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**The Royal Australasian College of  
Physicians' submission to the  
Ministry of Health on the Proposals  
for the Smoked Tobacco  
Regulatory Regime**

**Māehe 2022**

## Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the Proposals for the Smoked Tobacco Regulatory Regime.

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.

The RACP represents 28,000 physicians across Australia and Aotearoa New Zealand. This includes respiratory physicians, who see firsthand the harm that tobacco smoking and vaping causes, as well as paediatricians, who have noted their experiences of young people presenting with nicotine addiction and withdrawal symptoms. As such, the RACP is in a strong position to comment on this topic and represent the views of doctors.

## Overall Position on the Proposed Regulations

The RACP has previously outlined<sup>1</sup> its support for the proposals in the Smoked Tobacco Amendment Act as transformative and world-leading steps towards the elimination of smoking in Aotearoa New Zealand and reducing the harm of smoked tobacco products.

It is well documented that smoking tobacco products is harmful, and legislation which seeks to reduce this harm is strongly supported by the RACP. However, we believe that the legislation in its current form contains significant gaps to adequately reduce harm, specifically in relation to the access to and availability of vaping products for young people.

The RACP notes the proposals include significantly reducing the retail availability of smoked tobacco products, preventing people born on or after 1 January 2009 from purchasing them, and to limit the nicotine levels of smoked tobacco products. It is also noted proposals will tighten current restrictions on vaping product safety requirements and packaging and consider location restrictions for Specialist Vape Retailers.

The RACP strongly believes there is a missed opportunity in limiting these regulations to smoked tobacco products. Legislation will be patchy and target only one mechanism of nicotine intake, despite the prevalence of alternative mechanisms such as vaping and e-cigarettes and the associated risk for children and adolescents<sup>2,3</sup>. This creates a risk that people born on or after 1 January 2009, unable to purchase smoked tobacco products, will continue to be addicted to nicotine through vaping products.

We strongly recommend that the Government urgently reviews the current restrictions relating to vaping and considers including vaping products in parts of the proposed regulatory regime for smoked tobacco products. This consideration is critical to protecting current and future generations from becoming addicted to nicotine-containing vaping products.

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<sup>1</sup> Royal Australasian College of Physicians (RACP). Submission to the Health Select Committee on Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Bill. September 2022. [racp-submission-to-the-health-committee-on-the-smokefree-environments-and-regulated-products-\(smoked-tobacco\)-amendment-bill.pdf](#)

<sup>2</sup> Jones, K., & Salzman, G. A. (2020). The Vaping Epidemic in Adolescents. *Missouri medicine*, 117(1), 56–58. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7023954/>

<sup>3</sup> Goldenson, Nicholas I et al. "Associations of Electronic Cigarette Nicotine Concentration With Subsequent Cigarette Smoking and Vaping Levels in Adolescents." *JAMA pediatrics* vol. 171,12 (2017): 1192-1199. <https://doi:10.1001/jamapediatrics.2017.3209>

## Key points

### Low nicotine requirements and youth vaping

The RACP is strongly supportive of the low nicotine requirements proposed but strongly advises that this should cover vaping products as well in a bid to protect young people. Nicotine contributes to a number of poor health outcomes, is highly addictive, and has especially harmful neurocognitive effects on the brains of young adults<sup>4</sup>. Children and adolescents are particularly susceptible to nicotine addiction<sup>5</sup>, and are more likely to begin vaping than cigarette smoking. The evidence is clear that young people are becoming addicted to nicotine through vaping products<sup>6</sup>, setting them up for a lifetime of nicotine addiction and the associated health issues and risks.

Although recent, wide-sample data of youth vaping prevalence in New Zealand is limited<sup>7</sup>, feedback from clinical members of the College and comparable data from Australia suggests it is increasing. The number of adults over 15 who vape *daily* has increased from 2.6% in 2017/18 to 8.3% in 2021/22<sup>8</sup>

Members with clinical experience with young people, such as paediatricians, have noted that the harm being addressed by regulations should not only focus on the risk of cancer, but the wider range of harms that young people are exposed to. Clinicians observe that teenagers presenting with nicotine withdrawal symptoms have an impaired ability to focus on school. Nicotine withdrawal symptoms also pose a risk for negative mental health, through direct impacts on the adolescent brain, related substance abuse and from poor engagement with school and social lives<sup>9</sup>.

The proposed regulations appear to target the risks of ‘cancer causing’ consumption of tobacco products, despite the pulmonary, cardiovascular, and psychological impacts of nicotine as a stimulant<sup>10</sup>. Although the proposed regulations will limit nicotine concentrations in non-refillable vaping products, the RACP believe this does not go far enough to reduce harm for young people. The RACP recommends that further consideration is given to lowering the nicotine concentrations in refillable vaping products as well, and for the maximum nicotine level to be lowered further than what is being proposed.

