



Auckland Women's Health Council

Submission of the Auckland Women's Health Council on the Smokefree Environments and Regulated Products Amendment Bill (No 2)

In principle, the Auckland Women's Health Council supports moves to restrict access of young people to vaping products and efforts to prevent young people taking up vaping. The Auckland Women's Health Council has always supported and advocated for smokefree policies, policies and legislation that support tobacco smokers to quit, and those that prevent previous non-smokers from taking up tobacco smoking.

We agree that it is vital that smokers have the practical tools and support to quit smoking, including access to vapes/e-cigarettes as part of a range of tools that will help them quit.

In our submission we do not address every proposed amendment to the Smokefree Environments and Regulated Products Act 1990, but those about which we have specific concerns or comments. These and our general comments about vape products and their availability, and our recommendations, are set out below.

Primarily, we wish to state our categorical opposition to the sale of vape products in a retail setting. As we set out clearly in Points 4 and 5 below, vape products should only be available in a controlled setting, such as a pharmacy, for those people who are trying to quit smoking cigarettes and other smoked tobacco products. Tobacco smoking is a significant and negative commercial determinant of health. However, as with smoked tobacco products, the only beneficiaries of continued sales of vape products are the manufacturers, distributors/wholesalers and retailers of such products, particularly the tobacco industry.

- 1. The Smokefree Environments and Regulated Products Amendment Bill (No 2) does not go far enough.** While we support moves to restrict access of young people to vaping products, and efforts to prevent young people taking up vaping, we do not believe that these amendments go far enough. It does not do enough to protect New Zealanders from harm caused by vaping.
- 2. Vaping is harmful.** While we agree that vaping is less harmful than tobacco smoking, it is still harmful to the health of people who vape. Because vape products contain nicotine, there has been the creation of a new cohort of people addicted to nicotine through recreational vaping (as opposed to smokers and ex-smokers whose nicotine addiction started through smoked tobacco). Nicotine is highly addictive and there is evidence from basic human and animal studies that it adversely affects cardiovascular measures and brain development and functioning.¹ Among non-smokers, there is substantial evidence that vape (e-cigarette) use results in dependence on those products.¹

The Australian report, *Electronic cigarettes and health outcomes: systematic review of global evidence*¹, found that the identified risks of vapes include: addiction; intentional and unintentional poisoning; acute nicotine toxicity, including seizures; burns and injuries; lung injury; indoor air pollution; environmental waste and fires; dual use with cigarette smoking; and increased smoking uptake in non-smokers (see

Point 2 below). Less direct evidence indicates adverse effects of vapes on cardiovascular health markers, including blood pressure and heart rate, lung function and adolescent brain development and function.

A more recent study has confirmed that vaping/e-cigarettes is harmful to cardiovascular health,² and that “e-cigarettes have similar health consequences as traditional tobacco use, including weakening immunity, infections, dental issues, and increased risk of cardiovascular diseases,” and that “e-cigarettes should be considered as harmful as traditional tobacco smoking.”³

A systematic literature review, published in August 2024, found that vapes have complex health impacts, and that while they might be less harmful than traditional cigarettes, evidence shows they still pose significant risks, such as EVALI (e-cigarette or vaping-associated lung injury).⁴

3. **Vaping can be a “gateway” to smoking tobacco.** University of Otago research found that “Contrary to the desired hope, vaping appears to have emerged as just another smoking-related behaviour rather than a substitute for smoking that primarily helps people quit.”⁵ The researchers concluded that “vaping appeared to be just as likely to have a gateway effect to smoking as it was to have a cessation effect.”⁶ This is consistent with international research that young adults who smoke tend to be significantly more likely to have used or continue to use a vape, relative to those who do not smoke. A systematic review of global evidence found that there is a gateway effect, leading non-smoking vape/e-cigarette users to go on to smoke tobacco:
 - there is **strong** evidence from 17 observational studies that never smokers who use e-cigarettes are on average around three times as likely than those who do not use e-cigarettes to initiate cigarette smoking;¹ and that
 - there is **strong** evidence from 8 observational studies that non-smokers who use e-cigarettes are around three times as likely as those who do not use e-cigarettes to become current cigarette smokers.¹
4. **Vaping is harmful at any age and should not be available except as a tool to help tobacco smokers quit.** There should be no retail availability of vaping products at all, and they should only be accessible to tobacco smokers trying to quit. Retailers of vaping products are necessarily driven by a profit model that is predicated on increasing sales, and therefore, increasing both the number of customers and the number of vape products each customer purchases. This is in direct opposition to the concept of reducing tobacco smoking rates and providing the practical tools and support to existing smokers to quit smoking. This concept would see a reduction in uptake in tobacco smoking over time, and therefore, a reduction in the number of vape product customers over time. This is antithetical to the model of retail supply of vape products.
5. **The best option for supply of vape products is through pharmacies to tobacco smokers legitimately trying to quit.** Retailing of vape products must be prohibited and vape products **must only** be available through controlled outlets (in the way that methadone is for opioid addicts) that are not driven by the profit model for the sales of such products.
6. **We oppose the sale and distribution of vaping products through vending machines in the strongest possible terms.** The use of vending machines to sell vape products reinforces the view that these products are for recreational use rather than as health products to assist tobacco smokers to quit. It is entirely disingenuous to claim that the Government is committed to reducing smoking rates, with the implication that vaping products are an essential part of this commitment, while allowing vaping products to be purchased for recreational use. This is blatant pandering to the tobacco industry whose

sole purpose is the manufacture and sale of harmful tobacco products for profit, and who have turned to manufacturing and selling vape products to make up for lost revenue from declining sales of smoked tobacco products.

