

**Submission
No 99**

INQUIRY INTO VAPING AND TOBACCO CONTROLS

Name: National Heart Foundation of Australia

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Inquiry into vaping and tobacco controls

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For further information please contact:

Chris Enright
National Heart Foundation of Australia
General Manager, Victoria



1 Introduction

The Heart Foundation welcomes the opportunity to put forward a submission to the Victorian Parliamentary inquiry into vaping and tobacco controls.

For over 60 years, the Heart Foundation has been the trusted peak body working to improve heart disease prevention, detection and support for all Australians. While improvements to the cardiovascular health of the nation have been achieved there is still much to be done, particularly with respect to the impact of smoking, vaping and e-cigarette products.

- Cardiovascular disease claims the lives of more people than any other disease group in Australia, claiming the lives of approximately 110 Australian every day.ⁱ
- Every year cardiovascular disease is responsible for 600,000 hospitalisations in Australia.
- In addition to the personal impact this has on lives of so many Australians, the direct health care costs are substantial, costing the health system almost \$12 billion each year.ⁱⁱ
- Of note to this inquiry, over one-third of all cardiovascular disease related deaths are attributable to smoking.ⁱⁱⁱ

Given the substantial and proven impacts that tobacco, and increasingly e-cigarette and vaping products, has on health, the Heart Foundation is of the view that there is a critical need for increased control and regulation of e-cigarette and vaping products. The Heart Foundation looks forward to working with the Victorian government to continue developing life-saving policy and regulatory reform in Victoria.

The Heart Foundation's submission responds to terms of reference 1 and 3.

2 Trends in vaping and tobacco use and the associated financial, health, social and environmental impacts on the Victorian community (response to ToR 1)

2.1 Trends in tobacco use

Australia has been a world leader in reducing the teenage smoking rate. However, there are early indications that smoking among teenagers may be increasing for the first time since the 1990s.^{iv} From 2019 to 2022, the prevalence of smoking detected in the

Roy Morgan Household Survey more than tripled and there was a more than tenfold increase in the prevalence of vaping in that age group over the same period.^v Any increase in smoking prevalence by teenagers would be a major setback to world-leading tobacco control and cardiovascular disease prevention in Australia. Recent modelling found that prevention of smoking initiation among young cohorts will yield the greatest gains towards a target of ≤5% adult daily smoking prevalence in Australia.^{vi}

2.2 Trends in vaping use

According to the National Drug Strategy Household Survey, during 2022–23, approximately 19.8% of individuals aged 14 and older indicated that they had at some point used e-cigarettes.^{vii} The highest prevalence of e-cigarette use was found in the 18 to 24-year-old age bracket, where it reached 48.8%. Usage rates were lower among the older demographics. Between 2019 and 2022–23, there was a notable rise in the proportion of both smokers and non-smokers of adult age, as well as among all age categories except the eldest, who had experimented with e-cigarettes at least once.

The Heart Foundation is particularly concerned about growing evidence that vaping, especially by young people who have never smoked, increases the risk of initiation of tobacco smoking.

Of particular concern to the Heart Foundation is the increased use of e-cigarettes and vaping by young people, that can be a gateway to smoking and nicotine addiction.^{viii} From 2016 to 2019 there was a doubling in 18–24-year-old Australians using e-cigarettes, and approximately 230,000 people aged 14 and older reporting daily e-cigarette use (2019).^{ix} Additionally, e-cigarette use is the strongest risk factor for initiation of tobacco smoking among Victorian teenagers aged 14-17.^x

These findings are further reinforced by data from the National Drug Strategy Household Survey. This survey found that between 2019 and 2022–23, there was a significant increase in the proportion of ever vapers who had never smoked prior to their first vape, particularly among young adults. Among Australians aged 18–24 who were ever vapers in 2022-23, the majority (57.6%) had never smoked before vaping for the first time.

2.3 Financial impacts of tobacco and vaping

The 2015 report, *Identifying the Social Costs of Tobacco Use to Australia in 2015/16*, estimated the net tangible costs of smoking to be \$19.2 billion.^{xi} This included reduction in economic output due to premature mortality, hospital separation costs, medical costs, the cost of informal care provided by family and friends, workplace absenteeism and presenteeism, and dependent smokers costs of buying tobacco products.^{xii}

2.4 Health impacts of tobacco on cardiovascular health

The Australian Burden of Disease study found that in 2018, tobacco usage was responsible for nearly 20,500 fatalities, accounting for over 13% of all deaths, or roughly one in eight. Tobacco use was identified as the primary risk factor for health issues, contributing to 8.6% of Australia's total disease burden that year. This translated into 430,903 disability-adjusted life years, representing years of healthy life lost to illness and death attributable to tobacco use within the country in 2018.^{xiii}

