

**World Vapers' Alliance Letter to the New South Wales
Committee on Law & Safety**

The Committee on Law and Safety is seeking input to improve e-cigarette regulation and compliance in New South Wales, with particular reference to:

- (a) the current situation in NSW regarding:
 - i. the prevalence of e-cigarette use among children and young people
 - ii. health risks associated with e-cigarette products
 - iii. the impact of programs and services aimed at preventing uptake or continuing use of e-cigarettes,
- (b) NSW's current regulatory framework, in particular:
 - i. its effectiveness in reducing harm from e-cigarette use
 - ii. its effectiveness in preventing illegal supply
 - iii. challenges to enforcement and compliance and ways to overcome these,
- (c) how NSW can work with the Federal Government to implement reforms on e-cigarette products,
- (d) any other related matter.

The World Vapers' Alliance sends this letter as a response to the [New South Wales' inquiry into e-cigarette regulation](#) and provides information for a better understanding of vaping and its implications on public health, and how better regulation can reduce the burden of smoking in New South Wales.

On the current situation in NSW:

Regarding the prevalence of e-cigarette use among children and young people:

Despite the fact that the sale and delivery of e-cigarettes to those under the age of 18 is illegal, some minors use these products. This can only be due to a gap in the state's capacity to enforce the law, combined with the emergence of an illicit market in which products are traded without complying with the law.

To better understand the problem of e-cigarette use by minors and to try to solve it, we should first analyze the profile of this age group of users, the prevalence of use among them and the reasons that drive them to use e-cigarettes.

As within adults, three groups of users can be identified among young vapers: current or former smokers, never-smokers who would have been smokers if vaping was not available and never-smokers who would have never consumed nicotine in the absence of vaping. E-cigarette use among young never-smokers is rare. Data shows it is experimental and occasional, and it only happens for a short period of time, rather than becoming a habit.

[Watts et al. \(2022\)](#) conducted a survey of 721 young people aged 14 to 17 years from NSW and 32% of them reported being an ever vaper, of which 47% reported vaping only a few puffs and 22% reported vaping in less than 10 occasions. Moreover, almost half of them (47%) reported smoking prior to starting vaping, while 28% had vaped without smoking. Of the total 721, only 9% had vaped while having never smoked, and only 2% of them vaped nicotine frequently. This data suggests that underage vaping happens mainly among smokers while vaping alone or starting smoking after vaping is very rare. It also shows that vaping is mainly occasional and it rarely becomes a long-term habit.

Since most underage vaping takes place among smokers, it is, therefore, necessary to tackle the causes of tobacco consumption among minors rather than further restricting access to vape products in a generalized manner, particularly considering their use by adults to quit smoking. [Kevin et al. \(2020\)](#) provided the main explanation for the take up of tobacco by finding that adolescents who were less satisfied with their lives were more likely to seek risky experiences and had a higher tendency to use illicit substances regularly. [Hiemstra et al. \(2021\)](#) suggested that, during early adolescence, other factors, such as personality traits, are associated with the onset of alternative nicotine products' use and conventional smoking. It appears that a combination of these two factors is the main cause of tobacco use by minors, while other factors such as anxiety, parental smoking habits, peer attitudes, and household income also seem to be correlated with young smoking.

Regarding the second group of interest, those who started vaping after smoking but do not smoke anymore, it seems that, if anything, vaping allows them to consume nicotine in a safer manner. [Public Health England \(2015\)](#) showed that vaping is 95% less harmful than smoking, and [Queen Mary University \(2020\)](#) estimated it to be twice as effective as any other nicotine replacement therapy. These two characteristics of vaping make it an ideal replacement for smoking, and it is possible that vaping is diverting a group of underage smokers to consume nicotine in a less harmful manner.

This may also be true for those young who vape while having never smoked, since it is likely that the factors that led them to vape would have led to smoke if they hadn't had the possibility of vaping. In this sense, vaping is diverting some young people who

would have otherwise smoked away from smoking. It, therefore, seems that the number of young people who would not have consumed nicotine in the absence of vaping is very low.

Regarding the health risks associated with e-cigarette products:

The scientific evidence on the health risks associated with e-cigarettes is large, and most of it highlights its low harm potential relative to smoking. While it is important to analyze the absolute health effects of vaping, studying them in relationship to smoking is essential due to the substitutability among both.

[Public Health England \(2015\)](#) commissioned a report on e-cigarettes and estimated that *“using electronic cigarettes is 95% safer than smoking.”* This seems to be due to the lack of combustion in vaping and the lack of carcinogens in e-liquids, as the [Institute of Psychiatry, Psychology and Neuroscience \(2022\)](#) explained in the largest literature review on vaping products: *“the use of vaping products rather than smoking leads to a substantial reduction in exposure to toxicants that promote cancer, lung disease and cardiovascular disease.”* Similarly, [Caruso, Emma & Distefano \(2021\)](#) compared the toxicity of cigarette smoke and vaping and found that vaping possesses “substantially reduced toxicity” in comparison to smoking.

