

// **SUBMISSION**



Smokefree Environments and Regulated Products

// Local Government New Zealand's submission on the
Smokefree Environments and Regulated Products (Smoked Tobacco)
Amendment Bill

// AUGUST 2022





Ko Tātou LGNZ.

Local Government New Zealand (**LGNZ**) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. We support and advocate for our 77 member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

LGNZ takes a national, whole of sector, and non-partisan perspective to reform and policy initiatives that relate to and promote community well-being. We support achieving a Smokefree Aotearoa as part of our purpose. We are actively engaged in several other reform programmes that affect local government and are relevant to this Bill, including the Future for Local Government Review.



INTRODUCTION

Thank you for the opportunity to submit on the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Bill (**Bill**).

We commend the Government on the Bill and its proposed introduction of measures to address harm to our communities.

We consider that the steps proposed through the amendments to this legislation will support the Government's recently released Smokefree 2025 Action Plan. They will help address the inequities that are experienced by the most vulnerable populations in our communities, especially Māori, Pacific, youth, people with mental health conditions and those with disabilities.

Our submission seeks further amendments to the Bill to:

1. Further regulate the availability of **vaping products** to better promote nicotine reduction generally; and
2. Further reduce the availability of smoked **tobacco products**.

Role of local government in a smokefree future and promoting good wellbeing outcomes for communities

A key purpose of local government is to promote the current and future wellbeing of communities.¹ Our member councils strongly support efforts to reduce smoking because of the harm that smoking causes in our communities and want to play their part in promoting a smokefree future.

Councils across New Zealand have contributed to this goal through their Long-Term Plans and Annual Plans since the Government adopted the Smokefree 2025 goal in 2011, following its recommendation by the Māori Affairs Select Committee.² They have adopted smokefree environmental policies,³ and have given their residents and ratepayers the opportunity to directly engage in the process of future proofing their own towns, cities and regions from the harm caused by smoking. Over 60 per cent of council members have now responded to the needs of their communities by aligning their smokefree policies to the Smokefree 2025 goal, which will contribute to a healthier future.⁴

Our members' collective efforts are assisting to normalise smokefree and healthier, safer communities. Such policies have been consistently shown to be acceptable to the public.⁵

LGNZ and its members also seek to build stronger relationships between councils, iwi, hapū and other Māori groups to promote community wellbeing. Each of our council members have their own Te Tiriti o Waitangi response in place with iwi and hapū, which enables them to meet the current and future needs of Māori as appropriate to their community. We believe that promoting Smokefree 2025 will specifically help with the promotion of wellbeing for Māori and contribute to more equitable outcomes, given that Māori are disproportionately impacted by the harm caused by smoking.

¹ Local Government Act 2002, s 3.

² https://www.parliament.nz/resource/en-NZ/49DBSCH_SCR4900_1/2fc4d36b0fbdfed73f3b4694e084a5935cf967bb

³ <https://www.smokefree.org.nz/smokefree-resources/maps-of-nz-councils-smokefree-outdoor-policies-and-spaces>

⁴ <https://www.smokefree.org.nz/smokefree-resources/smokefree-outdoor-policies-by-new-zealand-councils>

⁵ <https://blogs.otago.ac.nz/pubhealthexpert/smokefree-outdoor-areas-a-missing-part-of-governments-new-smokefree-2025-proposals/>

The Bill should address the harm caused by vaping in our communities

We recognise that the Bill's purpose is primarily to address the issues associated with smoked tobacco. However, the harmful impacts that vaping is having on communities – and in particular young people – is a major concern for our members. 79 percent of attending members recently passed a remit at our AGM (28 July 2022) that asks LGNZ to request the Government to:

- Restrict the sale of vaping products to R18 specialist vape stores; and
- Develop proximity limits to prevent the clustering of vaping product retailers and protect young people.

This remit responds to councils' concerns with the lack of regulatory control on the locations or numbers of specialist vaping outlets.

Although vaping is often seen as a better alternative to smoking tobacco, vaping products can also cause substantial harm. A recent review⁶ found conclusive clinical evidence that e-cigarettes can cause acute (short-term) lung injury, poisoning, burns, seizures, and that their use leads to addiction. The review also found that e-cigarettes also cause harm, such as throat irritation and nausea, and that the airborne particles can harm third-parties when used in indoor environments.

A key target market for vape retailers is youth; many of whom have never smoked tobacco products. Surveys of young people, such as the Youth19 survey and the Snapshot Year 10 survey conducted by ASH, revealed many adolescents who had never smoked had begun vaping. Further a 2021 report⁷ found that almost all those (98%) who had smoked a traditional cigarette in the last week had also vaped in the last week. However, a significant portion (46.2%) of those who had vaped in the last week had not smoked a cigarette. It can be inferred from this data that vaping is more popular among youth who choose to consume nicotine products.

Our members are hearing increasing concerns from their communities about the **alarming increase of vape retailers**. Reports show over 650 specialist retailers now operate across the country, and that number keeps growing. Many are concentrated, like tobacco retailers, within one kilometre of a school and in areas of high deprivation.