There is unequivocal evidence surrounding the impacts of tobacco on cardiovascular health.^{xiv} Each year around 42,000 people die from cardiovascular disease because of tobacco use.^{xv} The risk of dying from heart disease or sudden cardiac death in people who smoke is 4 and 3-fold higher than non-smokers respectively.^{xvi}

People who use tobacco are:

- **two and a half times more likely to have a heart attack^{xvii},**
- **twice as likely to have a stroke^{xviii},**
- **and five times more likely to develop peripheral arterial disease.**

2.5 Health impacts of e-cigarettes and vaping on cardiovascular health

There is now evidence that e-cigarettes and vaping are damaging to cardiovascular health. **One recent study found that any use of e-cigarettes is associated with a 33% increased risk of having a heart attack when compared to people that have never used e-cigarettes.**^{xix} In addition to the increased of cardiovascular disease, e-cigarettes and vaping is linked to a range of other health issues including cancer and lung disease.

A new recent study released at the 2024 American College of Cardiology's Annual Scientific Session has found that people who use e-cigarettes are significantly more likely to develop heart failure compared with those who have never used them. The results showed **that people who used e-cigarettes at any point were 19% more likely to develop heart failure compared with people who had never used e-cigarettes.**^{xx}

In addition to the health impacts on cardiovascular disease, vaping and e-cigarettes have been found to present a range of other health problems. The most up-to-date comprehensive systematic review of the global evidence, undertaken by the Australian National University,^{xxi} found that identified risks of e-cigarettes include addiction, intentional and unintentional poisoning, acute nicotine toxicity, seizures, burns and injuries and lung injury. In addition to this, e-cigarettes and vapes contain a range of known carcinogens which present increased health risks to users.

3 The adequacy of the State and Commonwealth legislation, regulatory and administrative frameworks to minimise harm from illicit tobacco and e-cigarettes compared to other Australian and international jurisdictions (response to ToR 3)

3.1 Tobacco retailers licensing scheme and reporting of tobacco sales

Recommendations

- **Victorian Government to fulfil its recent commitment to introduce a tobacco licensing scheme for tobacco retailers**
- **Reporting requirements to be extended to the wholesalers/distributors of tobacco products**
- **Adequately enforce compliance with the anticipated tobacco licensing scheme**

Most other Australian state and territories already have a licensing scheme for tobacco retailers. These schemes improve transparency and regulation of tobacco product sales, product contents, advertising and promotional activities. Simply put, the absence of such a scheme in Victoria is holding back tobacco control efforts.

The Heart Foundation strongly welcomes the Victorian Government's recently announced intention to introduce a tobacco retailers licensing scheme in Victoria by the end of 2024.^{xxii}

The Heart Foundation supports that such a licensing scheme be extended to include the manufacturers and importers of all tobacco products that are sold or supplied, or offered for sale or supply, to monitor tobacco use and trends in the tobacco market, and the efficacy of tobacco control interventions. Furthermore, we support reporting requirements being extended to independent wholesalers/distributors, who may be neither manufacturers nor importers, to enable the assessment of the efficacy of tobacco control policy at the local, regional and state-wide levels.

In line with the submission put forward by Cancer Council Victoria, the Heart Foundation would support a tobacco retail licensing scheme with the following features:

- Operate on a cost-recovery model
- Require both wholesalers and retailers to hold a licence
- Involve strong and prompt enforcement action
- Confer broad search powers on authorised officers
- Discretion to refuse licence on certain grounds
- Prohibit sale of tobacco products by minors
- Require compulsory staff training for retail premises
- Require licence holders to report on sales data
- Regulate online sales
- Licences to be refused for vending machines

Adequate resourcing to ensure monitored compliance and enforcement of licencing schemes will be critical to the success of this scheme.

The Heart Foundation looks forward to working with the Victorian Government on the design and rollout of the tobacco retailers licensing scheme.

3.2 Adequacy of legislation, regulation and administrative frameworks relating to e-cigarette and vaping products

Recommendations

- **The Victorian Government work with the Australian Government and other state and territory governments to support national efforts to appropriately regulate e-cigarette and vaping products.**
- **Work with the Australian Government to help end the retail sale of e-cigarette and vaping products, and ensure such products are available through appropriately regulated therapeutical pathways.**
- **Review the Tobacco Act 1997 (Vic) to ensure it works most effectively alongside Commonwealth legislation.**

The Heart Foundation supports a harm-reduction approach to the regulation of e-cigarettes and vaping products, whereby such products are made available through a therapeutic prescription pathway for those who need them for therapeutic reasons only. It is preferable to have such products available through pharmaceutical settings rather than retail pathways to reduce availability to people who have never smoked, and children.

