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**The Royal Australasian College of
Physicians' submission to the
Health Committee on the
Smokefree Environments and
Regulated Products (Smoked
Tobacco) Amendment Bill**

Hereturikōkā 2022

Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Bill.

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

Overall Position on the Proposed Regulations

The RACP strongly supports the proposals in the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Bill (the Bill) as transformative and world-leading steps towards the elimination of smoking in Aotearoa New Zealand, with potentially profound public health benefits across all age groups and for future generations. We welcome the introduction of this Bill to effect changes to the smoking environment and address gaps in the tobacco product regulations.

The RACP notes the Bill introduces three major legislative changes to underpin Aotearoa New Zealand's 'endgame approach' to achieving the Smokefree 2025 goal, all of them supported by the RACP in our previous submission on [Proposals for a Smokefree Aotearoa 2025 Action Plan¹](#). These include reducing nicotine levels and the appeal of tobacco products, greatly reducing the number of tobacco retail outlets and introducing a smokefree generation by creating a cohort of young people born on or after 1 January 2009 that may never legally be sold tobacco products.

We strongly recommend that the Government urgently implement these measures in their entirety to hasten the end of the tobacco epidemic and offer suggestions for successful implementation.

Key points

Māori health equity and the Smokefree 2025 goal

The health impacts from smoking are deeply inequitable in Aotearoa New Zealand. The RACP strongly supports the proposed legislation as a key step towards addressing the disproportionate harm to Māori through achieving the Smokefree 2025 goal. Tobacco smoking in Māori communities contributes to over half of all deaths, being attributed to preventable causes such as lung cancer. This is particularly pronounced for Māori women, who have a smoking rate of 36 per cent². The commitment of the Crown under Te Tiriti o Waitangi (Te Tiriti) requires active protection of Māori health and wellbeing, to the greatest extent that it is possible. As a step towards honouring Tiriti obligations, the RACP has long endorsed the Smokefree 2025 goal set following recommendations

¹ Royal Australasian College of Physicians (RACP). Submission to the Ministry of Health. Proposals for a Smokefree Aotearoa Action Plan. Wellington: Royal Australasian College of Physicians [Internet]; May 2021. Available from: [racp-submission-to-the-ministry-of-health-proposals-for-a-smokefree-aotearoa-2025-action-plan.pdf](#) Downloaded on 16 August 2022.

² Walsh M, Grey C. The contribution of avoidable mortality to the life expectancy gap in Māori and Pacific populations in New Zealand—a decomposition analysis. N Z Med J [Internet]. 2019; 132(1492): 46-60. Available from: [The contribution of avoidable mortality to the life expectancy gap in Māori and Pacific populations in New Zealand—a decomposition analysis \(nzma.org.nz\)](#) Downloaded on 16 August 2022.

of a landmark Parliamentary inquiry into the tobacco industry and the consequences of tobacco use for Māori by the Māori Affairs select committee in 2010^{1,3}.

Māori governance for effective tobacco control

The RACP strongly supports the provisions in the Bill which enable active Māori leadership and partnership across all levels of decision-making in efforts to eliminate smoking in Aotearoa New Zealand. As emphasised in our [previous submission](#) on [Proposals for a Smokefree Aotearoa 2025 Action Plan](#), empowerment of tino rangatiratanga, and mana motuhake in smoking reduction is at the heart of effective Māori governance¹. For tobacco to be decolonised from Māori health, we need strong action by Māori, for Māori, as Māori. Tikanga, kawa, and values are key to much of Māori governance⁴, and will be fundamental in the realm of tobacco control focused on achieving equity for Māori.

RACP members observe that the establishment of Te Whai Aka Ora/ Māori Health Authority presents an opportunity to see the full benefits of co-governance in action. Co-governance also represents an opportunity to avoid repetition of the mistakes made during the COVID-19 age-based vaccination rollout, where the government rejected calls to prioritise health inequity and the younger Māori population⁵.

