

Committee report to Council	Agenda item 5.1
	Council
Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020	28 July 2020

Committee: Submissions (Section 223) Committee

Presenter: Kim Wood, Chief Legal Counsel

Purpose and background

1. The purpose of this report is to recommend Council make the Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020 (refer Attachment 1).

Consideration at Committee

2. Following consideration by the Submissions (Section 223) Committee meeting held on 2 July 2020 (refer to Attachment 2), the Committee made a recommendation to Council as presented below.

Recommendation

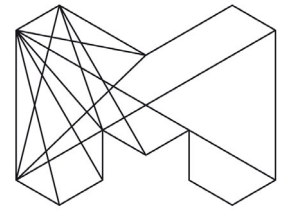
3. That Council:
 - 3.1. Makes the Activities (Greening, Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020 as proposed in the public notice published in The Age and the Victorian Government Gazette on 14 May 2020 (Proposal)

for the reasons that:

- 3.1.1. The introduction of a permit process in respect to green infrastructure will allow a focused approach to support initiatives to expand greening across the City of Melbourne.
- 3.1.2. Other than in respect to vaping, no objections were received to the Proposal.
- 3.1.3. In respect to vaping:
 - 3.1.3.1. To avoid confusion, consistency of laws between the Council and the State is critical from both a communication and enforcement perspective, and the Proposal aligns the Council's local law with the *Tobacco Act 1987*.
 - 3.1.3.2. Whilst the Council is not in a position to determine the health risks and benefits of vaping from a medical perspective, when it comes to public health issues, a cautious approach in line with the Victorian Government policy, is preferable.
 - 3.1.3.3. When restrictions on smoking were first introduced into the Council's local laws in May 2012, it was to 'manage public places to enhance their enjoyment by the general public' by prohibiting smoking in smoke free areas, and the adverse impact on the amenity of a public place from vaping is similar to that of smoking.
 - 3.1.3.4. The restriction would only apply in 'smoke free areas' within the City of Melbourne so its additional impact on people vaping would be limited.
- 3.2. Notifies in writing every person who has lodged a separate submission of the decision and reasons for the decision.

Attachments:

1. Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020 (Page 2 of 75)
2. Submissions (Section 223) Committee, Agenda item 5.1, 2 July 2020 (Page 7 of 75)



CITY OF MELBOURNE

MELBOURNE CITY COUNCIL

**ACTIVITIES AND ENVIRONMENT
(GREENING MELBOURNE, VAPING
AND MISCELLANEOUS AMENDMENTS)
LOCAL LAW 2020**

ACTIVITIES AND ENVIRONMENT (GREENING MELBOURNE AND MISCELLANEOUS AMENDMENTS) LOCAL LAW 2020

AMENDING LOCAL LAW

PART A

PRELIMINARY

Title

- 1.1 This Local Law is called the *Activities and Environment (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020*.

What are the objectives of this Local Law?

- 1.2 This Local Law is made for the purposes of:
- (a) amending the Melbourne City Council Activities Local Law 2019 so as to:
 - a. insert a definition of green infrastructure and a new part 4A, 'Greening Melbourne', to enable a permit process to facilitate green infrastructure;
 - b. extend the definition of smoking to include vaping using an e-cigarette;
 - c. make miscellaneous consequential changes to clarify the intent and purpose of various provisions;
 - (b) amending the Melbourne City Council Environment Local Law 2019 to support the changes to the Activities Local Law 2019;
 - (c) making other minor updates and changes to the Activities Local Law 2019 and the Environment Local Law 2019; and
 - (d) providing for the peace, order and good government of the *municipality*.

What authorises this Local Law?

- 1.3 This Local Law is made under section 111 of the *Local Government Act 1989*.

When does this Local Law commence?

- 1.4 This Local Law commences on the date of its publication in the Victorian Government Gazette.

Sunset Provision

- 1.5 This Local Law ceases to operate when the Melbourne City Council's Activities Local Law 2019 and Environment Local Law 2019 cease to operate.

To what part of the *municipality* does this Local Law apply?

1.6 This Local Law applies throughout the whole of the *municipality*.

PART B

AMENDMENTS TO THE ACTIVITIES LOCAL LAW 2019

2.1 In clause 1.11:

(a) Insert the following new definitions:

“*e-cigarette*” has the same meaning as in the *Tobacco Act 1987*.’

“*green infrastructure*” means:

- (a) plants, including street and community gardens
- (b) plants contained within a pot or container which may be on the ground or suspended from or connected to a building or structure
- (c) composting facilities
- (d) any item or thing attached to a *tree*
- (e) any other infrastructure that supports greening in the *municipality* as *prescribed* by the *Council*.’

(b) Delete the current definition of ‘smoke’ and substitute the following:

“*smoke*” means to:

- (a) smoke, hold or otherwise have control over an ignited *tobacco product*;
- (b) light a *tobacco product*; or
- (c) use an *e-cigarette* to generate or release an aerosol or vapour.’

(c) Amend the definition of *construction management plan* by:

a. inserting a new sub-clause (c):

‘(c) the impact on *green infrastructure* is minimised;’

b. re-numbering the existing sub-clauses (c) – (g) as a result.

(d) Amend the definition of ‘*design and construction standards*’ by deleting ‘in the Dockland Area’.

- 2.2 In clause 2.8:
- a. amend the title to read:
‘Protection of *trees* and *green infrastructure*’
 - b. add the words ‘or *green infrastructure*’ after the word ‘*tree*’ in both instances.
- 2.3 In clause 2.11 change ‘2.101’ to ‘2.10’.
- 2.4 In clause 3A.4, change ‘Part 2’ to ‘Part B’.
- 2.5 Insert a new Part 4A immediately after Part 4 as follows:

PART 4A

GREENING MELBOURNE

Introduction: This Part aims to support greening of and biodiversity within the *municipality* by creating a *permit* process to enable the placing of *green infrastructure* on *Council land* and any other *public place prescribed* by the *Council*.

Authorisation required for *green infrastructure*

4A.1 Without limiting the generality of clause 4.6 of this Local Law, unless:

- (a) in accordance with a *permit*; or
 - (b) to do so is specifically authorised by and in accordance with the *Planning Scheme* or a planning permit issue under it, on which an animal hospital or veterinary practice is located;
- a person must not place or erect green infrastructure in, on or over Council land or any other public place prescribed by the Council.’*

- 2.6 In clause 7.3:
- (a) delete ‘the Office of Gas Safety’ and insert ‘Energy Safe Victoria’; and
 - (b) delete ‘Gasnet, VicGas and TXU’ and insert ‘relevant gas distributors as identified by Energy Safe Victoria’.
- 2.7 Amend the table in Schedule 1, by inserting a new row:

.1	Unauthorised <i>green infrastructure</i>	2.5
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PART C

AMENDMENTS TO THE *ENVIRONMENT LOCAL LAW 2019*

- 3.1 In clause 1.1, insert the following new definitions:
- “approved green infrastructure”* means *green infrastructure* permitted or authorised pursuant to clauses 4A.1(a) or (b) of the *Activities Local Law*.’
- “green infrastructure”* has the same meaning as in the *Activities Local Law*.’
- 3.2 In clause 3.1 change ‘his *premises*’ to ‘the *premises*’.
- 3.3 In clause 2 of the *Environment Management Plan*:
- (a) delete the full stop at the end of sub-clause (c) and insert a semicolon; and
 - (b) insert a new sub-clause (d):

‘(d) support *approved green infrastructure* throughout the *municipality*.’
- 3.4 In clause 6 of the *Environment Management Plan* ‘Council Guidelines’:
- (a) delete ‘or’ at the end of sub clause 6.1.4;
 - (b) insert a new clause 6.1.5:

‘6.1.5 supporting *approved green infrastructure*; or’; and
 - (c) re-number the current clause 6.1.5 as a result.

Report to the Submissions (Section 233) Committee

Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

Presenter: Russell Webster, Director Health and Wellbeing

Purpose and background

1. The purpose of this report is to provide a summary of the submissions received on the proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020 (Proposed Local Law) to amend the Council's Activities Local Law 2019 (the Local Law).
2. As all submissions received related to vaping, this report only addresses that part of the Proposed Local Law.
3. The Proposed Local Law was presented to the Future Melbourne Committee on 5 May 2020 and proposes to extend the definition of smoking to include vaping using an e-cigarette, to align the Local Law with the *Tobacco Act 1987*. This would prohibit the use of e-cigarettes in City of Melbourne's existing and future smoke-free areas.

Key issues

4. Fifteen submissions were received on the Proposed Local Law, nine in support of the proposal in respect to vaping and six against (Attachment 2).
5. Those in support included Health organisations and associations as well as some individuals. The main points made were in relation to the visual or modelling impact of vaping on people who have quit or trying to quit and on young people and children. Evidence shows seeing people use an e-cigarette can trigger desire to smoke cigarettes. This was seen by respondents to undermine the purpose of smoke-free areas and other quitting interventions. Other concerns were the lack of credible evidence on the safety or efficacy of e-cigarettes as cessation tools as well as the perceived negative health impacts of vaping and second-hand aerosol on lung health, particularly in pregnant women and children.
6. Some submissions cited the negative impact on the amenity of an area where people are vaping and two submissions cited concern about people who vape being more likely to spread COVID-19. According to Dr Bronwyn King from Tobacco Free Portfolios, there is insufficient evidence on whether or not aerosol from e-cigarettes can contain droplets carrying the SARS-CoV-2 virus (which causes COVID-19). This suggests that it is possible that second-hand aerosol from vaping could contain viral particles.
7. Another point raised was the role of large tobacco and e-cigarette companies in employing tactics such as financing and promoting research or studies that appear to cast some uncertainty on established science relating to the health or safety impacts of e-cigarettes or smoking, as well as promoting outspoken individuals who oppose tobacco or vaping legislation.
8. In opposition to the proposed amendment were a combination of individuals, a health professional and members of vaping and political associations. Of those submissions, the main arguments were the perceived benefits of e-cigarettes as a cessation tool for quitting smoking, including personal experience of how vaping has supported individuals to quit. According to Dr Colin Mendelson, there is evidence that vaping is a healthy alternative to smoking cigarettes and the City of Melbourne should not aim to reflect the *Tobacco Act 1987*. He suggested that education about vaping etiquette, such as signage, could replace the need for vaping bans to protect people from second-hand aerosol.
9. Other points raised were the lack of evidence that vaping or second-hand aerosol is harmful, the fact e-cigarette vapour is pleasant and not seen as an issue for bystanders, as well as the importance of protecting people's right to vape and their civil liberties. It was also raised that placing more restrictions on vaping could lead to more people turning to smoking regular cigarettes.

Recommendation from management

10. That the Submissions (Section 223) Committee:
 - 10.1. Considers all written submissions in relation to the proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law and hears any person wishing to be heard in support of their submission and then makes a recommendation to Council.
 - 10.2. Recommends Council notify in writing every person who has lodged a submission, of its decision and the reasons for its decision.

Attachments:

1. Supporting Attachment (Page 3 of 69)
2. Submissions (Page 4 of 69)

Supporting Attachment

Legal

1. Pursuant to sections 119 and 223 of the *Local Government Act 1989*, public notice of the Proposed Local Law was given in The Age, the Victorian Government Gazette and on Council's website.

Finance

2. The costs associated with the public notice of the Proposed Local Law being placed in The Age and the Victorian Government Gazette are provided for in the Council budget.

Conflict of interest

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Health and Safety

4. In relation to this report, no health or safety issues or opportunities were identified
5. In relation to the proposal to amend the Local Law to include the use of e-cigarettes in prescribed smoke-free areas, it has been identified that providing environments free from both cigarette smoke and e-cigarette aerosol creates healthier spaces for both the community and City of Melbourne staff to enjoy in the central city, as well as support people who have quit or are trying to quit smoking.

Stakeholder consultation

6. Public Notice of the Proposed Local Law was published in The Age, the Victorian Government Gazette and on Council's website on 14 May 2020.

Relation to Council policy

7. This proposal supports the Municipal Public Health and Wellbeing priorities in the Council Plan 2017-21, specifically 'active living', 'planning for people', 'preventing crime, violence and injury' through partnering to create an environment that feels safe and minimised harm, and 'social inclusion'.

Environmental sustainability

8. Environmental sustainability issues or opportunities are considered not relevant to this proposal.

From: Andrew <andrewjwhittle@gmail.com>
Sent: Thursday, 14 May 2020 8:41 AM
To: CoM Meetings
Subject: Re: Submissions regarding the Proposed 'Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020'

Hello,

Please pass this on to the committee for consideration.

Thank you.

Andrew Whittle

On Thu, May 14, 2020 at 8:38 AM CoM Meetings <com.meetings@melbourne.vic.gov.au> wrote:

At its meeting held on Tuesday 5 May 2020, the Future Melbourne Committee (FMC) resolved to propose to make the 'Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020' pursuant to Part 5 of the *Local Government Act 1989*.

Prior to making a local law a Council must publish a notice in a newspaper circulating in the Council district and in the Government Gazette stating:

- the purpose and general purport of the proposed local law
- that a copy of the proposed local law can be obtained from the Council.
- that any person affected by the proposed local law may make a submission pursuant to section 223 of the Act.

The public notice appears in The Age newspaper, the Government Gazette and on [Councils webpage](#) today.

Any person affected by the proposed Local Law may make a written submission to the Council. All **submissions received by the Council on or before Friday 12 June 2020** will be considered in accordance with section 223(1) of the Act, by the Council's Submissions (Section 223) Committee (Committee).

If a person wishes to be heard in support of their submission they must include the request to be heard in the written submission. The Committee **meeting will be held on Thursday 2 July 2020**, commencing at 3pm, in the Melbourne Town Hall, Administration Building, Swanston Street, Melbourne.

Written submissions should be marked 'proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020' and addressed to the Director Governance, Melbourne City Council, GPO Box 1603, Melbourne, 3001. Written submissions can be made via mail, email to com.meetings@melbourne.vic.gov.au or via the [online submission form](#).

As part of our efforts to help contain the spread of COVID-19, and to protect the health, safety and welfare of all, physical attendance by members of the public at these meetings will not be permitted. The meeting will be livestreamed and members of the public who wish to be heard in relation to their submission will be able to do so via a virtual link. For further details please refer to Council's website www.melbourne.vic.gov.au.

As you made a submission to the FMC meeting in relation to this matter, we can forward that submission to the Submissions (233) Committee for consideration, or you may make a new submission to the via the [online submission form](#).