### Limited number and distribution of smoked tobacco retail premises approved by the Director-General of Health

The RACP strongly supports the introduction of the smoked tobacco retail application scheme to reduce sales of smoked tobacco products, with the need for approval by the Director-General of

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<sup>4</sup> Lorena M. Siqueira, COMMITTEE ON SUBSTANCE USE AND PREVENTION, Sheryl A. Ryan, Pamela K. Gonzalez, Stephen W. Patrick, Joanna Quigley, Leslie R. Walker; Nicotine and Tobacco as Substances of Abuse in Children and Adolescents. *Pediatrics* January 2017; 139 (1): e20163436. <https://doi.org/10.1542/peds.2016-3436>

<sup>5</sup> Dinardo P, Rome ES. Vaping: The new wave of nicotine addiction. *Cleve Clin J Med*. 2019 Dec;86(12):789-798. <https://doi.org/10.3949/ccjm.86a.19118>

<sup>6</sup> Becker, T.D., Rice, T.R. Youth vaping: a review and update on global epidemiology, physical and behavioral health risks, and clinical considerations. *Eur J Pediatr* **181**, 453–462 (2022). <https://doi.org/10.1007/s00431-021-04220-x>

<sup>7</sup> Wamamili, B., Wallace-Bell, M., Richardson, A., Grace, R. C., & Coope, P. (2020). Electronic cigarette use among university students aged 18-24 years in New Zealand: results of a 2018 national cross-sectional survey. *BMJ open*, 10(6), e035093. <https://doi.org/10.1136/bmjopen-2019-0350>

<sup>8</sup> Ministry of Health Annual Data Explorer 2021/22: New Zealand Health Survey [(accessed on 6 March 2023)]; available online: [https://minhealthnz.shinyapps.io/nz-health-survey-2021-22-annual-data-explorer/\\_w\\_72006571/#/explore-topics](https://minhealthnz.shinyapps.io/nz-health-survey-2021-22-annual-data-explorer/_w_72006571/#/explore-topics)

<sup>9</sup> Yuan, M., Cross, S.J., Loughlin, S.E. and Leslie, F.M. (2015), Nicotine and the adolescent brain. *J Physiol*, 593: 3397-3412. <https://doi.org/10.1113/JP270492>

<sup>10</sup> Loren E. Wold, Robert Tarran, Laura E. Crotty Alexander, Naomi M. Hamburg, Farrah Kheradmand, Gideon St. Helen, Joseph C. Wu and on behalf of the American Heart Association Council on Basic Cardiovascular Sciences; Council on Arteriosclerosis, Thrombosis and Vascular Biology; Council on Hypertension; and Stroke Council (2022). Cardiopulmonary Consequences of Vaping in Adolescents: A Scientific Statement from the American Heart Association. *Circulation Research* 131, e70-e82. <https://doi.org/10.1161/RES.0000000000000544>

Health. Tobacco control experts in Aotearoa New Zealand have consistently advocated for reduction in the availability of and access to tobacco products in communities. The RACP is of the view that current widespread availability of tobacco products normalises smoking and undermines smokefree initiatives, and further contributes to inequitable rates of smoking and smoking-related harm in Māori communities.

However, members are increasingly concerned with the growing number of specialist vape retailers (SVRs), especially near schools, and the correlation of this with youth vaping levels<sup>11</sup>. The RACP agrees with the proposal to set out proximity restrictions for SVRs and recommends that the number of SVRS and retailers of notifiable products is also reduced significantly as is being proposed for smoked tobacco product retailers. There is clear evidence that the ease of access to these products leads to younger generations becoming addicted to nicotine more easily<sup>12</sup>. Addressing the proximity of SVRs does not address total retail density, which is disproportionately higher in low socioeconomic areas and encourages access to vaping<sup>13</sup>.

Another potential issue in the vaping retail space is the growth of online retailers for vaping products. Online vape retail marketing is likely to appeal to young people due to ease of access<sup>14</sup>. Sufficient regulation must be in place to prevent the rise of a vaping black market targeting young people and of online retail for under-age purchasing. Whilst the proposal to restrict flavour names to be flavour-specific is a useful first step, it fails to address the wider issues that are present in vape product retailing. More work is needed to regulate the online and physical retail space for vape sales, especially to curb the access by adolescents and young people.

