



NSW GOVERNMENT RESPONSE

Inquiry into e-cigarette regulation and compliance in NSW

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## INTRODUCTION

The NSW Government is committed to protecting the community from the harms of e-cigarettes (vapes) and tobacco. In recent years, a strategic, collaborative and comprehensive approach has been taken to respond to the issue of e-cigarettes in an agile policy environment.

E-Cigarettes were originally intended as a smoking cessation aid, however, increasingly vapes have been marketed toward young people and non-smokers. Packaging with bright colours, cartoon imagery, and novel and appealing designs, has made these products highly desirable for children and young people. As a result, whilst vaping has increased in all age groups, it has risen most rapidly in young people.

In 2023, 19% of people in NSW aged 16 years and over had used an e-cigarette (at least once) and 8.5% currently (daily or occasionally) use e-cigarettes. There has been a significant increase in use since 2020, when 9.7% of people aged 16 years and over had ever used an e-cigarette, and 2.1% of people aged 16 years and over were currently using e-cigarettes. The latest research in Australia indicates that young people aged 12 to 17 years who have vaped are almost five times more likely to take up tobacco smoking than people who have not vaped. Without a strong response to the problem of youth vaping, we risk subjecting a new generation of children in NSW to the dangers of nicotine addiction, undermining the decades of progress we've made in tobacco control.

NSW Health has a comprehensive program of activities to help protect young people and the broader community from the harms of e-cigarettes. This includes delivering an ongoing program of work focused on strong regulation and compliance, education and communications, research, clinical and stakeholder engagement, and cessation support.

Through this Inquiry, the NSW Government has heard of the importance of collaboration between NSW Government agencies and with Australian Government agencies, the need for a strong regulatory framework to support effective e-cigarette and tobacco compliance and enforcement activities, and that protecting young people from the harms of vaping and supporting them to quit is critical.

Many of the recommendations from the inquiry are consistent with the significant work that is underway across NSW to reduce the harms of e-cigarettes. This includes:

- an active, statewide compliance and enforcement program
- collaboration between NSW Health and NSW Police Force to combat illegal vape sales, including conducting joint enforcement operations at a local level
- collaboration with regulators from other jurisdictions such as Australian Border Force and the Therapeutic Goods Administration
- considering how to ensure NSW legislation is streamlined to complement the national vaping reforms and new national laws, making local operations effective and efficient

- providing evidence-based resources to support parents and carers, teachers and health professionals to start conversations with young people about vaping
- proactively engaging the community and health professionals to provide up to date e-cigarette information and to support understanding and implementation of the Australian Government’s vaping reforms.
- delivering state-wide anti-vaping campaigns over the past 3 years, including the most recent the ‘Every vape is a hit to your health’ campaign in 2023-24
- prioritising services to help young people quit vaping, including a new app, enhancements to the iCanQuit platform and an online learning module for those working with young people
- engaging health professionals and others who work with young people to build capability to support young people to manage nicotine dependence and quit
- collaboration between NSW Health and NSW Department of Education to ensure policies, programs and curriculum are aligned and evidence-based in education settings.

In 2024-25, the NSW Ministry of Health and Cancer Institute NSW will invest \$24.4 million on tobacco and e-cigarette control in NSW. This includes funding for public awareness and education campaigns, quit smoking/vaping support, compliance and enforcement of smoke-free and retailing laws, and targeted programs for groups with high smoking or vaping rates.

This builds on NSW Government investment in 2023-24 of an additional \$6.8 million over 3 years to boost enforcement against the sale of illegal vapes and increase support for young people. This included \$4.3 million over 3 years to bolster compliance and enforcement to ensure the state meets responsibilities for retail, wholesale, and pharmaceutical controls on vaping products.

The NSW Government has considered the recommendations of the Final Report and thanks the Committee for their detailed review into e-cigarette regulation and compliance in NSW. Out of the 13 recommendations, 12 are supported in full and 1 supported in principle. The specific recommendations of the Committee are addressed in the following section.

