

Committee on
Law and Safety



LEGISLATIVE
ASSEMBLY

E-cigarette regulation and compliance in New South Wales



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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Chair's foreword

E-cigarette use, or 'vaping', is one of the biggest public health challenges our country currently faces. Over the past five years, we've witnessed a substantial uptick in the number of people who vape. Of particular concern are the high rates of vaping among young people. Easy access to cheap and appealing nicotine e-cigarettes has contributed to a rampant vaping culture that threatens to undermine years of progress in tobacco control. Our communities rightly expect tough action to stem the rise in vaping. We want to ensure these products don't find their way into the hands of children.

In September 2023, the Committee on Law and Safety self-referred an inquiry into e-cigarette regulation and compliance in New South Wales. Throughout its inquiry, we examined issues surrounding e-cigarette use in New South Wales, the State's regulatory framework and challenges in enforcement and compliance. The Committee also considered how New South Wales could work with the Australian Government to implement reforms on e-cigarette products.

We received 59 submissions from government agencies, public health organisations, advocacy groups, medical professionals, academics, and members of the community. We heard from 26 individual witnesses during two public hearings. We also heard from a young person of school age about their experiences with vaping and nicotine addiction. I acknowledge and thank that particular individual for the remarkable courage and candour they showed in sharing their story with us.

It was clear from the inquiry evidence that many stakeholders hold serious concerns about vaping among young people. Single-use vaping devices are addictive and deliberately designed to appeal to young people. As well as their myriad flavours, these products come in colourful packaging, which can feature cartoon characters or be made to resemble other items, like fruit juice cartons or 'sippy cups'. Disposable e-cigarettes (the variety preferred among young people) often contain nicotine, even when this isn't reported on the product label.

Some participants in this inquiry argued that nicotine vaping products (NVPs) can play a role in supporting adults to quit tobacco smoking. Although NVPs aren't a first line of therapy for smoking cessation, when combined with appropriate monitoring and support from a healthcare provider, they might help some people to quit smoking.

It's difficult to quit smoking, but we also need to acknowledge that it's difficult to quit vaping. We've recommended that the NSW Government partner with government and non-government organisations to create, streamline and promote vaping cessation pathways. This will help ensure that people wanting to quit vaping are referred to appropriate supports. The NSW Government should also develop an online tool or app that can provide a 'one stop shop' for information about vaping and support for cessation for young people. Importantly, this would need to be developed through a process of co-design, so that the tool meets the needs and expectations of young people.

Until recently, non-nicotine e-cigarettes and e-liquids could be legally sold as a consumer good in Australia. These laws have created a 'loophole' that has been openly exploited. Often these products *do* contain nicotine and are intentionally mislabelled. This can only be verified, however, through a laboratory analysis – a costly process, and one that may hinder timely legal action.

Intelligence from the public will play a key role as inspectors work to disrupt supply of illicit vaping products throughout NSW. We recommend that NSW Health develop strategies to better inform the public about avenues to report suspected illicit supply of NVPs. Communications may need to be adapted to meet the needs of diverse audiences and to maximise reach. The NSW Government should also consider providing additional resources to NSW Health to undertake more extensive enforcement and compliance activity. Strong enforcement in the coming months will help to ensure that stockpiles of illicit vaping products are identified and seized as quickly as possible.

At the time the Committee commenced this inquiry, the Australian Government had foreshadowed extensive reforms that would progressively ban the importation, domestic manufacture and supply of recreational vaping products in Australia. The Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 was before the House of Representatives when the Committee held its public hearings in April 2024. The bill contemplated restricting therapeutic access to NVPs to a medical prescription pathway, but was amended to allow pharmacists to supply vaping substances for smoking cessation without a prescription from a medical practitioner. The classification of therapeutic vaping products as a Schedule 3 (pharmacy-only) medicine will allow easier access for smokers seeking to quit. It may also address concerns raised by certain stakeholders in this inquiry about the prescription model. The Australian Government's reforms are discussed in Chapter 2 of the report.

Limiting supply and access is critical to addressing e-cigarette use and prevalence. The Australian Government's reforms will go a long way to achieving this. But regulation alone won't change community perceptions and behaviours around vaping. During this inquiry, we heard about the various school-based learning initiatives and public health campaigns underway in New South Wales to dispel myths around vaping and promote healthy behaviours. This discussion forms much of Chapter 3 of the Committee's report.

Health promotion interventions need to be suitable for the audiences they're targeting, whether it's people from different cultural backgrounds, or high-risk groups, including First Nations and LGBTQ+ communities. We recommend 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. Continued NSW Government investment in research will support understanding of patterns in vaping behaviours and help to ensure that programs, policies and campaigns work effectively.

Much of this inquiry took place in a dynamic and uncertain policy context. With the passage of federal legislation, it's now very clear that change is happening.

On behalf of the Committee, I thank everyone who made a submission to this inquiry or appeared as a witness at a public hearing. We hope the evidence gathered, and recommendations made, will contribute to positive change in our schools and communities.

Ultimately, we want to ensure current and future generations of young people are safeguarded from the harms of smoking and vaping.

Finally, I would like to thank my Committee colleagues for their commitment to this inquiry, as well as the Committee staff for their professionalism and support.

Edmond Atalla MP

Chair

Findings and recommendations

Finding 1

Vaping products can contain chemicals that pose a risk to human health. Nicotine levels in disposable e-cigarettes are highly variable and often not reported on the product label.

Finding 2

Manufacturers and suppliers of illicit vaping products employ predatory tactics to market these products to children and young people.

Finding 3

E-cigarettes are not recommended as a first line of therapy for smoking cessation. E-cigarettes may, however, help some people quit smoking when delivered in a controlled way and with advice from a primary healthcare provider.

Recommendation 1

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

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.

Finding 4

Until recently, non-nicotine e-cigarettes and e-liquids could be legally sold as a consumer good in Australia. Often these products contain nicotine and are mislabelled, which has created serious challenges for enforcement.

Recommendation 3

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

Recommendation 4

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

Finding 5

Maximum penalties in NSW for illicit supply of nicotine vaping products have not reflected the seriousness of the offence or acted as a deterrent.

Finding 6

Stakeholders overwhelmingly oppose criminal penalties for personal possession and use of nicotine vaping products.

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.

Recommendation 6

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

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.

Finding 7

There is strong community support for stricter controls on vaping.

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.

Recommendation 9

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

Recommendation 10

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

Finding 8

School communities have access to a range of resources that support students' understanding of the health impacts of vaping, including those developed by NSW Health and other external organisations.

Finding 9

Many stakeholders would prefer to see schools adopt a health-focused response, rather than punitive disciplinary approaches to vaping.

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.

Finding 10

Public health campaigns play a critical part in tobacco and vaping control. Campaigns should be designed in partnership with target audiences and sustained over the long term to maximise effectiveness.

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.

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.

Chapter One – Use, availability and regulation of e-cigarettes in NSW

What are e-cigarettes?

- 1.1 E-cigarettes are handheld, lithium battery-powered devices that heat liquid to produce an aerosol (or vapour), which is inhaled by the user. E-cigarettes may be disposable or refillable, and come in various shapes, sizes, designs and flavours. They may resemble everyday objects like phone cases, medical puffers,¹ USB flash drives, or pens.²
- 1.2 The vapour-producing liquid – known as e-liquid – in an e-cigarette typically consists of propylene glycol, vegetable glycerine or glycerol, as well as flavouring ingredients. In many e-cigarettes, the e-liquid also contains nicotine. Heating of the e-liquid may produce new substances through chemical reaction, including aldehydes, acrolein and free radicals.³
- 1.3 The use of e-cigarettes is called 'vaping'. This is different from traditional cigarette 'smoking', which releases nicotine from tobacco leaves through combustion (burning). Smoke contains solid particles, whereas vapour produced with an e-cigarette does not.⁴
- 1.4 The terms 'e-cigarette' and 'vaping device' are used interchangeably throughout this report. Nicotine e-liquids and disposable e-cigarettes containing nicotine are referred to as 'nicotine vaping products' or 'NVPs'.

Health risks associated with vaping and prevalence among young people

Summary

Vaping is a significant public health issue. High rates of vaping among young people are a relatively recent phenomenon. Ease of access to vaping products in retail settings has contributed to widespread vaping.

The content of e-cigarettes and associated health risks

Finding 1

Vaping products can contain chemicals that pose a risk to human health. Nicotine levels in disposable e-cigarettes are highly variable and often not reported on the product label.

¹ [Submission 39](#), University of Wollongong, p 4.

² NSW Health, [Vaping – Frequently asked questions](#), viewed 17 May 2024.

³ NSW Health, [The facts about vaping](#), p 3, viewed 17 May 2024; Dr Jody Moller, Senior Lecturer, School of Chemistry and Molecular Bioscience, University of Wollongong, [Transcript of evidence](#), 12 April 2024, p 7.

⁴ Dr Moller, [Evidence](#), 12 April 2024, p 11.

- 1.5 The Australian Medical Association (AMA) (NSW) said in its submission that vaping is a significant public health issue for Australia.⁵ This view was shared by Mr Mark Brooke, Chief Executive Officer, Lung Foundation Australia, who said that vaping is 'one of the most significant public health crises facing our country at the moment'.⁶
- 1.6 Young people who vape are predominantly using disposable e-cigarettes.⁷ The Committee heard evidence that these devices are cheaply manufactured and contain an unpredictable variety of ingredients.⁸ Dr Michael Bonning, President, AMA (NSW) told the Committee, 'these are not safe products'.⁹
- 1.7 A recent study undertaken by the University of Wollongong analysed the chemical content of 750 e-cigarettes. Of these, 428 were collected by retailers illegally supplying the products over the counter and 322 had been confiscated from students in NSW high schools. The devices removed from students were all disposable. 98 per cent of the devices tested in the study were found to contain nicotine, although nicotine content may not have been reported on the product label.¹⁰
- 1.8 Similarly, a 2020 study commissioned by the Lung Foundation analysed 52 e-cigarettes purchased online. It found 100 per cent were incorrectly labelled and 80 per cent contained chemicals that are detrimental to respiratory health.¹¹
- 1.9 In almost all the devices tested in the University of Wollongong study, nicotine was present in the form of nicotine benzoate salt, at an average concentration of 40 mg/mL. This is a considerable increase when compared with products tested in previous laboratory analyses.¹² Nicotine salt formulations reduce unpleasantness and allow for more intense puffing and higher nicotine delivery.¹³
- 1.10 According to Professor Rowena Ivers, Royal Australian College of General Practitioners NSW & ACT, some of the vaping devices available on the market can deliver up to 700 per cent of the nicotine a consumer would get through tobacco smoking. High nicotine content means addiction can happen more quickly.¹⁴
- 1.11 Four per cent of the products tested by the University of Wollongong contained substances banned under the *Therapeutic Goods (Standard for Nicotine Vaping Products) (TGO 110) Order 2021*. This included the first identification of ethylene

⁵ [Submission 50](#), Australian Medical Association (NSW), p 3.

⁶ Mr Mark Brooke, CEO, Lung Foundation Australia, [Transcript of evidence](#), 5 April 2024, p 11.

⁷ Dr Moller, [Evidence](#), 12 April 2024, p 7.

⁸ Professor Matthew Peters, Thoracic Physician, Member and Past President, Thoracic Society of Australia and New Zealand, [Transcript of evidence](#), 5 April 2024, p 16; Professor Rowena Ivers, Academic Leader, Community Based Health Education and Chair of Phase 3, The Royal Australian College of General Practitioners NSW & ACT, [Transcript of evidence](#), 12 April 2024, p 3.

⁹ Dr Michael Bonning, President, Australian Medical Association (NSW), [Transcript of evidence](#), 5 April 2024, p 28.

¹⁰ [Submission 39](#), p 2.

¹¹ Mr Brooke, [Evidence](#), 5 April 2024, p 15.

¹² [Submission 39](#), p 3.

¹³ Professor Peters, [Evidence](#), 5 April 2024, p 13; [Submission 9](#), Dr Michelle Jongenelis, p 4.

¹⁴ Professor Ivers, [Evidence](#), 12 April 2024, p 3.

glycol (anti-freeze) in Australian vaping products.¹⁵ Many contained coolant compounds, which, although common in food products, are not safe for inhalation.¹⁶

- 1.12 Another concern identified by this study was that the metal coils that heat the e-liquid degrade with repeated heating and cooling and may lead to inhalation of metals.¹⁷
- 1.13 Inquiry participants said that vaping presents various risks to human health, including (but not limited to):
- nicotine toxicity¹⁸
 - e-cigarette or vaping use-associated lung injury (EVALI)¹⁹
 - irritation, scarring and precursors to poor lung health²⁰
 - increased risk of cardiovascular disease²¹
 - worsening of mental ill-health symptoms²²
 - dental disease²³
 - burns and injuries.²⁴
- 1.14 E-cigarettes also contain known carcinogens, but in much lower concentrations than in cigarette smoke.²⁵ Professor Tracey O'Brien, Chief Cancer Officer, Cancer Institute NSW noted, however, that there is not necessarily a straightforward dose-response relationship between carcinogenic exposure and cancer risk. Although there is no definitive population or individual-based evidence that vaping causes cancer, Professor O'Brien told the Committee she has 'concerns about the health impacts, in terms of cancer, of the products that are currently being exposed to young people'.²⁶
- 1.15 Regarding nicotine and its health impacts, Dr Colin Mendelsohn, a former founding chairman of the Australian Tobacco Harm Reduction Association, said in

¹⁵ [Submission 39](#), p 4.

¹⁶ Professor Peters, [Evidence](#), 5 April 2024, p 16.

¹⁷ Professor Peters, [Evidence](#), 5 April 2024, p 16.

¹⁸ For example, [Submission 27](#), Cancer Council NSW, p 10; [Submission 38](#), NSW Poisons Information Centre, p 3; [Submission 56](#), The Heart Foundation, p 2; Professor Ivers, [Evidence](#), 12 April 2024, p 3.

¹⁹ For example, [Submission 24](#), Lung Foundation Australia, p 9; [Submission 27](#), p 11; [Submission 38](#), p 3; Professor Ivers, [Evidence](#), 12 April 2024, p 3.

²⁰ Dr Kerry Chant, Chief Health Officer and Deputy Secretary, Population and Public Health, NSW Health, [Transcript of evidence](#), 12 April 2024, p 43.

²¹ [Submission 9](#), p 5.

²² For example, [Submission 16](#), Orygen, p 2; [Submission 27](#), p 11.

²³ For example, [Submission 27](#), p 10; Professor Ivers, [Evidence](#), 12 April 2024, p 3.

²⁴ For example, [Submission 24](#), p 8; [Submission 27](#), p 10; [Submission 51](#), Asthma Australia, p 1; [Submission 56](#), p 2.

²⁵ Dr Moller, [Evidence](#), 12 April 2024, pp 7, 9.

²⁶ Professor Tracey O'Brien, Chief Cancer Officer and Chief Executive Officer, Cancer Institute NSW, NSW Health, [Transcript of evidence](#), 12 April 2024, p 43.

his evidence that there are positive health benefits from nicotine. These include improved cognition, memory and alertness and relief of symptoms associated with anxiety and depression.²⁷

- 1.16 The Committee notes, however, that Dr Mendelsohn's evidence was at odds with other inquiry participants, who said that nicotine can have negative effects on an adolescent's brain and adversely impact attention, learning, memory and mood.²⁸ NSW Health, too, cites negative effects of nicotine on brain development in its 'Do you know what you're vaping?' resources.²⁹

Young people's use of e-cigarettes

Finding 2

Manufacturers and suppliers of illicit vaping products employ predatory tactics to market these products to children and young people.

- 1.17 Throughout the inquiry, the Committee heard evidence of high rates of vaping among young people in Australia. This is a relatively recent phenomenon. Less than one per cent of 14-17 year olds reported vaping in 2018. By early 2023, this figure had risen to 14.5 per cent.³⁰ Mr Brooke said that vaping appears to have become 'the number one issue for young people, parents and educators alike', although it was uncommon five years ago.³¹
- 1.18 The Generation Vape Research Project, led by Cancer Council NSW, studies vaping behaviours among teenagers and young people in NSW and nationally. Wave 4 of the study (February – April 2023) found that among a sample of young people in NSW aged 14-17 years, 18.4 per cent had 'ever vaped'³² and 42 per cent of those who had never vaped reported that they were curious about vaping. Among 850 young adults (18-24 years), 37 per cent identified as a current vaper, with 12 per cent vaping daily.³³
- 1.19 A 2023 report by the NSW Advocate for Children and Young People (ACYP) identified several reasons why young people choose to vape. These include perceptions of vaping as a social habit, influence of friends or peer groups and inadequate understanding of health harms.³⁴ Youth Action submitted that young people experiencing difficult or abusive family circumstances, or mental ill-health, may vape to manage their stress.³⁵

²⁷ Dr Colin Mendelsohn, Founding Chairman, Australian Tobacco Harm Reduction Association, [Transcript of evidence](#), 12 April 2024, p 17.