Reducing sales of tobacco products to retail outlets approved by the Director-General of Health

The RACP strongly supports measures to reduce sales of tobacco products to specialist retail outlets through the need of approval by the Director-General of Health. Tobacco control experts in Aotearoa New Zealand have consistently advocated for reduction in the availability of and access to tobacco products in communities. Easy access to tobacco retailers is associated with increased smoking among established smokers⁶, lower quitting rates^{7,8,9} and higher rates of youth smoking^{10,11}. Tobacco outlets are also more densely located in areas of higher socioeconomic

³ New Zealand Parliament. Inquiry into the tobacco industry in Aotearoa and the consequences of tobacco use for Māori, Report of the Māori Affairs Committee. Wellington: New Zealand Parliament, 2010. Available from [Microsoft Word - I.10A v 2.doc \(www.parliament.nz\)](#) Downloaded on 16 August 2022.

⁴ Toki V. Culture - the foundation of Māori Governance. NZLawyer [Internet]. 8 Feb 2013; 201. Available from: <https://natlib.govt.nz/records/31832827?search%5Bi%5D%5Bsubject%5D=Culture&search%5Bpath%5D=items&search%5Btext%5D=Maori+Culture+>. Downloaded on 16 August 2022.

⁵ Megget, K. How New Zealand's covid-19 strategy failed Māori people. BMJ [Internet]. 2022; 376:0180. Available from: [How New Zealand's covid-19 strategy failed Māori people | The BMJ](#) Downloaded on 15 August 2022.

⁶ Paul CL, Mee KJ, Judd TM, et al. Anywhere, anytime: Retail access to tobacco in New South Wales and its potential impact on consumption and quitting. Social Science & Medicine [Internet]. 2010;71(4):799-806. Available from: [Anywhere, anytime: Retail access to tobacco in New South Wales and its potential impact on consumption and quitting - ScienceDirect](#) Downloaded on 9 August 2022.

⁷ Halonen JI, Kivimäki M, Kouvonen A, et al. Proximity to a tobacco store and smoking cessation: a cohort study. Tobacco Control [Internet]. 2014;23(2):146-151 Available from: [Proximity to a tobacco store and smoking cessation: a cohort study | Tobacco Control \(bmj.com\)](#) Downloaded on 9 August 2022.

⁸ Chaiton MO, Mecredy G, Cohen J. Tobacco retail availability and risk of relapse among smokers who make a quit attempt: a population-based cohort study. Tobacco Control [Internet]. 2018;27(2):163-169. Available from: [Tobacco retail availability and risk of relapse among smokers who make a quit attempt: a population-based cohort study | Tobacco Control \(bmj.com\)](#). Downloaded on 9 August 2022.

⁹ Reitzel LR, Cromley EK, Li Y, et al. The effect of tobacco outlet density and proximity on smoking cessation. American Journal of Public Health [Internet]. 2011;101(2):315-320. Available from: [The Effect of Tobacco Outlet Density and Proximity on Smoking Cessation | AJPH | Vol. 101 Issue 2 \(aphapublications.org\)](#) Downloaded on 9 August 2022.

¹⁰ Finan LJ, Lipperman-Kreda S, Abadi M, et al. Tobacco outlet density and adolescents' cigarette smoking: a meta-analysis. Tobacco Control [Internet]. 2019;28(1):27-33. Available from: [Tobacco Outlet Density and Adolescents' Cigarette Smoking: A Meta-analysis - PMC \(nih.gov\)](#) Downloaded on 9 August 2022.

¹¹ Marsh L, Vaneckova P, Robertson L, et al. Association between density and proximity of tobacco retail outlets with smoking: a systematic review of youth studies. Health & Place [Internet]. 2021;67:102275. Available from: [Association](#)

deprivation^{12,13}. Modelling shows that reducing the availability of tobacco products through reducing the number of suppliers is likely to have a direct impact on smoking prevalence, with the per capita QALY gains up to 5 times greater for Māori compared to non-Māori¹⁴.

The RACP is of the view that current widespread availability of tobacco products normalises smoking and undermines smokefree initiatives. There is a contradiction implicit in efforts to reduce smoking while allowing tobacco to be sold anywhere in the community like a “normal” consumer item¹⁵. This measure represents further denormalization of smoking, saying that as a society we realise how unsafe these products are.

Challenges with reducing availability to outlets approved by the Director-General of Health

Research shows this proposal is unlikely to be met with blanket opposition from retailers. Studies based in Aotearoa New Zealand indicate many small retailers would support regulations to prevent them selling tobacco products from their stores. This research also reveals the limitations of a voluntary approach, one that seeks to encourage individual retailers to stop selling tobacco^{16,17,18}.