If you would like for us to forward your original submission to the Committee please advise us by close of business on 12 June 2020 and also include whether you would like to be heard in relation to your submission via a virtual link. If you wish to be heard please provide your contact details so that we can provide you further information to participate in the meeting.

Regards

Council Business

City of Melbourne | Melbourne Town Hall, 90-120 Swanston Street Melbourne 3000 | GPO Box 1603 Melbourne 3001

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If you are not the addressee indicated please delete it immediately.

From: Wufoo <no-reply@wufoo.com>
Sent: Saturday, 2 May 2020 12:51 PM
To: CoM Meetings
Subject: Committee meeting submission form [#49]

Privacy acknowledgement: I have read and acknowledge how Council will use and disclose my personal information.

*

Name: * Andrew Whittle

Email address: * andrewjjwhittle@gmail.com

Please indicate which meeting you would like to make a submission to by selecting the appropriate button: * Future Melbourne Committee

Date of meeting: * Tuesday 5 May 2020

Agenda item title: Vaping in melbourne

*

Please write your submission in the space provided below and submit by no later than 10am on the day of the scheduled meeting. Submissions will not be accepted after 10am.

As someone who has recently stopped smoking, I cannot understate the importance of vaping as a quitting aid.

I have tried patches, gums, cold turkey and had no success. It was only with vaping and nicotine based e-liquid that I have not had a cigarette in 3 months.

Most vapers understand that it is not completely harmless, but it's been shown time and time again to be considerably safer than cigarettes.

If a ban passed restricting areas vaping is allowed, or vaping products, it is perceived by our community as ignoring our best health interests and supporting outdated and heavily taxed tobacco.

Please help us and future people who quit, to work towards a healthier life by supporting vaping, not restricting it.

Please indicate Yes
whether you
would like to
address the Future
Melbourne
Committee or the
Submissions
(Section 223)
Committee via
phone or Zoom in
support of your
submission: *

From: J Plesk <jplesk@yahoo.com>
Sent: Thursday, 14 May 2020 11:21 AM
To: CoM Meetings
Subject: Re: Submissions regarding the Proposed 'Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020'

Dear Council Business

Please forward my previous submission to the Submissions (233) Committee for consideration.

I'd appreciate if you could email me to confirm the above action.

Regards

James Plesk
jplesk@yahoo.com

On Thursday, May 14, 2020, 9:38:14 AM GMT+11, CoM Meetings <com.meetings@melbourne.vic.gov.au> wrote:

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Regards

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Sent: Monday, 4 May 2020 1:39 PM
To: CoM Meetings
Subject: Committee meeting submission form [#90]

Privacy acknowledgement: I have read and acknowledge how Council will use and disclose my personal information.

*

Name: * James Plesk

Email address: * jplesk@yahoo.com

Please indicate which meeting you would like to make a submission to by selecting the appropriate button: * Future Melbourne Committee

Date of meeting: * Tuesday 5 May 2020

Agenda item title: Agenda item 6.4

*

Please write your submission in the space provided below and submit by no later than 10am on the day of the scheduled meeting. Submissions will not be accepted after 10am.

Key Issue 4.1.2

It is inappropriate to include e-cigarette use in the definition of smoking because 1) there is no tobacco in an e-cigarette, and 2) no smoking occurs when an e-cigarette is used. E-cigarettes are battery powered, no combustion occurs, and by definition, they cannot be classed as smoking.

E-cigarettes have essentially the same ingredients as common store-bought pharmaceuticals. They typically contain propylene glycol, glycerol, flavours and nicotine. These are the same ingredients as in smoking cessation products such as Nicorette Quickmist, an aerosol spray commonly sold on supermarket shelves. If two products have the same ingredients, it makes no sense to determine that one is a tobacco product while the other is a medicine, and arbitrarily

restrict one over the other. It makes no sense to determine one is dangerous when the other has long been available for purchase on supermarket shelves without even a prescription.

Key issue 5:

Contrary to the common misconception, E-cigarettes are proven to be an effective tobacco quitting method:

- 1) According to the UK's NHS, e-cigarettes are twice as effective for supporting quitting smoking than pharmaceutical products such as nicotine patches, gums and sprays.
- 2) According to a recent report by the CDC in the USA, of the smokers who quit in the past year, 1 in 4 (25.2%) were e-cigarette users.
- 3) According to the UK Govt's 2018 Expert Review:
 - e-cigarette use was associated with improved quit success rates over the last year and an accelerated drop in smoking rates across the [UK]
 - the evidence does not support the concern that e-cigarettes are a route into smoking among young people
 - vaping poses only a small fraction of the risks of smoking and switching completely from smoking to vaping conveys substantial health benefits.

Melbourne City Council should be encouraging e-cigarette use because it offers smokers an effective pathway to cessation. They are almost exclusively used by smokers and former smokers and do not appeal to non smokers beyond ad-hoc experimentation. The health focussed goal should be to encourage people to quit smoking, not to limit their options for quitting.

References:

- 1: Nicorette Quickmist ingredients: <https://www.medicines.org.uk/emc/product/5956/smpc>
- 2: US CDC report on e-cigarettes <https://www.cdc.gov/nchs/data/databriefs/db365-h.pdf#fig03>
3. NHS report on e-cigarettes and quitting <https://www.nhs.uk/news/heart-and-lungs/e-cigs-twice-effective-nicotine-patches-gum-or-sprays-quitting/>
4. UK Govt, Public Health England Expert Review on E-Cigarettes: <https://www.gov.uk/government/news/phe-publishes-independent-expert-e-cigarettes-evidence-review>

Please indicate whether you would like to address the Future Melbourne Committee or the Submissions (Section 223)

No

Committee via
phone or Zoom in
support of your
submission: *

From: Bill Rowlings <secretary@cla.asn.au>
Sent: Friday, 15 May 2020 11:03 AM
To: CoM Meetings
Subject: Submission on VAPING from Civil Liberties Australia
Attachments: subCLA MCC Vaping ban09May20.docx

Dear MCC

Here – ATTACHED – is a submission from Civil Liberties Australia Inc. on the debate about a ban on vaping.

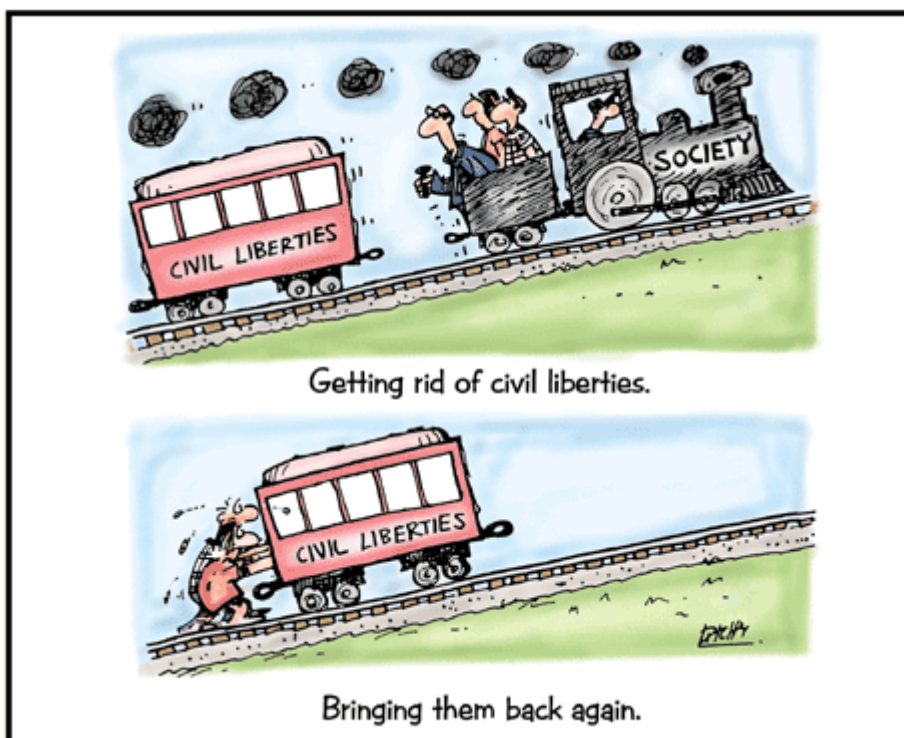
You have our permission to reproduce this on an appropriate, relevant MCC website, if you wish.

Thank you for the opportunity to contribute to the debate.

Regards,

Bill

Bill Rowlings OAM
CEO, CLA



Proposed banning of vaping in the Melbourne CBD

Civil Liberties Australia (CLA) comments as follows, responding to the Melbourne City Council invitation for public consultation on banning electronic nicotine delivery devices or “e-cigarettes” in the existing 11 outdoor smoke free zones in the Central Business District.

There is no evidence that brief exposure to e-cigarette vapour in the open air can adversely affect the health of others. Vaping is scientifically acknowledged as significantly safer than tobacco products, and the proposal has no merit.

1. The health rationale for bans on outdoor smoking and vaping is absent. Tobacco smoke outdoors cannot harm others, and neither can vaping "smoke", which is akin to steam in composition (depending on source), is blindingly obvious in most circumstances, and therefore can be easily avoided. Vaping emissions in the CBD would barely be measurable compared to CBD vehicle emissions.
2. The burden of proof to ban or control vaping rests with ban proponents, not with those who seek to “vape”. Using the precautionary principle to claim vaping might be harmful fails the evidentiary burden of proof necessary to justify government intrusion into personal choice.
3. The proposal appears to be based on prejudice against vaping because it “looks like” smoking. Such a ban would seek to censor reality, preventing consumption of a product proven to aid those who wish to cease smoking.
4. The majority may well support bans which do not affect them, as few people "vape", but introducing bans on that basis would reflect the tyranny of the majority, closer to mob rule than democratic principles of tolerance for the choices of others.
5. CLA questions the legal standing and legitimacy of local government to regulate the choice of citizens who “vape”. The local government role and mandate does not extend to lifestyle control, already exhaustively covered by prohibitionist legislation at the Commonwealth and State levels. Rules and regulations should be limited to core council functions, not aimed at discriminating against a minority. If council wishes to act on "preventative health" grounds, then it should bar vehicles using diesel fuel from the CBD 24/7, because incessant diesel particulate is proven more dangerous than smoking, let alone vaping.
6. Restricting vaping in the Melbourne CBD would be an additional unjustified intrusion into consumer free choice and autonomy. There is no defensible scientific or medical basis for additional bans and controls and the proposal should be rejected.

The who and why of the proposed banning:

"It's proven impossible to stop people selling tobacco, Nutt said. "So the anti-tobacco people have got to attack something else, because that's what they do – they attack and they ban. So basically they've fixed their wagons against vaping because it is one thing they can ban, and they're very successful. It's laughable that in India people go to prison for selling vaping when the government allows advertising of tobacco."

– David Nutt, a professor in neuropsychopharmacology at Imperial College London, excerpt from *The Guardian UK* 18 February 2020 <https://tinyurl.com/yxxy2sgu>

Dr Kristine Klugman OAM
President

Addendum:

(1) According to Britain's Royal College of Physicians, "the hazard to health arising from long-term vapour inhalation [is] unlikely to exceed 5% of the harm from smoking tobacco".

See: <https://www.rcplondon.ac.uk/projects/outputs/rcp-advice-vaping-following-reported-cases-deaths-and-lung-disease-us>

They were commenting on a regulated environment, as in Australia, not on the unregulated situation in the USA, from which some quotes are frequently drawn. The RCP did not make a comparison between vaping, smoking and the breathing of diesel particulates in CBDs.

(2) Despite "concerns that e-cigarettes will increase tobacco smoking by renormalising the act of smoking, acting as a gateway to smoking in young people ... the available evidence to date indicates that e-cigarettes are being used almost exclusively as safer alternatives to smoked tobacco, by confirmed smokers who are trying to reduce harm to themselves or others from smoking, or to quit smoking completely." The actual number of children who try e-cigarettes who then become regular users is very low.

See the link above and also: <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction>

(3) In the second link above, the RCP goes on to say, "[I]n the interests of public health it is important to promote the use of e-cigarettes, NRT and other non-tobacco nicotine products as widely as possible as a substitute for smoking in the UK." So the proponents of discouraging vaping are in fact going against the advice of the RCP and may be doing significant harm to people who are trying to give up smoking.

(4) On the risks of passive breathing of vapour from e-cigarettes, according to the joint position statement of the Royal College of General Practitioners (RCGP) and Cancer Research UK, "There is no good evidence to suggest that passively breathing vapour from ecigarettes is likely to be harmful."

See: <https://www.rcgp.org.uk/-/media/Files/Policy/2017/RCGP-E-cig-position-statement-sept-2017.ashx?la=en>

ENDS

From: Stephanie Borland <stephanieb@netspace.net.au>
Sent: Sunday, 24 May 2020 6:15 PM
To: CoM Meetings
Subject: Vaping in the CBD

I am a smoker (although a much less heavy smoker than previously, thanks to e-cigarettes).

And I agree that *smoking* is a filthy habit. Which shouldn't have any bearing on whether or not *vaping* is permissible in the CBD.

Some people have an emotional aversion to anything that resembles a cigarette: if you put it in your mouth and suck it, it must be evil. (Sorry, Chupa-Chups.)

But it would be a bad idea to base this decision on emotion -- and the scientific evidence against e-cigarettes simply isn't there. (Check with the British BMA.)

And with the greatest possible respect to Cr. Jackie Watts, there is no possibility that pedestrians are "swamped by e-cigarette smoke", because e-cigarettes produce no smoke. Quite simply: the "smoke" you might see coming out of my mouth is not smoke; it's breath. Vapour. (Hence the term "vaping".)

No heat is generated, because *nothing is burning*.

So:

Theres no danger of fire.

No smoke...secondhand or otherwise.

No smell.

No sticky wrappers, no butts, no litter, no ash, no mess.

From the point of view of civic good, it would be more rational to ban sticky sweets and chewing gum.

Please consider.

Sent: Tuesday, 9 June 2020 9:38 AM
To: CoM Meetings
Subject: Submissions (223) Committee submissions form [#4]

Privacy acknowledgement: * I have read and acknowledge how Council will use and disclose my personal information.

Name: * Heather Digby

Email address: * sunnyheather2012@gmail.com

Please write your submission in the space provided below and submit by no later than 12 June 2020.

Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

I would like to recommend that vaping/smoking of e-cigarettes be included in the non-smoking areas of the City of Melbourne. The flavoured vapour is really awful to walk through on the city streets.

Please indicate whether you would like to be heard by the Submissions (Section 223) Committee in relation to your submission live via phone or Zoom: *

No

From: Margaret Hogge <hogges10@bigpond.com>
Sent: Wednesday, 3 June 2020 11:22 AM
To: CoM Meetings
Subject: Submission Melbourne City Council re vaping
Attachments: Melbourne City Council vaping June 2020 NSMA.pdf

To: Director Governance, Melbourne City Council June 2020

Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020'

Non-Smokers' Movement of Australia Inc. (NSMA Inc.) Submission attached.

Thank You,

Margaret Hogge, Non-Smokers' Movement of Australia Inc.
nsma@nsma.org.au

To: Director Governance, Melbourne City Council

June 2020

Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020'

Non-Smokers' Movement of Australia Inc. (NSMA Inc.) was formed in 1977 fighting for everybody's right to breathe clean air, free from the well-documented toxins in second-hand tobacco smoke, as well as against Big Tobacco's influence in Australia's politics.

Australia and the world was advised in May 1950 (70 years ago) that smoking was causing lung cancer, i.e. that tobacco kills. Even now, tobacco kills almost 20,000 Australians each year (per Federal Health Minister Greg Hunt, Oct. 2019.)

Everybody has the right to breathe clean air, free from toxins which occur in both second-hand tobacco smoke from cigarettes and in second-hand aerosol vapours from e-cigarettes and other vaping devices and cigarette "look-alikes". Tobacco toxins can trigger potentially deadly lung and heart diseases such as asthma, emphysema, heart attacks and Cot Death/SIDS (Sudden Infant Death Syndrome).

Advocates of vaping claim that the product helps smokers to quit tobacco – this may be so in many cases but there is not enough long-term research to show that vaping itself is safe, especially with the wide variety of chemical flavours being made available – obviously aimed at young people, many of whom would never have started smoking anyway.

Vaping MAY be regarded as less harmful than smoking tobacco but it is not harmless to users nor to others nearby. If you can smell something, then it is going into your lungs and potentially doing harm.

Smokers' (and vapers') rights stop at their lips.

Thousands of known and unknown chemicals make up the myriad of vaping flavours so far available. Many are extremely risky. Even worse – many are not even tested – they are unknown, but they are easily available.

(We urge everyone to avoid speaking of the aerosols emitted from vaping devices as “smoke” – the emissions are chemically enhanced “steam” or heated-water vapours.)

Australians have already been warned very early after the COVID-19 outbreak that smoking is a big risk factor and that smokers should quit immediately.

It is as yet too early to know if vaping will result in negative COVID-19 outcomes, but with advice that vaping is linked to an increased risk of chronic lung diseases (American Journal of Preventive Medicine, Stanton Glantz, Dec., 2019), it is wise to regard it as potentially risky.

It is not the responsibility of City of Melbourne to help people to quit smoking but they do have a responsibility to keep people safe, i.e. to prevent and to protect from harm.

We have recently called on Australia’s Minister for Health to widely extend funding for Quit-smoking Media, and to widen access to quitting programs, and we have called on all State Ministers to extend smoke-free regulations.

Smokers themselves already have easy, affordable access to approved, alternatives to tobacco – nicotine replacement patches, gums, lozenges and sprays, as well as pharmacological treatments, which harm neither themselves nor others. Non-smokers, however, have no alternatives – they must use mouth and nose to breathe.

Many years ago we called on the Federal Government to ban all cigarette “look-alikes” such as vaping devices, under the Tobacco

Advertising Prohibition Act (TAPA) but, inexplicably, this call was not taken up.

Smoking and vaping should be taken out of sight of impressionable young people – there is nothing “grown-up” about smoking or vaping. Additionally, vaping should be taken out of sight of the many ex-smokers who would be reminded of their former addiction to tobacco smoking, triggering them to start smoking again..

On another aspect, we should avoid any confusion in City Council regulations – smokers who see vaping may assume that they can smoke, and vice versa. Neither is acceptable, for the reasons given above.

The more totally smoke-free and vaping-free public places there are, the easier it is for ex-smokers to maintain their smoke-free, tobacco-free lives. They need our support, protection and encouragement.

Councillors of the Melbourne City Council – we call on you to protect everybody, not only from tobacco smoking, but also from the potential dangers of “copy-cat” activities like vaping.

Please improve the amenity of city spaces by including vaping and other cigarette “look-alike” products in the smoking bans in Melbourne City regulations.

Margaret Hogge Non-Smokers' Movement of Australia Inc.

PO Box K860 Haymarket NSW 1240

nsma@nsma.org.au



Sent: Tuesday, 9 June 2020 3:10 PM
To: CoM Meetings
Subject: Submissions (223) Committee submissions form [#3]

Privacy acknowledgement: I have read and acknowledge how Council will use and disclose my personal information.

*

Name: * Alison McAleese

Email address: * ali.mcaleese@gmail.com

Please write your submission in the space provided below and submit by no later than 12 June 2020.

Regarding Smoke Free outdoor dining in City of Melbourne

I am a resident of Melbourne and regularly visit CBD restaurants and cafes for work and leisure.

Congratulations on your success to date in implementing smoke free outdoor dining areas in the city. It is fabulous to be able to enjoy an outdoor meal free from cigarette smoke.

I wish to submit that it would be an excellent addition for the City to broaden the smoke free areas to also be e-cigarette free. While e-cigarettes are newer and we don't know as much about their health effects on non-smokers I'm concerned there may be negative health consequences of secondhand e-cigarette vapour particularly as they often contain flavour chemicals. In addition to this e-cigarettes pose the same nuisance factor as cigarettes – if halfway through a meal and someone at next table or standing nearby starts vaping you are still stuck there to endure the vapour while finishing a meal.

Again congratulations on your work to date and I hope you are able to take the next step of public health and safety by also making outdoor dining e-cigarette free.

Please indicate whether you would like to be heard by the Submissions No

(Section 223)
Committee in
relation to your
submission live
via phone or
Zoom: *

Sent: Tuesday, 9 June 2020 5:09 PM
To: CoM Meetings
Subject: Submissions (223) Committee submissions form [#6]

Privacy acknowledgement: * I have read and acknowledge how Council will use and disclose my personal information.

Name: * Clare O'Reilly

Email address: * clhor@bigpond.net.au

Please write your submission in the space provided below and submit by no later than 12 June 2020.

proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

Please do not allow vaping to be excluded from your smoking policy. I am not interested in having to breathe in other people's vape or smoke and it is definitely unacceptable whilst eating or drinking – it's bad enough on the footpath. Many vaping products also include tobacco as well so it shouldn't be separated from smoking.

Thanks, Clare

Please indicate whether you would like to be heard by the Submissions (Section 223) Committee in relation to your submission live via phone or Zoom: *

No

Sent: Thursday, 11 June 2020 2:25 PM
To: CoM Meetings
Subject: Submissions (223) Committee submissions form [#8]

Privacy acknowledgement: * I have read and acknowledge how Council will use and disclose my personal information.

Name: * Sarah White

Email address: * sarah.white@cancervic.org.au

Alternatively you may attach your written submission by uploading your file here:



[quit victoria submission to city of melbourne final.pdf](#) 317.14

KB • PDF

Please indicate whether you would like to be heard by the Submissions (Section 223) Committee in relation to your submission live via phone or Zoom: *

Yes

Director Governance
Melbourne City Council
GPO Box 1603
Melbourne, 3001



Via email: com.meetings@melbourne.vic.gov.au

Online: <https://comdigital.wufoo.com/forms/mq3jero1molzxx/>

11 June 2020

Re: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

We are writing to reiterate Quit Victoria's strong support for the City of Melbourne's proposal to amend the Activities Local Law 2019 ('the Local Law') in order to extend the definition of smoking to include 'vaping using an e-cigarette'. This will align the Local Law with the *Tobacco Act 1987* (Vic) and smokefree legislation in all other States and Territories (except for Western Australia, where the sale of e-cigarette devices is banned altogether). We note that the proposed amendment would also be consistent with the approach recently taken by Bayside City Council, which in May 2020 included "vaping and use of e-cigarettes" in smokefree laws on its beaches.ⁱ

Following is a summary of the strong public health evidence in support of the City of Melbourne's proposal. Also included are some points to note when considering some of the claims made against the proposal in written submissions, and at the Future Melbourne Committee Meeting on 5 May 2020.

Alignment with Tobacco Act 1987

As you are aware, in October 2016 the *Tobacco Act 1987* (Vic) ('the Tobacco Act') was amended to prohibit the use of e-cigarettes in all legislated smokefree areas.

These amendments were intended to reflect the precautionary approach adopted by the Victorian Government to limit young people's exposure to vaping and reduce the potential for public harm arising from the use of e-cigarettes.ⁱⁱ

The City of Melbourne's proposal is in alignment with and supportive of the intention of the Tobacco Act amendments.

'Debate' on the evidence around e-cigarettes

Most of the major global tobacco companies are now also in the business of e-cigarettes and use similar tactics to ensure profitability of their e-cigarette interests as they used (and still use) to ensure profits from selling tobacco. The tobacco industry has a long-documented history of funding research, institutions and academics to produce research to further its business interests. Other tactics include financing and helping promote publicity for outspoken, media-savvy scientists and

clinicians who are prepared to challenge accepted views on smoking and health or various aspects of tobacco control, while appearing to be independent.ⁱⁱⁱ

These tactics are designed to give credibility to the notion that there remains controversy about the medical evidence on the health risks of smoking, and more recently e-cigarette use, and also serve to:

- create delays in regulation or legislation
- locate and foster credible public spokespeople with the appearance of independence
- support research likely to produce outcomes advantageous to industry objectives, (including 'inconclusive' research showing that yet more research is needed)
- keep in the public eye 'distraction' or 'diversionary' research to deflect attention from tobacco and e-cigarette harms.

In Australia in recent years, these tactics have led to the false belief that there is great division amongst public health groups on what Australia's approach to e-cigarettes should be. In fact, there is overwhelming support and consistency amongst Australia's public health and medical organisations for Australia's precautionary approach to e-cigarette regulation. A number of these Australian groups are listed in Cancer Australia's 'Statement on e-cigarettes in Australia' (attached).^{iv} The statement also lists a further 26 international public health and medical organisations whose views are consistent with Australia's approach, including organisations in the UK, US, New Zealand and global professional bodies.

There are several small organisations opposed to Australia's precautionary approach; many of which have funding links to commercial and other vested interests, including tobacco and/or e-cigarette manufacturers or retailers (described further below).

Dangers of secondhand vaping

It is more accurate to describe the emissions from e-cigarettes as aerosol, not vapour, as the emissions contain fine particles. The aerosol contains a range of chemicals, solvents and toxic metals, with the precise constituents (let alone their potential harms), not yet known. E-cigarette aerosol can also contain nicotine.

E-cigarette aerosol can be passively inhaled by people near the user. Scientific research into the potential harm from secondhand aerosol is limited and far from settled, despite claims of zero or minimal risk by e-cigarette advocates,^v retailers^{vi} and industry. Many respected medical bodies have warned of the risks of secondhand e-cigarette emissions, including the US Surgeon General and the National Academies of Science, Engineering and Medicine (NASEM).^{vii} No studies have yet examined the impact on the lungs of young children and babies,^{viii} and medical experts strongly recommend people avoid using e-cigarettes around children or pregnant women.^{ix} Some e-cigarette flavours and propylene glycol (a key e-liquid ingredient) are known irritants for asthma and allergy sufferers.^{x,xi}

In a statement on e-cigarettes, the CEO of the National Health and Medical Research Council (NHMRC) has observed that the particulate matter (very small particles) in e-cigarette aerosols may worsen existing illnesses or increase the risk of developing diseases such as cardiovascular disease or respiratory disease.^{xii} The statement refers to a 2016 study, which found that the most common symptoms reported by those passively exposed to e-cigarette aerosol included '*respiratory difficulties, eye irritation, headache, nausea, and sore throat or throat irritation.*' The statement therefore urges health authorities and policy makers to '*act to minimise harm to users and bystanders and to protect vulnerable groups...until evidence of safety, quality and efficacy can be produced.*'

Similarly, in its 'Policy on E-cigarettes' the Royal Australasian College of Physicians (RACP) notes that e-cigarettes '*should be included within smoke-free environment legislation, primarily due to the potential harms from re-normalising smoking and the exposure to second-hand e-cigarette aerosol.*'^{xiii}

The World Health Organization has also recommended that policy makers act to protect non-users from exposure to e-cigarette aerosols.^{xiv}

Renormalising smoking and undermining of quitting activity

Smokefree spaces help smokers to quit, help prevent former smokers from relapsing back to smoking and ensure children do not view smoking as part of normal social behaviour.

Several published studies have shown that the act of seeing someone use an e-cigarette has a detrimental effect on quitting for both current and former smokers. Young adult smokers watching someone use an e-cigarette have significantly increased smoking urges and desire for a cigarette^{xv} and two in three current smokers will choose to smoke immediately after seeing an e-cigarette being used^{xvi}. This urge to smoke appears to be independent of the type of e-cigarette used, with the cue salience thought to be the hand-to-mouth activity.^{xvii} Former young adult smokers also experience an increase in the desire to smoke a cigarette after seeing someone use an e-cigarette^{xviii}, increasing their risk of relapse. The latest of these papers was published last month, demonstrating how the evidence of potential harms is still emerging. In short, there is sufficient evidence to suggest that e-cigarette use has the potential to undermine the public health measures associated with smokefree legislation.

Public amenity

There is one issue on which Quit Victoria agrees with the pro-e-cigarette lobby organisation, the Australian Tobacco Harm Reduction Association (ATHRA). On its website, ATHRA notes there are grounds for restricting e-cigarette use: "Vaping should be restricted on convenience or amenity grounds. Good etiquette would mean vapers would not blow large clouds around others without permission." Two of the three ATHRA directors also wrote, in an opinion piece, in relation to "Use in public and smoke-free areas", the following: "However restrictions are justified in some circumstances for the amenity and comfort of others."^{xix}

Quit Victoria believes that the amenity and comfort of the vast majority of Victorians who do not use e-cigarettes should be respected by excluding e-cigarette use in the City of Melbourne's smokefree areas.