For example, Dargaville has a population of less than 5,000. However, on its main street, Victoria Street, 13 vape retailers operate within a 1-kilometre length: ten General Vape Retailers and three Specialist Vape Retailers. The three licensed Specialist Vape Retailers are

⁶ Banks E, Yazidjoglou A, Brown S, Nguyen M, Martin M, Beckwith K, Daluwatta A, Campbell S, Joshy G. Electronic cigarettes and health outcomes: systematic review of global evidence. Report for the Australian Department of Health. National Centre for Epidemiology and Population Health, Canberra: April 2022.

⁷ Harding et al. "A 2021 Report into Youth Vaping: The ARFNZ/SPANZ vaping in NZ youth survey" Asthma Respiratory Foundation NZ: 2021.

located within 150m of each other. Such high availability of vaping products is inappropriate given both the real and potential harm that vaping can cause, and does not assist to promote community wellbeing.

We recommend that the Bill should be amended to address the points raised in the remit passed at LGNZ's AGM. Specifically, the Bill should:

- Restrict the sale of vaping products to R18 specialist vape stores; and
- Develop proximity limits to prevent the clustering of vaping product retailers and protect young people.

The survey data above, showing rising vaping prevalence among young people, suggests that the existing regime does not strike an appropriate balance. These proposed amendments would act to effectively limit both access to vaping products (including by youth), and the current growth and proliferation of vaping retailers in our communities.

Additionally, **we strongly support including vaping as part of the Smokefree Generation.** LGNZ applauds the creation of a Smokefree Generation. However, it is inconsistent to take every step to prevent young people from smoking, yet continue to allow 18-year-olds to purchase vaping products. The next generation deserves to be protected from the addictive harm of vaping, alongside the harm of smoked tobacco products.

The Bill should be amended to further reduce the availability of smoked tobacco products

The Bill aims to reduce retail availability of smoked tobacco products. Reducing retail availability is now considered to be an effective measure to support those trying to quit, as well as prevent youth uptake.⁸ New Zealand modelling^[60] has suggested that, to achieve a Smokefree Aotearoa by 2025, we should reduce retail supply to 5 percent or less of the current estimated number of outlets.

We strongly support reducing retail outlet numbers and provision for specialist licenced outlets only. But in order to reach this target, we consider that the Bill should go further in reducing retail outlet numbers. Currently, it is estimated that over 5,000 retailers sell tobacco in New Zealand, with the latest data showing that 90 per cent of tobacco retailers are within 1km of schools. For many of New Zealand's 800,000 young people, tobacco products are too easily accessible.^{9,10}

⁸ <https://blogs.otago.ac.nz/pubhealthexpert/reducing-tobacco-retail-availability-how-could-this-be-achieved-and-what-evidence-supports-the-nz-governments-proposals/>

⁹ Accessibility of tobacco retailers and specialist vape retailers to New Zealand schools map series (Edition 1), C McDowall, ARPHS, B Rowse, Ngā Tai Ora / Smokefree and Northern Regional Alliance, June 2022

¹⁰ <https://www.educationcounts.govt.nz/directories/list-of-nz-schools>

In addition, and across New Zealand, tobacco retailers are typically over-concentrated in lower income areas where there are higher populations of Māori and Pacific.¹¹ These areas also have a higher rate of smoking.¹²

To achieve a more meaningful and effective reduction of tobacco retailers, LGNZ considers that the Bill should explicitly require all retailers of tobacco and vaping products be licenced. The licencing authority should then be required to consider whether a sufficient number of tobacco retailers already exist to serve the community when considering applications to be licenced tobacco retailers.

We also encourage the Government to consider the following recommendations outside the scope of the Bill:

1. Revisit the 2015 [LGNZ Smoke Free Outdoor Hospitality Areas Remit](#),¹³ and develop and implement legislation to prohibit smoking outside cafes, restaurants, and bars.
2. Legislate smokefree outdoor public spaces. Many Councils have introduced varying levels of [Smokefree policies](#)¹⁴ for 'council-owned' outdoor public spaces. Expanding smokefree legislation to include outdoor environments supports those who are trying to stop smoking, reduces the visibility of smoking for our future generations and supports the Government's goal of a Smokefree Aotearoa by 2025.

¹¹ Marsh L, Doscher C, Robertson LA. Characteristics of tobacco retailers in New Zealand. *Health & Place* 2013; 23:165-170

¹² Ministry of Health. (2021). Annual Update of Key Results 2020/21: New Zealand Health Survey. Wellington: Ministry of Health.

¹³ [https://www.horizons.govt.nz/HRC/media/Media/Agenda-Reports/Regional-Council-Meeting-\(7\)/15117LGNZRemits.pdf](https://www.horizons.govt.nz/HRC/media/Media/Agenda-Reports/Regional-Council-Meeting-(7)/15117LGNZRemits.pdf)

¹⁴ <https://www.smokefree.org.nz/smokefree-resources/maps-of-nz-councils-smokefree-outdoor-policies-and-spaces>