7. **We oppose the sale and distribution of vaping products to New Zealanders via the internet in the strongest possible terms.** As we state in Point 6 above, the sale of vape products through the internet reinforces the view that these products are for recreational use rather than as health products to assist tobacco smokers to quit. Again, this is blatant pandering to the tobacco industry whose sole purpose is the manufacture and sale of harmful tobacco products for profit, and who have turned to manufacturing and selling vape products to make up for lost revenue from declining sales of tobacco products.
8. **We agree with the prohibition on disposable vaping products.** The range of vaping products should be limited and entirely focussed on the most practical and cost-effective means by which to support smokers to quit.
9. **Clause 8 (1)(iii) is irrelevant and a waste of time.** Notwithstanding our view that vape products should not be sold in a retail setting, prohibiting the sale of vape products within 100 metres of an early childhood centre (ECE) is irrelevant and is a red herring. It appears to be a cynical means to make it look like the Government is doing something useful when it is not. We don't approve of vape retailers being within 100 metres of an ECE, because we do not approve of vape retails in any shape or form. As set out in Points 4 and 5 above, we believe that any retail sales of vape products should be banned. However, if retailers remain, proximity to ECEs will make no difference to sales of vape products to young people. Pre-schoolers do not shop for anything, let alone vape products. Children under 5, by and large, have no money, and realistically even the most exploitative retailer is not going to sell to children that young. This appears to be waffle and fluff designed to appease opponents of vaping without adding anything to the actual reduction in harm to young people from vaping.
10. **Vaping products must not be advertised, other than as a means to quit smoking, and must be sold in plain packaging.** Vaping and vape products must not be advertised or promoted, including through packaging, as a recreational activity. Vaping and vape products must only be promoted for health purposes to tobacco smokers as a means to quit smoking. Vape products should only be supplied in plain packaging.
11. **Punishment and fines for breaching the law.** Notwithstanding our view that vape products should not be sold in a retail setting, we agree with the need to provide a deterrent to retailers stocking and selling prohibited items and selling vaping products to underage/young people. However, there must be adequate resourcing of enforcement efforts. While the fines set out in the Bill appear to be sufficient as a deterrent, they are pointless if the law is not enforced and those who fail to comply with the Act are not charged and convicted.
12. **The Act does not appear to specifically set out who is regarded as a child or young person.** The Act and Amendment Bill refers to children and young people, but the definition of a child/children and young person/people is not defined nor included in Section 2 Interpretation. That a child or young person is under the age of 18 is only implied in several references to supplying products to "people younger than 18 years" being prohibited.
13. **Concerns about the Consultation Process and Submission Timeline:** It is of great concern to the AWHC that submissions on the Smokefree Environments and Regulated Products Amendment Bill (No 2) were only open for ten days. It is very disappointing that the Government appears to believe that this

amendment that concerns the health of our young people is worthy of only ten days of consideration. We believe that the short timeframe demonstrates the Government's lack of commitment to genuine public consultation and the opinions of its citizens are irrelevant; that the submission process is simply a 'tick box' exercise.

Background to the Auckland Women's Health Council

The AWHC was founded 36 years ago (July 1988) just before the release of the Cartwright Report. AWHC has a special interest in patient rights, informed consent and decision-making in health care, health consumer advocacy, the Code of Health and Disability Services Consumers' Rights ('Code of Rights'), consumer voice and representation, and medical ethics.

The AWHC has had 36-year history as health sector stakeholders with a sustained interest in a wide range of health issues, including the social and commercial determinants of health. We have consistently made submissions every year on such issues, including on new legislation and amendments to existing legislation as such opportunities arise. Our goal is to provide an independent feminist voice focused on women's and whānau/family health and health services, and advocating for upholding patient/consumer rights.

References

- 1 Banks E, *et al.* 2022: *Electronic cigarettes and health outcomes: systematic review of global evidence*. Report for the Australian Department of Health. National Centre for Epidemiology and Population Health, Canberra: April 2022.
- 2 Meng X-C, *et al.*, 2023: Acute effects of electronic cigarettes on vascular endothelial function: a systematic review and meta-analysis of randomized controlled trials, *European Journal of Preventive Cardiology*, Volume 30, Issue 5, April 2023, Pages 425–435.
- 3 Alotaybi M, *et al.*, 2022: E-cigarettes and Vaping: A Smoking Cessation Method or Another Smoking Innovation? *Cureus*. 2022 Dec; 14(12): e32435.
- 4 Ghuman A, *et al.*, 2024: A Systematic Literature Review on the Composition, Health Impacts, and Regulatory Dynamics of Vaping, *Cureus*. 2024 Aug 3;16(8):e66068.
- 5 UOO, 2023: [Vaping a gateway to smoking for non-smokers, research shows](#), University of Otago Newsroom, 28 June 2023.
- 6 Mason A, *et al.*, 2023: Effects of vaping on uptake and cessation of smoking: Longitudinal analysis in Aotearoa New Zealand adults. *Drug Alcohol Rev*, 2023 Sep;42(6):1587-1594.