However, there is potential for criminal prohibition pushing the retail of tobacco products underground. There is also potential for criminal activity as already seen in Aotearoa New Zealand with the high black-market value of tobacco products making dairies a target for robberies, often involving the use of violence¹⁹. Any outlets approved to sell tobacco products would need good security to safeguard staff from violence and theft and this may incur significant costs for retailers.

[between density and proximity of tobacco retail outlets with smoking: A systematic review of youth studies - PMC \(nih.gov\)](#)
Downloaded on 9 August 2022.

¹² Marsh L, Doscher C, Robertson LA. Characteristics of tobacco retailers in New Zealand. Health & Place [Internet]. 2013;23:165-170. Available from: [Characteristics of tobacco retailers in New Zealand \(wordpress.com\)](#) Downloaded on 9 August 2022.

¹³ Marsh L, Doscher C, Cameron C, Robertson L, Petrović-van der Deen FS. How would the tobacco retail landscape change if tobacco was only sold through liquor stores, petrol stations or pharmacies? Australian and New Zealand Journal of Public Health [Internet]. 2020;44(1):34-39. Available from: [How would the tobacco retail landscape change if tobacco was only sold through liquor stores, petrol stations or pharmacies? - Marsh - 2020 - Australian and New Zealand Journal of Public Health - Wiley Online Library](#) Downloaded on 9 August 2022.

¹⁴ Pearson AL, Cleghorn CL, van der Deen FS, Cobiac LJ, Kvizhinadze G, Nghiem N, Blakely T, Wilson N. Tobacco retail outlet restrictions: health and cost impacts from multistate modelling in a national population. Tobacco Control [Internet]. 2017. 26(5): 579-585. Available from: [Tobacco retail outlet restrictions: health and cost impacts from multistate life-table modelling in a national population | Tobacco Control \(bmj.com\)](#) Downloaded on 9 August 2022.

¹⁵ Ball J, Hoek J, Tautolo ES. New Zealand policy experts' appraisal of interventions to reduce smoking in young adults: a qualitative investigation. BMJ Open [Internet]. 2017; 7(12): e017837. Available from: [New Zealand policy experts' appraisal of interventions to reduce smoking in young adults: a qualitative investigation | BMJ Open New Zealand policy experts' appraisal of interventions to reduce smoking in young adults: a qualitative investigation - PMC \(nih.gov\)](#) Downloaded on 2 August 2022.

¹⁶ Robertson L, Marsh L, Hoek J, McGee R, Egan R. Regulating the sale of tobacco in New Zealand: A qualitative analysis of retailers' views and implications for advocacy. International Journal of Drug Policy [Internet]. 2015;26(12):1222-1230 Available from: [Regulating the sale of tobacco in New Zealand: A qualitative analysis of retailers' views and implications for advocacy \(asthmafoundation.org.nz\)](#) Downloaded on 10 August 2022.

¹⁷ Robertson L, Hoek J, Edwards R, Thomson G, Marsh L. Reducing tobacco retail availability: counterarguments to industry claims. Public Health Expert Blog [Internet]. Otago University. 10 May 2021. Available from: [Reducing tobacco retail availability: counterarguments to industry claims – Public Health Expert, University of Otago, New Zealand](#) Downloaded on 10 August 2022.

¹⁸ Badu E, Fowler E. “If government can’t stop the smokes, no way we can stop selling them”: why retailers want Government to act. New Zealand Medical Journal [Internet]. 2018;131(1482):89-91. Available from: [“If government can’t stop the smokes, no way we can stop selling them”: why retailers want Government to act \(nzma.org.nz\)](#) Downloaded on 10 August 2022.

¹⁹ Glover M, Shepherd R, Selket K, Paramanathen SK. Price hikes, crime fad or political football? What causes a spike in store robberies for cigarettes in New Zealand: analysis of news reports (2009-2018). Emerald Insight [Internet]. 11 October 2021. Available from: [Price hikes, crime fad or political football? What caused a spike in store robberies for cigarettes in New Zealand: analysis of news reports \(2009-2018\) | Emerald Insight](#) Downloaded on 15 August 2022.

