

**Submission
No 20**

E-CIGARETTE REGULATION AND COMPLIANCE IN NEW SOUTH WALES

Organisation: Thoracic Society of Australia and New Zealand

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The Thoracic Society of Australia and New Zealand's response to the Legislative Assembly Committee on Law and Safety's inquiry into e-cigarette regulation and compliance in New South Wales.

The Society operates in compliance with the Medicines Code of Australia. Please see the TSANZ' (Thoracic Society of Australia and New Zealand) Sponsorship Policy for more information.

Introduction

The Thoracic Society of Australia and New Zealand (TSANZ) is a health promotion charity whose mission is to lead, support and enable all health workers and researchers who aim to prevent, cure, and relieve disability caused by lung disease. The TSANZ is the only peak body in Australia that represents all health professionals working in all fields of respiratory health.

The TSANZ has a membership base of over 1,800 individual members from a wide range of health and research disciplines. The TSANZ is a leading advocate and provider of evidence-based policy for the prevention and management of respiratory conditions in Australia and New Zealand, undertakes professional education and training, is responsible for significant research administration, and coordinates an accredited respiratory laboratory program.

As the leaders in lung health, we promote the:

- Highest quality and standards of patient care.
- Development and application of knowledge about respiratory health and disease.
- Highest quality air standards including a tobacco smoke free society and effective regulation of novel nicotine delivery systems.
- Collaboration between all national organisations whose objects are to improve the wellbeing of individuals with lung disease and to promote better lung health for the community.
- Professional and collegiate needs of the Membership.

The TSANZ is submitting a response to the Legislative Assembly Committee on Law and Safety's Electronic Cigarettes and Personal Vaporisers (Vaping) inquiry into e-cigarette use in New South Wales. We continue to advocate for evidence-based practice and policy to improve respiratory health for all.

Consultation Topic

The New South Wales (NSW) Legislative Assembly Committee on Law and Safety is conducting an inquiry into e-cigarette regulation and compliance in state. The Select Committee is seeking stakeholder feedback on the inquiry's terms of reference, due on 5 November 2023. The Committee's terms of reference is set out below:

The terms of reference for the Committee to inquire into and report on options 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 TSANZ' recommendations

Our recommendations are set out under each of the three proposed inquiry considerations into e-cigarette use in NSW.

1. The current situation in NSW:

Evidence shows that e-cigarette products impact patients respiratory and cardiovascular health and cause severe lung injury¹. In some cases, youth vaping leads to a 15-fold increase in frequent absences from school, severe asthma attacks, cases of pneumonia, and significant loss of lung function in as short as two years. E-cigarette use has also trebled the risk of smoking uptake.

At a national level, at least 9.3% of Australians over the age of 18 were daily e-cigarette smokers in 2020-2021. Additionally, e-cigarette use was most common amongst young Australians with the Australian Bureau of Statistics reporting that 21.7% of 18–24-year-olds were known by their guardians to have smoked an e-cigarette in their lifetime. Of this

¹ Banks E, Yazidjoglou A, Brown S, Nguyen M, Martin M, Beckwith K, Daluwatta A, Campbell S, Joshy G. 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.

group, 4.8% were reported to be current smokers. As responses were provided by an adult in the responding household, e-cigarette user rates are likely to be considerably higher than reported, and further on the rise for most groups across the country.

According to the 2022 NSW Population Health Survey², it is estimated that 17.9% of the state's population over the age of 16 has used an e-cigarette in their lifetime, and 6.4% were current users – up from 2.1% in 2020.

As a peak body for respiratory clinicians and allied health professionals, our members regularly see patients who suffer the side effects of e-cigarette use. The medium and long-term impacts of these toxic products particularly concern Australian health professionals. One of our members tells us that they recently saw a regular vaper who was admitted to hospital with a pneumothorax.

Additionally, physicians are unable to refer their patients to existing cessation programmes. The worryingly steep rise in youth vaping suggests that current uptake prevention programmes are not working, and the unawareness of available cessation for patients suggests that these programmes are either not sufficient to meet demand, or they are not adequately advertised to the health care workforce.

2. The existing regulatory framework:

Gaps in the regulatory framework are apparent to all New South Wales residents. The legislated ring-fencing of e-cigarette use to pharmaceutical pathways for cessation efforts only is clearly not being followed in the state. E-cigarette users vape where they are not allowed to smoke, vaping stores online and in the heart of communities near schools and playgrounds where children frequent are popping up everywhere, and enforcement of existing public health regulations is not upheld.

The lung health of Australians is at risk and urgent action is needed. In cities and in regional and rural communities, a concerningly substantial number of children and young adults are taking up e-cigarettes. Packaging is colourful, often lacks adequate or correct warnings about nicotine content, and is purposefully designed to appeal to young people³. In turn, although the use of harmful substances by Australians under the age of 24 has decreased significantly over the past 20 years overall, e-cigarette use has gone up⁴.