Public support for excluding e-cigarette use in smokefree areas

Research in Victoria shows strong public support (69%) for excluding e-cigarette use in smokefree areas, including from over half of current smokers and 70.7% of ex-smokers.^{xx}

Earlier this year, the Royal Children's Hospital National Child Health Poll found 81% of respondents backed restricting the use of e-cigarettes in public places.^{xxi}

E-cigarettes are not an approved smoking cessation therapy

The current public health evidence, as reviewed by the National Health and Medical Research Council (NHMRC) and the Therapeutic Goods Administration (TGA) does not support e-cigarette use in any form.

We note that there is increasing evidence of harm associated with e-cigarette use. A comprehensive review of evidence of potential harms can be found in the publication Tobacco In Australia – Facts and Issues^{xxii}. Scientific evidence of the harms is also summarised in the attached position statement prepared by Cancer Australia and endorsed by major Australian public health and medical organisations.

While some individuals have used e-cigarettes successfully to stop smoking, many others have not. Data from the Victorian Smoking & Health Survey 2018 show that regular e-cigarette use remains relatively rare and cannot have meaningfully contributed to the decrease in smoking prevalence. If e-cigarettes were helping people to quit in significant numbers, the survey would show an increasing proportion of former smokers who use or have used e-cigarettes. However, there was no statistically significant change between 2015 and 2018 in current or past use of e-cigarettes by former smokers. The results showed that the proportion of smokers who reported being former e-cigarette users was higher than smokers who reported being current e-cigarette users. In other words, more people had stopped using e-cigarettes but continued smoking, than currently smoked and used e-cigarettes.

RACGP and RACP positions on e-cigarette use

The RACGP's position on e-cigarettes has been repeatedly misrepresented by pro-e-cigarette advocates, including in submissions to the Future Melbourne Committee. This is despite the RACGP making it clear publicly (including directly to ATHRA) on several occasions since first publishing its updated smoking cessation guidelines in January 2020 that it does not 'endorse', support or approve e-cigarettes.^{xxiii}

The RACGP made its most recent statement on the misrepresentation of its smoking cessation guidelines on 25 May 2020:

The RACGP President also said that various claims and campaigns concerning tobacco control needed to be fact-checked carefully. "When we released the guidelines it was unfortunate that our position on vaping was misrepresented by some pro-vaping organisations who claimed we were coming out 'in support' of vaping. "That is not the case - as I said at the time repeatedly the RACGP does not endorse vaping. Our guideline's conditional recommendation notes that it's only a reasonable intervention in very limited circumstances and that the long-term health effects are unknown. So we need to approach it with extreme caution. ...The RACGP will continue its campaign of anti-smoking and anti-vaping messages to counter the push by Big Tobacco targeting Australian youth".^{xxiv}

It should also be noted that, contrary to submissions made to the Future Melbourne Committee, the RACP has made its position clear on the unknown long-term dangers of vaping and its recommendation for use of 'proven and registered' quit aids rather than e-cigarettes:

The RACP advises that not smoking tobacco or using e-cigarettes remain the safest options for the community. The long-term implications of using vaping devices are not yet known. If people wish to quit smoking, the RACP advocates for the proven and registered smoking cessation technologies, including pharmacotherapies, ahead of vaping. The College urges physicians to advise patients of all potential risks and benefits should patients wish to use e-cigarettes for smoking cessation.^{xxv}

More importantly, as stated previously, the RACP recommends that e-cigarettes 'should be included within smoke-free environment legislation, primarily due to the potential harms from re-normalising smoking and the exposure to second-hand e-cigarette aerosol'.^{xxvi}

The 'e-cigarettes are 95% safer than tobacco' factoid

The tobacco industry and e-cigarette proponents rely heavily on the discredited claim that use of e-cigarettes is '95% safer' than using traditional cigarettes. The 95% claim was based on an "guesstimate" developed in a workshop involving 12 people, some with links to the tobacco industry, and is not based on scientific evidence. In fact, the 2013 paper in which this figure was published set out an important caveat: there was a "lack of hard evidence for the harms of most products on most of the criteria."

When Public Health England endorsed the 95% figure, an editorial in the prestigious Lancet journal pointed out that at least one of the members of the workshop group had a conflict of interest by virtue of being funded to conduct research on e-cigarettes by one of the organisations funding the workshop.

In January 2020 an editorial by six leading international public health experts was published in the American Journal of Public Health. They concluded the oft-cited claim from 2013 that e-cigarettes are "95% less risky" or "95% less harmful" than combustible cigarettes is outdated, misleading and invalid -- and should no longer be made in discussions on the dangers of vaping.^{xxvii} The authors wrote that the '95% safer' estimate is a 'factoid': unreliable information repeated so often that it becomes accepted as fact.

The World Health Organization has also publicly dismissed the 95% claim as "not based on evidence". Australia's NHMRC has stated that "E-cigarettes may expose users to fewer toxic chemicals than conventional tobacco cigarettes; however the extent to which this reduces harm to the user has not been determined".

Pro-e-cigarette group links to commercial and other vested interests

Key groups opposing the City of Melbourne's proposal to include e-cigarette use in smokefree areas include ATHRA, the Australian Retailers Association (ARA) and the Australian Taxpayers Alliance (ATA). These three groups appear to be working together to overturn federal and state government restrictions on nicotine e-cigarettes.

The ATA is a libertarian lobby group that refuses to disclose its funding sources but has admitted to using a British American Tobacco social media consultant. The ATA's Australian 'Legalise Vaping' campaign is partly financed by e-cigarette retailers and works closely with ATHRA on events and advocacy.

ATHRA is a charity with no staff, which was established with e-cigarette industry funding in 2017. It has been reported that ATHRA has received at least one grant from a UK based organisation^{xxviii} that itself has received more than \$2.43 million from the tobacco company-financed front group, Foundation for a Smoke Free World.^{xxix} Despite being a charity, ATHRA's website advertises the for-profit businesses of two of the three ATHRA directors as places to source prescriptions for liquid nicotine. We believe these potential conflicts of interest, both the links to industry funding and the private commercial interests, should have been disclosed to the City of Melbourne in the interests of full transparency (particularly when one of these directors, Dr Colin Mendelsohn, was questioned directly about ATHRA's funding at the Future Melbourne Committee Meeting on 5 May 2020).

The ARA has for many years supported Big Tobacco's fight against proven tobacco control measures such as plain packaging, higher taxes, and display/advertising bans. Around half of its members sell tobacco products. The ARA's new Australian Retail Vaping Industry Association (ARVIA) was launched in November 2019. ARVIA does not disclose its members, but they are known to include the Master Grocers Association, which has for many years accepted corporate sponsorship from the tobacco industry.^{xxx} Since launching, ARVIA has engaged in advocacy to ease restrictions on e-cigarettes, for example, promoting an interview with a Foundation for a Smoke Free World-funded

researcher, in a Foundation for a Smoke Free World- and tobacco industry funded magazine,^{xxxi} and meeting federal politicians together with Legalise Vaping representatives.^{xxxii}

We respectfully request that the City of Melbourne consider these links when reviewing submissions put forward by these groups. Australia is a party to the WHO Framework Convention on Tobacco Control (FCTC) under which Australian governments, including local government, have obligations regarding engagement with commercial and other vested interests. The Preamble of the WHO FCTC recognises that Parties “need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts”. Further, Article 5.3 of the Convention requires that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”.^{xxxiii}

Recommendation

In conclusion, Quit Victoria believes that the public health evidence supporting the proposal to exclude e-cigarette use in City of Melbourne’s smokefree areas is indisputable. Excluding e-cigarette use is also in line with community expectations and thus likely to attract strong community support, and will ensure consistency with state regulation and that implemented by other councils. It will also ensure that the enviable amenity provided to the Victorian public and interstate and international visitors by the City of Melbourne’s unique laneways and public spaces remains of the highest standard.

Should you require any further information about e-cigarettes and the position of public health groups in Australia on these devices, please do not hesitate to contact Kylie Lindorff, Manager of Tobacco Control Policy on or email kylie.lindorff@cancervic.org.au.

Yours sincerely,

Dr Sarah White

Director

Quit Victoria

ⁱ Australian Leisure Management May 2020. <https://www.ausleisure.com.au/news/smoking-banned-across-all-bayside-beaches/> (accessed June 2020)

ⁱⁱ Victoria, *Parliamentary Debates*, Legislative Assembly, 25 May 2016 (Jill Hennessy, Minister for Health) (*‘Second Reading Speech’*). Available from: http://hansard.parliament.vic.gov.au/search/?LDMS=Y&IW_FIELD_ADVANCE_PHRASE=be+now+read+a+second+time&IW_FIELD_IN_SpeechTitle=Tobacco+Amendment+Bill+2016&IW_FIELD_IN_HOUSENAME=ASSEMBLY&IW_FIELD_IN_ACTIVITY_TYPE=Second+Reading&IW_FIELD_IN_SittingYear=2016&IW_DATABASE=* (accessed June 2020).

ⁱⁱⁱ Freeman, B., Vittiglia, A., and Winstanley, M. 10A.3 Mechanisms of influence—Industry-funded research. In Scollo, MM and Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2018. Available from <http://www.tobaccoinaustralia.org.au/chapter-10-tobacco-industry/10a-3-the-mechanisms-of-influence-industry-funded->

^{iv} Cancer Australia, Statement on e-cigarettes, February 2018. https://canceraustralia.gov.au/sites/default/files/statement_on_e-cigarettes_february_2018_0.pdf

^v Australian Tobacco Harm Reduction Association (ATHRA), Vaping appears to be the solution for public smoking bans, 7 October 2018. <https://www.athra.org.au/blog/2018/10/07/vaping-could-be-the-solution-for-public-smoking-bans/>

- vi ARVIA Letter to City of Melbourne Councillors, 4 May 2020; Legalise Vaping, Melbourne City Council plan to ban vaping - have your say! May 2020 (accessed June 2020).
<https://web.archive.org/web/20200609233622/http://www.legalisevaping.com.au/blog/melbourne-city-council-plan-to-ban-vaping-have-your-say>
- vii NASEM 2018 Summary Annex. Report Conclusions by level of evidence.p17 <https://www.nap.edu/read/24952/chapter/3>
- viii <https://www.nap.edu/read/24952/chapter/2?term=secondhand#14> Also from an industry website,
<https://vaping360.com/learn/is-second-hand-vapor-harmful/> John Hopkins say not safe round kids
<https://www.hopkinsallchildrens.org/Patients-Families/Health-Library/HealthDocNew/Is-It-Safe-to-Vape->
- ix John Hopkins All Children's Hospital says not safe round kids. <https://www.hopkinsallchildrens.org/Patients-Families/Health-Library/HealthDocNew/Is-It-Safe-to-Vape-Around-Children> ; <https://utswmed.org/medblog/4-myths-about-vaping-and-pregnancy-busted/> (accessed June 2020).
- x National Asthma Council, Australian Asthma Handbook. <https://www.asthmahandbook.org.au/clinical-issues/smoking/management>(accessed June 2020).
- xi Bayly JE, Bernat D, Porter L, Choi K. Secondhand exposure to aerosols from electronic nicotine delivery systems and asthma exacerbations among youth with asthma. *Chest*. 2019;155(1):88-93. Cited in Bozier, Jack & Chivers, Emily & Chapman, David & Larcombe, Alexander & Bastian, Nicole & Masso-Silva, Jorge & Byun, Min & McDonald, Christine & Crotty, Laura & Ween, Miranda. (2020). The Evolving Landscape of Electronic Cigarettes: A Systematic Review of Recent Evidence. *Chest*. 157. 10.1016/j.chest.2019.12.042.
- xii NHMRC CEO Statement: *Electronic Cigarettes (E-cigarettes)* (3 April 2017). Available from:
<https://www.nhmrc.gov.au/about-us/resources/ceo-statement-electronic-cigarettes> (accessed June 2020).
- xiii Royal Australian College of Physicians, *Policy on Electronic Cigarettes* (May 2018). Available from:
<https://www.racp.edu.au/news-and-events/media-releases/racp-clarifies-position-on-vaping> (accessed June 2020).
- xiv Royal Australian College of Physicians, *Policy on Electronic Cigarettes* (May 2018). Available from:
<https://www.racp.edu.au/news-and-events/media-releases/racp-clarifies-position-on-vaping> (accessed June 2020).
- xv World Health Organization. *Tobacco Fact Sheet* (27 May 2020). Available from: <https://www.who.int/news-room/fact-sheets/detail/tobacco> (accessed June 2020).
- xvi King AC, Smith LJ, McNamara PJ, et al Passive exposure to electronic cigarette (e-cigarette) use increases desire for combustible and e-cigarettes in young adult smokers *Tobacco Control* 2015;24:501-504
- xvii Vena A, Miloslavich K, Howe M, et al Exposure to JUUL use: cue reactivity effects in young adult current and former smokers. *Tobacco Control* Published Online First: 23 May 2020
- xviii Vena A et al. Cue salience of the use of an electronic nicotine delivery system (ENDS) device marketed to women. *Addictive Behaviours* (2020) 100:106-116
- xix Vena A, Miloslavich K, Howe M, et al Exposure to JUUL use: cue reactivity effects in young adult current and former smokers *Tobacco Control* Published Online First: 23 May 2020
- xx Mendelsohn, C. and Wodak, A. Legalising Vaping in Australia. McKell Institute. March 2019.
<https://mckellinstitute.org.au/app/uploads/McKell-Institute-Vaping-in-Australia.pdf> (accessed June 2020).
- xxi Topline Research Report cited in Cancer Council Australia Position Statement – Electronic Cigarettes.
https://wiki.cancer.org.au/policy/Position_statement_-_Electronic_cigarettes#Evidence_and_rationale_2
- xxii The Royal Children's Hospital National Child Health Poll (2020). E-cigarettes, vaping and teens: Do parents know the dangers? Poll Number 17. The Royal Children's Hospital Melbourne, Parkville, Victoria. Report at <https://www.rchpoll.org.au/wp-content/uploads/2020/02/nchp-poll17-report-e-cigarettes.pdf>. The Poll is a quarterly survey of a nationally representative sample of 2000 Australian households with children, which investigates key issues in child and adolescent health.
- xxiii Greenhalgh, EM, & Scollo, MM. InDepth 18B: Electronic cigarettes (e-cigarettes). In Scollo, MM and Winstanley, MH [editors]. *Tobacco in Australia: Facts and issues*. Melbourne: Cancer Council Victoria; 2018. Available from: <http://www.tobaccoinaustralia.org.au/chapter-18-harm-reduction/indepth-18b-e-cigarettes>
- xxiv Dr Harry Nespolon RACGP President, Twitter, 28 January 2020.
<https://twitter.com/racgppresident/status/1221976561919770624> (accessed June 2020).
- xxv RACGP Media Release 25 May 2020. <https://www.racgp.org.au/gp-news/media-releases/2020-media-releases/may-2020/racgp-s-strong-anti-tobacco-advocacy-work-recognis>
- xxvi Royal Australasian College of Physicians, RACP clarifies its position on vaping, 24 April 2020.
<https://www.racp.edu.au/docs/default-source/advocacy-library/policy-on-electronic-cigarettes.pdf>
- xxvii Royal Australian College of Physicians, *Policy on Electronic Cigarettes* (May 2018). Available from:
<https://www.racp.edu.au/news-and-events/media-releases/racp-clarifies-position-on-vaping> (accessed June 2020).
 See also: Royal Australasian College of Physicians Submission to NZ Health Select Committee
https://www.parliament.nz/resource/en-NZ/52SCHE_EVI_94933_HE8645/c4e837f0a83e03b04fdde1125fa43a0d9cd0de5d
- xxviii Eissenberg T, Bhatnagar A, Chapman S, Jordt S, Shihadeh A, Soule E. "Invalidity of an Oft-Cited Estimate of the Relative Harms of Electronic Cigarettes." *AJPH*, 110(2), pp. 161–162
- xxix Han, E. 'Independent' doctor-led vaping group accepts tobacco-tainted funding, *Sydney Morning Herald*, 16 October 2018. <https://www.smh.com.au/healthcare/independent-doctor-led-vaping-group-accepts-tobacco-tainted-funding-20181004-p507rq.html> (accessed June 2020) and Margo, J. The Addict Craves Swift Relief, *Australian Financial Review*, 10 February 2019. <https://athra.org.au/wp-content/uploads/2019/02/The-addict-craves-swift-relief.-AustralianFinancialReview.-PRINT-9-10Feb2019.pdf>