²⁸ For example, [Submission 9](#), p 5; [Submission 16](#), p 2; [Submission 27](#), p 11; Dr Bonning, [Evidence](#), 5 April 2024, p 28.

²⁹ NSW Health, [Vaping – Nicotine addiction](#), p 2, viewed 20 May 2024.

³⁰ [Submission 34](#), Associate Professor Becky Freeman, p 2.

³¹ Mr Brooke, [Evidence](#), 5 April 2024, p 11.

³² The study defines 'ever-vapers' as those who have tried at least a few puffs of an e-cigarette.

³³ [Submission 27](#), Cancer Council NSW, p 8.

³⁴ Office of the Advocate for Children and Young People, [Young people's perspectives on vaping in 2023](#), 2023, pp 19-20, viewed 22 May 2024.

³⁵ [Submission 57](#), Youth Action, p 12.

- 1.20 Ease of access to vaping products is also a significant factor contributing to why young people vape.³⁶ This is consistent with data from the Generation Vape study, with 90 per cent of the cohort aged 14-17 reporting that it is easy to access e-cigarettes.³⁷
- 1.21 The Committee heard that young people are able to use social media platforms like Snapchat to arrange meetups to buy vaping products.³⁸ Emeritus Professor Simon Chapman, Emeritus Professor in Public Health, University of Sydney, told the Committee that searching the term 'fruit' on Facebook Marketplace yields pages of pictures of fruit, some overlaid with text advertising puff count. Professor Chapman said, 'what happens is that you... give them the address, and they send a courier around on a bicycle, motorbike or car and give [the vaping products] to you in the transaction'.³⁹
- 1.22 In July 2023, the media reported that six young people had presented to NSW emergency departments within a short time of each other experiencing adverse symptoms from vaping such as seizures, loss of consciousness and vomiting. Some of these cases were linked to vaping products purchased from sellers on the social media platform Snapchat.⁴⁰

Tactics used to market e-cigarettes to young people

- 1.23 Single-use vaping devices are deliberately designed to appeal to young people. These products come in colourful packaging, which can feature cartoon characters or be made to resemble other items, like fruit juice cartons. E-cigarettes come in a range of novelty dessert and confectionery-related flavours like gummy bears, bubblegum, popcorn, Red Bull, Skittles and 'unicorn milk'.⁴¹
- 1.24 The Committee heard evidence that e-cigarettes are sold in shops located close to schools.⁴² Moreover, shops openly sell illicit vaping products as if they were lollies.⁴³
- 1.25 Associate Professor Becky Freeman, School of Public Health, Faculty of Medicine and Health, University of Sydney, described the tactics used by manufacturers and sellers of e-cigarettes to target young people through social media:

For British American Tobacco's disposable vape, their Instagram account had a young woman who they sponsored to go to a music festival in the snow. She did one of those "get ready with me" videos where she talks about all the make-up she's

³⁶ Office of the Advocate for Children and Young People, [Young people's perspectives on vaping in 2023](#), 2023, viewed 22 May 2024, p 20.

³⁷ Generation Vape, [Findings Summary: NSW \(Wave 4\)](#), September 2023, viewed 22 May 2024.

³⁸ Associate Professor Becky Freeman, Prevention Research Collaboration, School of Public Health, Faculty of Medicine and Health, University of Sydney, [Transcript of evidence](#), 5 April 2024, p 8.

³⁹ Emeritus Professor Simon Chapman, Emeritus Professor in Public Health, University of Sydney, [Transcript of evidence](#), 5 April 2024, p 35.

⁴⁰ M Ward, ['Russian roulette': Teens suffer seizures, vomiting after using Snapchat vapes](#), *Sydney Morning Herald*, 9 July 2023, viewed 31 May 2024.

⁴¹ [Submission 9](#), p 4; Associate Professor Becky Freeman, [Evidence](#), 5 April 2024, p 3.

⁴² For example, [Submission 43](#), Mr Graeme Hutchison, p 1; Ms Laura Hunter, Co-Chief Executive Officer, Australian Council on Smoking and Health, [Transcript of evidence](#), 5 April 2024, p 43.

⁴³ Associate Professor Freeman, [Evidence](#), 5 April 2024, p 3; Dr Moller, [Evidence](#), 12 April 2024, p 11.

putting on, all the designer clothes she's wearing, and at the end of the video, she puts a vape in her designer handbag.⁴⁴

- 1.26 As Dr Bonning observed, e-cigarette users 'are caught up in a complex web of marketing and then an addictive product... is being marketed to them, so they find themselves very much lost [at] sea'.⁴⁵
- 1.27 The current commercial environment has contributed to a situation where vaping is pervasive and normalised. Ms Zoë Robinson, Advocate for Children and Young People, said that young people she has spoken to expect adults to do more to address this problem.⁴⁶
- 1.28 Over the period of the Generation Vape study, results have shown an increasing sense among young people that vaping has social consequences, including experiencing shame and regret. Respondents demonstrate greater desire to quit vaping and increased awareness of health harms compared to earlier waves of data collection. Almost all young people who currently vaped acknowledged that it was not good for them.⁴⁷
- 1.29 Public health campaigns and school-based approaches to address youth vaping in NSW are discussed in Chapter 3 of this report.

Vaping and smoking cessation

Summary

There is mixed evidence as to whether nicotine vaping products (NVPs) are an effective smoking cessation tool. The NSW Government should partner with government and non-government organisations to create, streamline and promote vaping cessation pathways, and ensure that people wanting to quit vaping are referred to appropriate supports.

Vaping products as a smoking cessation tool

Finding 3

E-cigarettes are not recommended as a first line of therapy for smoking cessation. E-cigarettes may, however, help some people quit smoking when delivered in a controlled way and with advice from a primary healthcare provider.

- 1.30 The Committee heard mixed evidence as to whether NVPs are an effective smoking cessation tool.
- 1.31 Mr Brooke, for example, characterised the evidence supporting use of NVPs as a quitting aid as 'patchy at best'.⁴⁸

⁴⁴ Associate Professor Freeman, [Evidence](#), 5 April 2024, p 7.

⁴⁵ Dr Bonning, [Evidence](#), 5 April 2024, p 30.

⁴⁶ Ms Zoë Robinson, Advocate for Children and Young People, [Transcript of evidence](#), 5 April 2024, p 38.

⁴⁷ [Answers to supplementary questions](#), Associate Professor Becky Freeman, 22 April 2024, p 5.

⁴⁸ Mr Brooke, [Evidence](#), 5 April 2024, p 12.

- 1.32 In her submission, Dr Michelle Jongenelis, Principal Research Fellow, Melbourne School of Psychological Sciences, University of Melbourne, said that former smokers who use e-cigarettes as a quitting aid are more than twice as likely to relapse than former smokers who do not use the devices. Dr Jongenelis pointed to research showing that among people who use both e-cigarettes and tobacco cigarettes, after two years:
- 55 per cent will go back to exclusive tobacco cigarette use
 - 26 per cent will continue using both products
 - 12 per cent will have switched exclusively to e-cigarettes.⁴⁹
- 1.33 Cancer Council NSW expressed concern about a 'gateway effect', citing evidence that non-smokers who vape are around three times more likely to go on to smoke tobacco cigarettes than non-users.⁵⁰
- 1.34 Emeritus Professor Chapman noted that between two-thirds and three-quarters of all ex-smokers quit without any professional or pharmaceutical assistance. This trend was reflected in the 2022 Tasmanian Population Health Survey data: 62 per cent of ex-smokers surveyed said that quitting unassisted was most helpful to them. This was more than all other methods (including vaping) combined.⁵¹
- 1.35 Other stakeholders in this inquiry held different views. Professor Nicole Lee, Chief Executive Officer, 360Edge, told the Committee that the evidence that e-cigarettes help people quit or reduce smoking is 'very good'. Professor Lee also argued that 'overall, e-cigarettes pose a relatively small risk for a very large public health gain in reduction in smoking'.⁵² Dr Mendelsohn submitted that 'vaping is the most popular and most effective quitting aid and it is displacing smoking at a population level'.⁵³
- 1.36 Current guidelines published by the Royal Australian College of General Practitioners (RACGP) recommend that:
- For people who have tried to achieve smoking cessation with first-line therapy (combination of behavioural support and TGA-approved pharmacotherapy) but failed and are still motivated to quit smoking, NVPs may be a reasonable intervention to recommend along with behavioural support. However, this needs to be preceded by an evidence-informed shared-decision making process...⁵⁴

⁴⁹ [Submission 9](#), p 6.

⁵⁰ [Submission 27](#), p 11.

⁵¹ [Answers to supplementary questions](#), Emeritus Professor Simon Chapman, 22 April 2024, p 2.

⁵² Professor Nicole Lee, Chief Executive Officer, 360Edge, [Transcript of evidence](#), 12 April 2024, p 19.

⁵³ [Submission 7](#), Dr Colin Mendelsohn, p 18.

⁵⁴ Royal Australian College of General Practitioners, [Supporting smoking cessation: A guide for health professionals](#), May 2024, viewed 22 May 2024, pp 7, 38.

- 1.37 Although NVPs are not a first line of therapy for smoking cessation, when combined with appropriate monitoring and support from a healthcare provider, they may assist some people to quit smoking.⁵⁵

A coordinated approach to vaping cessation

Recommendation 1

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

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.

- 1.38 The Committee recommends that the NSW Government partner with community and non-government organisations to provide a coordinated approach to vaping cessation. Collaboration across sectors will help to create, streamline and promote cessation pathways, and ensure that people wanting to quit vaping are referred to appropriate supports.
- 1.39 The Committee urges the NSW Government to consider designing an online tool or app that provides a 'one stop shop' for information about vaping and support for cessation, and notes that this was also a recommendation contained in the ACYP's report.
- 1.40 Quitting smoking or vaping is difficult.⁵⁶ It is important to recognise there are a range of possible interventions that may support an individual to quit vaping. Information about vaping cessation needs to be made available through channels relevant to individual cohorts. This requires an evidence-based approach to understanding how different communities access information.⁵⁷

Cessation support for young people

- 1.41 NSW Health's current advice is that young people wanting to quit vaping should consult their general practitioner (GP), youth health service or other health service, or call the NSW Quitline.⁵⁸ Cancer Council NSW, however, told the Committee that the usefulness of telephone-based services such as Quitline in supporting young people to quit vaping is not well understood. Insights from the Generation Vape study indicate that young people prefer online, text or app-based support options.⁵⁹
- 1.42 Associate Professor Raglan Maddox, Senior Research Fellow, Tobacco Free Program, National Centre for Aboriginal and Torres Strait Islander Wellbeing

⁵⁵ Professor Ivers, [Evidence](#), 12 April 2024, p 3.

⁵⁶ Ms Alecia Brooks, Manager, Tobacco Control Unit, Cancer Council NSW, and Chair, Tobacco Issues Committee, Cancer Council Australia, [Transcript of evidence](#), 5 April 2024, p 7.

⁵⁷ [Answers to supplementary questions](#), Alcohol and Drug Foundation, 16 April 2024, p 3.

⁵⁸ NSW Health, [Vaping Quit Support - Factsheet for young people](#), viewed 31 May 2024.

⁵⁹ [Answers to supplementary questions](#), Cancer Council NSW, 22 April 2024, p 2.

Research, also told the Committee that not a lot of young people are using the Quitline service or consulting a GP about nicotine addiction issues.⁶⁰

- 1.43 Young people who participated in consultations for the ACYP's report on vaping said that there is no one-size-fits-all model for cessation support. There are several factors that will influence where a young person might seek support to quit vaping, including their age, family relationships, school life and understanding of available support channels.⁶¹
- 1.44 The ACYP's study found that young people's top three preferred pathways to stop vaping were in-person support, app-based support, and social media. Those who vape were most likely to use an app and were more likely to indicate this was their preferred option overall. Those who do not vape were most likely to use an in-person peer support group.⁶²
- 1.45 Young people indicated that the app should have a range of tools and functions that allow the user to engage in different ways. These could include:
- access to factual information relating to health and mental health
 - a chat function (with a real person)
 - real life case studies, stories and images
 - videos, reels and TikToks with young people sharing their experiences
 - tracking and notifications on progress, money saved, or 'gamification' of the app
 - pop-ups with motivational messages
 - notifications with tips and facts
 - links to other supports and resources where available.⁶³
- 1.46 Importantly, this online tool or app (and any accompanying communications) would need to be co-designed with young people in order to maximise its effectiveness.⁶⁴
- 1.47 Ms Kate Munro, Chief Executive Officer, Youth Action, said that involving young people in the design of health communication, and ensuring it reflects their voices and lived experiences, ultimately results in better take-up.⁶⁵ A diversity of

⁶⁰ Associate Professor Raglan Maddox, Senior Research Fellow, Tobacco Free Program, National Centre for Aboriginal and Torres Strait Islander Wellbeing Research, [Transcript of evidence](#), 12 April 2024, p 25.

⁶¹ Office of the Advocate for Children and Young People, [Young people's perspectives on vaping in 2023](#), 2023, p 25, viewed 31 May 2024.

⁶² Office of the Advocate for Children and Young People, [Young people's perspectives on vaping in 2023](#), 2023, p 33, viewed 31 May 2024.

⁶³ [Answers to supplementary questions](#), Advocate for Children and Young People, 26 April 2024, p 1.

⁶⁴ [Answers to supplementary questions](#), Advocate for Children and Young People, 26 April 2024, p 1.

⁶⁵ Ms Kate Munro, Chief Executive Officer, Youth Action, [Transcript of evidence](#), 5 April 2024, p 48.

young people should be involved in any co-design process, to better reflect their varied experiences and ideas.⁶⁶

Enforcement and compliance under NSW's regulatory framework

Summary

Laws permitting the sale of non-nicotine vaping products as a consumer good have created a 'loophole' that is open to exploitation. This has caused enormous challenges for enforcement. Stronger penalties would help serve as a deterrent.

Introducing a positive licensing scheme could better support enforcement, and help improve community understanding of smoke-free environment laws, which also apply to the use of e-cigarettes.

E-cigarettes and NSW's regulatory framework

- 1.48 This section discusses the State's regulatory framework for e-cigarettes at the time of the inquiry. Recent changes to federal legislation (discussed in Chapter 2) will impact the regulation of e-cigarettes in NSW.
- 1.49 Since October 2021, nicotine has been classified as a schedule 4 (prescription only) substance under the National Poisons Standard.⁶⁷ This means that it is illegal to use, sell or buy NVPs without a doctor's prescription.
- 1.50 For retailers other than pharmacies it is illegal to sell vaping products that contain nicotine. This includes online sales. E-cigarettes and e-liquids that do *not* contain nicotine, were, until recently, able to be legally purchased by adults aged 18 years and over.⁶⁸
- 1.51 Under the *NSW Public Health (Tobacco) Act 2008*, e-cigarette retailers are required to register their business details with NSW Health using a free, online process.⁶⁹
- 1.52 It is illegal to display, advertise or promote e-cigarettes.⁷⁰
- 1.53 Under the *Smoke-free Environment Act 2000* and the *Smoke-free Environment Regulation 2016*, the use of e-cigarettes is banned in all areas where smoking is banned. This includes all enclosed public areas and certain outdoor public areas.⁷¹ These laws and their application are discussed later in this chapter, under the sub-heading 'Improving awareness of smoke-free environment laws in NSW'.

⁶⁶ [Answers to supplementary questions](#), Advocate for Children and Young People, 26 April 2024, p 1.

⁶⁷ NSW Health, [E-cigarettes \(vapes\)](#), viewed 31 May 2024.

⁶⁸ NSW Health, [E-cigarettes \(vapes\)](#), viewed 31 May 2024.

⁶⁹ NSW Health, [Information for retailers selling e-cigarettes](#), viewed 31 May 2024.

⁷⁰ NSW Health, [Information for retailers selling e-cigarettes](#), viewed 31 May 2024.

⁷¹ NSW Health, [E-cigarettes \(vapes\)](#), viewed 31 May 2024.

The 'non-nicotine loophole' and challenges for enforcement

Finding 4

Until recently, non-nicotine e-cigarettes and e-liquids could be legally sold as a consumer good in Australia. Often these products contain nicotine and are mislabelled, which has created serious challenges for enforcement.

Recommendation 3

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

Recommendation 4

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

- 1.54 Intelligence from the public will continue to play a key role as inspectors work to disrupt supply of illicit vaping products throughout NSW. The Committee recommends that NSW Health develop strategies to better inform the public about avenues to report suspected illicit supply of NVPs. This may require adapting communications to meet the information needs and circumstances of diverse audiences to maximise reach.
- 1.55 The Committee also recommends the NSW Government consider providing additional resources to NSW Health to undertake more extensive enforcement and compliance activity. Strong enforcement in the coming months will help to ensure that stockpiles of illicit vaping products are identified and seized as quickly as possible.
- 1.56 The Committee heard from stakeholders that laws permitting the sale of non-nicotine vaping products as a consumer good have created a 'loophole' that is open to exploitation.⁷² Dr Moller told the Committee that after the last major regulatory change to NVPs in October 2021, the market shifted within two months and manufacturers simply removed references to nicotine from their product labels.⁷³
- 1.57 In order to prove that these products contain nicotine (and are therefore illegal) they need to be sent to a laboratory for analysis. This can be a costly and time-consuming process, and may hinder legal action.⁷⁴ Associate Professor Freeman said:

It is a ridiculous system where you have to take a vape, send it out to be tested in the lab, prove it violates the law because it has nicotine in it, then go back and seize the vapes. This is just absolutely the worst way to enforce the law that we need.⁷⁵

⁷² For example, Associate Professor Freeman, [Evidence](#), 5 April 2024, pp 3 & 9; Ms Hunter, [Evidence](#), 5 April 2024, p 42.

