



Government of **Western Australia**
Department of **Health**
Office of the Director General

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The Hon Aaron Stonehouse MLC
Chairman
Select Committee on Personal Choice and Community Safety
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Dear Mr Stonehouse

**SUBMISSION TO THE SELECT COMMITTEE ON PERSONAL CHOICE AND
COMMUNITY SAFETY INQUIRY**

Thank you for your letter dated 7 September 2018 inviting a submission to the Select Committee on Personal Choice and Community Safety (the Select Committee) inquiry.

As members of the committee will be aware, the WA Department of Health (the Department) is committed to protecting and promoting the health of the West Australian community by applying primary preventive health measures, promoting healthy behaviours and environments, and intervening to reduce hazards to health. The Department takes a population-wide approach and develops, coordinates and delivers a wide range of state-wide public health policies and programs.

The Department continues to monitor evidence about electronic cigarettes as it emerges. It is not legal to sell electronic cigarettes containing nicotine anywhere in Australia, and Western Australian legislation also bans the sale of these and other products designed to resemble tobacco products.

The submission attached (Attachment A) is provided for the Committee's consideration.

Yours sincerely

Dr D J Russell-Weisz
DIRECTOR GENERAL

4 October 2018



Submission to the Select Committee on Personal Choice and Community Safety Inquiry

The Department of Health Western Australia welcomes the opportunity to make a submission to the Select Committee on Personal Choice and Community Safety Inquiry. This submission will respond to term of reference 1: *Risk reduction products such as e-cigarettes, e-liquids and heat-not-burn tobacco products, including any impact on the wellbeing, enjoyment and finances of users and non-users.*

The importance of prevention and intervention policies and programs

Protecting and promoting health and preventing illness are some of government's most fundamental responsibilities. The ongoing need for prevention policies and programs has been highlighted by escalating rates of largely preventable chronic diseases, such as cancer, obesity, and type 2 diabetes, which are responsible for one-third of the total burden of disease in Australia.¹ Prevention programs are cost-effective and can reduce demands on the health care system² as well as the personal costs of disability and disease. Major achievements in reducing the consequences of road trauma and drink driving, sudden infant death syndrome (SIDS), cardiovascular disease, and HIV/AIDS in Australia can be attributed to prevention programs to educate and increase awareness.³

The social determinants of health, which are the conditions in which people grow, live, work and age, can result in unfair differences in the health status of Australians. In addition to delivering education and awareness raising programs, governments are responsible for regulatory measures to protect and promote health for all members of the community, regardless of social, economic or cultural background. In 2013, the Senate Community Affairs Committee noted that governments must recognise their responsibilities to ensure all Australians have an equitable opportunity to a full and healthy life, and that it is not sufficient to rely on personal responsibility.⁴

A healthy society requires a balance between personal responsibility and the responsibility of governments, and includes public safety, law enforcement, environmental protection, child protection and injury prevention. Examples of government regulations that have successfully created healthier communities and significantly increased life expectancy are manifold and not limited to: sanitation, food and water safety, seat belt and drink-driving laws, mandatory reporting of child abuse, immunisation, bicycle helmet laws, and pool fencing laws. As a result of government's stewardship and a long history of public health legislation, Australia is one of the healthiest countries in the world.

Australia has been recognised globally as a leader in tobacco control, and has seen dramatic reductions in smoking rates. The decline in tobacco use in Australia has been a result of government regulations to restrict the powers of industry, namely through limiting the marketing and promotion of tobacco products, increasing taxation on tobacco products, introducing smoke-free areas, and investment in public awareness campaigns. Tobacco control in Australia is internationally regarded as a public health success story, given that two out of three long-term smokers are likely to die from their tobacco use and smoking rates currently are lower than ever.⁵

Risk reduction products such as e-cigarettes, e-liquids and heat-not-burn tobacco products, including any impact on the wellbeing, enjoyment and finances of users and non-users.

Efforts to help people stop smoking remain a priority for the state government. The Department of Health recognises that quitting is difficult for some individuals, and that no single approach or intervention will work for everyone.