^{xxix} Tobacco Tactics, Knowledge-Action-Change. <https://tobaccotactics.org/wiki/knowledge-action-change/>

^{xxx} MGA Independent Retailer Magazine, March 2019, MGA Diamond Corporate Partners: British American Tobacco Australia, Philip Morris, Imperial Tobacco. Published 29 March 2019. <https://issuu.com/independent-retailer/docs/2019-mga-ir-issue-02-web> (accessed June 2020).

^{xxxi} ARVIA, Twitter, 19 March 2020. https://twitter.com/retail_vaping/status/1240191781515350016

^{xxxii} Australian Taxpayers Alliance/Legalise Vaping Australia, <https://twitter.com/LegaliseVaping/status/1235060323482095617> 4 March 2020.

^{xxxiii} WHO, FCTC Guidelines. https://www.who.int/fctc/guidelines/article_5_3.pdf?ua=1

From: Wufoo <no-reply@wufoo.com>
Sent: Thursday, 11 June 2020 2:28 PM
To: CoM Meetings
Subject: Submissions (223) Committee submissions form [#9]

Privacy acknowledgement: * I have read and acknowledge how Council will use and disclose my personal information.

Name: * Sarah White

Email address: * sarah.white@cancervic.org.au

Please write your submission in the space provided below and submit by no later than 12 June 2020.

The file attached here is the Attachment referred to in Quit Victoria's submission. It is sent separately as this online system does not allow you to attach 2 files.

Alternatively you may attach your written submission by uploading your file here:



[cancer_australia_statement_on_ecigarettes.pdf](#) 88.69 KB • PDF

Please indicate whether you would like to be heard by the Submissions (Section 223) Committee in relation to your submission live via phone or Zoom: *

Yes

Statement on e-cigarettes in Australia

February 2018

Based on current evidence, the potential benefit of e-cigarettes on smoking cessation is not established, and there is increasing evidence of health harms. Accordingly, the undersigned health and medical organisations support a precautionary approach to the promotion and availability of e-cigarettes in Australia. This is in line with recommendations from the World Health Organization and the World Federation of Public Health Associations.

E-cigarettes are battery operated devices that heat a liquid (called 'e-liquid') to produce a vapour that users inhale. Although the composition of this liquid varies, it typically contains a range of chemicals, including solvents and flavouring agents, and may or may not contain nicotine.¹

Current evidence indicates that the balance of harms at a population level significantly outweighs any potential benefit of e-cigarette use.

Key facts in informing our position at this time include:

- Growing evidence that e-cigarette use is a precursor to smoking in young people.¹⁻³ As Australia has a national smoking rate of less than 2% among 12 to 17 year olds⁴ and one of the world's lowest adolescent smoking rates among comparable nations⁵, this is of significant concern.
- Growing evidence of direct health harms, including increased risk of respiratory disease, cardiovascular disease and carcinogenesis.^{1,6-8}
- Growing evidence to suggest that e-cigarette use in non-smokers is associated with future uptake of tobacco cigarette smoking.¹
- The absence of conclusive evidence that e-cigarettes are effective as an aid to quitting smoking. The National Health and Medical Research Council has reviewed the evidence to date and concluded that evidence of cessation benefit is insufficient.⁹
- The extent to which e-cigarettes reduce harm to the user through exposure to fewer toxic chemicals than conventional tobacco cigarettes has not been determined.¹

The need for high quality research to establish the long term safety and efficacy of e-cigarettes in harm minimisation is recognised.¹

This statement is in line with the statements on e-cigarettes from the World Health Organization, National Health and Medical Research Council and the Therapeutic Goods Administration, and is supported by the following health and medical groups and health authorities.

Dr Michael Gannon
President
Australian Medical Association

Dr Helen Zorbas
Chief Executive Officer
Cancer Australia

Professor Sanchia Aranda
Chief Executive Officer
Cancer Council Australia

Dr Jennifer Johns AM
National President
National Heart Foundation of Australia

Ms Tanya Buchanan
Chief Executive Officer
Thoracic Society of Australia and New Zealand

Additionally, the following health organisations support a precautionary approach to e-cigarettes:

- National Health and Medical Research Council
- Australian Medical Association
- Cancer Council Australia
- National Heart Foundation of Australia
- Public Health Association of Australia
- Royal Australasian College of Physicians
- Royal Australian College of General Practitioners
- Lung Foundation of Australia
- Australian Association of Smoking Cessation Professionals
- Australian Council on Smoking and Health
- Australian Competition & Consumer Commission
- Departments of Health in Australian states/territories
- World Health Organization
- World Medical Association
- World Heart Foundation
- World Federation of Public Health Associations
- Forum of International Respiratory Societies
- International Union Against Tuberculosis and Lung Disease
- British Medical Association
- Royal Pharmaceutical Society
- New Zealand Cancer Society
- Heart and Stroke Foundation, Canada
- American Association for Cancer Research
- American Society of Clinical Oncology
- US Surgeon General
- American Lung Association
- American Thoracic Society
- National Association of Attorneys General (USA)
- American College of Preventive Medicine
- American Medical Association
- American Society of Addiction Medicine
- American Osteopathic Association
- American Association of Clinical Endocrinologists
- American College of Cardiology
- American Academy of Family Physicians
- American Academy of Pediatrics
- Society of Thoracic Surgeons
- American College of Chest Physicians.

References

1. National Health and Medical Research Council. NHMRC CEO Statement: Electronic Cigarettes (E-cigarettes). https://www.nhmrc.gov.au/_files_nhmrc/file/publications/17072_nhmrc_-_electronic_cigarettes-web_final.pdf 2017 [updated 3 April 2017; Accessed 24 October 2017].
2. Soneji S, Barrington-Trimis JL, Wills TA, Leventhal AM, Unger JB, Gibson LA, et al. Association between initial use of e-cigarettes and subsequent cigarette smoking among adolescents and young adults: A systematic review and meta-analysis. *JAMA Pediatr.* 2017;171(8):788-97.
3. Leventhal AM, Strong DR, Kirkpatrick MG, Unger JB, Sussman S, Riggs NR, et al. Association of electronic cigarette use with initiation of combustible tobacco product smoking in early adolescence. *JAMA.* 2015;314(7):700-7.
4. Australian Institute of Health and Welfare. 2016 National Drug Strategy Household Survey. <https://www.aihw.gov.au/reports/illegal-use-of-drugs/ndshs-2016-key-findings/contents/tobacco-smoking>. [updated 01 June 2017; Accessed 24 October 2017].
5. Cancer Australia 2018. National Cancer Control Indicators: smoking prevalence – adolescents. <https://ncci.cancer australia.gov.au/prevention/smoking-prevalence/smoking-prevalence-children-and-young-adults>. [Accessed January 2018].
6. Australian Medical Association. AMA Submission to the Standing Committee on Health, Aged Care and Sport Inquiry into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers in Australia. Submission 289. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.
7. Thoracic Society of Australia and New Zealand and Lung Foundation Australia. Inquiry into the Use of Electronic Cigarettes and Personal Vaporisers in Australia. Submission 332. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.
8. Royal Australasian College of Physicians. Inquiry into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers in Australia. Submission 276. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.
9. National Health and Medical Research Council. NHMRC submission to the Parliamentary Inquiry into the Use and Marketing of Electronic Cigarettes in Australia. Submission 167. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.

Sent: Thursday, 11 June 2020 5:37 PM
To: CoM Meetings
Subject: Submissions (223) Committee submissions form [#10]

Privacy acknowledgement: * I have read and acknowledge how Council will use and disclose my personal information.

Name: * Colin Mendelsohn

Email address: * mendel@bigpond.net.au

Please write your submission in the space provided below and submit by no later than 12 June 2020. Please see attachment

Alternatively you may attach your written submission by uploading your file here:



PDF

[submission_to_melb_city_council_11june2020.pdf](#) 163.25 KB ·

Please indicate whether you would like to be heard by the Submissions (Section 223) Committee in relation to your submission live via phone or Zoom: *

No



11 June 2020

Future Melbourne Committee
Meeting: 3pm, 2 July 2020

Re: Proposed Local Law amendment 2020
Greening Melbourne, Vaping and Miscellaneous Amendments

I am writing to oppose the proposed vaping amendment.

My submission in May 2020 addressed the misconceptions about the health and public health effects of vaping. It stated

- There is no evidence of a health risk to bystanders from passive vaping
- There is convincing evidence that vaping is an effective quitting aid
- The outbreak of serious lung disease in the US is not linked to nicotine vaping. Almost all (if not all) cases are now thought to be due to blackmarket THC (cannabis) oils contaminated with Vitamin E Acetate purchased from street vendors
- In spite of the alarmist headlines, there is no good evidence that vaping is leading significant numbers of young people to become regular smokers
- Vaping is a much safer alternative to smoking, probably at least 95% safer

I would now like to address the arguments for the ban raised at the Council meeting on 5 May 2020.

The amenity of bystanders

There is a legitimate concern that bystanders may be inconvenienced by large clouds of vapor. I would like to make several points about this.

Unlike secondhand smoke, there is no evidence of a material health risk to bystanders according to [Public Health England](#) and the UK [Royal College of Physicians](#). This is even more valid in outdoor areas.

Public Health England 'recommends that e-cigarette use is not covered by smokefree legislation'. [\[link\]](#)

The force of law should be reserved for protecting people from material harm caused by others. Vaping may still be disagreeable to some people, but it is primarily a matter of etiquette and respect for the preferences of others.

Secondhand vapour is an issue of public nuisance, like loud music from ghettoblasters, loud conversations on mobile phones or strong perfumes.

A ban is a disproportionate response which will have unintended negative consequences (see below).

Vapour is generally sweet and pleasant smelling. Negative reactions are mostly based on misperceptions about the risks of vaping. The recently published [NSW Smoking and Health Survey 2019](#) found that 59% of adults surveyed wrongly think “It is unsafe to use vapes or e-cigarettes around others”.

Public concern about passive vaping could be mitigated by public education. The public may be much less concerned about passive vaping if there is greater awareness of its lack of harm.

Exposure can be mitigated by educating vapers about vaping etiquette and to consider the people around them. Vapers should not blow large clouds in crowded areas or vape around children. Signs could be erected requesting that vapers only blow small clouds and be considerate of others.

Many vapers already ‘stealth vape’ in public. This involves using discreet devices which generate very small clouds and cause minimal inconvenience to others. An example of signs to change smoking behaviour is the [Japanese Smoking Manners](#) campaign.

Unintended consequences

Smoking is the leading preventable cause of death and illness in Australia and smoking rates have not declined over the last 7 years. Vaping is an evidence-based, potentially lifesaving alternative for smokers who cannot quit and should be encouraged. According the UK Royal College of Physicians [\[link\]](#)

“in the interests of public health it is important to promote the use of e-cigarettes ... as widely as possible as a substitute for smoking”

Public health policy should be encouraging smokers to switch to vaping. E-cigarettes are a legitimate and much less harmful alternative to lethal cigarettes for smokers who cannot quit with conventional treatments. Banning vaping sends the misleading message that it is just as harmful as smoking and could deter switching from smoking to vaping.

A ban on vaping in the CBD will discourage vaping. According to leading UK experts [\[link\]](#):

“The evidence to date does not support a policy to prohibit e-cigarette use in enclosed public places and such policies could have significant unintended consequences by sustaining the use of smoked tobacco”

A vape ban may make switching to vaping a less appealing and less likely. The opportunity to vape in places where smoking is prohibited is an incentive to switch to the healthier behaviour.

Vapers may be more likely to relapse if they are forced to smoking areas with smokers. This is no different to forcing a recovering alcoholic into a pub.

Consistency with the state legislation

Under the Tobacco Act 1987, vaping is banned in smoke-free areas. For the reasons outlined above, this ruling is not evidence-based and is harmful to public health.

Rather than the Council regulations simply complying with flawed legislation, I suggest the Council follows the evidence and makes its own decision based on the latest science. The Council could ask the state government to reconsider its legislation.

Separation from the Greening Melbourne amendments

The vaping and Greening Melbourne issues are combined in the one amendment. I strongly suggest that the Vaping amendment be considered as a separate issue to the Greening Melbourne amendment. These are very different issues and each should be assessed on its own merits, so that concerns about one does not block or delay the other.