## RESPONSE TO RECOMMENDATIONS

## RECOMMENDATION 1

*That the NSW Government partner with community and non-government organisations to provide a coordinated approach to vaping cessation.*

Position	Supported
Response	<p>NSW Health partners with community and non-government organisations, including non-government peak bodies such as Aboriginal Health and Medical Research Council, Royal Australian College of General Practitioners, Cancer Council NSW and ACON as well as community organisations such as Chinese Australian Services Society, Lebanese Muslim Association and NSW Parents and Carers Federation who work to address community priorities such as vaping cessation.</p> <p>This stakeholder engagement drives research priorities and projects, delivers informative and targeted webinars and resources, and builds capacity to provide vaping and smoking cessation across the community.</p>

## RECOMMENDATION 2

*That the NSW Government co-design an online tool or app with young people to provide a 'one stop shop' for information about vaping and support for cessation.*

Position	Supported
Response	<p>NSW Health is developing an app to support young people to quit vaping.</p> <p>NSW Health is using codesign principles working with young people in the design and development of the app which is planned for release in December 2024.</p> <p>The app will complement established services including NSW Quitline and the iCanQuit.com.au online tool which is also undergoing redevelopment.</p> <p>NSW Health will continue to work with young people to enhance and optimise the app and other resources, to respond to their needs, preferences and current environment.</p>

## RECOMMENDATION 3

*That NSW Health develop strategies to better inform the public about avenues to report suspected illicit supply of vaping products.*

Position	Supported
<b>Response</b>	<p>Reporting non-compliance with tobacco and e-cigarette laws in NSW can be reported online through the NSW Health website, or by calling the NSW Health Tobacco Information Line or, the relevant local health district public health unit. NSW Health inspectors use this information to guide their compliance and monitoring activities.</p> <p>Improvements were made to the NSW Health online reporting portal in June 2024 to make it more user friendly for the public and to ensure that information on how to report noncompliance with NSW tobacco and e-cigarette retailing laws was clear and easy to find.</p> <p>The NSW Government will continue to engage with stakeholders and inform the public about the avenues for reporting the suspected illegal sale of vaping products.</p>

## RECOMMENDATION 4

*That the NSW Government consider providing additional resources to NSW Health to undertake more extensive enforcement and compliance activity.*

Position	Supported
<b>Response</b>	<p>As part of the NSW Government responding to recommendation 6 (introduction of a positive licencing scheme for tobacco retailers), consideration has been given to additional resourcing needed to support effective and increased enforcement activities. Legislation has been introduced to the NSW Parliament (recommendation 6) to create a positive licensing scheme, and the scheme includes additional resourcing to support effective and increased enforcement activities.</p>

## RECOMMENDATION 5

*That the Ministry of Health commence the Medicines, Poisons and Therapeutic Goods Act 2022 as a matter of priority, to support more robust enforcement.*

<b>Position</b>	Supported in principle
<b>Response</b>	<p>The Public Health (Tobacco) Amendment Bill 2024 has been introduced into Parliament, with work underway to commence the new Act, including developing regulations and stakeholder preparation for changes. The Bill amends both the <i>Poisons and Therapeutic Goods Act 1966</i> and the <i>Medicines, Poisons and Therapeutic Goods Act 2022</i> creating significant penalties for supply and possession of commercial quantities of vaping products, adopting recent changes made by the Australian Government.</p> <p>The Ministry of Health is working to commence the <i>Medicines, Poisons and Therapeutic Goods Act 2022</i>. The new Act is expected to commence in 2025, following development of regulations to support the Act and allowing stakeholders sufficient time to prepare for the changes to the new Act and regulations.</p>

## RECOMMENDATION 6

*That the NSW Government consider introducing a positive licensing scheme for tobacco retailers to support comprehensive and targeted enforcement.*

<b>Position</b>	Supported
<b>Response</b>	Legislation was introduced to the NSW Parliament in late 2024 introducing a positive licensing scheme for tobacco retailers and wholesalers.