Multiple statements issued by authoritative national and international health agencies agree that there is currently insufficient evidence to confirm that e-cigarettes assist smokers in quitting.^{6 7 8 9} The Therapeutic Goods Administration's (TGA) regulation process provides a well-established pathway for manufacturers of e-cigarettes to obtain approval to sell their products as smoking cessation products. To date, the TGA has not approved any application to sponsor importation or supply of e-cigarettes as an aid to reducing cigarette use.⁶ However the TGA has approved a range of nicotine replacement therapy (NRT) and other products, which are available from supermarkets and pharmacies.

Sales of e-cigarettes containing nicotine are not legal anywhere in Australia. Nicotine is a dangerous (Schedule 7) poison, even in small quantities, and in Western Australia (WA) it is strictly regulated under the *Medicines and Poisons Act 2014*.

In Western Australia, products that resemble tobacco products, regardless of whether they contain nicotine or not, cannot be sold: it is an offence under the *Tobacco Products Control Act 2006* (Section 106) to sell such products. In a 2016 Supreme Court of WA decision¹⁰, e-cigarettes were found to resemble a tobacco product.

It is not uncommon to hear from promoters of e-cigarettes that the disease-causing element of conventional cigarettes is the tar; and that nicotine itself is not harmful. This is not the case. The 2016 report of the US Surgeon General *E-cigarette Use Among Youth and Young Adults* states that, 'the use of products containing nicotine poses dangers to youth, pregnant women, and fetuses. The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe'.¹¹

Even if originally supplied as a nicotine-free device, they are easily modified to deliver nicotine or a range of illicit substances. The only way of determining whether an electronic cigarette contains nicotine or any other substance is by seizure and laboratory testing.

The claim is sometimes made that e-cigarette vapour is 'just like water vapour'. However, analyses of e-cigarette emissions have shown they include harmful substances such as nicotine, carbonyls, metals, organic volatile compounds and particulate matter.¹² There is a need for further quality research in this area.

While some of the chemicals in e-liquid are also used in food production and are generally considered safe when ingested, this does not constitute reliable evidence that these chemicals are safe when inhaled, as a vapour, directly into the lungs. The limited available evidence shows that the safety of e-liquids and their aerosols cannot be guaranteed for users and other people who are exposed to them. Studies have shown that ENDS vapour can worsen existing illnesses, or increase the risk of developing cardiovascular or respiratory disease.¹³

There is growing evidence concerning the risk that electronic cigarettes may serve to initiate young people into nicotine use and smoking. For example, the 2016 Office of the Surgeon General report, mentioned above, notes that e-cigarettes are now the most commonly used tobacco product among youth in the United States, and that this constitutes a major public health concern.

Heated tobacco products (HTPs) contain nicotine (contained in the tobacco), a highly addictive substance, which in turn makes HTPs addictive. According to the World Health Organisation (WHO) currently, there is no evidence to demonstrate that HTPs are less harmful than conventional tobacco products. Some tobacco industry-funded studies have claimed that there are significant reductions in the formation of and exposure to harmful and potentially harmful constituents relative to standard cigarettes. However, there is currently no evidence to suggest that reduced exposure to these chemicals translates to reduced risk in humans.¹⁴

The Department of Health strongly supports a precautionary approach to the regulation of e-cigarettes and heat-not-burn tobacco products. Until there is clear and demonstrable evidence that these products are not harmful to the health of users and people around them, or alternatively, there is an accurate understanding of the extent of any harm which they may cause, it is not good public health policy to let these products into the market place. In other words, it is not good public health practice to embrace a potential 'solution' to a health issue when that solution may in itself have an unintended harmful impact. The precautionary principle also places the burden of proof on the proponents of a particular activity (in this case, manufacturers/importers of e-cigarettes) to demonstrate the safety and utility of their product.

The Department of Health supports the development of a broad set of guiding principles to inform the regulation of electronic cigarettes and personal vaporisers. It is suggested that these principles should:

- be consistent with the aims of the National Tobacco Strategy and jurisdictional regulatory frameworks;
- encourage a precautionary approach to minimise any potential risks and harm;
- advocate for decisions to be made based on a strong evidence base;
- protect the significant gains that have been made in reducing smoking rates in Australia; and
- provide clarity for the public, retailers and users about the legal obligations related to these products.

References

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