Recommendations

- A trial of signage about vaping etiquette, for example: say "you may vape but large clouds are not acceptable or tolerated"
- Education of vapers to consider others
- Educate the public that second-hand vapour is not harmful, unlike cigarette smoke
- Ask the Victorian government to review its policy on vaping in smokefree areas
- Separate vaping from the Greening Melbourne amendments so each can be addressed and voted separately

Yours Truly

Associate Professor Colin Mendelsohn

About me

I am a medical practitioner and tobacco treatment specialist with a special interest in tobacco harm reduction (the use of safer alternatives to smoking). I am a Conjoint Associate Professor in the School of Public Health and Community Medicine at the University of New South Wales, Sydney.

I am the Foundation Chairman of the Australian Tobacco Harm Reduction Association, a health promotion charity established to raise awareness of less harmful alternatives to smoking tobacco, www.athra.org.au

I am a member of the expert committee that develops the RACGP Australian national smoking cessation guidelines.

I am a member of the NSW Health expert advisory committee on e-cigarettes

For more information, please visit my website at www.colinmendelsohn.com.au

Disclosure

I have never received funding from or had any commercial relationship with any tobacco or electronic cigarette companies.

From: Patricia Schluter <Patricias@lungfoundation.com.au>
Sent: Friday, 12 June 2020 10:26 AM
To: CoM Meetings
Subject: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020
Attachments: Melbourne City Council local law submission FINAL.pdf
Importance: High

Good Morning

Please find attached a submission from Lung Foundation Australia regarding the proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020.

Please do not hesitate to contact me if the Committee or councillors have any questions regarding our submission.

Kind regards,

Patricia

Patricia Schluter
Advocacy and Policy Manager



E patricias@lungfoundation.com.au
W lungfoundation.com.au



Lung Foundation Australia acknowledge the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.

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12 June 2020

Director Governance
Melbourne City Council
GPO Box 1603
Melbourne VIC 3001



Via email: com.meetings@melbourne.vic.gov.au

Dear Mayor and Councillors of Melbourne City,

Re: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020 – section (a)(b): extend the definition of smoking to include vaping using an e-cigarette.

On behalf of our clinicians, patients, and their family and carers, we write to support the proposed local law amendment to ban the use of e-cigarette devices in existing non-smoking areas of Melbourne City.

Lung Foundation Australia is Australia's only peak consumer-informed organisation focused on strengthening the lung health of all Australians and supporting Australians experiencing a lung disease.

Lung Foundation Australia believes Australians want to, and will, achieve a tobacco-free and nicotine-free society. We welcome and support amendments to Australian legislation that implement Australia's international obligations under the World Health Organisation Framework Convention on Tobacco Control and other treaties including the International Covenant on Economic, Social and Cultural Rights, and maintain Australia's status as a world-leader in combatting the spread of respiratory illness.

We commend Melbourne City Council for their actions with respect to the proposed local law, which will ensure that vaping – like smoking – is banned in 11 smoke-free zones in the CBD.

The harms of e-smoking for users and bystanders

Although the composition of the e-liquid in e-cigarettes varies, it typically contains a range of chemicals, including solvents and flavouring agents, and may or may not contain nicotine. The manufacturing and importation of e-cigarettes is largely unregulated in Australia, which means that there is no quality control over how products are made, or what chemicals or toxins they contain.

The liquids used in e-cigarettes:

- May contain a range of toxic chemicals including those that add flavor

- Sometimes contain nicotine, even if they are labelled as being 'nicotine free' ([Australian Government, 2020](#), [Chivers et al., 2019](#), [Trehy et al., 2011](#)). There is no way to determine whether or not an e-cigarette contains nicotine, short of subjecting it to laboratory analysis.

Hazardous chemicals and toxins have been found in e-cigarette liquids and in the aerosol produced by e-cigarettes, including nicotine; flavouring chemicals; formaldehyde, acetaldehyde and acrolein, which are known to cause cancer; ultrafine particles; flavourings such as diacetyl, a chemical linked to serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals such as nickel, cadmium, tin and lead ([U.S. Department of Health and Human Services, 2016](#), [NHMRC, 2017](#), [Lichtenberg, 2017](#)). Some chemicals in e-cigarette aerosols can also cause DNA damage ([Australian Government, 2020](#)).

It can be hard to assess the safety of e-cigarettes and liquids because:

- there is a wide variety of devices and liquids sold
- their labels are often incomplete or incorrect
- users can change the liquid they use in their e-cigarette and how the device operates
- many diseases (such as cancer) take a long time to develop.

E-cigarettes are relatively new products so the evidence around their health impacts is continuing to evolve. Even though we are still learning about e-cigarettes, they cannot be considered safe.

Immediate short-term adverse effects of e-cigarette use are usually mild and transient, and may include nausea, vomiting, mouth and airway irritation, chest pain and palpitations ([Cantrell, 2014](#)).

There is concern that because it attacks the lungs, the coronavirus that causes COVID-19 could be an especially serious threat to those who smoke tobacco or marijuana or who vape; recent evidence suggests that people who use e-cigarettes may be more vulnerable to the virus and experience poorer health outcomes ([Vardavas and Nikitara, 2020](#), [Botelho, 2020](#), [Burling, 2020](#), [Yu, 2020](#)).

The long-term consequences of e-cigarette use are not well understood. Limited evidence suggests that e-cigarette users may experience longer-term adverse health effects such as:

- Respiratory disease risk ([Britton and Bogdanovica, 2014](#), [Orellana-Barrios et al., 2015](#), [Sleiman et al., 2016](#), [Schweitzer et al., 2017](#), [Kim et al., 2017](#), [Zucchet and Schmaltz, 2017](#), [Shields et al., 2017](#), [Chun et al., 2017](#), [Martin et al., 2016](#), [Barrington-Trimis et al., 2014](#), [Allen et al., 2016a](#), [Rowell et al., 2015](#), [Leigh et al., 2016](#), [Tierney et al., 2016](#), [Vardavas et al., 2017](#), [Grana et al., 2014](#), [Kim et al., 2016](#), [National Academies of Sciences Engineering and](#)

[Medicine, 2018](#), [Hua and Talbot, 2016](#), [Wang et al., 2018](#), [Ween et al., 2016](#), [Ween et al., 2019](#), [Ween et al., 2017](#)) and severe lung illness associated with using e-cigarette and vaping products (EVALI) ([CDC, 2020b](#)).

- Cardiovascular disease risk ([Lippi et al., 2014](#), [Farsalinos et al., 2014](#), [Callahan-Lyon, 2014](#), [Vlachopoulos et al., 2016](#), [Hua and Talbot, 2016](#), [Nelluri et al., 2016](#), [Bhatnagar, 2016](#), [Wang et al., 2018](#), [Alzahrani et al., 2018](#), [Benowitz and Fraiman, 2017](#), [National Academies of Sciences Engineering and Medicine, 2018](#), [Byrne et al., 2018](#))
- Cancer risk ([Byrne et al., 2018](#), [National Academies of Sciences Engineering and Medicine, 2018](#), [U.S. Department of Health and Human Services, 2014](#), [Goniewicz et al., 2014](#), [Hess et al., 2017](#), [FDA, 2009](#), [Kim et al., 2016](#), [Staudt et al., 2018](#), [Stephens, 2018](#), [Gaur and Agnihotri, 2019](#), [Jensen et al., 2015](#), [Kosmider et al., 2014](#), [Straif et al., 2014](#))
- Slower wound healing ([Byrne et al., 2018](#))
- Periodontal (gum) diseases ([Javed et al., 2017](#))
- Cell damage of oral tissue ([National Academies of Sciences Engineering and Medicine, 2018](#))
- Eye irritation ([Kim et al., 2016](#))
- Impact on central nervous system ([Kim et al., 2016](#)).

The dangers of e-cigarettes are not limited to those containing nicotine. Non-nicotine e-cigarettes with flavouring chemicals are harmful and have the potential to cause adverse health effects ([Leigh et al., 2016](#), [Tierney et al., 2016](#), [Allen et al., 2016b](#)).

The use of nicotine-containing e-cigarettes poses significant dangers for vulnerable people, including young people, pregnant women and fetuses, and people with lung conditions ([U.S. Department of Health and Human Services, 2016](#), [Greenhalgh and Scollo, 2016](#)).

Exposure to second-hand aerosol

E-cigarettes produce environmental pollutants, and in sufficient quantities to potentially harm health ([Fernandez et al., 2015](#), [Burstyn, 2014](#), [Zainol Abidin et al., 2017](#), [Soule et al., 2017](#), [Hess et al., 2016](#), [Melstrom et al., 2017](#), [National Academies of Sciences Engineering and Medicine, 2018](#)). Bystanders' exposure to second-hand aerosol is deeply concerning, particularly for the health of vulnerable populations, including young people, people with lung conditions, and pregnant women ([Hess et al., 2016](#), [Greenhalgh and Scollo, 2016](#)).

People who choose not to smoke or vape, should not be exposed to harmful aerosol containing toxins risking their health and well-being, when they shop, exercise or travel to and from work or leisure activities.

Benefits of the local law to individuals and the Australian community

Banning e-cigarettes in smoke-free areas will:

- Maintain the amenity of public spaces for the enjoyment of all Victorians, Australians and international visitors; and
- Protect the health and wellbeing and human rights of all Victorians, Australians and international visitors.

Lung Foundation Australia and its supporters strongly support the proposed local law and endorse the submission on this matter made by our colleagues from Quit Victoria.

Yours sincerely,

Mark Brooke

Chief Executive Officer

Lung Foundation Australia

From: Sandro Demaio <sdemaio@vichealth.vic.gov.au>
Sent: Friday, 12 June 2020 12:53 PM
To: CoM Meetings
Cc: Sally Capp - Lord Mayor of Melbourne
Subject: VicHealth submission - Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020
Attachments: VH submission to CoM - ecigs.pdf

Good afternoon

Attached please find VicHealth's submission to the Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020.

Kind regards

Sandro

Dr Sandro Demaio MBBS MPH PhD
Chief Executive Officer
Victorian Health Promotion Foundation (VicHealth)
15–31 Pelham Street, Carlton, VIC 3053

E: sdemaio@vichealth.vic.gov.au
www.vichealth.vic.gov.au

Please be patient if my responses are slower on Wednesdays and Sundays. I am on secondment these days as Deputy Public Health Commander (Public Information) with the COVID-19 Department Incident Management Team, Department of Health and Human Services, Victoria.

EA: Jo Hillas E: jhillas@vichealth.vic.gov.au

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12 June 2020

Director Governance
Melbourne City Council
GPO Box 1603
Melbourne 3001
com.meetings@melbourne.vic.gov.au

Re: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

While the long-term health effects of e-cigarettes are yet to be established, there is no doubt that their use carries significant risk of harm. Evidence suggests that e-cigarettes contain substances that are proven to have adverse health effects on the immune, respiratory and cardiovascular systems. [1]

This risk of harm may also extend beyond the people who use e-cigarettes. E-cigarette vapour can contain a range of chemicals, solvents and toxic metals which could represent a risk to bystanders. [2] Relatedly, it has been recommended by medical experts that people avoid vaping around pregnant women and children. [3,4]

There is evidence to suggest that for people who smoke or have quit, seeing others use e-cigarettes can increase their urge to smoke. Two-thirds of people who smoke report choosing to smoke immediately after seeing someone use an e-cigarette. Young adults who have quit smoking report having an increased desire to smoke a cigarette after seeing people using e-cigarettes. [5]

Research has shown that smokefree policies have been successful in de-normalising smoking and contributing to its decline. [6] Given that e-cigarettes may pose a health risk to the people who use them and bystanders, while also potentially triggering relapse among people who have quit smoking, it is important that e-cigarettes are prohibited from being used in smokefree areas. Over two-thirds (69%) of Victorians support prohibiting e-cigarette use in smokefree areas, including 53% of people who currently smoke and 71% who have quit. [7]

VicHealth supports the City of Melbourne's proposal to amend the *Proposed Activities Local Law 2020* to include 'vaping using an e-cigarette' under the definition of smoking. This will also align the Local Law with the Victorian *Tobacco Act 1987*.

If you would like any further information, please contact Sean O'Rourke, Principal Program Officer, Alcohol and Tobacco at sorourke@vichealth.vic.gov.au

Yours sincerely,

Dr Sandro Demaio
Chief Executive Officer

cc: Lord Mayor Sally Capp, City of Melbourne, email: sally.capp@melbourne.vic.gov.au

References

- [1] Greenhalgh, EM, & Scollo, MM. InDepth 18B: Electronic cigarettes (e-cigarettes). In Scollo, MM and Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2018. Available from: <http://www.tobaccoinaustralia.org.au/chapter-18-harm-reduction/indepth-18b-e-cigarettes>
- [2] Quit Victoria 2020 Submission City of Melbourne: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020
- [3] John Hopkins All Children's Hospital (2020) 'is it safe to vape around children?' accessed 11 June 2020 from: <https://www.hopkinsallchildrens.org/Patients-Families/Health-Library/HealthDocNew/Is-It-Safe-to-Vape-Around-Children>
- [4] The University of Texas Southwestern Medical Center, '4 myths about vaping and pregnancy' accessed on 11 June 2020 from: <https://utswmed.org/medblog/4-myths-about-vaping-and-pregnancy-busted/> (accessed June 2020).
- [5] Vena A, Miloslavich K, Howe M, et al Exposure to JUUL use: cue reactivity effects in young adult current and former smokers. Tobacco Control Published Online First: 23 May 2020
- [6] Wood, L, Letcher, T, Winstanley, M & Hanley-Jones, S. 5.14 Smokefree policies. In Greenhalgh, EM, Scollo, MM and Winstanley, MH [editors]. Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2020. Available from: <https://www.tobaccoinaustralia.org.au/chapter-5-uptake/5-14-opportunity-to-smoke>
- [7] Cancer Council Australia 2020 Position statement - Electronic cigarettes, accessed on 11 June 2020 from: https://wiki.cancer.org.au/policy/Position_statement_-_Electronic_cigarettes#Evidence_and_rationale_2

Melbourne City Council
Submission to Vaping

As GetVale 3032

12/6/2020

Dear Councillors

Thank you for the opportunity to put in a submission on "Vaping"

I read The Age page 4 May 7 2020 "Not Convinced" CBD vaping ban put to public - see photo.

Sally Capp ~~said~~ said "A ban would bring the city in line with the rest of the state where E Cigarettes are included in smoking restrictions. I totally agree as it is inconsistent."