### Māori Health equity

The RACP acknowledges the health impacts from smoking are deeply inequitable in Aotearoa. Tobacco smoking in Māori communities is attributable for nearly one in four deaths<sup>15</sup>, compared to one in eight non-Māori/non-Pacific people. We also know that tobacco companies unfairly target Māori communities, further exacerbating inequities and increasing the risk of harm<sup>16</sup>.

These proposed regulations will take some steps to reduce these inequities, by reducing the access to and retail availability of smoked tobacco products to all communities in Aotearoa. However, restricting these regulations to smoked tobacco products only (and not including vaping) will only enable these inequities to continue due to nicotine harm. Tobacco companies have specifically targeted Māori communities in promoting vaping and e-cigarettes, including through marketing campaigns at marae and offering Māori targeted discounts on e-cigarettes<sup>17</sup>.

The RACP believes that failing to include vaping in these restrictions will lead to continued growth in vaping prevalence, particularly for Māori communities. The commitment of the Crown under Te Tiriti o Waitangi requires active protection of Māori health and wellbeing, to the greatest extent that is

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<sup>11</sup> Otago Daily Times Online News. (2022, September 17). *Otago Daily Times*. Retrieved from <https://www.odt.co.nz/star-news/star-christchurch/17-stores-within-1km-calls-restrict-vaping-shops-near-schools>

<sup>12</sup> Burt, Brian, and Jing Li. "The electronic cigarette epidemic in youth and young adults: A practical review." *JAAPA: official journal of the American Academy of Physician Assistants* vol. 33,3 (2020): 17-23. <https://doi.org/10.1097/01.JAA.0000654384.02068.99>

<sup>13</sup> Schwanecke, G. (2022, September 21). The region home to the highest percentage of vape stores. *Stuff*. [The region home to the highest percentage of vape stores | Stuff.co.nz](https://www.stuff.co.nz/region-of-otago/news/126484443/the-region-home-to-the-highest-percentage-of-vape-stores)

<sup>14</sup> Hardie, L, McCool, J, Freeman, B. Online retail promotion of e-cigarettes in New Zealand: A content analysis of e-cigarette retailers in a regulatory void. *Health Promot J Austral*. 2022; 33: 91– 98. <https://doi.org/10.1002/hpja.464>

<sup>15</sup> Walsh, M., & Wright, K. (2020). Ethnic inequities in life expectancy attributable to smoking. *The New Zealand medical journal*, 133(1509), 28–38. <https://pubmed.ncbi.nlm.nih.gov/32027636/>

<sup>16</sup> Waa A, Maddox R, Nez Henderson P. Big tobacco using Trojan horse tactics to exploit Indigenous peoples. *Tobacco Control* 2020;29:e132-e133. <http://dx.doi.org/10.1136/tobaccocontrol-2020-055766>

<sup>17</sup> Espinar, Guyon. Big Tobacco targeting Māori with e-cigarettes. *Radio New Zealand*. <https://www.rnz.co.nz/news/in-depth/394073/big-tobacco-targeting-maori-with-e-cigarettes>

possible. Failing to protect Māori from continued generations of nicotine addiction, and the associated harms, will be a failure to uphold the Crown's commitment to Te Tiriti.

### **A note on vaping in general**

While the RACP acknowledges the potential use of e-cigarettes as a smoking cessation tool, our members are increasingly concerned with the recruitment of non-smokers (especially in adolescents) in Aotearoa New Zealand, in particular young people. As stated in the [RACP 2018 Policy on Electronic Cigarettes](#), we believe 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 smokers<sup>18</sup>. Growing evidence points to the harm of vaping, particularly for children and adolescents.

The changing tobacco/vaping market requires the Government to regularly revisit and re-orient its policy and regulation focus, and limited regulations now will only require further work to undo any harm as a result. Protecting youth from the use of tobacco and vaping is key to getting New Zealand closer to a tobacco or nicotine free future.


### **Conclusion**

The RACP thanks the Ministry of Health for the opportunity to provide feedback on this consultation. We appreciate the steps that have been taken to reduce the harm of smoked tobacco and prevent future generations from smoking.

However, we would strongly encourage the Ministry of Health to consider expanding these regulations to include vaping products and other mechanisms for nicotine consumption. Given the current rate of vaping prevalence, especially in children and adolescents, stricter regulations are urgently required to curb this harm.

To discuss this submission further, please contact the NZ Policy and Advocacy Unit at [policy@racp.org.nz](mailto:policy@racp.org.nz).

Nāku noa, nā,



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

<sup>18</sup> 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](https://www.racp.edu.au/docs/default-source/advocacy-library/policy-on-electronic-cigarettes.pdf?sfvrsn=3a530a1a_8). Downloaded on 16 August 2022.