⁷³ Dr Moller, [Evidence](#), 12 April 2024, p 10.

⁷⁴ Emeritus Professor Chapman, [Evidence](#), 5 April 2024, p 34.

⁷⁵ Associate Professor Freeman, [Evidence](#), 5 April 2024, p 3.

- 1.58 As noted earlier in this chapter, various laboratory analyses have confirmed that mislabelled, nicotine-containing products appear to account for a sizeable portion of the market in disposable e-cigarettes.
- 1.59 Mr Graham Baxter, Tobacco Control Officer, Central Coast Local Health District, NSW Health said in his submission that retailers are using 'concealments' to prevent identification and seizure of illicit vaping products. He also claimed that stickers are placed on e-cigarette products which say '0mg' (in reference to nicotine content) and that these are removed from the product at the time of sale to the consumer.⁷⁶ In her evidence, Ms Brooks described retailers storing products in nearby cars.⁷⁷
- 1.60 The Small Business Commissioner submitted that some businesses operating within the law have had to close, citing 'black market' competition as the key factor.⁷⁸
- 1.61 Stakeholders held a range of views on how to address Australia's growing black market in illicit vaping products.
- 1.62 Dr Mendelsohn attributed the 'thriving and dangerous black market' in illicit vaping products to prohibition. He said that making vaping products available as adult consumer goods from licensed retail outlets, with strict age verification, was 'the best way forward'.⁷⁹
- 1.63 Mr Liam Croasdale, Operations Director, OZE Liquids, suggested that regulating e-cigarettes in the same way as alcohol and tobacco, and ensuring strong product safety standards, would eliminate access through the black market.⁸⁰
- 1.64 Similarly, Professor Lee argued that reducing access and increasing enforcement where there is high demand is not an effective approach to reducing the black market. The best way to reduce young people's access to vaping products, Professor Lee said, is to increase access for adult smokers, so that they do not need to turn to the black market.⁸¹
- 1.65 Drug Policy Australia submitted that it is crucial to legally regulate e-cigarettes so that the health risks associated with their use can be properly addressed and mitigated.⁸²
- 1.66 Other inquiry participants supported the Australian Government's model, which closes the loophole by prohibiting the sale of *all* e-cigarettes (irrespective of nicotine content) in retail settings. According to Ms Laura Hunter, Co-Chief Executive Officer, Australian Council on Smoking and Health:

⁷⁶ [Submission 21](#), Mr Graham Baxter, p 4.

⁷⁷ Ms Brooks, [Evidence](#), 5 April 2024, p 4.

⁷⁸ [Submission 52](#), NSW Small Business Commissioner, p 1.

⁷⁹ Dr Mendelsohn, [Evidence](#), 12 April 2024, p 13.

⁸⁰ [Submission 23](#), Mr Liam Croasdale, p 3.

⁸¹ Professor Lee, [Evidence](#), 12 April 2024, p 19.

⁸² [Submission 11](#), Drug Policy Australia, p 7.

The legislation before the Federal Parliament at the moment [April 2024] addresses a number of key issues that will make it so much easier for... enforcement and compliance efforts. It will stop domestic manufacture. It will close that loophole that has been discussed today. If the legislation is passed, it will mean the end of vape shops, convenience stores and petrol stations selling illegal goods in broad daylight to children. It puts vapes back where they should be: in pharmacies, accessible by prescription from a doctor or nurse practitioner who can supervise the clinical process.⁸³

- 1.67 There was also discussion of the need for much stronger penalties to crack down on illegal supply. The following section in this chapter ('Penalties for supplying illicit vaping products') outlines evidence the Committee heard on this issue.

Enforcement efforts by NSW Health

- 1.68 NSW Health Authorised Inspectors across NSW are responsible for monitoring compliance with legislation regarding the sale of tobacco and vaping products. The Chief Health Officer noted that while NSW Health is the lead regulator, there are a range of regulatory agencies that have a role in achieving a reduction in the supply and use of vaping products.⁸⁴
- 1.69 NSW Health has a centralised core of eleven inspectors, as well as more than 50 authorised inspectors in public health units that support compliance activity.⁸⁵ Inspectors undertake a planned program of compliance activity, in addition to responding to intelligence gathered from public health unit staff.⁸⁶
- 1.70 NSW Health told the Committee that some reports of non-compliance result in the inspection of a premises and some are used to inform proactive compliance activity. Between 1 January 2022 – 31 December 2023, NSW Health conducted 1814 inspections, which included compliance checks for liquid nicotine. Of these:
- 623 (35 per cent) were conducted in connection with a single, or multiple reports of non-compliance
 - 750 (41 per cent) were conducted as part of proactive compliance programs
 - 441 (24 per cent) inspections were follow-up inspections from the above.⁸⁷
- 1.71 In this same period, NSW Health received 1448 reports regarding sale of NVPs and 1004 reports about tobacco or e-cigarettes being supplied to a minor. Of the total 2452 reports:
- 2129 were lodged via the online portal
 - 143 were calls to the NSW Health Tobacco Information Line

⁸³ Ms Hunter, [Evidence](#), 5 April 2024, p 42.

⁸⁴ Dr Chant, [Evidence](#), 12 April 2024, p 36.

⁸⁵ Dr Chant, [Evidence](#), 12 April 2024, p 43.

⁸⁶ Dr Chant, [Evidence](#), 12 April 2024, p 38.

⁸⁷ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 4.

- 61 were calls to public health units or the Ministry of Health
- 119 were received via other sources, such as emails, ministerial correspondence or other phone calls.⁸⁸

1.72 In 2023, NSW Health inspectors seized around 431 000 nicotine e-cigarettes and e-liquids with an estimated street value of \$13.7 million. In addition, more than 4.8 million cigarettes and 1700 kilograms of other illegal tobacco products, with an estimated street value of over \$5.8 million, were seized.⁸⁹ There were 44 prosecutions in 2023 for offences related to illegal supply of tobacco or NVPs.⁹⁰

1.73 In spite of the strong regulatory activity undertaken by NSW Health, the Chief Health Officer acknowledged that the size of the problem is significant. Until Commonwealth legislation takes effect, current inspections are only able to address 'the tip of the iceberg'.⁹¹ That said, there is anecdotal evidence to suggest the importation ban imposed by the Australian Government, which came into effect on 1 January 2024, is having an impact on local supply.⁹²

Penalties for supplying illicit vaping products

Finding 5

Maximum penalties in NSW for illicit supply of nicotine vaping products have not reflected the seriousness of the offence or acted as a deterrent.

Finding 6

Stakeholders overwhelmingly oppose criminal penalties for personal possession and use of nicotine vaping products.

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.

1.74 The Committee recommends that the Ministry of Health commence the *Medicines, Poisons and Therapeutic Goods Act 2022* as a matter of priority, to support more robust enforcement. The Committee acknowledges, though, that this may be impacted by the recent passage of the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 through the Australian Parliament. The Vaping Reforms Bill introduces significant penalties for illegal supply of e-cigarettes.

1.75 Offences for the illegal supply of NVPs are primarily found in the *Poisons and Therapeutic Goods Act 1966*. Penalties for sales to minors and displaying products are found in the *Public Health (Tobacco) Act 2008*. A range of regulatory tools

⁸⁸ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 4.

⁸⁹ Dr Chant, [Evidence](#), 12 April 2024, p 40.

⁹⁰ [Answers to supplementary questions](#), NSW Health, 30 April 2024, pp 7-10.

⁹¹ Dr Chant, [Evidence](#), 12 April 2024, pp 38, 41.

⁹² Dr Chant, [Evidence](#), 12 April 2024, p 38.

assist enforcement of the *Public Health (Tobacco) Act* and the *Poisons and Therapeutic Goods Act*, including:

- issuing of cautions
- on the spot fines
- prosecutions
- product seizures.⁹³

- 1.76 The maximum penalty for illegal supply of NVPs under the *Poisons and Therapeutic Goods Act* is 15 penalty units (\$1650) and/or six months in prison. There is no ability to issue on the spot fines for breaches.⁹⁴
- 1.77 Inquiry participants told the Committee that current penalties for supplying illicit vaping products are inadequate, and do not serve as a deterrent.⁹⁵ Illegal supply of e-cigarettes has become a low-risk, high-reward undertaking.
- 1.78 In his submission, Mr Graham Baxter said that a brief of evidence must be compiled and submitted to the Ministry of Health for approval before any court prosecution can begin against a retailer. Anecdotally, he suggests, 'there is often a decision that no prosecution will take place and no reasons are provided for that decision'. As a result, enforcement officers tend to issue penalty infringement notices, as this is a much simpler process.⁹⁶
- 1.79 In a survey of 1799 parents conducted by Life Ed, which asked respondents about initiatives to address uptake of vaping among young people, the most popular option (27 per cent) was 'tougher penalties for retail outlets'.⁹⁷
- 1.80 The NSW Ministry of Health does not believe the maximum monetary penalties under the *Poisons and Therapeutic Goods Act* reflect the seriousness of the offence of illegally supplying NVPs. However, the Ministry is commencing the new *Medicines, Poisons and Therapeutic Act 2022*. This will increase penalties for illegal supply of NVPs to 50 penalty units (\$5500) for individuals and 250 penalty units (\$27 500) for corporations, with additional daily penalties for continuing offences. The Act will also allow on the spot fines for breaches of the legislation.⁹⁸

Stakeholders' views on criminalisation of personal possession

- 1.81 Many inquiry participants strongly oppose criminalisation of individual use and possession of vaping products.⁹⁹

⁹³ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 3.

⁹⁴ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 3.

⁹⁵ For example, [Submission 21](#), pp 6-7; Ms Brooks, [Evidence](#), 5 April 2024, p 4; Associate Professor Freeman, [Evidence](#), 5 April 2024, p 5; Emeritus Professor Chapman, [Evidence](#), 5 April 2024, p 34.

⁹⁶ [Submission 21](#), p 6.

⁹⁷ [Submission 31](#), Life Education NSW, p 8.

⁹⁸ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 3.

⁹⁹ For example, [Submission 11](#), p 6; Ms Brooks, [Evidence](#), 5 April 2024, p 2; Associate Professor Freeman, [Evidence](#), 5 April 2024, p 5; Professor Peters, [Evidence](#), 5 April 2024, p 15; Mr Robert Taylor, Knowledge Manager - Policy and

- 1.82 It is currently a criminal offence in NSW to possess an NVP without a medical prescription. The maximum penalty for possession of a schedule 4 substance without a prescription under the *Drug Misuse and Trafficking Act 1985*, is a fine of up to \$5500, 12 months' imprisonment, or both.¹⁰⁰
- 1.83 Drug Policy Australia said in its submission that Australia's policy of criminalising the use of NVPs without a prescription is an international outlier.¹⁰¹ It argued that using the criminal justice system to deal with a public health issue 'is costly and dangerous and increases the harm to adults who choose to use e-cigarettes'.¹⁰²
- 1.84 Mr Robert Taylor, Knowledge Manager - Policy and Advocacy, Alcohol and Drug Foundation, argued that criminalising substance use 'introduces stigma' and pushes the user away from the health supports they need.¹⁰³ The Alcohol and Drug Foundation argues that possession of NVPs should be decriminalised, so that people do not face disproportionate criminal penalties for a health issue.¹⁰⁴

The need for a positive licensing scheme in NSW

Recommendation 6

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

- 1.85 The Committee recommends the NSW Government consider introducing a positive licensing scheme for tobacco retailers to support comprehensive and targeted enforcement. While the Australian Government has enacted a total ban on the sale of vaping products in retail settings, a positive licensing scheme in NSW would allow for better control of the tobacco market, which, in turn, may help to reduce incidences of smoking.
- 1.86 Positive tobacco licensing schemes require anyone selling smoking products to have a licence for retail or wholesale outlets where products are sold, with a fee set by government. Under a positive licensing scheme, governments have an accurate list of current retailers, which can support strong compliance activity in line with tobacco retailing laws.¹⁰⁵ NSW does not currently have a positive licensing scheme.
- 1.87 Assistant Commissioner Scott Cook, Commander, State Intelligence Command, NSW Police Force, said a licensing scheme could allow NSW Health to revoke a business' licence for non-compliance, which could support stronger enforcement.¹⁰⁶

Advocacy, Alcohol and Drug Foundation, [Transcript of evidence](#), 5 April 2024, p 41; Ms Munro, [Evidence](#), 5 April 2024, p 46; Associate Professor Maddox, [Evidence](#), 12 April 2024, p 26; Assistant Commissioner Scott Cook APM, Commander, State Intelligence Command, NSW Police Force, [Transcript of evidence](#), 12 April 2024, p 45.

¹⁰⁰ [Submission 22](#), Alcohol and Drug Foundation, p 3.

¹⁰¹ [Submission 11](#), p 6.

¹⁰² [Submission 11](#), p 7.

¹⁰³ Mr Taylor, [Evidence](#), 5 April 2024, p 43.

¹⁰⁴ [Submission 22](#), p 4.

¹⁰⁵ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 3.

¹⁰⁶ Assistant Commissioner Cook, [Evidence](#), 12 April 2024, p 41.

- 1.88 Mr Baxter noted that the only way a person can be prohibited from tobacco retailing is under section 33 of the *Public Health (Tobacco) Act 2008*, which requires that the person be convicted of offences on two or more occasions. This can lead to a prohibition for a period of three months for two offences, or 12 months for three or more offences.¹⁰⁷ He argues that the current framework in NSW 'is not fit for purpose and fails to take into account the active involvement of organised crime in the illicit tobacco and e-cigarette market'.¹⁰⁸
- 1.89 Dr Jongenelis said in her submission that the absence of a positive licensing scheme is hindering enforcement efforts. She said that the introduction of such a scheme will help to monitor compliance and improve enforcement of current laws.¹⁰⁹

Improve awareness of smoke-free environment laws in NSW

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.

- 1.90 The Committee acknowledges the work already underway to improve public awareness of laws and regulations regarding vaping in public places. It recommends NSW Health continue to collaborate with local government, industry and community stakeholders and consider further opportunities to improve community understanding of smoke-free environment laws.
- 1.91 NSW Health is currently implementing the 'No Smoking means No Vaping' initiative to increase community awareness that vaping is banned in all smoke-free areas, and to support behaviour change. It has worked with other government agencies and community stakeholders to maximise the reach of this messaging.¹¹⁰
- 1.92 The Committee heard evidence, though, that it is still not widely understood that vaping is not permitted in areas where smoking is not permitted. Associate Professor Emily Stockings, Program Lead of 'Smoking, Vaping and Mental Health', The Matilda Centre, said 'there could be better public education on the fact that smoking bans include vaping—as simple as that'. She suggested that the widespread use of e-cigarettes in public spaces creates 'social normality' around vaping, and may lead people to assume the products are safe.¹¹¹

¹⁰⁷ [Submission 21](#), p 5.

¹⁰⁸ [Submission 21](#), p 4.

¹⁰⁹ [Submission 9](#), p 4.

¹¹⁰ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 2.

¹¹¹ Associate Professor Emily Stockings, Program Lead of "Smoking, Vaping and Mental Health", The Matilda Centre, [Transcript of evidence](#), 5 April 2024, p 25.

- 1.93 Cancer Council NSW likewise raised concerns that vaping in smoke-free areas has contributed to the social normalisation of vaping. Vaping can be easily concealed, which makes smoke-free environment laws difficult to enforce.¹¹²
- 1.94 Passive exposure to second-hand aerosols from e-cigarettes is a growing issue, according to the Cancer Council.¹¹³ The Chief Health Officer advised the Committee that NSW Health is surveying international literature on the effects of passive exposure to aerosols from e-cigarettes.¹¹⁴
- 1.95 Dr Bonning described aerosols from e-cigarettes as 'ambient air pollution', and emphasised the need to prevent vaping in public places.¹¹⁵
- 1.96 The Australian Council on Smoking and Health (ACOSH) highlighted the example of 'Smoke-Free Town Centres', a local government initiative that has helped to achieve compliance in smoke-free areas in the City of Vincent, near Perth, Western Australia. As well as changing local laws, the City adopted an education-first approach, developed positive messaging and used brand ambassadors to promote its campaign. Community support for the initiative was at 78 per cent after six months, and 88 per cent at 12 months. 85 per cent of business owners supported the project and 95 per cent reported either no impact or a positive impact on their business.¹¹⁶

¹¹² [Submission 27](#), p 21.