The current framework to manage the sale and distribution of e-cigarettes and vaping products containing nicotine has failed. While in theory such products should only be available through a prescription pathway, currently, these products are readily

available in retail shops across Victoria. In addition to this, exemptions for personal importations have been exploited enabling easy access and supply of these products to individuals not authorised to utilise them for therapeutic reasons.

A primary reason for the failure of the current approach has been the exploitation of a loophole that allows the importation of non-nicotine e-cigarettes and vaping products into Victoria.

This loophole has allowed importers and distributors to conceal the importation of nicotine containing e-cigarettes and vaping products. This has made it much harder to enforce existing regulations, as retailers purport to be selling non-nicotine e-cigarettes and vapes, which indeed, on many occasions contain nicotine^{xxiii}. These products are highly addictive and harmful to health.

The Heart Foundation supports the reform measures outlined by the Australian Government to address these issues. When implemented these measures would support:

- Stop the import of non-therapeutic vaping products (implemented in March 2024)
- Cessation of the sale and manufacture of all non-therapeutic vaping products within Australia
- Strengthening the minimum quality standards for vaping products, including restricting flavours, reducing maximum nicotine concentration, and requiring pharmaceutical packaging
- Prohibit the sale and import of single-use, disposable vapes
- Streamline the prescription access pathway for doctors and nurses who choose to prescribe therapeutic vaping products (commenced January 2024).^{xxiv}

Strong and urgent action from the Victorian Government is needed to ensure the effectiveness of the above approach. This will include working with the Australian Government to ensure a coordinated approach to ending retail sales of e-cigarette and vaping products. This will also require undertaking appropriate communication work to ensure retailers understand their obligations, and users requiring access to such products are informed on how they can access them through a prescription pathway.

Some amendments to state legislation would improve the efficacy of the above approach. This would include amending the Tobacco Act 1987 (Vic) with respect to provisions relating to the display of e-cigarette products, given that such products should no longer be available in retail settings. Furthermore, amendments might also be considered to ensure that prescribers and pharmacists supplying e-cigarettes to minors

(where it is deemed clinically appropriate, such as helping those who already have a nicotine addiction) are able to do so legally.

The Heart Foundation recommends that a review of the Tobacco Act should be undertaken to ensure state and commonwealth legislation aligns wherever necessary.

3.3 Adequacy of legislation, regulation and administrative frameworks relating tobacco

Recommendations

- **Amend tobacco control legislation in Victoria to:**
 - **Remove price boards at retailers**
 - **End retail display ban exceptions**
 - **Regulate trade publications**
 - **Prohibit payments and incentives to retailers**
 - **Prohibit sales by vending machines**
 - **Prohibit online sales**
 - **Ensure no smoking signs include reference to no vaping**
 - **Cover a range of public outdoor areas which are only partially covered by existing smokefree provisions in the legislation**
- **Amend Owners Corporation Act 2006 (Vic) and the Residential Tenancies Act 1997 (Vic) to better protect residents from the dangers of second-hand smoke infiltration**

There are a number of areas in which Victoria could improve its tobacco control legislation. Quit and Cancer Council Victoria have comprehensively reviewed the current tobacco control legislation and have put forward evidence-based recommendations to address significant gaps in current legislation. The Heart Foundation supports the recommendations put forward by Quit and Cancer Council Victoria. To summarise this includes:

- Removal of price boards at retailers
- Ending retail display ban exceptions
- Regulating trade publications
- Specifically prohibiting the provision of payments and incentives to retailers
- Prohibiting sales by vending machines
- Prohibiting online sales

In addition to the above, the Heart Foundation recommends that the *Tobacco Act 2017* (Vic) be updated so that provisions in the Act relating to the display of 'no smoking' signage in smokefree areas also includes reference to the prohibition on vaping.

The *Tobacco Act 2017* (Vic) could also be updated to cover several significant gaps which remain in Victoria's smokefree legislation. This includes the following public outdoor areas that are not covered or are only partially covered by smokefree provisions, and are therefore putting people at risk of the dangers of second-hand smoke and e-cigarette smoke/vapour:

- Outdoor workplaces
- Grounds of hospital and health services beyond the current 4 metre prohibition
- Outdoor drinking areas where food is not being served
- Outdoor sporting venues
- Outdoor public events, such as cultural and music festivals
- Beaches
- National parks
- Outdoor pedestrian malls

The Heart Foundation would also support changes being made to better protect residents in their homes from smoke infiltration as outlined by Quit and Cancer Council Victoria in their submission. Current legislation inadequately protects Victorian residents from the harms of second-hand smoke/aerosol exposure. This will likely require amendments being made to the *Owners Corporation Act 2006* (Vic) and the *Residential Tenancies Act 1997* (Vic).

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