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Committee Secretariat
Health Select Committee
Parliament Buildings
Wellington

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Smokefree Environments and Regulated Products Amendment Bill (No 2)

Thank you for the opportunity to submit on the Smokefree Environments and Regulated Products Amendment Bill (No 2) (the Bill).

Kāpiti Coast District Council has sought feedback from key advisory groups in our district including the Kāpiti Health Advisory Group and the Kāpiti Coast Youth Council in relation to this submission and our districts views on the changes this Amendment Bill will have on smoking and vaping.

Overall our district:

- **Supports the aim of the bill**, to reduce access to vaping products for children and young people, including the four main elements set out by the Bill which will prohibit sale and distribution; increase penalties for non-compliance; and reduce access and visibility for youth. We are particularly supportive of the stance that vape sale outlets will not be able to operate within a 100-to-300 meter vicinity of ECE, school and marae boundaries.
- **Proposes that more can be done.** We would like to see measures in place to strengthen the aims of the Bill in line with the Smokefree 2025 aims. Council has previously written to Ministers with our concerns about the *Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2024*. A copy of this letter is attached for your information. While we note that some progress is made in the present Bill relating to vaping, many of our concerns outlined in this letter remain.

More specific points of feedback include:

1. The Kāpiti Coast Youth Council have provided feedback to support this submission on the Amendment Bill (No 2) which we believe provides valuable direction on options to further strengthen the aims of the Bill:
 - Support imposing more restrictions on smoking and vaping especially in youth-oriented spaces and institutions. The general public and people of Kāpiti would

support widening impositions on smoking and vaping in public places, and especially vaping in schools. Secondary school pupils have provided direct feedback to the Youth Council affirming a growing concern with vaping and its impacts on students (i.e. addiction, distraction from studies, conflicts, etc.), how prevalent it is in the school environment, and how much of an unresolved problem it is.

- The number of cigarette retailers should be reduced and the nicotine levels in cigarettes should be lowered.
 - Support the gradual creation of a first-time smokefree generation in New Zealand and proposed restrictions on vaping to reduce its attractiveness to young people should be pursued. The proposed amendments are essential to lift the burden that smoking and vaping has on the health of some of Aotearoa New Zealand's youth and our most vulnerable.
2. Smokefree environments should not be achieved through enabling vaping, particularly for youth/rangatahi. There is a need to more clearly signal through the Bill that:
- Vaping is not the answer for a Smokefree New Zealand. Whilst vaping can help some people quit smoking, vaping is very addictive and there is growing evidence that vaping products are not harmless and risk cardiovascular health and respiratory health.
 - Reinforces the long-term commitment to stop smoking and vaping, clarifying that any changes to the design and mechanism of vaping products will be covered by the Bill overtime. This can be achieved by introducing an Order-in-Council option into clause 4 of the Amendment Bill, to enable adjustment or expansion of the definition of 'vaping device' and 'container' to future proof the aims of the Bill. A less prescriptive definition will ensure that any changes to the design and mechanisms of vaping products can be included.
 - Importation of disposable vaping products will not be tolerated. The omission of an import prohibition¹ or restriction could unintentionally encourage direct imports and black-market trading. To address operational issues of introducing a prohibition, the Bill could allow two years for that provision to commence so that the Customs Service can effectively operationalise this change, and collect appropriate evidence to support any amendments required to the Customs and Excise Act 2018, section 95A or an Order-in-Council under the Imports and Exports (restrictions) Act 1988 or other law change.
 - Restriction on the number and placement of vape stores will occur within a set timeframe. Currently, there is no limit to the proliferation of specialist vape retailers despite the election promise to limit them to 600. There is also no proposal to reduce access to vape products in general retailers such as dairies, petrol stations and supermarkets. This should be included or outlined more clearly in the Bill.
 - Strong restrictions on website advertising and purchases will be established. Council considers that website advertising for vaping products, including packaging, can be strongly influential on children and young people. Purchasing disposable vaping products directly from the website is where many young people get their products. Council proposes that the Bill should address this market and impose stronger prohibitions or restrictions on website advertising and online sale of disposable vaping products, and require packaging for vape products to outline the health risks associated with vaping. To not cover this market well is to allow for a potentially viable black-market.

¹ The prohibition could also cover heated tobacco products (HTPs) and nicotine pouches.

- That non-compliance with the Bill is a serious offence and will result in a serious fine. Council proposes that clause 14(2) of the Bill that amends section 40(2)(b) of the Smokefree Environments and Regulated Products Act 1990 should raise the level of fine to \$25,000 rather than \$10,000 as currently drafted. This fine sets an upper limit and \$25,000 makes the limit more proportional with the other fine increases within the Bill to reflect society's attitude concerning the unacceptability of the sale and supply of regulated products to children and young people. Council also proposes that the level of infringement fees as set out in the Bill at clause 22 (amending section 87 of the Act) be reassessed with a view to doubling the dollar amounts to provide a stronger incentive for compliance.

Supporting a smokefree New Zealand

While supporting the present Bill, Council considers that it represents a missed opportunity to make yet stronger changes towards a smokefree New Zealand. The Bill only addresses vaping products with a particular focus on disposable products. Council is strongly of the view that protecting children and young people from exposure to tobacco and all vaping products and the marketing and promotion of these must remain a priority public policy outcome.

As noted in our attached letter to Ministers, we continue to encourage the Government to introduce a bill that is designed to meet or improve upon the intent of the repealed legislation to, in the long term, reduce tobacco, smoking, and vaping dependency in Aotearoa New Zealand to less than 5% of the population.

We are conscious of the impact that vaping is having now on our young people and schools and encourage the government to act swiftly to ensure that this important health and social issue is addressed to avoid further harm to our young people and later burden on the health system.

Thank you again for the opportunity to submit on this Bill and we would welcome the opportunity to speak to the Committee on our submission.

Yours sincerely



Darren Edwards

Chief Executive

Kāpiti Coast District Council



Janet Holborow

Mayor

Kāpiti Coast District Council