These characteristics of vaping make the possibility of suffering from cancer or cardiovascular diseases much lower. [Stephens \(2018\)](#) showed that the lifetime excess cancer risk of vaping is of 0.0095%, just 0.4% relative to smoking, which has a lifetime excess cancer risk of 2.4%. [George \(2019\)](#) found that smokers who switch to vaping *“demonstrate significant improvement in vascular health.”* And [Klonizakis et al. \(2021\)](#) found that *“e-cigarettes offer similar vascular health benefits to that of NRT (...) at a very early stage in the stop smoking process (3 days).”*

In summary, not only the health risks associated with e-cigarette products are low, but they are significantly lower than those of smoking.

On NSW's current regulatory framework:

Regarding its effectiveness in reducing harm from e-cigarette use and its effectiveness in preventing illegal supply:

As we have explained in the pages above, the harm from e-cigarettes is very limited, and, if we consider its impact on smokers who switched, the net public health effect of vaping is positive.

Yet, NSW's regulatory framework fails to acknowledge vaping's potential to improve public health. Nicotine-containing e-cigarettes can only be accessed legally from pharmacies and with a prescription from a doctor. Effectively, this recognizes to some extent the positive effects of vaping on the health of those who switch, but it does also have some negative unintended consequences. It poses a large barrier of entry for smokers wishing to use e-cigarettes to quit since they first need to visit a doctor, which may be sufficiently discouraging for some of them. Additionally, [only a minimum share of doctors are authorized prescribers of nicotine vaping products](#), and the decision of whether to prescribe them or not is entirely up to them, which makes legal nicotine e-cigarette prescriptions a very rare event. As a result, [independent estimates](#) suggest that only 8% of Australian vapers (1.3 million) have a nicotine prescription. This leads to a large number of smokers who want to use e-cigarettes but do not have legal access to them, which fosters illegal trade.

This regulatory approach has led to the emergence of a disproportionate black market in Australia, with implications not only for users but also for public health and safety. Users are forced to obtain their products via illicit markets, where products are not controlled and do not comply with safety and quality standards, increasing the risks of explosions, intoxications, etc. Law enforcement is avoided and sellers do not restrict access from minors. Moreover, products do not pay taxes. Additionally, there is evidence that the market is controlled by criminal organizations. The profits made from the illicit trade of e-cigarettes support their activities in other areas and lead to security concerns.

Overall, the regulatory framework discourages smokers from switching, makes it difficult, more expensive and dangerous to keep vaping for those who have already switched, gives access to minors and damages public health and national security. The unintended consequences of its attempt to prevent Australians from the harm of e-cigarette use cause more harm than good. It is necessary that New South Wales takes steps towards an open approach to e-cigarettes to tackle the consequences of its bad policy.

Other considerations:

In our submission to the consultation, we attach the World Vapers' Alliance Tobacco Harm Reduction & Vaping Factsheet, which includes an extensive review of the literature on e-cigarettes and a guide to an effective, public health-improving regulatory framework. We also attach an extensive evidence review on nicotine vaping by Mendelsohn and Wodak, which contains information on the state of youth vaping in Australia and a series of public policy recommendations.

World Vapers' Alliance policy recommendations:

Based on both scientific evidence and successful government-backed policies such as those in Sweden and the United Kingdom, World Vapers' Alliance suggests the following approaches be implemented on the institutional level:

- **A clear commitment to the concept of harm reduction:** The goal of harm reduction is to reduce adverse consequences among persons who continue to use unhealthy products. It was developed in response to the unsuccessful “zero tolerance approach”. Instead of idealised goals, harm reduction puts practical solutions centre stage. Harm reduction has proved to be effective and is accepted in many countries.
- **Encourage current smokers to switch to vaping and similar less harmful products:** Like the governments of France, the United Kingdom, Canada, and New Zealand, assist smokers in their effort to quit by promoting vaping as less harmful alternatives to cigarettes.
- **Guarantee access to vaping products for adults and prevent flavour bans:** It is essential that affordability and variety are ensured. Flavour bans would hurt public health by pushing millions of vapers back to smoking or to the black market.
- **Risk-based regulation and taxation:** A modern, open, risk-based regulatory framework focused on tobacco harm reduction should be implemented. Vaping is not smoking and must not be treated the same. Since vaping is less harmful than smoking, it should be less strictly regulated and taxed less than cigarettes. The same applies for other less harmful alternatives such as nicotine pouches, snus and heat-not-burn products.