The level of community concern about e-cigarette use, and its increasing grip on Australian young people is high. Many of our members are working closely with the education sector providing expertise, educational resources, and initiating research to develop effective

² New South Wales Department of Health. NSW Population Health Survey (SAPHaRI). Centre for Epidemiology and Evidence. Available from: <https://www.healthstats.nsw.gov.au/>.

³ Watts C, Egger S, Dessaix A, Brooks A, Jenkinson E, Grogan P, Freeman B. Vaping product access and use among 14-17-year-olds in New South Wales: a cross-sectional study. *Aust N Z J Public Health*. 2022 Dec;46(6):814-820. doi: 10.1111/1753-6405.13316. Epub 2022 Sep 26. PMID: 36156328.

⁴ Australian Institute of Health and Welfare. Alcohol, tobacco & other drugs in Australia. Website update, Dec. 2022. Available from: [Alcohol, tobacco & other drugs in Australia, About - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/Alcohol-tobacco-other-drugs-in-Australia)

interventions. They tell us that Australian parents feel powerless to act, and this powerlessness is exacerbated in rural and remote communities where children are separated from their parents while attending school. Schools, teachers, and parents all over Australia are struggling with this problem and need good Government policy at state, territory, and federal levels, and effective regulatory frameworks in place to protect our future generations.

3. How NSW can work alongside the Federal Government to implement change:

There is a significant gap where proactive approaches could be implemented to reduce e-cigarette uptake and to support existing vapers in the NSW to quit nicotine.

Our NSW members have seen no evidence of an overarching e-cigarette cessation strategy, public health campaigns, advertisements, pamphlets, or other educational material visible for either practitioners to utilise, or for the public to educate themselves and find out where to get help. Given the upward trajectory of e-cigarette use in NSW, the TSANZ urges the Committee to promptly develop and implement a state e-cigarette cessation strategy and accompanying public health campaign.

First Nations people need comprehensive, targeted, and culturally safe smoking cessation support. With proportionally higher tobacco user rates alongside being at risk of several comorbidities, Aboriginal and Torres Strait Islanders' health needs are complex and require specialist support.

While the national settings allow pharmacy-only prescription access to e-cigarette products, and the federal government's recent assurances of tight border controls, and a clamp down on existing consumer supply chains are favourably viewed by the TSANZ. However, local action is critical to successfully protecting Australians from these toxic and addictive products. State and territory borders need to be tightly managed, local laws congruent with federal legislation, retailers monitored, action taken against illegal sales, and educational programmes and evidence-based cessation programmes well-funded and advertised widely to make sure that Territorians that need help can access it.

Australia boasts some of the tightest e-cigarette controls in the world. Even so, e-cigarette use has continued to climb in recent years. No country has mastered a flawless approach to e-cigarette harm minimisation, but the TSANZ supports the Australian federal government's recent smoking reforms. The commitment to ban single-use disposables is a significant win for public health. Now, governments need to implement quality controls, and restrictions on nicotine content, flavouring, and packaging to keep future generations of Australians safe from a lifetime of nicotine addiction. Scaled up measures to enforce future cohesive regulations at both in-state and nationally, is key. Without adequate funding and protection measures put in place to enforce this growing societal cancer, future generations of Australian's lung health will suffer.

We therefore implore the Select Committee to commit to enforcing the national legislative and regulatory measures and supporting implementation through local enforcement and educational and clinical resources. The TSANZ is committed to supporting government at all

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levels to implement evidence-backed public health policy and clinical standards. As such, our local clinicians are available to support you in this work.

Concluding remarks

Australia is a signatory to the World Health Organization's Framework Convention on Tobacco Control (the Framework). This convention provides a framework for adopting countries who want to co-operate on tobacco-related actions and policies that aim to protect their populations from the harms of tobacco use. As a legally binding document, Australia has, among other measures, obligations to: make appropriate laws that reduce tobacco use and dependence, and to combat the illegal trade of tobacco.

The TSANZ reconfirms its commitment to Article 5.3 of the World Health Organization (WHO) Framework Convention on Tobacco Control: 'In setting and implementing their public health policies with respect to tobacco control, parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law'.

While the federal government has legislative and regulatory frameworks aimed to protect the health of Australians and to meet the intentions of the Framework, the rising number of e-cigarette users and relative ease of non-prescription access to nicotine vaping products indicate that the settings need to be reconsidered now. Both federal and state and territorial authorities need to ensure that e-cigarette products are only provided to Australians on prescription by a medical professional for a specified period alongside the appropriate support. To reduce prevalence rates, Australia and its states and territories must remain focused on proven effective tobacco control strategies. We must also ensure smokers have access to behavioural support and, where required, therapeutic products accessible through stringent regulatory approval processes.

The TSANZ' applaud the Committee for its commitment to the lung health of New South Wales residents, recognising the harm caused by e-cigarettes by initiating the inquiry. As a leading health promotion charity for lung health professionals in Australia and New Zealand, our membership includes world leading clinicians, multidisciplinary respiratory health professionals, and researchers. We welcome the opportunity to engage with you further on this topic. We can be contacted at [REDACTED].