Smokefree Generation Policy

The RACP strongly supports the introduction of a Smokefree Generation policy to prevent smoking initiation by prohibiting the sale of smoked tobacco products to anyone born on or after 1 January 2009. While the impact of this measure will not be immediate, there will be significant long-term impacts on the vision of a truly tobacco-free Aotearoa New Zealand becoming reality.

Tobacco control experts have strongly advocated in recent years for an end-game Smokefree Generation policy to prevent youth sales over time and ensure smoking prevalence can never rise again^{20,21}. Modelling in Aotearoa New Zealand on the likely impact of this policy indicates it would effectively reduce smoking prevalence and achieve health gains, especially for Māori. It is estimated that this policy could halve smoking prevalence within 14 years among people aged 45 and under and bring 5.6 times the health gain per capita to Māori relative to non-Māori²².

In addition to health benefits and equity gains, there are several key advantages of the Smokefree Generation policy as part of a broader suite of measures to achieve the Smokefree 2025 goal. This approach:

- has support among existing smokers in Aotearoa New Zealand, with unpublished data from a [2017 survey of adult smokers and recent quitters](#) finding that 78% supported a Tobacco Free Generation, including 70% of 18-24 year olds²³
- takes away from the “rite of passage” effect, challenging misperceptions of smoking as a coming-of-age ritual and makes it clear there is never a safe age to start smoking²⁰ and
- emphasises the right to consumer protection from a uniquely harmful product^{24,25, 26}.

Challenges with operationalising age requirements

While the RACP applauds this innovative world-first legislation to create a Smokefree Generation, this is uncharted territory. We expect that there will be several issues to sort through in operationalising age requirements. We support the amendment of Section 94 of the Bill to ensure that the emphasis is not on criminalisation of purchasers and users, but rather the requirement of identifying information from purchasers by those selling the products. However, it remains unclear how exactly retailers would go about checking the birth date of Rangatahi/young people purchasing cigarettes.

²⁰ Berrick A. The tobacco-free generation proposal. Tobacco Control [Internet]. 2013; 22 (suppl 1): i22-i26. Available from: https://tobaccocontrol.bmj.com/content/22/suppl_1/i22 Downloaded on 2 August 2022.

²¹ van der Eijk Y. Development of an integrated tobacco endgame strategy. Tobacco Control [Internet]. 2015; 24(4):336-340. Available from: <https://tobaccocontrol.bmj.com/content/24/4/336> Downloaded on 2 August 2022.

²² van der Deen FS, Wilson N, Cleghorn CL, Kvizhinadze G, Cobiac LJ, Nghiem N et al. Impact of five tobacco endgame strategies on future smoking prevalence, population health and health system costs: two modelling studies to inform the tobacco endgame. Tobacco Control [Internet]. 2018; 27(3):278-286. Available from: <https://tobaccocontrol.bmj.com/content/27/3/278> Downloaded on 2 August 2022.

²³ Ball J, Berrick J, Edwards R, Hoek J, Petrovic-van der Deen F. Phasing out smoking: The tobacco-free generation policy. Public Health Expert blog. Otago University [Internet]. 14 May 2021. Available from: [Phasing out smoking: The Tobacco-Free Generation policy – Public Health Expert, University of Otago, New Zealand](#) Downloaded on 2 August 2022.

²⁴ Smith E, Malone R. An argument for phasing out sales of cigarettes. Tobacco Control [Internet] 2020; 29(6):703-708. Available from <https://tobaccocontrol.bmj.com/content/tobaccocontrol/29/6/703.full.pdf> Downloaded on 2 August 2022.

²⁵ Fenton E, Robertson L, Hoek J. Ethics and ENDS. Tobacco Control [Internet]. 2022. Published Online First: 25 March 2022. Available from: <https://tobaccocontrol.bmj.com/content/early/2022/03/24/tobaccocontrol-2021-057078> Downloaded on 2 August 2022.

²⁶ Gray R, Hoek J, Edwards R. A qualitative analysis of ‘informed choice’ among young adult smokers. Tobacco Control [Internet]. 2016; 25(1):46-51. Available from: [A qualitative analysis of ‘informed choice’ among young adult smokers | Tobacco Control \(bmj.com\)](#) Downloaded on 2 August 2022.