¹¹³ [Submission 27](#), p 21.

¹¹⁴ Dr Chant, [Evidence](#), 12 April 2024, p 41.

¹¹⁵ Dr Bonning, [Evidence](#), 5 April 2024, p 31.

¹¹⁶ [Answers to supplementary questions](#), ACOSH, 29 April 2024, p 3.

Chapter Two – Australian Government reforms to the regulation of e-cigarette products

Australian Government reforms and implementation timeline

Summary

The Australian Government is implementing stricter controls on vaping. NSW can work with the Commonwealth to implement the reforms by aligning enforcement and compliance efforts, reviewing state tobacco legislation and updating communications to improve public awareness.

Finding 7

There is strong community support for stricter controls on vaping.

- 2.1 Australia is 'a world leader in tobacco control'. Effective public health policy has seen an ongoing decline in smoking rates.¹¹⁷ However, the proliferation of e-cigarettes, especially among young people, risks undermining this progress.¹¹⁸
- 2.2 Stakeholders told the Committee that there is strong community support for stricter controls on vaping. Emeritus Professor Simon Chapman pointed to results from the National Drug Strategy Household Survey 2022-23, which show a level of support for tough restrictions on the promotion and sale of vaping products in the range of 78 – 86 per cent. He suggested that this exceeds community support for marriage equality, action on climate change and a ban on gambling advertisements on television.¹¹⁹
- 2.3 The Australian Government is progressively banning recreational vaping products. At the time this Committee undertook its public hearings in April 2024, there was a bill before the House of Representatives. The Committee heard stakeholders' views on various aspects of the proposed reforms outlined in the Australian Government's bill. These are summarised below.
- 2.4 The Australian Government's bill was subsequently amended in the Senate and passed in late June 2024. The amendments – specifically those relating to how patients can access therapeutic vaping products for smoking cessation – are briefly outlined in this chapter. It should be noted, however, that the Committee has not collected specific evidence with respect to the amendments, as they had not been foreshadowed at the time of its public hearings.

Overview of the Australian Government's vaping reforms

- 2.5 Following public consultation led by the Therapeutic Goods Administration (TGA), the Federal Minister for Health and Aged Care, the Hon Mark Butler MP,

¹¹⁷ Ms Brooks, [Evidence](#), 5 April 2024, p 2; Dr Bonning, [Evidence](#), 5 April 2024, p 28.

¹¹⁸ [Submission 27](#), p 3; Ms Brooks, [Evidence](#), 5 April 2024, p 2; Dr Bonning, [Evidence](#), 5 April 2024, p 28.

¹¹⁹ [Answers to supplementary questions](#), Emeritus Professor Simon Chapman, 22 April 2024, pp 1.

announced in May 2023 that the Australian Government would propose a suite of reforms to 'stamp out vaping'. In doing so, Minister Butler said, 'Australia needs to reclaim its position as a world leader on tobacco control'.¹²⁰

- 2.6 The Australian Government's vaping reforms are being implemented in stages throughout 2024.
- 2.7 In December 2023, the Government introduced the first stage through amendments to three regulations and nine new or revised legislative instruments under the *Therapeutic Goods Act 1989* and the *Customs (Prohibited Imports) Regulations 1956*.¹²¹ These amendments commenced on 1 January 2024 and introduced the following changes:
- a ban on the importation of disposable single use vapes, regardless of nicotine content or therapeutic claims, with very limited exceptions
 - introduction of a new Special Access Scheme C (SAS C) pathway to prescribe therapeutic vaping products to patients for smoking cessation
 - a new form for importers and manufacturers of therapeutic vaping products to notify the TGA about compliance with the relevant product standards
 - a new application form for importers of therapeutic vaping products to apply for licences and permits.¹²²
- 2.8 The following changes commenced on 1 March 2024:
- a requirement for importers and manufacturers of therapeutic vaping products to notify the TGA of their product's compliance with relevant product standards
 - a ban on importation of *all* vaping products, unless importers have an import licence and permit from the Office of Drug Control
 - cessation of the Personal Importation Scheme
 - new quantity limits for travellers bringing vaping products into Australia
 - restricting flavours of therapeutic vaping products for smoking cessation to mint, menthol and tobacco.¹²³

¹²⁰ Hon Mark Butler MP (Minister for Health and Aged Care), [Taking action on smoking and vaping](#), media release, 2 May 2023, viewed 28 April 2024.

¹²¹ Parliament of Australia, Department of Parliamentary Services, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), J Phillips, M Thomas & L Ferris, 13 May 2024, p 9.

¹²² Hon Mark Butler (Minister for Health and Aged Care) and Hon Clare O'Neil (Minister for Home Affairs), [Next steps on vaping reforms](#), media release, 28 November 2023, viewed 28 April 2024; [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 1; Therapeutic Goods Administration (TGA), [Reforms to the regulation of vapes](#), viewed 16 May 2024; Parliament of Australia, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), p 9.

¹²³ Hon Mark Butler (Minister for Health and Aged Care) and Hon Clare O'Neil (Minister for Home Affairs), [Next steps on vaping reforms](#), media release, 28 November 2023, viewed 28 April 2024; [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 1;

- 2.9 According to the TGA, the Australian Border Force seized over 767 000 vapes at the Australian border between 1 January 2024 and 3 May 2024.¹²⁴
- 2.10 On 21 March 2024, Mr Butler introduced the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 ('the bill') into Parliament, which implements the second stage of the Government's vaping reforms.
- 2.11 The bill amends the *Therapeutic Goods Act 1989* ('TG Act') to ban the 'importation, manufacture, supply, and commercial possession of disposable single use and non-therapeutic vapes'.¹²⁵ The bill also makes consequential amendments to other Commonwealth Acts, including the *Industrial Chemicals Act 2019*, the *Customs Act 1901* and the *Public Health (Tobacco and Other Products) Act 2023*.¹²⁶
- 2.12 A key provision of the bill is that it provides a single consistent framework to control the importation, domestic manufacture, supply, commercial possession and advertisement of all vaping products, regardless of therapeutic claims or nicotine content.¹²⁷
- 2.13 According to the bill's explanatory memorandum, the TG Act allows for the establishment of a 'national system of controls' of therapeutic goods used in Australia. The bill also extends this national system of controls to the regulation of vaping products. This system is 'a federal cooperative scheme between the Commonwealth, states and territories' achieved through corresponding laws passed in each state and territory.¹²⁸
- 2.14 The bill will revise the definition of 'therapeutic goods' to include a broad power for the minister to declare goods to be therapeutic goods by legislative instrument.¹²⁹ Prior to such a determination, the minister must consider whether:
- the goods might pose a risk to public health
 - the goods should be regulated under the national system of controls stipulated in the TG Act

Therapeutic Goods Administration (TGA), [Reforms to the regulation of vapes](#), viewed 16 May 2024; Parliament of Australia, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), p 9.

¹²⁴ [Answers to supplementary questions](#), Therapeutic Goods Administration, 30 May 2024, p 1.

¹²⁵ Hon Mark Butler MP (Minister for Health and Aged Care), [World leading vaping legislation introduced to Parliament](#), media release, 21 March 2024, viewed 28 April 2024; Parliament of Australia, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), p 4.

¹²⁶ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 3.

¹²⁷ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 1.

¹²⁸ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 1.

¹²⁹ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) pp 31, 33-34; [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), pp 18-19.

- any potential risk posed by the goods could be more appropriately managed under another regulatory scheme.¹³⁰
- 2.15 This is an important power that will allow 'novel and unanticipated products' to be identified and regulated appropriately.¹³¹
- 2.16 The bill sets out new offences and civil penalty provisions for the importation, domestic manufacture, supply, commercial possession and advertisement of vaping devices. These changes are designed to deter illegal conduct, halt the increase in vaping, particularly among young people, and prevent exposure to dangerous chemicals and nicotine dependence.¹³²
- 2.17 The bill also expands the TG Act's compliance and enforcement powers by:
- strengthening state and territory officers' compliance and enforcement powers in relation to possession and supply of vaping products
 - extending the authority of those able to issue warrants in relation to premises to court registrars and other state or territory court officers
 - facilitating information sharing between states and territories and compliance and enforcement bodies
 - allowing for the publication of information on the importation, manufacture, supply and advertisement of vaping products
 - creating new powers for the forfeiture and destruction of illegal vaping products
 - introducing a power to allow enforceable directions to be made to manage illegal vaping products and therapeutic goods.¹³³
- 2.18 The Australian Government is also implementing other measures alongside the bill, such as the *Public Health (Tobacco and Other Products) Act 2023* which commenced on 1 April 2024. This updates the existing Commonwealth tobacco control laws and includes vaping products in advertising regulations.¹³⁴
- 2.19 On 27 March 2024, the Senate referred the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 to the Community Affairs

¹³⁰ [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), pp 18-19.

¹³¹ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 34.

¹³² [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 2; [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), pp 18.

¹³³ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 2-3.

¹³⁴ [Explanatory Memorandum](#), Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth) p 5.

Legislation Committee for inquiry. It subsequently tabled its report on 8 May 2024 and recommended that the bill be passed.¹³⁵

- 2.20 In April 2024, when the NSW Legislative Assembly Committee on Law and Safety conducted its public hearings for this inquiry, the bill was before the House of Representatives. At the time the Committee was preparing its report, the bill progressed through both Houses, with the House of Representatives agreeing to the Senate's amendments on 27 June 2024.¹³⁶ The new laws came into effect on 1 July 2024.

Amendments to the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024

In June 2024, the Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 was amended to allow pharmacists to supply nicotine and non-nicotine vaping substances for smoking cessation without a prescription from a medical practitioner (in certain circumstances) from 1 October 2024. Patients will need a prescription to purchase a nicotine or non-nicotine vaping product until 30 September 2024.¹³⁷

As with other pharmacy-only medicines, pharmacists will be required to check photo ID and discuss the health harms of vaping with the patient before dispensing a therapeutic vaping product.¹³⁸

Minister Butler said of the amendments:

This is a very common therapeutic pathway that allows certain medicines like the morning after pill, pseudoephedrine [and] various asthma medicines to be obtained through a discussion with a pharmacist... So this is a significant amendment that we will be proposing to the Senate, but one that very much keeps faith with the original intention of our reforms, which are: to wipe out the recreational vaping market, to wipe this out from retail settings, and to return this product to its original intention.¹³⁹

The pharmaceutical pathway for patient access to therapeutic vaping

- 2.21 The classification of therapeutic vaping products as a Schedule 3 (pharmacy-only) medicine will allow for somewhat easier access for smokers who are seeking to quit. The Committee heard limited evidence regarding such a model; however, it appears that it could help to address many of the concerns raised by stakeholders during this inquiry in relation to the prescription pathway.

¹³⁵ Parliament of Australia, [Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), viewed 5 June 2024.

¹³⁶ Parliament of Australia, [Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), viewed 5 June 2024.

¹³⁷ Therapeutic Goods Administration, [Vapes: information for pharmacists](#), viewed 3 July 2024; J Evans, [Government waters down vaping ban to win support of Greens](#), ABC News, 24 June 2024, viewed 3 July 2024.

¹³⁸ Hon Mark Butler MP, Minister for Health and Aged Care, [Parliament's backing means Australia will lead the world on vaping action](#), media release, 28 June 2024, viewed 3 July 2024.

¹³⁹ Hon Mark Butler MP, Minister for Health and Aged Care, [press conference](#), 25 June 2024, viewed 3 July 2024.

- 2.22 During the inquiry, there was considerable discussion of whether a medical prescription model could work effectively to limit the proliferation of youth vaping while still allowing therapeutic access for smoking cessation.
- 2.23 Until recently, nicotine vaping products have been supplied to patients with a prescription through the following pathways:
- the Personal Importation Scheme (which closed on 1 March 2024 for vaping products)
 - the Authorised Prescriber Scheme
 - the Special Access Scheme B (SAS B).¹⁴⁰
- 2.24 From 1 January 2024, the Special Access Scheme C (SAS C) also became available to prescribe therapeutic vapes to patients for smoking cessation or the management of nicotine dependence. The SAS C pathway is a streamlined approach that reduces the administrative burden on doctors and nurses prescribing therapeutic vaping products.¹⁴¹
- 2.25 Under SAS C, products with an 'established history of use' can be accessed immediately, without the need for the prescriber to apply to the TGA for pre-authority.¹⁴² Notification must be given to the TGA that a product has been prescribed within 28 days of use.¹⁴³
- 2.26 The SAS C pathway may be used for patients aged 16 years and older, while the SAS B pathway is available for patients younger than 16 years.¹⁴⁴ Under the SAS B pathway, medical practitioners must apply to the TGA for each patient and obtain an approval letter prior to issuing a prescription.¹⁴⁵
- 2.27 Stakeholders in this inquiry observed that there has been low-take up of the prescription model for NVPs in place in Australia since October 2021.¹⁴⁶

¹⁴⁰ Parliament of Australia, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), p 10.

¹⁴¹ Therapeutic Goods Administration (TGA), [Vaping Reforms: Overview of Regulatory Changes](#), Webinar, 17 January 2024, viewed 5 June 2024, slides 10, 18.

¹⁴² Therapeutic Goods Administration (TGA), Royal Australian College of General Practitioners (RACGP) and Quit Centre, [Prescribing Therapeutic Vapes: Overview of Regulatory Changes](#), Webinar, 26 February 2024, viewed 6 May 2024, slide 13; TGA, [Vaping Reforms: Overview of Regulatory Changes](#), viewed 5 June 2024, Slide 18; Parliament of Australia, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), p 10.

¹⁴³ Parliament of Australia, [Bills Digest No. 61, 2023-24 Therapeutic Goods and Other Legislation Amendment \(Vaping Reforms\) Bill 2024](#), p 10.

¹⁴⁴ Royal Australian College of General Practitioners, [Supporting smoking cessation: A guide for health professionals](#), December 2023, pp 8, 26; TGA, RACGP & Quit Centre, [Prescribing Therapeutic Vapes: Overview of Regulatory Changes](#), viewed 6 May 2024, slide 13.

¹⁴⁵ TGA, RACGP & Quit Centre, [Prescribing Therapeutic Vapes: Overview of Regulatory Changes](#), viewed 6 May 2024, slide 13.

¹⁴⁶ For example, [Submission 5](#), Mr Richard Pruen, p 1; [Submission 7](#), Dr Colin Mendelsohn, p 13; [Submission 11](#), Drug Policy Australia, p 4; [Submission 23](#), Mr Liam Croasdale, p 6; [Submission 27](#), Cancer Council NSW, p 12; [Submission 32](#), Australian Association of Convenience Stores, p 2; [Submission 40](#), Matilda Centre, p 8; [Submission 45](#), 360edge, p 4; [Submission 47](#), World Vapers' Alliance, p 4.

- 2.28 In its submission, 360edge cited evidence from the 2019 National Drug Strategy Household Survey that only 0.4 per cent of current e-cigarette users in Australia were obtaining their e-cigarettes from a pharmacy. A 2023 study with a sample of 636 e-cigarette users across Australia found that only one per cent obtained their nicotine e-liquid from a pharmacy. The majority of e-cigarette users are currently purchasing illicit NVPs.¹⁴⁷
- 2.29 RACGP NSW and ACT noted 'a lack of uniformity in vaping devices and NVPs, which increases uncertainties associated with their use'. These uncertainties create potential medicolegal risks for prescribers.¹⁴⁸ This may have contributed to hesitancy on the part of prescribers.
- 2.30 Dr Mendelsohn said that less than one per cent of doctors are publicly listed as nicotine prescribers. Consequently, many people who smoke or vape report difficulty finding a doctor who will provide a prescription.¹⁴⁹ He also said that 'pharmacists are very unwilling to dispense vapes and very few have a significant stock'. Dr Mendelsohn stated that 'the pharmacy model is not going to work'.¹⁵⁰
- 2.31 Ms Laura Hunter, Co-Chief Executive Officer, Australian Council on Smoking and Health, said the prescription model has not been workable to date because it is difficult to enforce. The closing of the regulatory 'loophole' (discussed in Chapter 1), which will prevent the sale of all e-cigarettes in retail settings, would 'see big impacts in the community on the ground'.¹⁵¹
- 2.32 The RACGP NSW and ACT informed the Committee it has over 40 000 members, including some GPs with an interest in nicotine cessation, and who are experienced and comfortable with prescribing vaping products. GPs regularly learn about nicotine cessation through RACGP-run training and have access to evidence-based guidelines. The RACGP believes most GPs are likely to understand the federal reforms, and processes for prescribing nicotine vaping products.¹⁵²
- 2.33 During the inquiry, the Committee also heard concerns that the Australian Government's vaping reforms could result in high demand for prescriptions from GPs. For example, Mr Liam Croasdale, Operations Director, OZE liquids, said in his submission:

The pressure and burden on the GP network that we will witness from trying to force [a large] number of prescriptions through an already stretched healthcare system is not feasible and will push it to breaking point. It is also worth noting that prescriptions need to have a follow up in order to process repeats and show that the

¹⁴⁷ [Submission 45](#), p 5.

