

# LGNZ Remit 2022

## Density and Proximity of Vaping Retailers

Proposed by Kaipara District Council

That LGNZ requests the Government to:

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

### Background Information

#### Issue

Vaping products are widely available from generic retailers (e.g., dairies, service stations) and specialist vape retailers. To date, New Zealand has 713 specialist vape stores;<sup>1</sup> a British American vape brand is available from 2000 retail outlets throughout Aotearoa.<sup>2</sup> Vaping products are also available via several online stores (both NZ-based and international).

Dargaville's main street, Victoria Street, has 13 vape retailers: ten General Vape Retailers and three Specialist Vape Retailers, all within a 1km length. The three licensed Specialist Vape Retailers are located within 150m of each other.

Youth vaping has risen sharply over recent years; among 14 to 15 year olds, daily vaping rose from 1.8% in 2018 to 9.6% in 2021; among 14-15 year old rangatahi Māori, daily vaping rose from 5.9% in 2019 to 19.1% in 2021.<sup>3</sup> Widespread product availability normalises vaping and makes experimentation easier.

Many towns and regions around New Zealand also need to address the proliferation of vaping outlets and rising vaping among rangatahi.

#### History

The widespread sale of vaping occurred in 2018, when the Ministry of Health lost a case taken against Philip Morris alleging their "HEETS" products breached the Smokefree Environments Act 1990. Until the Smokefree Environments and Regulated Products Amendment Act was passed in 2020, vaping products were largely unregulated and vaping manufacturers advertised their brands using youth-oriented promotions. Even post-legislation, retailers with little or no knowledge of vaping remain able to sell vaping products.<sup>4</sup>

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.<sup>5</sup> A 2021 report into youth

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<sup>1</sup> <https://harp.health.nz/search/1DC97E34-E3F1-40E3-ADFE-30092B36F21C>.

<sup>2</sup> <https://vuse.co.nz/pages/store-locator>

<sup>3</sup> ASH NZ. Year 10 Snapshot Survey 2021 Topline – Youth Smoking and Vaping. Auckland: ASH NZ 2022.

Hoek J, Ball J, Robertson L, et al. Daily nicotine use increases among youth in Aotearoa NZ: The 2021 Snapshot Y10 Survey. In: Wilson N, ed. *Public Health Expert*. Wellington: University of Otago 2022.

<sup>4</sup> Hoek J, Freeman B. BAT(NZ) draws on cigarette marketing tactics to launch Vype in New Zealand. *Tobacco Control* 2019;**28**(e2):tobaccocontrol-2019-054967.

Bateman J, Robertson L, Marsh L, et al. New Zealand tobacco retailers' understandings of and attitudes towards selling Electronic Nicotine Delivery Systems: a qualitative exploration. *Tobacco control* 2020;**29**(e1):e25-e30.

Bateman J, Robertson LA, Marsh L, et al. An Analysis of E-Cigarette Marketing in New Zealand Tobacco Retail Outlets Prior to Legislative Change. *Nicotine & Tobacco Research* 2019;**22**(7):1221-1224

<sup>5</sup> Ball J, Fleming T, Drayton B, et al. New Zealand Youth19 survey: vaping has wider appeal than smoking in secondary school students, and most use nicotine-containing e-cigarettes. *Australian and New Zealand Journal of Public Health* 2021;**45**(6):546-553.

vaping found that 14.6% of those surveyed reported smoking one or more traditional cigarettes in the last 7 days and 26.6% reported that they had vaped (e-cigarettes) in the past 7 days. 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.<sup>6</sup> These data provide important evidence that youth vaping is rising rapidly and reveal that many young people who vape have never smoked.

The Smokefree Environments and Regulated Products Amendment Act 2020 extended many of the existing restrictions governing smoked tobacco products to vaping products. This legislation allows any business to sell vaping products as long as they follow the regulations for General Vape Retailers or apply to become a Specialist Vape Retailers.<sup>7</sup> However, the Vaping Regulatory Authority does not consider retailer density or proximity to facilities such as schools when assessing applications.

The Government's Smokefree 2025 Action Plan will introduce a provision requiring general retailers selling vaping products to advise the Director-General of Health that they are doing so. This provision aims to provide information on the number and type of retailers selling vaping products.<sup>8</sup>

We recognise that people who smoke and who have not been able to quit using existing treatments will benefit if they make a complete transition to vaping products and stop smoking. However, survey data showing rising vaping prevalence among young people suggests existing policy does not provide an appropriate balance between the needs of people who smoke and the rights of young people who do not, and who deserve protection from products that are designed to target them.

Limiting the retail availability of vaping products to specialist stores will not prevent people who smoke from accessing these products and instead will increase the likelihood they receive smoking to vaping transition advice that improves the chances they will stop smoking. Furthermore, people who smoke will continue to be able to access vapes through stop smoking services.

While we support the supply of vapes to people wanting to use these products to stop smoking, it is of the utmost importance that we also protect our community, particularly our rangatahi and other whānau who would not usually vape, from using these addictive products.

## Conclusion

The Smokefree Action Plan proposes that, in 2022, the Government will introduce an amendment Bill that allows only authorised retailers to sell smoked tobacco products. This measure will significantly reduce the current number of retailers, ensure retail supply is not concentrated in New Zealand's most deprived neighbourhoods, and further restrict young people's access to smoked tobacco.

We ask that the same measures are applied to restrict the number of vaping retailers and protect young people from an addiction that undermines their well-being.

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Hoek J, Ball J, Roberston L, *et al.* Daily nicotine use increases among youth in Aotearoa NZ: The 2021 Snapshot Y10 Survey. In: Wilson N, ed. *Public Health Expert*. Wellington: University of Otago 2022.

<sup>6</sup> <https://www.asthmafoundation.org.nz/assets/images/A-2021-report-into-youth-vaping.pdf>

<sup>7</sup> <https://www.health.govt.nz/our-work/regulation-health-and-disability-system/regulation-vaping-and-smokeless-tobacco-products/vaping-information-all-industry/vaping-information-specialist-vape-retailers#apply>

<sup>8</sup> Ministry of Health. 2021. *Smokefree Aotearoa 2025 Action Plan*. December 2021 Wellington: Ministry of Health.