The Childrens Hospital[⊕], Royal Womens Hospital[⊕] and others must have good reasons to ban it in non smoking areas. In Asthma it may trigger an attack going by the foundation[⊕] Cystic Fibrosis[⊕] where lungs can bleed when breathing in tobacco smoke would still have some negative effect, Heart Foundation[⊕] as I understand it, are putting in their own submission[⊕] = I rang these organizations to get their opinion. None thought it was a good idea to vapor E Cigarettes! The health effects must be negative to some degree on infants children teenager adult and the mature persons. People with serious chronic conditions especially Respiratory conditions would have varying negative

health effects.

If not banned the message is smoking NO but E Cigarettes are O.K.! A bit difficult explaining that inconsistency to a child!

The picture of the man vaping in the Age Photo you can see how far it travels if someone was sitting along side him I would have to move!

If he unknowingly had the Corona Virus one would be at greater risk of obtaining it!

Dr Swan of the ABC says wearing a one way mask would shoot the virus with greater force and vaping in my opinion could be similar because it would be fine particles (very) be carried in moist air which would mean it would travel further? It may/may not but there are still many unknowns/conditions Says Dr Sarah White in long short term consequences. Second hand aerosol. In tobacco side stream smoke is more deadly than mainstream smoke. Passive smoking is forced smoking and is it similar an E Cigarette? It wouldn't improve your health!

Some Physicians said "That smokers have a lower risk of Dementia" which is correct except the reason is that they die so much earlier. My Physician I agree with 99.9% of the time. One Physician^(A) told me E Cigarettes are more dangerous than tobacco and the Doctor is at the coal face! Unfortunately didn't go into detail but felt very strongly about it. I have not put Doctor's names as I have not got permission (asked) but if you would like the doctor's opinion I will ask the doctor if you want it.

① I can't find sheet on how addictive Nicotine is but when I find it I will send it to you. P3

On the Internet if one looks under E Cigarettes it is not without risk. One says about three dozen died from it. It could be more. In USA.

I did listen to a TED talk by Sachitra Krishnan Sarni (I think she is a doctor)

She says 15,000 different additives and especially on the teen brain as it is a cool thing to do in USA!

She says you can get ^(A) pure nicotine which is equal to a packet of cigarettes! It would make it very addictive and would they graduate to smoking tobacco? Physician ^(A) may be aware of the pure ~~neat~~ nicotine! or some other facts?

We know because of the Nicotine ⁽¹⁾ in tobacco it is Three Times more addictive than heroin. Some stop heroin but can't stop smoking!

The standards in Victoria on E Cigarettes are X and hopefully very strict but users can buy it from interstate and overseas and who knows what is in it!

Deputy Lord Mayor Arnon Wood said he was not convinced and wants to hear from the public which is excellent. He may need to deliberately go to places where they vapor and breathe it in and see the effect it has on him. In a forced side stream position but not if he is suffering from any chronic disease! It seems he has not experienced E Cigarettes vapor

Cr Jackie Watts said "CBD walkers were often swamped by E cigarettes and said it was a amenity issue and should be strongly considered which I totally agree with. I hope Cr Susan Riley considers this point and Sally Capp points.

Side stream smoking, second hand smoking passive smoking is FORCED smoking and you have to move. In tobacco it is worse than main stream smoke because it is not filtered. Is it the same with vaping? At the very least it makes you move away providing you have the ability. Dr Sarah White states "A ban is common sense and adds E Cigarettes produce an aerosol. I repeat no one is banning it completely only in non smoking areas. If a smoker and E cigarette person died say from a heart attack or ~~it~~ in non smoking area at present the smoker was in non smoking area but vapor person no sign. about vaping would / could the council be sued especially if a person was getting vaping from a person vaping along side him / her?

The doctor in London stopped citizens of the city from using a pump (water) as they were getting sick and dying! Unfortunately the doctor died later but it was Cholera in the water.

I hope the Councillors ban E cigarettes like the doctor banned the pump (one only) as it is only in non smoking areas. The more you smoke E cigarettes the more the negative health effects and ~~it should not be put up with~~ non vapors should not have to put up with it. It should be the precautionary principle no harm to others and people should ^{not} be forced to breathe the vapor of others. Have the place of setting at a bench without tobacco / vapor or on the Tan Track.

Wishing you all the best of health.

Yours Sincerely Jeff Martin.

He has come forward and admitted what he did. It was an impulsively stupid - but not

sharing the inside goss with his inner circle - except there no longer is an inner circle.

585-page confidential police report on a drug dealer. Collins was photographed with his pants down after being arrested on a murder

picture conference, embarrassing shots that were unfit for publication would be handed around for a laugh before being binned.

send. How will this look in a week, a month, or a year's time?
The Laidley case proves you don't have to carry a gun to shoot yourself in the foot.

'Not convinced': CBD vaping ban put to public

Paul Sakkal

Opponents and proponents of vaping will have a chance to lobby Melbourne City Council before it decides whether to ban e-cigarettes from smoke-free areas.

The public will have about a month to make submissions to the council on a local law to make vaping illegal in the 11 smoke-free zones in the CBD, including at Bourke Street Mall and along the Tan running track.

Councillors will consider the health effects of vaping as well as the public amenity issues caused by vaping smoke.

Vaping advocates, including the Royal Australasian College of Physicians, say vaping causes no danger to bystanders and helps smokers quit cigarettes. Other groups, including Quit Victoria, say e-cigarettes produce an aerosol and their second-hand smoke is potentially harmful.

A council committee will review the submissions before making a recommendation to council on whether to proceed with the reform. A vote of the council would



A man vaping in Bourke St mall. Photo: Luis Ascui

ed science on the health risks of vaping. Cr Jackie Watts said CBD walkers were often "swamped" by e-cigarette smoke and said the amenity issues should be strongly considered.

Vaping advocates say there is no proof e-cigarettes pose a danger to bystanders, with Britain's health department and the Royal College of Physicians both finding no evidence of harm from passive vaping.

Colin Mendelsohn, associate professor at the University of NSW's School of Public Health and Community Medicine, said nicotine doses in vapers were too low to be dangerous.

"I don't think the council really has a mandate or a responsibility to [ban vaping]," he said in March when the ban was proposed.

Quit Victoria director Dr Sarah White has said a ban was common sense and added that e-cigarettes produced an aerosol.

"The argument that there's absolutely no emissions is not accurate," she said in March. "We actually don't know the long-term, or even short-term, health effects of ... second-hand aerosol."

ing restrictions. Other councillors expressed caution over the proposed rule at a council meeting on Tuesday night.

Deputy lord mayor Arron Wood said he was "not convinced" about the need for change and wanted to hear from the public.

Cr Susan Riley said she was "on the fence" because of the contest-

safe

Wentworth 4/15

Nelone - in Var protest

Ombudsman acts on ME complaints

From: Lisa Nicolaou <admin@tobaccofreeportfolios.org>
Sent: Friday, 12 June 2020 3:14 PM
To: CoM Meetings
Cc: Dr Bronwyn King
Subject: Submission
Attachments: City Of Melbourne Submission.pdf

Dear Sir / Madam

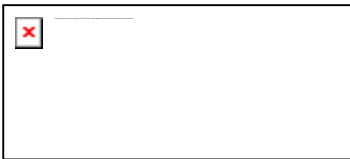
Please find herewith Dr. Bronwyn King's submission in support for the City of Melbourne's proposed Local Law to amend the Council's Activities Local Law 2019: to 'extend the definition of smoking to include vaping using an e-cigarette'.

We would be pleased if you could confirm receipt by return email.

Kind Regards

Lisa Nicolaou
Executive Assistant
Tobacco Free Portfolios

E: admin@tobaccofreeportfolios.org
W: tobaccofreeportfolios.org





Director Governance
Melbourne City Council
GPO Box 1603
Melbourne, 3001

Email: com.meetings@melbourne.vic.gov.au

12 June 2020

Dear Sir/Madam,

Re: Proposed Local Law to amend the Council's Activities Local Law 2019 to:

- **extend the definition of smoking to include vaping using an e-cigarette**

I am writing to indicate Tobacco Free Portfolios' strong support for the City of Melbourne's proposed Local Law to amend the Council's Activities Local Law 2019 to 'extend the definition of smoking to include vaping using an e-cigarette'.

Extending the definition in this manner will:

- Align the Local Law with the Tobacco Act 1987 (Vic).
- Align with the laws of other Councils (for example the Bayside City Council which as of May 2020 includes vaping and use of e-cigarettes in smoke-free laws on its beaches)
- Reduce the risk of re-normalising smoking in Melbourne.
- Reduce the risk of undermining quitting activity in those who are trying to quit smoking.
- Reduce exposure to second-hand e-cigarette aerosol in Melbourne, noting that the risks of such exposure are not yet fully understood.
- Reduce exposure to respiratory 'droplet-spread' from other people – a important concern for the City of Melbourne during the COVID-19 pandemic. There is currently no evidence that second-hand e-cigarette aerosol *does not* contain active viral particles in people currently infected with the SARS-CoV-2 virus.
- Maintain the amenity and comfort of Melbourne's smoke-free areas and encourage families and children to enjoy these spaces.
- Reflect overwhelming community expectations.
- Help maintain Melbourne's global leadership as a city that is quickly transforming to one that is completely tobacco-free.

I would also urge consideration be given to changing the definition of 'smoke' to reflect the Tobacco Act 1987 Vic (ie. 'Smoke' means – "smoke, hold or otherwise have control over, an ignited or heated tobacco product") in order to be clear that *heated tobacco products* are included and do not slip through the cracks. Ideally, for clarity and in order to avoid unintended loopholes, the definition of 'smoke' should also include all forms of shisha use – those that contain tobacco as well as those that do not.

I would like to applaud the City of Melbourne for considering this very important issue that, should it proceed as per the proposed amendment, would reinforce Melbourne's well known reputation of being one of the world's most liveable cities.

I would be very pleased to provide further information at your request.

Yours sincerely,

Dr Bronwyn King AO
CEO Tobacco Free Portfolios
2019 Melburnian of the year
bk@tobaccofreeportfolios.org

From: Brett Chant <Brett.chant@retail.org.au>
Sent: Friday, 12 June 2020 4:09 PM
To: CoM Meetings
Subject: Submission - Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020
Attachments: ARVIA Submission re Proposed MCC vape ban.pdf

To Whom It May Concern,

Please find attached a submission from the Australian Retail Vaping Industry Association regarding the Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020.

Regards,

Brett Chant | Advocacy Manager

Australian Retailers Association (ARA) & Australian Retail Vaping Industry Association (ARVIA)
Melbourne office: Level 1, 112 Wellington Parade | East Melbourne | Victoria | 3000
Sydney office: Suite 104, 40-48 Atchison Street | St Leonards | New South Wales | 2065

| E: brett.chant@retail.org.au | www.retail.org.au | 1300 368 041



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Director Governance,
Melbourne City Council,
GPO Box 1603,
Melbourne, 3001

Friday, 12 June 2020

Dear Councillors,

RE: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

The Australian Retail Vaping Industry Association (ARVIA) is a Member Group of the Australian Retailers Association (ARA) and represents specialist vape stores as well as ordinary retailers that want to see lifesaving smoke free products legalised in Australia.

ARVIA and the ARA made a submission previously outlining our strong objections to the proposal to ban vaping in the Melbourne Central Business District (CBD). We are disappointed that the Future Melbourne Committee nonetheless proceeded with the ban despite the indisputable evidence that was presented by ARVIA and other concerned stakeholders.

Banning vaping on the basis that it is harmful, or just as harmful as conventional tobacco, is completely unscientific and is not based on any available credible evidence. For any public decision-making body to ignore the clear and compelling scientific research is irresponsible and a gross breach of the trust placed in them.

Rather than take the side of Big Tobacco and so-called Public Health groups such as Quit Victoria that rely on tobacco taxes for their funding, the City of Melbourne has an opportunity to pursue objective, sensible, evidence-based and truly nation-leading policy on this issue.

While we accept that there is a very small potential for vaping to impact on the amenity of the CBD, we believe that such concerns can be easily managed. The number of vapers as a proportion of all people that enter and walk throughout the CBD is tiny and the vast majority of vapers are discreet, courteous and responsible, and do not blow vapour indiscriminately.

Importantly, e-cigarette vapour poses absolutely no human health risk, and vaping does not create any ash or cigarette butt litter as conventional tobacco products do.

To help manage the amenity issues, the City of Melbourne could work in partnership with public health organisations, industry groups and other stakeholders to develop resources to reassure the public that e-cigarette vapour does not pose any human health risk to

bystanders. In addition, small signage, similar to no-smoking signs, could also be displayed throughout the CBD to remind vapers to be courteous when vaping.

Rather than push vaping underground or out of the CBD like conventional cigarette smoking, the City of Melbourne should instead be guided purely by the objective scientific evidence and develop its smoke free and vaping policies accordingly.

In fact, encouraging smokers to switch from smoking tobacco to vaping in the Melbourne CBD would be a very positive and progressive achievement for public health as it will reduce smoking rates and address the high burden of harms associated with combustible tobacco use.

As we stated in our initial submission, banning and restricting access to vaping simply protects traditional cigarettes and only serves the interests of Big Tobacco. We therefore urge Councillors to vote against this proposal so as to not further entrench the place of combustible tobacco in our community, and to work with Australian retailers to embrace scientifically proven safer smoke free alternatives.

Please do not hesitate to contact me if you have any questions.

Yours sincerely,

Brett Chant

Advocacy Manager

Australian Retailers Association & Australian Retail Vaping Industry Association

brett.chant@retail.org.au

1300 368 041



Sent: Friday, 12 June 2020 4:55 PM

Subject: FW: Submission - Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

Attachments: FINAL - Heart Foundation submission to City of Melbourne Proposal - June 2020.pdf; Attachment 1 - E-cigarettes Statement - Feb 2018.pdf

From: Andrew Mosley
Sent: Friday, 12 June 2020 4:55:18 PM (UTC+10:00) Canberra, Melbourne, Sydney
To: CoM Meetings

Subject: Submission - Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

Dear Director of Governance

Re: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

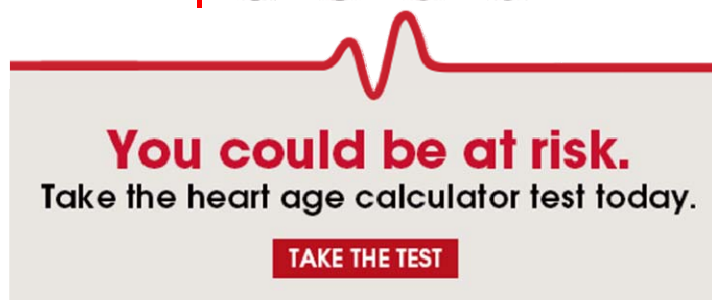
On behalf of Kellie-Ann Jolly, Victorian CEO – Heart Foundation, please find attached our submission to the Local Law consultation.