¹⁴⁸ [Submission 12](#), The Royal Australian College of General Practitioners (RACGP) NSW and ACT, p 1.

¹⁴⁹ [Submission 7](#), Dr Colin Mendelsohn, p 13.

¹⁵⁰ Dr Colin Mendelsohn, Founding Chairman of the Australian Tobacco Harm Reduction Association, [Transcript of evidence](#), 12 April 2024, p 16.

¹⁵¹ Ms Laura Hunter, Co-Chief Executive Officer, Australian Council on Smoking and Health, [Transcript of evidence](#), 5 April 2024, pp 43-44.

¹⁵² [Answers to supplementary questions](#), Royal Australian College of General Practitioners (RACGP) NSW and ACT, 24 April 2024, p 1.

person is adhering to the nicotine levels or needs an increase or decrease through a weaning schedule.¹⁵³

- 2.34 Ms Hunter said that similar concerns were raised when codeine was reclassified to prescription-only; that is, that doctors would be inundated, and the model would not work. The TGA indicated that this scenario did not eventuate.¹⁵⁴
- 2.35 Ms Hunter also pointed out that eight per cent of the population smokes and 70 to 80 per cent of successful quit attempts are achieved 'cold turkey'. Given the very small fraction of people expected to require a therapeutic vaping device, GPs are saying that 'this isn't going to overwhelm them'.¹⁵⁵
- 2.36 In its submission, the University of Wollongong's School of Chemistry and Molecular Bioscience identified issues in relation to the TGA's proposed flavour restrictions. Firstly, there is no specific flavouring molecule, or set of molecules, that constitute tobacco flavour. The tobacco-flavoured vaping products the University has tested contain similar flavouring molecules to fruit-flavoured e-cigarettes. Secondly, there are already concentrates on the market that could render flavour restrictions irrelevant and introduce an increased 'pathway of harm' for the user.¹⁵⁶
- 2.37 The TGA advised the Committee that it does not intend to define the compounds that make up a particular flavour. Instead, the risks linked to certain compounds in flavours are being addressed by defining prohibited ingredients.¹⁵⁷
- 2.38 Professor Matthew Peters, Thoracic Society of Australia and New Zealand, told the Committee, that the TGA exercises 'reasonable guidance' by limiting flavours, lowering nicotine concentrations and banning verifiably harmful chemicals, such as cinnamaldehyde, in therapeutic vapes.¹⁵⁸ However, none of the ingredients are 'proven safe for inhalation' and, as such, e-cigarettes should only be used for a short-term period to achieve smoking cessation.¹⁵⁹
- 2.39 Professor Lee suggested that easier access to therapeutic vaping products through pharmacies was 'worth looking at'. Certain nicotine replacement therapies (NRTs), such as gum and patches, were previously prescription-only before being re-classified as pharmacy-only, where there was still some supervision from a health professional, but the products were more easily accessible.¹⁶⁰

¹⁵³ [Submission 23](#), Mr Liam Croasdale, pp 6-7.

¹⁵⁴ Ms Hunter, [Evidence](#), 5 April 2024, p 44.

¹⁵⁵ Ms Hunter, [Evidence](#), 5 April 2024, p 44; [Answers to supplementary questions](#), Emeritus Professor Simon Chapman, 22 April 2024, p 2.

¹⁵⁶ [Submission 39](#), University of Wollongong, pp 4-5.

¹⁵⁷ [Answers to supplementary questions](#), Therapeutic Goods Administration, 30 May 2024, p 2.

¹⁵⁸ Professor Matthew Peters, Thoracic Physician, Member and Past President, Thoracic Society of Australia and New Zealand, [Transcript of evidence](#), 5 April, p 16-17.

¹⁵⁹ Professor Peters, [Evidence](#), 5 April, pp 17.

¹⁶⁰ Professor Lee, [Evidence](#), 12 April 2024, p 21.

How NSW can work with the Australian Government to implement reforms

Summary

The NSW Government must continue to work closely with the Australian Government to implement reforms to the regulation of vaping products. State tobacco legislation should be reviewed to ensure alignment with the new federal legislation.

The Australian Government's reforms reflect high levels of community concern about vaping, but may not be well understood.

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.

Recommendation 9

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

Recommendation 10

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

- 2.40 The Australian Government's vaping reforms will allow for a more enhanced national regulatory framework that will help to reduce the prevalence of smoking and vaping and prevent uptake among people who have never smoked.
- 2.41 The Committee recommends that the NSW Government support the Australian Government's vaping reforms and continue to work closely with Commonwealth agencies to align enforcement and compliance efforts.
- 2.42 The Committee recommends that NSW Health review and adapt its communications as needed to improve public awareness of changes to the regulation of vaping products.
- 2.43 The TGA advised that it engages with all states and territories, including the NSW Ministry of Health, through policy and operational forums such as the National E-Cigarette Working Group, the National Vaping Working Group and the Vaping Compliance Enforcement Forum.¹⁶¹
- 2.44 The NSW Health Secretary co-chairs the multi-agency National Vaping Working Group, which comprises representatives from Commonwealth, state and territory health and police departments, and the Australian Border Force.¹⁶²

¹⁶¹ [Answers to supplementary questions](#), Therapeutic Goods Administration (TGA), 30 May 2024, p 2.

¹⁶² [Answers to supplementary questions](#), NSW Health, 12 April 2024, p 4.

- 2.45 Ms Gemma Broderick, A/Executive Director Legal and Regulatory Services General Counsel, NSW Health, said that collaboration between the Commonwealth and the states and territories is necessary to determine enforcement responsibilities. Complementary NSW legislation is being considered to assist with enforcement.¹⁶³
- 2.46 The Committee heard that the introduction of new Commonwealth legislation may require a 'tidy up' of certain legislation in NSW, as well as consideration of how to implement the reforms.¹⁶⁴
- 2.47 The Committee recommends that the NSW Government review all state tobacco legislation to ensure alignment. The Chief Health Officer informed the Committee that NSW Health is examining opportunities to streamline NSW tobacco legislation to facilitate compliance with the federal legislation.¹⁶⁵
- 2.48 NSW Health communicates with tobacco and e-cigarette retailers and industry associations to provide guidance and information about changes to tobacco legislation, such as the review of the *Public Health (Tobacco) Regulation* in 2022.¹⁶⁶ The Committee notes that since 2022, the Chief Health Officer has written to NSW retailers about e-cigarettes on the following occasions:
- June 2022, July 2023 and August 2023 – with regard to illegal sales of nicotine e-cigarettes
 - February 2024 – with regard to implementation of the national e-cigarette importation ban
 - February 2024 – to clarify that the retail sale of nicotine pouches (an emerging product) is illegal.¹⁶⁷
- 2.49 The Committee heard that while the Australian Government's reforms respond to high levels of community concern about vaping, they are 'not yet well understood'.¹⁶⁸
- 2.50 The widespread availability of vaping products in retail stores has 'led to an understandable conclusion for most people that they must therefore be legal'. ACOSH attributed this to the legislative loophole that has allowed the sale of non-nicotine vapes online and in retail stores, along with misleading industry commentary and lobbying. However, ACOSH stated that public support for the reforms will increase as they are implemented and clarified.¹⁶⁹

¹⁶³ Ms Gemma Broderick, A/Executive Director Legal and Regulatory Services General Counsel, NSW Health, [Transcript of evidence](#), 12 April, p 46.

¹⁶⁴ Dr Kerry Chant, Chief Health Officer and Deputy Secretary Population and Public Health, [Transcript of evidence](#), 12 April 2024, p 44; Ms Broderick, [Evidence](#), 12 April 2024, p 44.

¹⁶⁵ Dr Chant, [Evidence](#), 12 April 2024, p 44.

¹⁶⁶ [Answers to questions on notice](#), NSW Health, 30 April 2024, p 1.

¹⁶⁷ [Answers to questions on notice](#), NSW Health, 30 April 2024, p 1.

¹⁶⁸ [Answers to supplementary questions](#), Australian Council on Smoking and Health, 29 April 2024, p 1.

¹⁶⁹ [Answers to supplementary questions](#), Australian Council on Smoking and Health, 29 April 2024, p 1.

- 2.51 The Alcohol and Drug Foundation said that the vaping reforms are not well understood by young people. As stated earlier, young people want information that is engaging and provided in the right contexts.¹⁷⁰

¹⁷⁰ [Answers to supplementary questions](#), Alcohol and Drug Foundation, 16 April 2024 , p 1.

Chapter Three – Reduce vaping through school-based learning and public health campaigns

Vaping and schools

Summary

Vaping among students is imposing a considerable burden on school communities. Stakeholders would prefer that schools adopt health-focused rather than disciplinary responses to this issue. Peer-led learning initiatives are an effective way to address youth vaping.

School-based learning about vaping

Finding 8

School communities have access to a range of resources that support students' understanding of the health impacts of vaping, including those developed by NSW Health and other external organisations.

- 3.1 The Committee heard about a range of school-based resources that are available to school communities to reduce vaping among young people. These resources have been designed to dispel myths about e-cigarettes, inform young people about the health risks associated with vaping, facilitate conversations about drugs and encourage young people to make healthy choices. Tailored resources are available for students, teachers, parents and carers, as well as First Nations young people.
- 3.2 'Do you know what you're vaping?' is a campaign developed by NSW Health to inform young people about the harmful ingredients that can be found in e-cigarettes. Alongside the campaign is a toolkit with evidence-based resources, including factsheets, animations, posters and social media assets. These resources contain information on topics including nicotine addiction and the effects of vaping on brain development.¹⁷¹
- 3.3 The NSW Department of Education recently updated the Personal Development, Health and Physical Education (PDHPE) curriculum with material on vaping for students in years 7 to 10. The new material encourages students to examine the influences that shape decisions around vaping, including media and social media marketing, and to build strategies to manage peer pressure. Cessation messages are also included in this material.¹⁷²

¹⁷¹ NSW Health, [Vaping toolkit](#), viewed 7 May 2024; Professor O'Brien, [Evidence](#), 12 April 2024, p 42.

¹⁷² Mr Martin Graham, Deputy Secretary Teaching, Learning and Student Wellbeing, NSW Department of Education, [Transcript of evidence](#), 12 April 2024, p 28; Ms Megan Kelly, Executive Director Curriculum and Reform, NSW

- 3.4 The Department has developed resources for teachers, parents and carers, including:
- online modules to assist teachers with delivering lessons on e-cigarettes and supporting students who are vaping to access appropriate health services¹⁷³
 - information for school newsletters to support parents and carers in having conversations with their children about vaping
 - webinars on vaping (coordinated with the Federation of Parents and Citizens Associations of NSW)¹⁷⁴
- 3.5 Inquiry participants also told the Committee about a number of non-government providers that offer school-based resources on vaping. The Committee notes that teachers and school leaders are ultimately responsible for making decisions about the kinds of resources and supports that their students need. These decisions may be shaped by a range of factors, including community context and existing available resources.¹⁷⁵
- 3.6 Life Education NSW is a non-government health education provider that partners with primary and secondary schools to deliver lessons on a range of health topics, including vaping. Lessons are delivered by trained educators and are accompanied by pre-lesson and post-lesson resources.¹⁷⁶
- 3.7 Life Education modules for years 5 and 6 students that address vaping include 'On the Case', 'Decisions' and 'Take a Breath'. Each module covers different learning areas, but all are designed to help students develop critical thinking skills so that they are better able to make healthy decisions in relation to vaping.¹⁷⁷ 'Reality Now' is a program for secondary students that examines the realities of nicotine use, as well as NSW laws, policies and regulations that relate to vaping.¹⁷⁸
- 3.8 Using insights from a social media data analysis, the Alcohol and Drug Foundation (ADF) developed a set of resources to encourage conversations between parents and children about vaping. Recently, the ADF launched 'Talk About It', a guide to help parents have conversations with their children about substance use.¹⁷⁹
- 3.9 The Committee heard about several other learning resources that are available to school communities to address vaping, including:

Department of Education, [Transcript of evidence](#), 12 April 2024, p 29; [Submission 27](#), p 13; [Answers to supplementary questions](#), NSW Department of Education, 29 April 2024, p 1.

¹⁷³ Ms Kelly, [Evidence](#), 12 April 2024, p 29; Mr Graham, [Evidence](#), 12 April 2024, p 29.

¹⁷⁴ Mr Graham, [Evidence](#), 12 April 2024, pp 28, 33.

¹⁷⁵ [Answers to supplementary questions](#), NSW Department of Education, 26 April 2024, p 1.

¹⁷⁶ [Submission 31](#), pp 1, 3.

¹⁷⁷ [Submission 31](#), pp 3-4.

¹⁷⁸ [Answers to supplementary questions](#), Life Education NSW, 30 April 2024, p 4.

¹⁷⁹ [Submission 22](#), p 8.

- 'Unveil what you inhale' – factsheets, videos and animations for young people, parents, educators, and First Nations young people, developed by the Lung Foundation¹⁸⁰
- Positive Choices – an Australian Government-funded portal with resources on drug and alcohol prevention, including a webpage dedicated to Aboriginal and Torres Strait Islander resources¹⁸¹
- Blurred Minds – a curriculum-aligned program using games, videos, quizzes and in-class activities to educate students about e-cigarettes¹⁸²
- KidsQuit – a module developed by the Sydney Children's Hospital Network that includes information on e-cigarettes and having conversations about vaping cessation with young people¹⁸³
- Unpacking Vaping – an online course developed by the Western Sydney Local Health District's Prevention Education Research Unit to improve students' understanding of vaping.¹⁸⁴

3.10 In November 2023 the NSW Government hosted a Vaping Roundtable, providing an opportunity for students, teachers, principals and health experts to share their views about vaping and its effect on young people. Several actions that emerged from the roundtable focused on developing additional resources to educate and better support school communities to manage vaping in schools. The Committee notes that this work is currently underway.¹⁸⁵

Views on punitive disciplinary measures to address youth vaping

3.11 Vaping among young people is a considerable burden on school communities.¹⁸⁶ Insights from the Generation Vape study show that vaping is disrupting learning and diverting educational resources.¹⁸⁷ According to the study, 91 per cent of teachers in NSW are concerned about students vaping and 42 per cent reported confiscating two or more vaping devices per week in the preceding six months.¹⁸⁸ Teachers reported feeling obliged to police students and that disciplining students for vaping reduced teaching time.¹⁸⁹ Four out of five parents regarded preventing their child vaping as a high priority.¹⁹⁰

¹⁸⁰ [Answers to supplementary questions](#), Lung Foundation Australia, 22 April 2024, p 2; Lung Foundation Australia, [E-cigarettes and vaping](#), viewed 14 June 2024; [Submission 24](#), p 4.

¹⁸¹ Professor Maree Teeson AC, Director, The Matilda Centre, [Transcript of evidence](#), 5 April 2024, p 25.

¹⁸² [Submission 40](#), p 7.

¹⁸³ [Answers to supplementary questions](#), NSW Department of Education, 29 June 2024, p 1.

¹⁸⁴ [Submission 40](#), pp 3, 6-7.

¹⁸⁵ [Answers to questions on notice](#), NSW Department of Education, 26 April 2024, p 2; NSW Government, [Community information about drug education](#), viewed 14 June 2024.

¹⁸⁶ [Submission 24](#), Lung Foundation Australia, pp 2, 14-15.

¹⁸⁷ The University of Sydney, [Vaping and behaviour in schools: what does the research tell us?](#), 2 May 2023, viewed 19 June 2024.

¹⁸⁸ Generation Vape, Cancer Council, [Findings summary: NSW](#), viewed 19 June 2024.

¹⁸⁹ The University of Sydney, [Vaping and behaviour in schools: what does the research tell us?](#), 2 May 2023, viewed 19 June 2024.

¹⁹⁰ Generation Vape, Cancer Council, [Findings summary: NSW](#), viewed 19 June 2024.

- 3.12 Some schools have adopted punitive disciplinary measures to address vaping. These include suspensions, installing vape detectors and restricting access to bathrooms.¹⁹¹
- 3.13 Some inquiry participants opposed the use such measures, citing a lack of evidence of their effectiveness and a range of potential unintended consequences.¹⁹² Participants expressed particularly strong opposition to the installation of vape detectors in schools.¹⁹³
- 3.14 In 2023, the NSW Department of Education placed a tender to secure 40 000 vape detectors for schools in an effort to curtail vaping among students.¹⁹⁴ Following widespread opposition to the strategy, the use of vape detectors is now only being considered in schools where there is a specific need.¹⁹⁵
- 3.15 The Committee heard that installing detectors in school bathrooms is 'not a useful approach to prevent young people from taking up vaping or to prevent them from vaping on school grounds'.¹⁹⁶ According to a 2023 report by the Advocate for Children and Young People (ACYP), when asked if detectors in bathrooms would reduce vaping at school, the majority of young people said that students can 'just find somewhere else'.¹⁹⁷
- 3.16 Cancer Council NSW submitted that schools that have already installed vape detectors report that they do not deter vaping among students.¹⁹⁸
- 3.17 Mr Martin Graham, Deputy Secretary Teaching, Learning and Student Wellbeing, NSW Department of Education, told the Committee that vape detectors were strongly discouraged by most participants at the Vaping Roundtable, as they give schools 'a false sense of security'. There is also a risk that they will be tampered with, or that students will attempt to evade the detectors by holding the vapour in their lungs.¹⁹⁹
- 3.18 The ADF cautioned against using disciplinary measures on the basis that they reinforce the stigma around vaping and discourage students from seeking support to quit. Disciplinary measures risk exacerbating e-cigarette use by removing 'protective factors' – like education, social connection and peer support – that school attendance provides.²⁰⁰

¹⁹¹ [Submission 24](#), p 14; [Submission 45](#), p 3.