## RECOMMENDATION 7

*That NSW Health, in collaboration with local government, industry and community stakeholders, consider further opportunities to improve community understanding of smoke-free environment laws, which also apply to the use of e-cigarettes.*

<b>Position</b>	Supported
<b>Response</b>	<p>NSW Health continues to engage and collaborate with a broad range of stakeholders, including government and non-government stakeholders to increase community understanding of smoke-free environment laws and how this applies to e-cigarettes.</p> <p>The 'No Smoking means No Vaping' campaign was developed to support this messaging and has been disseminated across NSW</p>

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broadly including to local government, industry and community stakeholders. Further engagement opportunities will be identified as part of the next phase of the campaign.

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## RECOMMENDATION 8

*That the NSW Government support the Australian Government's vaping reforms and continue to work closely with federal agencies to align enforcement and compliance efforts.*

Position	Supported
<b>Response</b>	<p>NSW Government supports the national vaping reforms which are designed to protect young people from the harms of vaping and nicotine dependence.</p> <p>NSW Government is committed to ongoing collaboration with Australian Government agencies and continues to work with the Therapeutic Goods Administration and Australian Border Force on joint enforcement operations.</p> <p>The NSW Government is participating in forums led by the Australian Government to oversee development and implementation of the national enforcement framework and to ensure a nationally consistent approach.</p> <p>Additionally, as outlined in the response to recommendation 5, legislation has been introduced that adopts some of the Commonwealth offences, to facilitate enforcement by NSW inspectors.</p>

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## RECOMMENDATION 9

*That the NSW Government review state tobacco legislation to ensure alignment with new federal legislation.*

Position	Supported
<b>Response</b>	<p>As outlined in the response to recommendations 5 and 8, the NSW Government has considered recent changes to Commonwealth legislation in relation to e-cigarettes and has introduced legislation to allow for more streamlined and effective enforcement in NSW.</p>

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## RECOMMENDATION 10

*That NSW Health review and adapt its communications as needed to improve public awareness of changes to the regulation of vaping products.*

<b>Position</b>	Supported
<b>Response</b>	<p>NSW Health has been updating its resources and communications approaches in response to the national vaping reforms implemented by the Australian Government. This public communications work will continue.</p> <p>NSW Health will provide further public communication on any legislative change in NSW once legislation has been passed by the NSW Parliament.</p>

## RECOMMENDATION 11

*That the NSW Department of Education continue to explore opportunities to encourage peer-led learning initiatives in schools to address e-cigarette use.*

<b>Position</b>	Supported
<b>Response</b>	<p>The NSW Department of Education continues to work alongside NSW Health to provide school communities with resources, information and training to educate students, teachers and parents about the dangers of vaping.</p> <p>The Department of Education is exploring opportunities for peer-led learning initiatives in high schools. Evaluation of these programs will be critical to establish effectiveness and whether they should be scaled to other schools.</p>

## RECOMMENDATION 12

*That NSW Health work closely with the community services sector to identify the information needs of vulnerable communities and co-design public health campaigns around smoking and vaping with target audiences.*

<b>Position</b>	Supported
<b>Response</b>	<p>NSW Health conducts research for anti-tobacco and anti-vaping campaigns and engages with targeted audiences including Aboriginal and Torres Strait Islander people and culturally and linguistically diverse communities, young people and people in custodial settings.</p> <p>NSW Health understands the importance of co-design approaches to meet the needs of the community it serves and will seek to use</p>

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co-design principles when developing resources including campaigns.

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### RECOMMENDATION 13

*That the NSW Government continue to invest in research to understand how vaping behaviours are changing at a population level and to ensure that programs, policies and campaigns are targeted strategically.*

Position	Supported
<b>Response</b>	<p>NSW Health uses a range of research projects, population health surveys and other data sources to understand how vaping behaviours are changing at a population level.</p> <p>NSW Health will continue to invest strategically in targeted research activities to inform programs, policies and campaigns.</p>

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