Denicotinising all smoked tobacco products

The RACP strongly supports plans to cut nicotine levels to less than a tenth of the current amount of nicotine per cigarette. This bold, evidence-based approach to make cigarettes non-addictive is a decisive nail in the coffin of smoking harm in Aotearoa New Zealand. Nicotine removal will complement the reduced smoking prevalence achieved by the Smokefree Generation policy and minimal availability.

Reducing nicotine content in cigarettes is an approach advocated for by public health experts²⁷. The tobacco industry has ensured that cigarettes are highly addictive and highly appealing, reducing the motivation and ability of smokers to quit and stay quit. Growing evidence²⁸ and some modelling suggests that minimal nicotine content is likely to reduce uptake, helps smokers to quit and supports lower smoking prevalence²⁹. The widespread availability of vaping products in Aotearoa New Zealand makes the introduction of this measure more feasible, as smokers have alternatives to go to if they cannot quit.

Youth-led media strategy

The RACP suggests partnership and/or consultation with Rangatahi/young people to create a media strategy should be an essential as part of the rollout, as young people will be those most affected by these changes. The COVID-19 response showed the key role of communications in supporting structural system approaches. RACP members have suggested that success will depend on 'winning hearts and minds' and doing this successfully against the well-funded corporate push back. A solid, youth-led, and co-designed strategy is required to advise around the nuances of what would work. This may involve key "heroes", social media, and public discussion forums. It will also be important to capture the successes and learnings as the strategy is rolled out; some kind of 'report card' might be useful.

A note on vaping

While the RACP acknowledges the potential of e-cigarettes in reducing harm from the smoking of tobacco, our members are concerned with the recruitment of non-smokers in Aotearoa New Zealand. There is currently a proliferation of vape shops and no legislation restricting access to recreational use of nicotine in this format apart from age. Vaping products contain nicotine which is being marketed by tobacco companies to hook young people into a habit about which little is known in terms of the long-term consequences. As stated in our existing Policy on Electronic Cigarettes, the RACP believes that e-cigarettes present no health benefits and only potential harm to those who do not smoke, and their use should be discouraged among never smokers or former smokers³⁰.

²⁷ Edwards R, Wilson N, Hoek J, Waa A, Thomson G, Blakely T. Five Strategic Approaches to Achieving the Smokefree Aotearoa 2025 Goal [Internet]. Dunedin: Public Health Expert; 2021. Available from: <https://blogs.otago.ac.nz/pubhealthexpert/five-strategic-approaches-to-achieving-the-smokefree-aotearoa-2025-goal/>. Downloaded on 15 August 2022.

²⁸ Donny EC, Walker N, Hatsukami D, Bullen C: Reducing the nicotine content of combusted tobacco products sold in New Zealand. *Tob Control* [Internet]. 2017, 26(e1):e37-e42. Available from: [Reducing the nicotine content of combusted tobacco products sold in New Zealand | Tobacco Control \(bmj.com\)](https://www.bmj.com/lookup/doi/10.1136/tobacco-2017-025111) Downloaded on 15 August 2022.

²⁹ Apelberg BJ, Feirman SP, Salazar E, Corey CG, Ambrose BK, Paredes A, Richman E, Verzi SJ, Vugrin ED, Brodsky NS *et al*: Potential Public Health Effects of Reducing Nicotine Levels in Cigarettes in the United States. *N Engl J Med* [Internet]. 2018, 378(18):1725-1733. Available from: [Potential Public Health Effects of Reducing Nicotine Levels in Cigarettes in the United States | NEJM](https://www.nejm.org/doi/full/10.1056/NEJMsa1712333) Downloaded on 15 August 2022.

³⁰ The Royal Australasian College of Physicians. Policy on Electronic Cigarettes [Internet]. Sydney: The Royal Australasian College of Physicians; 2018. Available from: https://www.racp.edu.au/docs/default-source/advocacy-library/policy-on-electronic-cigarettes.pdf?sfvrsn=3a530a1a_8. Downloaded on 16 August 2022.

Conclusion

The RACP thanks the Health Select Committee for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the NZ Policy and Advocacy Unit at policy@racp.org.nz.

Nāku noa, nā,

A handwritten signature in black ink, appearing to be 'S. Inns', written over a faint, light-colored watermark or background graphic.

Dr Stephen Inns FRACP
President, Aotearoa New Zealand
The Royal Australasian College of Physicians