¹⁹² Associate Professor Stockings, [Evidence](#), 5 April 2024, p 19; Ms Robinson, [Evidence](#), 5 April 2024, p 38; Ms Munro, [Evidence](#), 5 April 2024, p 46; [Answers to supplementary questions](#), Alcohol and Drug Foundation, 16 April 2024, p 2.

¹⁹³ [Submission 22](#), p 7; [Submission 24](#), p 2; [Submission 27](#), p 13; Mr Graham, [Evidence](#), 12 April 2024, p 28; Ms Robinson, [Evidence](#), 5 April 2024, p 38.

¹⁹⁴ [Submission 24](#), p 14.

¹⁹⁵ Mr Graham, [Evidence](#), 12 April 2024, p 33.

¹⁹⁶ [Submission 58](#), Office of the Advocate for Children and Young People, p 2.

¹⁹⁷ Office of the Advocate for Children and Young People, [Young people's perspectives on vaping in 2023](#), 2023, viewed 31 May 2024, p 30.

¹⁹⁸ [Submission 27](#), p 13.

¹⁹⁹ Mr Graham, [Evidence](#), 12 April 2024, pp 28, 33.

²⁰⁰ [Answers to supplementary questions](#), Alcohol and Drug Foundation, 16 April 2024, p 2.

- 3.19 Ms Zoë Robinson, Advocate for Children and Young People, said that disciplinary measures discourage young people from having open conversations about vaping and can fail to address the underlying causes of vaping.²⁰¹
- 3.20 The Committee heard that young people have been led to believe that vaping is harmless, and some are not aware that they can develop an addiction.²⁰² The widespread availability of e-cigarettes reinforces the belief that vaping is safe.²⁰³ However, when young people have the right information, they tend to make the right decisions.²⁰⁴

Health-focused responses to vaping

Finding 9

Many stakeholders would prefer to see schools adopt a health-focused response, rather than punitive disciplinary approaches to vaping.

- 3.21 During the inquiry, participants advocated for a health-focused response to vaping, rather than a disciplinary response.²⁰⁵ Health-focused responses support students who are addicted to nicotine by ensuring they are directed to appropriate support.²⁰⁶ The Committee heard that there are a variety of ways to improve and deliver health-based support for young people at school.
- 3.22 Inquiry participants discussed the importance of integrating vaping education into existing curricula to ensure consistency across NSW schools and minimise the burden on teachers.²⁰⁷
- 3.23 The Australian Medical Association (AMA) (NSW) argued that vaping education should begin in primary school and continue throughout secondary school. It referred to reports that children as young as six are being hospitalised for vaping-related health problems.²⁰⁸ The Committee notes that the NSW Department of Education has started work to begin delivering vaping education to year 5 and 6 students.²⁰⁹
- 3.24 Ms Terese Hooper, Chief Operating Officer, Life Education NSW, said that vaping education should not merely focus on teaching students that vaping is 'bad'. It should also provide students with a deeper understanding of the health risks associated with vaping and the skills to advocate for their health and wellbeing.²¹⁰

²⁰¹ Ms Robinson, [Evidence](#), 5 April 2024, p 38.

²⁰² Mr Jonathon Peatfield, CEO, Life Education NSW, [Transcript of evidence](#), 5 April 2024, 18; [Submission 24](#), p 2.

²⁰³ Associate Professor Maddox, [Evidence](#), 12 April 2024, p 25.

²⁰⁴ Mr Peatfield, [Evidence](#), 5 April 2024, pp 18, 26; Professor Lee, [Evidence](#), 12 April 2024, p 19.

²⁰⁵ Associate Professor Stockings, [Evidence](#), 5 April 2024, p 19; Mr Graham, [Evidence](#), 12 April 2024, p 29; Mr Peatfield, [Evidence](#), 5 April 2024, p 26.

²⁰⁶ Mr Peatfield, [Evidence](#), 5 April 2024, pp 18, 26; Mr Graham, [Evidence](#), 12 April 2024, p 29.

²⁰⁷ [Submission 27](#), p 12; [Submission 35](#), National Centre for Aboriginal and Torres Strait Islander Wellbeing Research, p 7.

²⁰⁸ [Submission 50](#), p 2.

²⁰⁹ Ms Kelly, [Evidence](#), 12 April 2024, p 34.

²¹⁰ Ms Terese Hooper, COO, Life Education NSW, [Transcript of evidence](#), 5 April 2024, p 18

- 3.25 Responses to a Youth Action survey revealed that young people want education that is delivered with empathy. They want it to show an understanding of their life experiences, including mental health struggles, peer pressure and addiction. Education should provide factual and accessible information about the risks of vaping, include information on addiction support and be co-designed with young people (discussed further below).²¹¹
- 3.26 The Matilda Centre observed that there are a limited number of rigorously evaluated vaping education programs. Randomised controlled trials represent the most reliable method for determining program effectiveness.²¹² The Matilda Centre's OurFutures Vaping Prevention Program is discussed in the case study below.

Case study: OurFutures Vaping Prevention Program

The OurFutures Vaping Prevention Program, developed by the Matilda Centre and funded by the Australian Government Medical Research Future Fund, is a school-based eHealth program designed to prevent uptake of e-cigarettes among Australian adolescents. It is the first randomised controlled trial of a school-based e-cigarette prevention program in Australia.

The program is undergoing evaluation in 40 schools across NSW, Queensland and Western Australia and includes over 5000 students in years 7 and 8. There are four lessons in the program that include an illustrated cartoon story, activities such as class discussion prompts and worksheets, and teacher resources.²¹³

The program uses the 'OurFutures model'. This is a model of drug and alcohol prevention that has proven to be an effective method for reducing drug and alcohol consumption, harms from substance use and intentions to use substances.²¹⁴ The model has been subject to eight randomised controlled trials.

The program was co-designed with education experts and students, including students from disadvantaged communities. This process allows for the program to be tailored to the needs and interests of First Nations young people and culturally and linguistically diverse (CALD) communities.²¹⁵

A key priority in developing the program was to ensure that lessons do not impose an unnecessary burden on teachers. As a result, the program is designed to align with PDHPE curricula and minimal training is required to deliver program lessons.²¹⁶

In a program evaluation 85 per cent of students said that the program was either good or very good, and 81 per cent believed that the information and

²¹¹ [Submission 57](#), pp 7-8, 16-17.

²¹² [Submission 40](#), p 3.

²¹³ OurFutures, [Vaping Education for High School Students](#), viewed 17 June 2024.

²¹⁴ [Answers to supplementary questions](#), The Matilda Centre, 29 April 2024, pp 1-2; OurFutures, [Vaping Prevention Program Clinical Trial](#), viewed 17 June 2024.

²¹⁵ Associate Professor Stockings, [Evidence](#), 5 April 2024, pp 21-22.

²¹⁶ Professor Teeson, [Evidence](#), 5 April 2024, p 22; Associate Professor Stockings, [Evidence](#), 5 April 2024, p 22.

skills that they learned would be useful in the future. Teachers also rated the program highly, with 89 per cent describing the program as either good or very good and 89 per cent stating that the program was easy to implement.²¹⁷

- 3.27 The ACYP recommended that the NSW Government provide material and training to teachers, school counsellors and student support officers on how to support students that are vaping. Moreover, the ACYP recommended that the NSW Government support student wellbeing nurses in communicating with students about vaping cessation and NRT.²¹⁸
- 3.28 The ACYP's vaping report stated that external support services should be made available to school students so that they can speak openly about vaping without being concerned that services will report back to schools.²¹⁹
- 3.29 The Law Society cited the ACYP's report stating that young people may require tailored support depending on factors such as age, family, social circumstances and whether they are currently vaping or not.²²⁰
- 3.30 The Committee acknowledges the significant burden that vaping is imposing on schools across NSW and the valuable work that schools are doing to tackle the issue. We recognise, however, that schools are limited in their ability to combat vaping among young people without significant regulatory and legislative change to reduce the availability of e-cigarettes.

Peer-led learning

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.

- 3.31 The Committee recommends that the NSW Government continue to seek opportunities to design and deliver peer-led learning initiatives in schools. Peer-to-peer education can be an effective way to promote healthy behaviours among young people.
- 3.32 Youth Action highlighted that young people feel alienated by messaging that is judgemental and delivered in a manner that engenders shame.²²¹ Young people who are current or former vapers can speak to their peers with empathy and without judgement.²²²
- 3.33 Ms Munro said that peer-led learning initiatives are particularly useful when a young person who is vaping begins to recognise that they might need support. At

²¹⁷ [Answers to supplementary questions](#), The Matilda Centre, 29 April 2024, p 1.

²¹⁸ [Submission 58](#), p 2.

²¹⁹ Office of the Advocate for Children and Young People, [Young people's perspectives on vaping in 2023](#), 2023, viewed 31 May 2024, p 30.

²²⁰ [Submission 55](#), The Law Society of NSW, p 3.

²²¹ [Submission 57](#), p 13.

²²² [Submission 57](#), p 22.

this point, a trusted peer can play an important role in encouraging a young person to seek professional treatment.²²³

- 3.34 Mr Graham said that peer-led education programs are a promising strategy to address vaping among young people. He told the Committee that the NSW Department of Education is developing a peer coaching program with Western Sydney Health that will provide year 10 students with the opportunity to teach year 7 students about vaping.²²⁴
- 3.35 Dr Bonning said that peer-led learning initiatives should be delivered by 'near peers'; that is, young people who are not much older than those they are teaching.²²⁵

Examples of public health campaigns and their impact

Summary

Public health campaigns play a critical role in tobacco and vaping control and are most effective when they are co-designed with target audiences and sustained over time. NSW Health should work with community organisations to ensure the information needs of vulnerable communities are met.

Finding 10

Public health campaigns play a critical part in tobacco and vaping control. Campaigns should be designed in partnership with target audiences and sustained over the long term to maximise effectiveness.

- 3.36 Public health campaigns are critical to reducing the uptake and continuing use of e-cigarettes. The most effective campaigns are co-designed with their target audiences and sustained over an extended period of time. Public health campaigns help to increase knowledge and awareness about a particular issue, improve social norms and encourage positive behaviour change.²²⁶
- 3.37 The Committee heard about a range of public health campaigns, including 'Do you know what you're vaping?' and 'Every vape is a hit to your health', developed by NSW Health, 'UNCLOUD' by Minderoo Foundation and 'Unveil what you inhale' by the Lung Foundation. These campaigns encourage their audiences to consider the health harms associated with vaping.²²⁷
- 3.38 The Australian Government announced 'Give up for good' on 10 June 2024, a campaign to raise awareness about the risks of smoking and vaping, and encourage Australians to access new support services. The campaign includes tailored advertising that will target different audiences, including young people

²²³ Ms Munro, [Evidence](#), 5 April 2024, p 48.

²²⁴ Mr Graham, [Evidence](#), 12 April 2024, p 32.

²²⁵ Dr Bonning, [Evidence](#), 5 April 2024, p 30.

²²⁶ [Answers to supplementary questions](#), Cancer Council NSW, 22 April 2024, p 2.

²²⁷ Professor O'Brien, [Evidence](#), 12 April 2024, p 42; [Answers to supplementary questions](#), Australian Council on Smoking and Health, 29 April 2024, p 2; [Answers to supplementary questions](#), Lung Foundation, 22 April 2024, pp 1-2.

who vape, adults who vape, adults who smoke and First Nations adults who smoke.²²⁸

- 3.39 The case study below illustrates the potential for campaigns to change attitudes about vaping and contribute to positive behavioural change.

Case study: NSW Health vaping campaigns

NSW Health has responded to the rise of vaping among young people with campaigns that highlight the health harms of vaping and connect young people to support. NSW Health campaigns have been distributed through a range of mass media channels, such as social media, online video, and cinema and outdoor advertising.²²⁹

'Do you know what you're vaping?' (Phase 1)

This campaign dispelled myths about vaping and promoted positive behavioural change by discouraging use of e-cigarettes. The campaign targeted young people aged 14-17 and ran from 15 March 2022 until 13 May 2022.²³⁰

According to a post-campaign evaluation, NSW Health's webpage on vaping received almost 120 000 page views during the reporting period. 69 per cent of young people aged 14 to 17 that viewed the campaign reported taking a positive action in relation to vaping.²³¹

'Do you know what you're vaping?' (Phase 2)

This campaign increased awareness about the health risks of vaping and the harmful ingredients that can be found in vaping products. The campaign targeted young people aged 14-17 and ran from 2022 to 2023.²³²

In a post-campaign survey of 960 young people aged 14-17, most respondents found the campaign easy to understand, informative, believable and interesting. Among those who saw the campaign, 71 per cent said that they intended to stop vaping or say 'no' to vaping after seeing the campaign.²³³

'Every vape is a hit to your health'

²²⁸ Hon Mark Butler MP (Minister for Health and Aged Care), [New supports to quit vaping and smoking](#), media release, 10 June 2024, viewed 11 June 2024.

²²⁹ Cancer Institute NSW, ['Every vape is a hit to your health' Anti-Vaping Campaign 2023 to 2024](#), viewed 17 June 2024; Cancer Institute NSW, [Do you know what you're vaping?](#), viewed 17 June 2024.

²³⁰ [Submission 27](#), p 12; [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 2.

²³¹ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 2.

²³² Professor O'Brien, [Evidence](#), 12 April 2024, p 42.

²³³ [Answers to questions on notice](#), NSW Health, 30 April 2024, pp 2-3.

'Every vape is a hit to your health' highlights the health risks of vaping, including nicotine addiction, lung damage and breathlessness, and identifies a range of support pathways for young people.²³⁴

The campaign launched on 28 January 2024 and ran until 30 June 2024. Initial campaign evaluation results indicated that the campaign reached its target audience, and that a majority of its audience found the campaign believable, easy to understand and informative. Young people who recognised the campaign were more likely to indicate they were planning to stop vaping within 30 days (40 per cent) compared to those who did not recognise the campaign (23 per cent).²³⁵

Co-design health campaigns with target audiences

- 3.40 Inquiry participants said that public health campaigns around vaping should be co-designed with the audiences that they are seeking to influence, including those with experience using e-cigarettes.²³⁶
- 3.41 The ADF cited a report published by the Behaviour Change Collective in partnership with VicHealth that found different cohorts of young people with unique relationships to vaping require different messaging. For example, some young people will benefit from information about the health risks of vaping, while others will benefit more from hearing about the experiences of their peers.²³⁷
- 3.42 Ms Munro told the Committee that young people want to be involved in the co-design process so that their voices and experiences are reflected in public health campaigns.²³⁸
- 3.43 The Committee acknowledges that several existing public health campaigns have already been informed by young people. The Minderoo Foundation's UNCLOUD and the Lung Foundation's 'Unveil what you inhale' are two campaigns that highlight the benefits of designing public health campaigns collaboratively with the target audience.
- 3.44 UNCLOUD is a campaign that encouraged young people to say 'no' to vaping. In developing the campaign, the Minderoo Foundation invited young people with negative vaping experiences to design personalised 'warnings', which were then translated into posters. The UNCLOUD campaign was distributed on platforms that young people use, including Instagram, TikTok, snapchat and some gaming platforms, and accumulated over 10 million views.²³⁹

²³⁴ Cancer Institute NSW, '[Every vape is a hit to your health' Anti-Vaping Campaign 2023–2024](#)', viewed 12 June 2024; NSW Health, '[Young people at the centre of powerful new vaping campaign](#)', 30 January 2024, viewed 12 June 2024.

²³⁵ [Answers to supplementary questions](#), NSW Health, 30 April 2024, p 1; Cancer Institute NSW, '[Every vape is a hit to your health' Anti-Vaping Campaign 2023–2024](#)', viewed 12 June 2024.

²³⁶ Ms Munro, [Transcript of evidence](#), 5 April 2024, p 48; [Submission 58](#), p 2; [Submission 16](#), p 4.

²³⁷ [Answers to supplementary questions](#), Alcohol and Drug Foundation, 16 April 2024, p 2.

²³⁸ Ms Munro, [Evidence](#), 5 April 2024, p 48.

²³⁹ [Answers to supplementary questions](#), Australian Council on Smoking and Health, 29 April 2024, p 2.