Kind regards

Andrew



Andrew Mosley | Advocacy Manager VIC/TAS
Level 2, 850 Collins Street, Docklands VIC 3008



For heart health information and support, call our Helpline on 13 11 12 or visit heartfoundation.org.au



The Heart Foundation acknowledges the Traditional Owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respect to them and their cultures, and Elders past, present and future.

PLEASE NOTE

This e-mail and any attachments may contain confidential and/or privileged material and is for the intended addressee(s) only. If you are not an intended addressee, you must not use, copy, retain, disclose or distribute this information. Please notify the sender immediately by return e-mail and delete the message from your system. Any personal opinion expressed in this communication is that of the individual sender and does not constitute official pronouncements or opinions of Heart Foundation. The Heart Foundation cannot guarantee that the e-mail or any attachments are free from viruses.

12 June 2020

Director Governance
Melbourne City Council
GPO Box 1603
Melbourne VIC 3001

Via email: com.meetings@melbourne.vic.gov.au

Dear Director,

Re: Proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020

The Heart Foundation welcomes the opportunity to provide comment on the City of Melbourne's proposed Activities (Greening Melbourne, Vaping and Miscellaneous Amendments) Local Law 2020. This submission reflects our comments provided to the Future Melbourne Committee ('the Committee') for their meeting on 5 May 2020 where this formal consultation was agreed to.

About the Heart Foundation

The Heart Foundation is a not-for-profit organisation dedicated to fighting the single biggest killer of Australians – heart disease. For 60 years, we have led the battle to save lives and improve the heart health of all Australians. Our sights are set on a world where people don't suffer or die prematurely because of heart disease.

We continue to lead the fight for their hearts through funding research, developing treatment guidelines for health professionals, supporting patient care and helping Australians to live heart-healthy lifestyles, including through reducing modifiable risks of heart disease such as smoking and physical inactivity. As part of our work, we advocate for environments that promote and support physical activity, and that support healthier living through better planning, built environments and transport solutions.

Greening Infrastructure

The Heart Foundation supports the 'Greening Melbourne' amendments. This is consistent with our previous support for similar initiatives, such as our comments in June 2018 on the City of Melbourne Transport Strategy Refresh Discussion Papers 'Walking' and 'City Space,' where we commended the City of Melbourne for a vision where:

"Walking in our streets and laneways will be safe and comfortable with expansive uncluttered footpaths, seating and a generous street tree canopy" (p.8).

We remain committed to supporting initiatives such as the Greening Infrastructure proposal and other initiatives that further improve Australia's places and spaces. This improves local amenity, with strong evidence that the aesthetic presentation of streets promotes active transport and recreational walking, particularly for adults and older adults^{1,2}.

Vaping

The Heart Foundation supports the proposal to extend the definition of smoking to include vaping using an e-cigarette. Importantly, we note the proposal is not an attempt to 'ban' vaping per se – it relates only to including vaping in pre-existing and future non-smoking areas in line with updated definitions contained in the Tobacco Act 1987.

In this context, our support for the proposal is based on the following:

1. Improved amenity

The proposal will contribute to improved amenity in the City of Melbourne by improving the experience of visitors to, and residents of, the city.

People who choose not to use e-cigarettes should be protected from exposure to e-cigarette vapour/aerosol. We believe it is reasonable for non-vapers to have areas where they can enjoy outdoor space without inhaling these.

As described in Quit Victoria's submission, Victorian research shows strong public support banning vaping in smokefree areas, including from over half of current smokers and 70.7% of ex-smokers.^{i, ii}

2. Alignment with state law

The City of Melbourne's proposal is a common-sense measure to align the Local Law with the Tobacco Act 1987 and ensure consistency with that Act.

The Tobacco Act 1987 is the key piece of legislation regulating the sale and use of tobacco products in Victoria and includes relevant definitions. The Tobacco Amendment Act 2016 changed the definition of what it means to 'smoke' to include 'use an e-cigarette to generate or release an aerosol or vapour,³' thus extending 'smoke-free' areas to include vaping.

As explained on the Victorian Government's public 'BetterHealth' website, 'people are not allowed to use e-cigarettes in areas where smoking is banned.'⁴ Ensuring that 'e-cigarette' has the same meaning in the Local Law as it now does in the Tobacco Act 1987 brings it *back* in line with the Act and reduces the possibility of confusion.

¹ Cerin, E., et al., The neighbourhood physical environment and active travel in older adults: a systematic review and meta-analysis. *Int J Behav Nutr Phys Act*, 2017. 14(1): p. 15

² Sarkar, C., et al., Exploring associations between urban green, street design and walking: Results from the Greater London boroughs. *Landsc Urban Plan*, 2015. 143: p. 112-125

³ http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/ta198773/s3.html

⁴ [https://www.betterhealth.vic.gov.au/health/HealthyLiving/victorias-tobacco-laws#:~:text=The%20Tobacco%20Act%201987%20\(the,sale%20and%20advertising%20of%20cigarettes.](https://www.betterhealth.vic.gov.au/health/HealthyLiving/victorias-tobacco-laws#:~:text=The%20Tobacco%20Act%201987%20(the,sale%20and%20advertising%20of%20cigarettes.)

The proposal does not require that Committee defines 'smoking' – this responsibility rests with the State of Victoria. However, it is reasonable for Victorians to expect a consistent application and definition of how 'smoking' is defined within Victoria.

3. *The evidence does not support a medical need to allow vaping in non-smoking areas*

Based on current evidence, the potential benefit of e-cigarettes on smoking cessation is not established, and there is increasing evidence of health harms. This aligns with the statements on e-cigarettes from the World Health Organization, National Health and Medical Research Council and the Therapeutic Goods Administration. Further detail is available in the attached e-cigarette statement endorsed by key health and medical organisations, including the Heart Foundation (**Attachment 1 - Statement on e-cigarettes in Australia**).

Further, we note the recent clarifications from the RACGP on their vaping stance. For example:

- "the RACGP does not endorse vaping. Our guideline's conditional recommendation notes that it's only a reasonable intervention in very limited circumstances and that the long-term health effects are unknown. So we need to approach it with extreme caution...The RACGP will continue its campaign of anti-smoking and anti-vaping messages." ⁵

Regardless, the proposal does not mean people cannot vape in the City of Melbourne – only that there will be limited areas where they cannot.

Conclusion

The proposed amendments do not require the Committee to take a stance on the efficacy of vaping as a smoking cessation device. Vaping would still be allowed in the vast majority of City of Melbourne public spaces.

There is therefore no imperative to defy established precedent in other parts of Australia by not updating the Local Law to be consistent with the updated State Law.

Instead, the proposal asks that the Committee consider whether limited and pre-existing non-smoking areas should be extended to include vaping. On this front, there are amenity reasons for doing so, as well as distinct advantages in aligning local law with State law. There is no clear medical rationale for not designating certain areas to be both tobacco and vapour-free.

Yours sincerely

Kellie-Ann Jolly
Chief Executive Officer, Victoria

⁵ [https://www.nationaltribune.com.au/racgp-s-strong-anti-tobacco-advocacy-work-recognised/?utm_source=VicHealth%20Update&utm_campaign=27%20May%20eNews%20A%20\(short%20subject%20line\)&utm_medium=Email](https://www.nationaltribune.com.au/racgp-s-strong-anti-tobacco-advocacy-work-recognised/?utm_source=VicHealth%20Update&utm_campaign=27%20May%20eNews%20A%20(short%20subject%20line)&utm_medium=Email)

ⁱ Topline Research Report cited in Cancer Council Australia Position Statement – Electronic Cigarettes.

https://wiki.cancer.org.au/policy/Position_statement_-_Electronic_cigarettes#Evidence_and_rationale_2

ⁱⁱ The Royal Children's Hospital National Child Health Poll (2020). E-cigarettes, vaping and teens: Do parents know the dangers? Poll Number 17. The Royal Children's Hospital Melbourne, Parkville, Victoria. Report at <https://www.rchpoll.org.au/wp-content/uploads/2020/02/nchp-poll17-report-e-cigarettes.pdf>. The Poll is a quarterly survey of a nationally representative sample of 2000 Australian households with children, which investigates key issues in child and adolescent health.

Statement on e-cigarettes in Australia

February 2018

Based on current evidence, the potential benefit of e-cigarettes on smoking cessation is not established, and there is increasing evidence of health harms. Accordingly, the undersigned health and medical organisations support a precautionary approach to the promotion and availability of e-cigarettes in Australia. This is in line with recommendations from the World Health Organization and the World Federation of Public Health Associations.

E-cigarettes are battery operated devices that heat a liquid (called 'e-liquid') to produce a vapour that users inhale. Although the composition of this liquid varies, it typically contains a range of chemicals, including solvents and flavouring agents, and may or may not contain nicotine.¹

Current evidence indicates that the balance of harms at a population level significantly outweighs any potential benefit of e-cigarette use.

Key facts in informing our position at this time include:

- Growing evidence that e-cigarette use is a precursor to smoking in young people.¹⁻³ As Australia has a national smoking rate of less than 2% among 12 to 17 year olds⁴ and one of the world's lowest adolescent smoking rates among comparable nations⁵, this is of significant concern.
- Growing evidence of direct health harms, including increased risk of respiratory disease, cardiovascular disease and carcinogenesis.^{1,6-8}
- Growing evidence to suggest that e-cigarette use in non-smokers is associated with future uptake of tobacco cigarette smoking.¹
- The absence of conclusive evidence that e-cigarettes are effective as an aid to quitting smoking. The National Health and Medical Research Council has reviewed the evidence to date and concluded that evidence of cessation benefit is insufficient.⁹
- The extent to which e-cigarettes reduce harm to the user through exposure to fewer toxic chemicals than conventional tobacco cigarettes has not been determined.¹

The need for high quality research to establish the long term safety and efficacy of e-cigarettes in harm minimisation is recognised.¹

This statement is in line with the statements on e-cigarettes from the World Health Organization, National Health and Medical Research Council and the Therapeutic Goods Administration, and is supported by the following health and medical groups and health authorities.

Dr Michael Gannon
President
Australian Medical Association

Dr Helen Zorbas —
Chief Executive Officer
Cancer Australia

Professor Sanchia Aranda
Chief Executive Officer
Cancer Council Australia

Dr Jennifer Johns AM
National President
National Heart Foundation of Australia

Ms Tanya Buchanan
Chief Executive Officer
Thoracic Society of Australia and New Zealand

Additionally, the following health organisations support a precautionary approach to e-cigarettes:

- National Health and Medical Research Council
- Australian Medical Association
- Cancer Council Australia
- National Heart Foundation of Australia
- Public Health Association of Australia
- Royal Australasian College of Physicians
- Royal Australian College of General Practitioners
- Lung Foundation of Australia
- Australian Association of Smoking Cessation Professionals
- Australian Council on Smoking and Health
- Australian Competition & Consumer Commission
- Departments of Health in Australian states/territories
- World Health Organization
- World Medical Association
- World Heart Foundation
- World Federation of Public Health Associations
- Forum of International Respiratory Societies
- International Union Against Tuberculosis and Lung Disease
- British Medical Association
- Royal Pharmaceutical Society
- New Zealand Cancer Society
- Heart and Stroke Foundation, Canada
- American Association for Cancer Research
- American Society of Clinical Oncology
- US Surgeon General
- American Lung Association
- American Thoracic Society
- National Association of Attorneys General (USA)
- American College of Preventive Medicine
- American Medical Association
- American Society of Addiction Medicine
- American Osteopathic Association
- American Association of Clinical Endocrinologists
- American College of Cardiology
- American Academy of Family Physicians
- American Academy of Pediatrics
- Society of Thoracic Surgeons
- American College of Chest Physicians.

References

1. National Health and Medical Research Council. NHMRC CEO Statement: Electronic Cigarettes (E-cigarettes). https://www.nhmrc.gov.au/_files_nhmrc/file/publications/17072_nhmrc_-_electronic_cigarettes-web_final.pdf 2017 [updated 3 April 2017; Accessed 24 October 2017].
2. Soneji S, Barrington-Trimis JL, Wills TA, Leventhal AM, Unger JB, Gibson LA, et al. Association between initial use of e-cigarettes and subsequent cigarette smoking among adolescents and young adults: A systematic review and meta-analysis. *JAMA Pediatr.* 2017;171(8):788-97.
3. Leventhal AM, Strong DR, Kirkpatrick MG, Unger JB, Sussman S, Riggs NR, et al. Association of electronic cigarette use with initiation of combustible tobacco product smoking in early adolescence. *JAMA.* 2015;314(7):700-7.
4. Australian Institute of Health and Welfare. 2016 National Drug Strategy Household Survey. <https://www.aihw.gov.au/reports/illicit-use-of-drugs/ndshs-2016-key-findings/contents/tobacco-smoking>. [updated 01 June 2017; Accessed 24 October 2017].
5. Cancer Australia 2018. National Cancer Control Indicators: smoking prevalence – adolescents. <https://ncci.canceraustralia.gov.au/prevention/smoking-prevalence/smoking-prevalence-children-and-young-adults>. [Accessed January 2018].
6. Australian Medical Association. AMA Submission to the Standing Committee on Health, Aged Care and Sport Inquiry into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers in Australia. Submission 289. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.
7. Thoracic Society of Australia and New Zealand and Lung Foundation Australia. Inquiry into the Use of Electronic Cigarettes and Personal Vaporisers in Australia. Submission 332. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.
8. Royal Australasian College of Physicians. Inquiry into the Use and Marketing of Electronic Cigarettes and Personal Vaporisers in Australia. Submission 276. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.
9. National Health and Medical Research Council. NHMRC submission to the Parliamentary Inquiry into the Use and Marketing of Electronic Cigarettes in Australia. Submission 167. https://www.aph.gov.au/Parliamentary_Business/Committees/House/Health_Aged_Care_and_Sport/ElectronicCigarettes/Submissions; 2017.