of 10 Victorians want smoke-free spaces outdoors.

Similar results have been found in New South Wales. A Newspoll survey conducted in New South Wales in February 2011 found four out of five people support smoke-free outdoor dining and more than nine out of ten adults believe playgrounds should be smoke-free.

Statistics such as these, together with the implementation of bans on outdoor smoking in other jurisdictions, have led its proponents to claim that there is no justifiable reason for not implementing these bans in Victoria or any other state where they do not currently apply.

Arguments against smoking being banned in any public space

1. There is insufficient evidence to claim that second-hand smoke in many open spaces is harmful

It has been claimed that second-hand smoke encountered via brief exposure in an area outside a building or on a footpath is not sufficient to cause harm to non-smokers.

Michael B. Siegel, a professor of community health sciences at the Boston University School of Public Health, has stated, ‘No evidence demonstrates that the duration of outdoor exposure — in places where people can move freely about — is long enough to cause substantial health damage.’

Professor Siegel, who opposes smoking, has also argued that seeking to ban smoking in all public spaces is such an unreasonably extreme measure that it will discredit the anti-smoking movement.

Professor Siegel has claimed, ‘In trying to convince people that even transient exposure to second-hand smoke is a potentially deadly hazard, smoking opponents risk losing scientific credibility ...[A] ban on outdoor smoking seems to fulfil its opponents’ charge that the [anti-smoking] movement is being driven...by an unthinking hatred of tobacco smoke.’

Similarly, Dr Becky Freeman, a public health researcher at the University of Sydney, has stated, ‘When it comes to fleeting exposure in wide open outdoor spaces, there is little evidence to support that this type of second-hand smoke exposure is a public health issue. Completely banning smoking in all outdoor areas cannot be justified on the grounds that the exposure to the resulting second-hand smoke is of significant harm.’

Some of those agencies opposed to smoking in open public spaces have argued for this ban on grounds other than health, apparently indicating that health concerns are not the primary grounds for their supporting this prohibition. The Cancer Council of Victoria has noted that there is less exposure to second-hand smoke in outdoor settings and that banning smoking may in some situations ‘be chiefly about nuisance rather than public health risk’.

2. Smoking is not illegal and banning it in all public spaces is an infringement of smokers’ rights

It has been claimed that while smoking remains a legal activity in Australia, those who purchase this legal product should be allowed to consume it. Given that smoking is illegal in all enclosed public spaces, if a similar ban were imposed on all open public spaces then it would become virtually impossible for smokers to have an opportunity to smoke.

This argument has been put by Alan Davies, in an opinion piece published in Crikey on February 2, 2013. Davies has stated, 'Smoking is a legal activity, so there should always be somewhere convenient smokers can go for a fag. If that means the four-fifths have to briefly put up with the smell of smoke on the footpath as they pass by from time to time then that's unpleasant and a nuisance, perhaps it's even an aesthetic outrage, but it's not a major sacrifice.'

Davies has further argued that a prohibition on smoking in open public places would effectively deny smokers access to many public amenities and other facilities which as citizens they are entitled to avail themselves of.

Davies has argued, 'It would effectively limit the scope of smokers to participate in the public life of the city. That's not a trivial matter, as many of the key metropolitan institutions and attractions are located within the City of Melbourne.'

Melbourne city resident Rebecca Jarvis, 29, has said a ban on smoking in alfresco areas would breach civil liberties.

Ms Jarvis has stated, 'Smoking is a huge part of Melbourne's cultural fabric. We have a right to enjoy our vices in this state.'

The Express, a local newspaper servicing the Latrobe Shire in Gippsland, conducted a Facebook survey among its readers to gain their reaction to a total ban on smoking in public spaces.

One of the respondents, Merryn Price, noted that if such bans were imposed, people would stop attending community activities, while another, Allie Kohana, observed that if smoking were subjected to such restrictions there should be a blanket ban on all tobacco/nicotine products being sold, adding this would 'never happen' due to lost tax revenue. Ms Kohana's implication appeared to be that it was hypocritical to allow the sale of a substance from which governments generated tax revenue and then to deny its consumers an opportunity to use it.

A similar point was made by Meryl Shenker of Vaucluse in a letter to the editor published in The Sydney Morning Herald on March 3, 2013. Ms Shenker stated, 'You can't approve the sale of cigarettes then rule that we can't smoke them anywhere.

This is hypocrisy... While cigarettes are legal, we need to arrive at a compromise that will accommodate both parties. It is too easy for non-smokers to expect us to abstain. Nicotine is one of the hardest drugs to overcome.'

3. A total ban on smoking in public spaces would be very difficult to enforce

It has been claimed that a total ban on smoking in all public spaces would be extremely difficult to enforce.

This is the position taken by Melbourne's lord-mayor, Robert Doyle, who has argued, 'I am more against smoking than anybody I know. My mother died very painfully of lung cancer, directly caused by cigarette smoking, a few years ago, so I have been very personally touched by the effects of lung cancer caused by smoking...

[However] if it is not enforceable then a law becomes a laughing stock. A city-wide ban would not be enforceable.'

Allen Davies, in an opinion piece published in Crikey on February 2, 2013, stated, 'It's not a good idea to make laws that can't be enforced easily or cost-effectively and are likely to be ignored. The city centre is a popular metropolitan-wide destination for

night life – it's probable there'd be many smokers who after a few drinks would ignore any ban.'

Similarly, Kylie Lindorff, Quit Victoria's manager of tobacco policy, has indicated that a total ban on smoking in public places was not on the organisation's agenda at this stage.

Ms Lindorff stated, 'The main reason is because we think it would be difficult to enforce.'