- 3.45 'Unveil what you inhale' is designed to educate young people about the health risks of vaping and was developed through co-design. In an evaluation of the campaign, young people said that the campaign was informative and non-judgemental, and prompted greater consideration of the health harms of vaping.²⁴⁰
- 3.46 Associate Professor Freeman told the Committee that public health campaigns must be sustained over the long term and be responsive to changing conditions. Public health campaigns 'fall down' when they are a 'one-off'. Vaping devices have evolved over the years to the extent that current devices on the market are very different to devices that were available in the past. Campaigns must therefore be as 'nimble and adaptive' as the industry itself.²⁴¹
- 3.47 Likewise, ACOSH told the Committee that effective vaping campaigns will contain a sustained set of messages and address the evolving nature of vaping devices. ACOSH added that campaigns should be informed by the latest research and be subject to rigorous evaluation to ensure they remain relevant.²⁴²

Information needs of vulnerable communities

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.

- 3.48 The Committee recommends that NSW Health work closely with vulnerable communities to ensure they have access to clear information about the health risks of smoking and vaping. Public health campaigns targeted at these communities need to be developed using co-design principles.
- 3.49 Inquiry participants spoke about addressing the information needs of vulnerable communities in public health interventions.
- 3.50 The ADF suggested working with the community services sector, including youth organisations, to identify knowledge gaps around the health risks of vaping and the supports that are available. This includes ensuring the sector is equipped to disseminate information to their communities.²⁴³
- 3.51 Youth Action told the Committee that youth workers need more information and support to manage conversations with young people who do not fully understand the health risks of vaping. Recounting conversations with youth workers, Youth Action said:

...it was clear that some youth workers still felt unequipped to have these discussions as they were not clear on the information themselves. The young people they had spoken to often communicated that they believed vapes to be less dangerous than cigarettes and youth workers wanted more training to be able to

²⁴⁰ [Answers to supplementary questions](#), Lung Foundation, 22 April 2024, pp 1-2.

²⁴¹ Associate Professor Freeman, [Evidence](#), 5 April 2024, p 7.

²⁴² [Answers to supplementary questions](#), Australian Council on Smoking and Health, 29 April 2024, p 2.

²⁴³ [Answers to supplementary questions](#), Alcohol and Drug Foundation, 16 April 2024, p 3.

dispel these kinds of myths, and to provide factual information and referral to youth friendly services, supports and resources.²⁴⁴

- 3.52 headspace National discussed the importance of raising awareness about regulatory changes and providing clinical cessation support, particularly among young people with mental health issues. headspace noted that without adequate forewarning and support, young people who rely on e-cigarettes may resort to using other harmful substances.²⁴⁵
- 3.53 Associate Professor Maddox told the Committee that the widespread availability of e-cigarettes has led some First Nations communities to believe that vaping 'can't be that bad...' He outlined that during interviews and focus groups, participants indicated they have been misled that e-cigarettes will help them to quit smoking, without realising that they risk becoming addicted to vaping.²⁴⁶
- 3.54 Associate Professor Becky Freeman noted that while public health messaging, including campaigns, are important, 'they are not enough to drown out the omnipresent misinformation and marketing'. As a result, campaigns must be coupled with effective legislation, and monitoring and enforcement measures.²⁴⁷
- 3.55 Inquiry participants also spoke about the need for targeted health promotion interventions that are suitable for people from different cultural backgrounds, or high-risk groups, including First Nations and LGBTQ+ communities.²⁴⁸
- 3.56 Associate Professor Maddox said that public health messaging for First Nations communities should be developed in consultation with them to ensure messages are culturally safe and resonate with their audience. He noted that the risk factors for First Nations people are different from other communities, and the messaging must also be different.²⁴⁹
- 3.57 ACON said that public health interventions should 'adequately and sensitively' consider vaping among LGBTQ+ people and people living with HIV.²⁵⁰ Specifically, while identifying the harms of smoking and vaping is important, this focus can create stigma. ACON told the Committee that public health interventions should avoid reinforcing stigma among vulnerable populations that already experience discrimination.²⁵¹

The need for ongoing research

Summary

²⁴⁴ [Submission 57](#), p 32.

²⁴⁵ [Submission 18](#), headspace, p 1.

²⁴⁶ Associate Professor Maddox, [Evidence](#), 12 April 2024, p 25.

²⁴⁷ [Answers to supplementary questions](#), Associate Professor Becky Freeman, 22 April 2024, p 1.

²⁴⁸ Associate Professor Maddox, [Evidence](#), 12 April, p 25; [Submission 46](#), ACON, p 4.

²⁴⁹ Associate Professor Maddox, [Evidence](#), 12 April 2024, p 25.

²⁵⁰ [Submission 46](#), p 1.

²⁵¹ [Submission 46](#), p 4.

Sustained investment in research is needed to address knowledge gaps around vaping and to ensure programs, policies and campaigns are targeted strategically.

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.

- 3.58 Continued NSW Government investment in research will support understanding of patterns in vaping behaviours and help to ensure that programs, policies and campaigns work effectively.
- 3.59 Inquiry participants told the Committee about the importance of sustained investment in research to understand how vaping behaviours are evolving and to maximise the effectiveness of future programs, policies and campaigns.
- 3.60 Despite a significant body of evidence collected through Generation Vape (discussed in the case study below), there are significant knowledge gaps around vaping that should be addressed through ongoing research. Associate Professor Freeman outlined the need for ongoing research into:
- changes in the kinds of vaping devices available
 - changes in access to e-cigarettes following reforms
 - the disconnect between awareness of health harms and actual behaviours
 - how teens with an addiction to vaping are attempting to stop vaping after reforms are introduced, and the support that might be required
 - the effectiveness of campaigns
 - the industry's response to vaping reforms.²⁵²
- 3.61 The Committee heard that there is limited research on the impact of programs and services designed to reduce uptake and ongoing use of e-cigarettes.²⁵³ Cancer Council NSW would like to see the NSW Government invest in major research projects that contribute to an understanding of the impact of policies, programs and services to address vaping.²⁵⁴
- 3.62 Associate Professor Stockings highlighted the need for targeted research on young people with more disadvantaged backgrounds, including those from remote and rural areas, lower socio-economic backgrounds and First Nations people.²⁵⁵

²⁵² [Answers to supplementary questions](#), Associate Professor Becky Freeman, 22 April 2024, pp 6-7.

²⁵³ [Submission 27](#), p 12; [Submission 56](#), p 3.

²⁵⁴ [Submission 27](#), p 12.

²⁵⁵ Associate Professor Stockings, [Evidence](#), 5 April 2024, p 19.

3.63 The Committee heard that there is a lack of research on the prevalence of vaping within CALD communities, and the factors influencing vaping rates among these communities. In its submission, the Lebanese Muslim Association underscored the need for culturally sensitive studies and surveys to understand vaping patterns within CALD communities.²⁵⁶

3.64 The case study below illustrates the importance of ongoing research into vaping in NSW.

Case study: Generation Vape

Generation Vape is a major research project that investigates behaviours, attitudes, knowledge and perceptions associated with vaping. The subjects of the study are young people aged 14-24, parents and carers of young people aged 14-17 and secondary school teachers, principals and administrators.²⁵⁷

Through a combination of qualitative and quantitative research, Generation Vape has provided key insights on the prevalence of vaping among young people, the factors driving vaping among young people and the kinds of products that are being used.²⁵⁸

Generation Vape also evaluated the 'Do you know what you're vaping?' campaign, including measuring the extent to which young people aged 14-17 were aware of the campaign and its capacity to drive positive behavioural change.²⁵⁹

Insights from the study have informed state and national policy decisions, and guided the development of programs, campaigns and learning initiatives designed to prevent uptake and ongoing use of e-cigarettes.²⁶⁰

The study is led by Cancer Council NSW together with the Daffodil Centre and the University of Sydney and funded by the Australian Government Department of Health, Minderoo Foundation, the NSW Ministry of Health and Cancer Institute NSW.²⁶¹

²⁵⁶ [Submission 33](#), Lebanese Muslim Association, p 1.

²⁵⁷ Cancer Council NSW, [Generation Vape Research Project](#), viewed 19 June 2024.

²⁵⁸ The University of Sydney, [Study provides new insights on teen vaping behaviour in Australia](#), viewed 21 June 2024.

²⁵⁹ [Submission 27](#), p 13.

²⁶⁰ [Submission 27](#), p 14.

²⁶¹ Cancer Council NSW, [Generation Vape Research Project](#), viewed 19 June 2024.

Appendix One – Terms of reference

That the Committee 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.

Appendix Two – Conduct of inquiry

The inquiry into e-cigarette regulation and compliance in New South Wales was self-referred on 6 September 2023. The Committee announced the inquiry in a media release on the same day. The terms of reference for the inquiry is at Appendix One.

The Committee invited key stakeholders to make a submission to the inquiry. Submissions closed on 5 November 2023. The Committee received 59 submissions from a range of stakeholders, including research and advocacy organisations, government agencies, academics, health professionals and the public. A list of submissions is at Appendix Three. Submissions are also available on the inquiry [webpage](#).

The Committee held two public hearings at Parliament House on 5 April and 12 April 2024. Representatives of peak bodies, research and advocacy organisations, government agencies, universities and health associations appeared in person and via videoconference. A list of witnesses is at Appendix Four. Transcripts of evidence taken at the hearings are also available on the inquiry [webpage](#).

Appendix Three – Submissions

No.	Author
1	Confidential
2	Mrs Sinilia Radivojevic
3	Confidential
4	Clive Bates
5	Mr Richard Pruen
6	Mr Stuart Porter
7	Dr Colin Mendelsohn
8	Mrs Ceres Kaing
9	Dr Michelle Jongenelis
10	Mr Shixing Li
11	Drug Policy Australia
12	The Royal Australian College of General Practitioners (RACGP) NSW and ACT
13	Mr Anthony Barron
14	Mr Brent Mccarron
15	Mr Aaron Simpson
16	Orygen
17	Mr Joseph Bugeja
18	headspace National
19	Mr Corey Herbert
20	Thoracic Society of Australia and New Zealand
21	Mr Graham Baxter
22	Alcohol and Drug Foundation
23	Mr Liam Croasdale
24	Lung Foundation Australia
25	South Eastern Sydney Local Health District
26	Mr Fabrice Janson
27	Cancer Council NSW
28	Federation of Parents and Citizens Associations of NSW
29	Ms Liesl Tesch
30	Mr Andrew Mark
31	Life Education NSW
32	Australian Association of Convenience Stores (AACS)

No.	Author
33	Lebanese Muslim Association
34	A/Prof Becky Freeman
35	National Centre for Aboriginal and Torres Strait Islander Wellbeing Research
36	Mr Andrew Thompson
37	Healthy Cities Illawarra
38	NSW Poisons Information Centre
39	University of Wollongong
40	The Matilda Centre
41	Imperial Brands Australasia
42	Professor Renee Bittoun
43	Mr Graeme Hutchison
44	Mr Lennard Lloyd
45	360Edge
46	ACON
47	World Vapers' Alliance
48	Super Vape Store
49	Emeritus Professor Simon Chapman
50	Australian Medical Association (NSW)
51	Asthma Australia
52	NSW Small Business Commissioner
53	Minderoo
54	Australian Council on Smoking & Health
55	The Law Society of NSW
56	The Heart Foundation
57	Youth Action
58	Office of the Advocate for Children and Young People
59	Confidential

Appendix Four – Witnesses

5 April 2024

Parliament House, Macquarie Room, Sydney, NSW

Witness	Position and Organisation
Ms Alecia Brooks	Manager of the Tobacco Control Unit at CCNSW and Chair of Cancer Council Australia's Tobacco Issues Committee, Cancer Council NSW
A/Prof Becky Freeman	
Professor Matthew Peters	Thoracic Society of Australia and New Zealand
A/Prof Emily Stockings	Program Lead of 'Smoking, Vaping and Mental Health', The Matilda Centre
Mr Jonathon Peatfield	CEO, Life Education NSW
Ms Terese Hooper	COO, Life Education NSW
Dr Michael Bonning	President, Australian Medical Association (NSW)
Ms Zoe Robinson	Advocate for Children and Young People, Office of the Advocate for Children and Young People
Mr Robert Taylor	Knowledge Manager - Policy and Advocacy, Alcohol and Drug Foundation
Ms Laura Hunter	Co-Chief Executive Officer , Australian Council on Smoking & Health
Ms Kate Munro	CEO, Youth Action
Emeritus Professor Simon Chapman AO	Emeritus Professor in Public Health, University of Sydney
Mr Mark Brooke	CEO, Lung Foundation Australia
Professor Maree Teesson AC	Director, The Matilda Centre

12 April 2024

Parliament House, Macquarie Room, Sydney, NSW

Witness	Position and Organisation
Professor Rowena Ivers	Academic Leader Community Based Health Education & Chair of Phase 3 , The Royal Australian College of General Practitioners (RACGP) NSW and ACT
Dr Celine Kelso	Mass Spectrometry Facility Manager, University of Wollongong, University of Wollongong
Dr Jody Moller (Morgan)	Senior Lecturer School of Chemistry and Molecular Bioscience, University of Wollongong
Dr Colin Mendelsohn	Founding Chairman of the Australian Tobacco Harm Reduction Association

Professor Nicole Lee	Chief Executive Officer, 360Edge
Mr Martin Graham	Deputy Secretary Teaching Learning and Student Wellbeing, NSW Department of Education
Ms Megan Kelly	Executive Director Curriculum and Reform, NSW Department of Education
Assistant Commissioner Scott Cook APM	Commander State Intelligence Command, NSW Police
Dr Kerry Chant	Chief Health Officer and Deputy Secretary Population and Public Health, NSW Health
Ms Gemma Broderick	A/Executive Director Legal and Regulatory Services General Counsel, NSW Health
Professor Tracey O'Brien	Chief Cancer Officer and CEO Cancer Institute NSW, NSW Health
A/Prof Raglan Maddox	Senior Research Fellow Tobacco Free Program, National Centre for Aboriginal and Torres Strait Islander Wellbeing Research

Appendix Five – Extracts from minutes

MINUTES OF MEETING NO 2

2.03 PM, 6 September 2023

Room 1254 and via videoconference

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott, Mr Philip Donato, Mr Paul Toole, and Mr Tri Vo.

Apologies

Nil.

Officers present

Sam Griffith, Patrick Glynn, Janelle Taouk, and Isabella Ciampa.

Agenda

1. Confirmation of minutes

Resolved, on the motion of Mr Donato, seconded by Dr McDermott: That the minutes of the meeting of 29 June 2023 be confirmed.

2. Briefing note on the confidentiality of Committee proceedings and documents

Resolved, on the motion of Mr Donato, seconded by Mr Vo: That the Committee note the briefing note on the confidentiality of Committee proceedings and documents prepared by the secretariat.

3. ***

4. Proposed inquiry into e-cigarette regulation and compliance in New South Wales

Resolved, on the motion of Mr Donato, seconded by Mr Vo:

That the Committee on Law and Safety 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, such as liquid nicotine
 - 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.

Resolved, on the motion of Dr McDermott, seconded by Mr Toole: That the Committee invite relevant NSW and Federal Government agencies to provide a private briefing about NSW's e-cigarette regulatory regime.

Resolved, on the motion of Mr Vo, seconded by Mr Toole: That the Committee call for submissions to be received by Sunday 5 November 2023 and write to the listed stakeholders and other stakeholders requested by Committee members.

Resolved, on the motion of Mr Donato, seconded by Mr Toole: That the Chair issue a media release announcing the inquiry.

5. ***

6. Next meeting

The meeting adjourned at 2.29 pm until a date to be determined in November 2023.

MINUTES OF MEETING NO 3

12.17 PM, 27 September 2023

Room 814 and via videoconference

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato (via videoconference), Mr Paul Toole (via videoconference), and Mr Tri Vo (via videoconference).

Apologies

Nil.

Officers present

Kieran Lewis, Patrick Glynn, Janelle Taouk, and Isabella Ciampa.

Agenda

1. Confirmation of minutes

Resolved, on the motion of Mr Donato, seconded by Dr McDermott: That the minutes of the meeting of 29 June 2023 be confirmed.

2. ***

3. Inquiry into e-cigarette regulation and compliance in NSW

3.1 Publication of submissions

Resolved, on the motion of Mr Toole, seconded by Mr Donato:

- That the Committee accept and publish submissions 2, 4 to 36, 39 to 42, 44 to 48, and 50 to 58 in full with standard redactions, as set out in the publication table.

- That the Committee accept and publish submissions 37 to 38, 43 and 49 as partially confidential, omitting certain hyperlinks, attachments, locations and potential adverse mentions, as set out in the publication table.
- That submissions 1, 3 and 59 remain confidential to the Committee and not be published.

3.2 Future work plan

The Committee considered options for public hearings in 2024.***

Discussion ensued.

3.3 Private briefings

Resolved, on the motion of Mr Donato, seconded by Dr McDermott: That the Committee admit representatives from NSW Health and the Department of Education to the meeting to provide briefings in relation to e-cigarette regulation and compliance.

4. ***

5. Private briefings

The Chair opened the briefings at 12.42 pm and admitted the following officials from the Department of Education:

- Leanne Nixon, A/Deputy Secretary, Learning Improvement
- Megan Kelly, Executive Director, Curriculum & Reform
- Laura Milkins, Executive Director, Inclusion & Wellbeing

The briefing concluded and officials withdrew at 1:30 pm.

The Committee resumed briefings at 1.45 pm and admitted the following officials from NSW Health:

- Kerry Chant, Chief Health Officer and Deputy Secretary, Population and Public Health
- Leanne O'Shannessy, Executive Director, Legal and Regulatory Services and General Counsel
- Tracey O'Brien, Chief Cancer Officer and Chief Executive Officer

The briefing concluded and officials withdrew at 2.46 pm.

6. ***

7. Next meeting

The meeting adjourned at 2.53 pm until a date and time to be determined.

MINUTES OF MEETING NO 4

1.42 PM, 7 February 2024

Room 1254

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato, Mr Paul Toole, and Mr Tri Vo.

Apologies

Nil.

Officers present

Leon Last, Patrick Glynn, Janelle Taouk, and Isabella Ciampa.

Agenda

1. Confirmation of minutes

Resolved, on the motion of Dr McDermott, seconded by Mr Donato: That the minutes of the meeting of 27 November 2024 be confirmed.

2. ***

3. Inquiry into e-cigarette regulation and compliance in NSW

The Committee considered holding public hearings and inviting witnesses.

Resolved, on the motion of Dr McDermott, seconded by Mr Toole:

- That the Committee hold public hearings at Parliament House on 5 and 12 April 2024.
- That the Committee invite the following witnesses to give evidence at public hearings on 5 and 12 April 2024:
 - Cancer Council NSW
 - Associate Professor Becky Freeman
 - Lung Foundation Australia
 - Thoracic Society of Australia and New Zealand
 - The Matilda Centre
 - Life Education NSW
 - Dr Raglan Maddox, National Centre for Aboriginal and Torres Strait Islander Wellbeing Research
 - Emeritus Professor Simon Chapman
 - Advocate for Children and Young People
 - Orygen
 - Alcohol and Drug Foundation
 - Australian Council on Smoking & Health
 - Royal Australian College of General Practitioners (RACGP) NSW and ACT
 - Australian Medical Association (NSW)
 - University of Wollongong
 - Dr Colin Mendelsohn
 - Liam Croasdale, OZE Liquids
 - 360Edge
 - Australian Association of Convenience Stores
 - Therapeutic Goods Administration (TGA)

- NSW Department of Education
- NSW Health
- NSW Police
- That the Chair has the authority to invite additional witness to the hearings in the event that witnesses listed are unable attend.

4. ***

5. **Next meeting**

The meeting adjourned at 1.59 pm until 5 April 2024.

MINUTES OF MEETING NO 6

9.16 AM, 5 April 2024

Macquarie Room and via videoconference

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato, and Mr Tri Vo.

Apologies

Mr Paul Toole.

Officers present

Leon Last, Rohan Tyler, Patrick Glynn, Janelle Taouk, Isabella Ciampa, and Charlie King.

Agenda

1. **Confirmation of minutes**

Resolved, on the motion of Dr McDermott, seconded by Mr Donato: That the minutes of the meeting of 27 November 2024 be confirmed.

2. ***

3. **Inquiry into e-cigarette regulation and compliance in NSW**

Pre-hearing deliberative meeting

3.1 **Media orders for public hearing**

Resolved, on the motion of Mr Vo, seconded by Dr McDermott: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 5 April 2024, in accordance with the Legislative Assembly's resolution of 9 May 2023, and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

3.2 ***

3.3 **Questions on notice and supplementary questions**

Resolved, on the motion of Mr Donato, seconded by Mr Vo:

- That the Committee adopt the following process in relation to supplementary questions and answers to questions taken on notice:
Members to email any proposed supplementary questions for witnesses to the secretariat by 4.00 pm, Tuesday 9 April;
Secretariat to then circulate all proposed supplementary questions to Committee, with members to lodge any objections to the questions by 4.00 pm, Wednesday 10 April.
- That witnesses be requested to return answers to questions taken on notice and any supplementary questions within 7 business days of the date on which questions are forwarded to witnesses.

The deliberative meeting was adjourned at 9.27 am.

3.4 Public hearing

The Chair opened the public hearing at 9:36 am and made a short opening statement.

The following witnesses were admitted:

- Ms Alecia Brooks, Manager of the Tobacco Control Unit and Chair of Cancer Council Australia's Tobacco Issues Committee – Cancer Council NSW, affirmed and examined.
- Associate Professor Becky Freeman – University of Sydney, affirmed and examined.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 10:23 am the following witnesses were admitted by videoconference:

- Mr Mark Brooke, CEO – Lung Foundation Australia, affirmed and examined.
- Professor Matthew Peters, Thoracic Physician, Member & Past President – Thoracic Society of Australia and New Zealand, sworn and examined.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 11:16 am, following witnesses were admitted:

- Professor Maree Teesson AC, Director – The Matilda Centre, affirmed and examined.
- Associate Professor Emily Stockings, Program Lead of 'Smoking, Vaping and Mental Health' – The Matilda Centre, affirmed and examined.
- Mr Jonathon Peatfield, CEO – Life Education NSW, affirmed and examined.
- Ms Terese Hooper, COO – Life Education NSW, affirmed and examined.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 12:08 pm, the following witness was admitted:

- Dr Michael Bonning, President – Australian Medical Association (NSW), affirmed and examined.

The Committee questioned the witness. Evidence concluded and the witness withdrew.

At 12:36 pm, the following witness was admitted:

- Emeritus Professor Simon Chapman – Emeritus Professor in Public Health, University of Sydney, affirmed and examined.

The Committee questioned the witness. Evidence concluded and the witness withdrew.

The hearing adjourned at 1:09 pm.

3.5 ***

3.6 Public hearing (continued)

The Chair resumed the public hearing at 2:32 pm. The following witness was admitted:

- Ms Zoe Robinson, Advocate for Children and Young People – Office of the Advocate for Children and Young People, affirmed and examined.

The Committee questioned the witness. Evidence concluded and the witness withdrew.

At 2:48 pm, following witnesses were admitted by videoconference:

- Ms Laura Hunter, Co-Chief Executive Officer – Australian Council on Smoking & Health, affirmed and examined.
- Mr Robert Taylor, Knowledge Manager, Policy and Advocacy – Alcohol and Drug Foundation, affirmed and examined.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

At 3:17 pm, the following witness was admitted:

- Ms Kate Munro, CEO – Youth Action, affirmed and examined.

The Committee questioned the witness. Evidence concluded and the witness withdrew.

The hearing adjourned at 3:41 pm.

Post-hearing deliberative meeting

The Chair opened the deliberative meeting at 3:42 pm.

3.7 Publication orders

Resolved, on the motion of Dr McDermott, seconded by Mr Donato: That the corrected transcript of public evidence given today be authorised for publication and uploaded to the Committee's webpage.

4. General business

5. Next meeting

The meeting adjourned at 3:43 pm until 9.20 am on 12 April 2024.

MINUTES OF MEETING NO 7

9.20 AM, 12 April 2024

Macquarie Room and via videoconference

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato, and Mr Tri Vo.

Apologies

Mr Paul Toole.

Officers present

Leon Last, Patrick Glynn, Ilana Chaffey, and Isabella Ciampa.

Agenda

1. Confirmation of minutes

Resolved, on the motion of Dr McDermott, seconded by Mr Vo: That the minutes of the meeting of 27 November 2024 be confirmed.

2. ***

3. Inquiry into e-cigarette regulation and compliance in NSW

Pre-hearing deliberative meeting

3.1 Media orders for public hearing

Resolved, on the motion of Mr Vo, seconded by Mr Donato: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 12 April 2024, in accordance with the Legislative Assembly's resolution of 9 May 2023, and the Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

3.2 Questions on notice and supplementary questions

Resolved, on the motion of Dr McDermott, seconded by Mr Vo:

- That the Committee adopt the following process in relation to supplementary questions and answers to questions taken on notice:
Members to email any proposed supplementary questions for witnesses to the

secretariat by 4.00 pm, Tuesday 16 April;
Secretariat to then circulate all proposed supplementary questions to
Committee, with members to lodge any objections to the questions by 4.00 pm,
Wednesday 17 April.

- That witnesses be requested to return answers to questions taken on notice and any supplementary questions within 7 business days of the date on which questions are forwarded to witnesses.

The deliberative meeting was adjourned at 9.24 am.

3.3 Public hearing

Witnesses were admitted. The Chair opened the public hearing at 9.28 am and made a short opening statement.

The following witness was admitted:

- Professor Rowena Ivers, Academic Leader Community Based Health Education & Chair of Phase 3, The Royal Australian College of General Practitioners (RACGP) NSW and ACT, affirmed and examined by videoconference.

Evidence concluded and the witness withdrew.

The following witnesses were admitted:

- Dr Celine Kelso, Mass Spectrometry, Facility Manager, School of Chemistry and Molecular Bioscience, University of Wollongong, affirmed and examined.
- Dr Jody Moller, Senior Lecturer, School of Chemistry and Molecular Bioscience, University of Wollongong, affirmed and examined.

Evidence concluded and the witnesses withdrew.

The following witness was admitted:

- Dr Colin Mendelsohn, Founding Chairman of the Australian Tobacco Harm Reduction Association, affirmed and examined.

Evidence concluded and the witness withdrew.

The following witness was admitted:

- Professor Nicole Lee, CEO, 360Edge, affirmed and examined by videoconference.

Evidence concluded and the witness withdrew.

The following witness was admitted:

- Dr Raglan Maddox National Centre for Aboriginal and Torres Strait Islander Wellbeing Research, affirmed and examined.

Evidence concluded and the witness withdrew.

The following witnesses were admitted:

- Mr Martin Graham, Deputy Secretary Teaching Learning and Student Wellbeing, NSW Department of Education, affirmed and examined.
- Ms Megan Kelly, Executive Director Curriculum and Reform, NSW Department of Education, affirmed and examined.

Evidence concluded and the witness withdrew.

The following witnesses were admitted:

- Assistant Commissioner Scott Cook APM, Commander, State Intelligence Command, NSW Police, sworn and examined.
- Dr Kerry Chant, Chief Health Officer and Deputy Secretary Population and Public Health, NSW Health, affirmed and examined.
- Ms Gemma Broderick, A/Executive Director Legal and Regulatory Services General Counsel, NSW Health, affirmed and examined.
- Professor Tracey O'Brien, Chief Cancer Officer and CEO Cancer Institute NSW, NSW Health, affirmed and examined.

Evidence concluded and the witness withdrew.

The hearing adjourned at 2.55 pm.

4. Deliberative meeting

The Chair resumed the meeting at 2.56 pm.

4.1 Publication of transcript

Resolved on the motion of Dr McDermott, seconded Mr Donato: That the corrected transcripts of public evidence given today be authorised for publication and uploaded on the Committee's website.

5. Next meeting

The meeting adjourned at 2.57 pm until a date and time to be determined.

MINUTES OF MEETING NO 8

1.33 PM, 20 June 2024

Room 1254

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato, Mr Paul Toole, Adjunct Professor Tamara Smith, and Ms Maryanne Stuart.

Apologies

Mr Tri Vo.

Officers present

Kieran Lewis, Patrick Glynn, Karena Li, Caitlin Bailey, and Isabella Ciampa.

Agenda

1. Confirmation of minutes

Resolved, on the motion of Mr Donato, seconded by Dr McDermott: That the minutes of the meeting of 12 April 2024 be confirmed.

2. Change of membership

The Chair noted the resolution of the House of 15 May 2024 and welcomed Adjunct Professor Smith and Ms Stuart to the Committee.

Mr Ron Hoenig moved, That the resolution of the House of 22 June 2023 establishing the Committee on Law and Safety be amended by:

(1) Omitting paragraph (11) and inserting instead:

'(11) The Committee consist of seven members, comprising:

(a) four Government members (one of whom shall be the Chair);

(b) one Opposition member; and

(c) two Crossbench members.'

(2) In paragraph (12), inserting 'Ms Maryanne Stuart' and 'Adjunct Professor Tamara Smith'.

Question put and passed.

3. ***

4. Inquiry into e-cigarette regulation and compliance

4.1 Correspondence

The Committee noted correspondence from Dr Colin Mendelsohn to the Chair, dated 18 April 2024, regarding evidence presented at the public hearing on 5 April 2024. Resolved, on the motion of Adjunct Professor Smith, seconded by Dr McDermott: That the Chair respond to Dr Mendelsohn on behalf of the Committee, noting that the Committee will consider the issues he raises as part of the final report.

4.2 Publication of answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Donato, seconded by Ms Stuart: That the Committee accept the following responses to the questions taken on notice at the public hearings on 5 and 12 April 2024 and responses to the supplementary questions and publish them on its website.

Questions taken on notice

- Youth Action, received 15 April 2024
- Department of Education, 26 April 2024
- NSW Health, received 30 April 2024
- Australian Medical Association, received 2 May 2024
- Lung Foundation Australia, received 2 May 2024
- Matilda Centre, received 6 May 2024

Supplementary questions

- Alcohol and Drug Foundation, received 16 April 2024
- Thoracic Society of Australia and New Zealand, received 19 April 2024
- Emeritus Professor Simon Chapman, received 22 April 2024

- Lung Foundation Australia, received 22 April 2024
- Associate Professor Becky Freeman, received 22 April 2024
- Cancer Council NSW, received 22 April 2024
- Royal Australian College of General Practitioners, received 24 April 2024
- Advocate for Children and Young People, received 26 April 2024
- Australian Medical Association, received 29 April 2024
- Matilda Centre, received 29 April 2024
- Australian Council on Smoking and Health, received 29 April 2024
- Department of Education, received 29 April 2024
- Life Education NSW, received 30 April 2024
- NSW Health, received 30 April 2024
- University of Wollongong, received 1 May 2024
- Therapeutic Goods Administration, received 30 May 2024.

5. ***

6. Next meeting

The meeting adjourned at 2.02 pm until 3 July 2024.

MINUTES OF MEETING NO 9

11.01 AM, 5 July 2024

Room 1254 and via videoconference

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato, Mr Paul Toole, Mr Tri Vo.

Apologies

Adjunct Professor Tamara Smith and Ms Maryanne Stuart.

Officers present

Kieran Lewis, Patrick Glynn, Caitlin Bailey, Isabella Ciampa, and Karena Li.

Agenda

1. Confirmation of minutes

Resolved, on the motion of Dr McDermott, seconded by Mr Toole: That the minutes of the meeting of 20 June 2024 be confirmed.

2. Correspondence

The Committee noted the following correspondence:

- Letter from Chair to Dr Colin Mendelsohn dated 20 June 2024 regarding evidence given at the public hearing held on 5 April 2024.
- ***

3. ***

4. Next meeting

The meeting adjourned at 11.29 pm until 2.00 pm on 5 August 2024.

UNCONFIRMED MINUTES OF MEETING NO 10

2.01 PM, 5 August 2024

Room 1043 and via videoconference

Members present

Mr Edmond Atalla (Chair), Dr Hugh McDermott (Deputy Chair), Mr Philip Donato, Mr Tri Vo, Adjunct Professor Tamara Smith, and Ms Maryanne Stuart.

Apologies

Mr Paul Toole.

Officers present

Kieran Lewis, Patrick Glynn, Ilana Chaffey, Caitlin Bailey, Isabella Ciampa, and Karena Li.

Agenda

1. Resolution permitting recording of video meeting

Resolved, on the motion of Dr McDermott, seconded by Ms Stuart: That the Committee agrees to record the meeting for the purposes of committee staff preparing the minutes and report amendments, and that the recording be deleted when the report is tabled.

2. Confirmation of minutes

Resolved, on the motion of Mr Donato, seconded by Dr McDermott: That the minutes of the meeting of 5 July 2024 be confirmed.

3. ***

4. Inquiry into e-cigarette regulation and compliance

4.1 Consideration of Chair's draft report

Resolved, on the motion of Dr McDermott, seconded by Mr Vo: That the Committee consider the Chair's draft report chapter by chapter.

Resolved, on the motion of Adjunct Professor Smith, seconded by Dr McDermott: That paragraph 1.13 be amended:

- Omit the word "Stakeholders" and insert instead "Inquiry participants".

Resolved, on the motion of Mr Donato, seconded by Mr Vo:

1. That the draft report as amended be the report of the Committee and that it be signed by the Chair and presented to the House.
2. That the Chair and committee staff be permitted to correct stylistic, typographical and grammatical errors.
3. That, once tabled, the report be published on the Committee's webpage.

4.2 Report cover

The Committee considered the proposed report cover image circulated.

Resolved, on the motion of Dr McDermott, seconded by Ms Stuart: That the proposed image be used on the cover of the Committee's tabled report.

5. ***

6. General business

The Committee thanked the secretariat for their work on the report on e-cigarette regulation and compliance.

7. Next meeting

The meeting adjourned at 2.28 pm until a date and time to be determined.