A study conducted by The Herald Sun in February 2013 among the twelve largest Victorian councils which had imposed bans on smoking at playgrounds, beaches, sporting fields, malls, carparks, pools and bus stops found that only two had imposed any fines for smoking in public spaces over the previous two years.

Fiona Sharkie, Quit Executive Director, has stated, 'Local councils have the responsibility of issuing fines, but that tends to be the job of council officers who do lots of other things. So whether there is enough people power or resources behind the enforcement could be why you probably see numbers like that.'

4. A ban on smoking in all public places would cause financial harm to restaurateurs and others

Many restaurateurs and hoteliers argue that a ban on smoking in all outdoor eating and drinking areas would seriously harm them financially.

In the face of the anticipated ban on smoking in eating and drinking areas in New South Wales, John Hart, the chief executive officer of Restaurant and Catering, has stated, 'It's a very big change. It's a huge concern. Any sort of reduction in revenues will push businesses to the wall. We have to be very careful that we don't push the industry over the edge.'

Ian Horne of the Australian Hotels Association (referring to the bans on smoking in outdoor eating and drinking areas in Queensland) has stated that venues would be opposed to further changes, having already accommodated tougher laws against smoking indoors.

Mr Horne has stated that it is just over two years since venues spent millions of dollars because of bans on smoking indoors.

Mr Horne has claimed, 'That's caused some real economic tough times for many operators but we accepted it and have embraced it...'

The industry also went about spending about \$80 million refurbishing their outdoor areas so they could adequately accommodate smokers and non-smokers. This throws all that good work out the door.'

The Australian Hotels Association has claimed that further bans in New South Wales would have a 'wide reaching' effect on not just clubs and pubs but restaurants and cafes.

Ms Sally Fielke, the chief executive officer of the Australian Hotels Association of New South Wales has expressed the same concern as her counterpart in Queensland, claiming that the industry had already spent hundreds of millions conforming to current legislative requirements.

5. The proposed ban is not necessary to discourage the habit

It has been claimed that banning smoking in public spaces is not necessary in order to discourage smoking. According to this line of argument, other measures taken to make smoking unattractive have been very successful, such that this additional measure is not needed.

Alan Davies, in an opinion piece published in Crikey on February 2, 2013, noted, 'There are plenty of other ways to address the social costs of smoking and so far they've been very successful.'

Davies then elaborated, 'As a society, we regulate closely how it can be advertised, packaged and sold. We provide a lot of public information on the appalling costs of smoking, impose high taxes on cigarettes, and subsidise withdrawal programs. It's long been banned in workplaces and indoor public venues...'

The most successful measure in terms of dissuading people from smoking would appear to be price rises caused by increasing the tax put on cigarettes. A New South Wales survey found that 22% of the sample reported that they had quit smoking in May 2010, compared with 13% in April 2010 and 12% in May 2009. The dramatic decline in May 2010 appeared to be a direct response to a price rise following a tax increase in May-July. Respondents interviewed in the three months after the tax increase were significantly more likely to report quitting than those interviewed in the three months before the tax increase.

Quit Victoria gives the following trend data on smoking rates in Australia and in Victoria. 'Smoking rates among adults in Australia have been steadily declining. In 2010, the smoking rate among adults (aged 18 years and over) was 17.5%. The smoking rate has almost halved since 1980.

In 2011, the smoking rate among Victorian adults (aged 18 years and over) was 14.4%.'

The Victorian Government's Better Health Channel Internet site includes the following information; 'Smoking rates for Australians aged 18 and over have declined by over 40 per cent between 1980 and 2007. Ex-smokers outnumber current smokers: in 2007, just over one quarter (25.1 per cent) of Australians had quit smoking during their lifetime. By 2007, 61 per cent of people who had ever smoked had quit.'

Opponents of a total ban on smoking in all public open spaces argue that as a means of discouraging smoking this measure is simply not necessary. There are sufficient other measures in place already.

Further implications

It seems likely that ultimately Victoria, along with the other Australian states and territories, will ban smoking in all public spaces. As in Queensland, there are likely to be some exemptions allowed in some areas in hotels and clubs, permitting patrons to smoke but not to be served food or alcohol in the same area.

The steady decline in the number of smokers over the last thirty years would seem to make this inevitable. Smokers are now such a minority that pressure of numbers will have them lose any popular or political debate in which non-smokers are seeking to have public areas made smoke-free.

However, this issue does have wider implications. How can it be appropriate to allow a section of the population to buy a product which they are only able to consume within their own homes? This seems particularly problematic when for many smokers nicotine is a highly addictive drug and their capacity to control its consumption is limited.

The anomaly stems from the fact, which has often been noted, that if tobacco manufacturers were to seek permission legally to market their product for the first time in this century, no public health authority would allow them to do so.

The tobacco industry and those who consume their product are anachronisms. The industry is still enormously wealthy and influential and their product is not about to be prohibited. This is apart from all the socially undesirable consequences that

causes inflation'.

<http://www.theage.com.au/federal-politics/federal-election-2013/danger-smokes-tax-causes-inflation-20130802-2r51u.html>

Herald-Sun: August 2, 2013, page 31, comment by Philip Hudson, 'Smokers are fuming but they're an easy target'.

<http://www.heraldsun.com.au/news/opinion/smokers-fuming-but-theyre-an-easy-target/story-fni0fheo-1226689754934>

The Australian: August 2, 2013, page 6, comment by Nick Cater, 'A numbers game of blowing smoke' .

<http://www.theaustralian.com.au/opinion/columnists/a-numbers-game-of-blowing-smoke/story-fnhulhjj-1226689781351>