

Briefing

Outcome of Regulations Review and options for scope of disposable vaping products ban

Date due to MO:	16 May 2024	Action required by:	20 May 2024
Security level:	IN CONFIDENCE	Health Report number:	H2024041342
To:	Hon Casey Costello, Associate Minister of Health		
Copy to:	Hon Dr Shane Reti, Minister of Health		
Consulted:	Health New Zealand: <input type="checkbox"/> Māori Health Authority: <input type="checkbox"/>		

Contact for telephone discussion

Name	Position	Telephone
Dr Andrew Old	Deputy-Director General, Public Health Agency Te Pou Hauora Tūmatanui	s 9(2)(a)
Jane Chambers	Group Manager, Public Health Policy and Regulation, Public Health Agency Te Pou Hauora Tūmatanui	s 9(2)(a)

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Outcome of Regulations Review and options for scope of disposable vaping products ban

Security level: IN CONFIDENCE **Date:** 16 May 2024

To: Hon Casey Costello, Associate Minister of Health

Purpose of report

1. This briefing provides advice, and seeks your agreement to our proposed approach, regarding:
 - a. the outcome of our review of the deferred regulatory requirements for removeable batteries and child-proof mechanisms for reusable vapes; and
 - b. the scope you wish to take to give effect to the ban on disposable vaping products.

Summary

Regulations review

2. On 20 March 2024, the regulatory requirement for all reusable vaping products to have removable batteries and child safety mechanisms was deferred until 1 October 2024. These requirements have applied to all single-use vaping devices since 21 December 2023.
3. This deferral has allowed the Ministry of Health (the Ministry) to undertake a review of the appropriateness of the requirements, and whether they align with other jurisdictions. We have not found any new information to suggest the requirements need to be amended or removed. If you agree, no further changes are required to the regulations as they will come into force on 1 October 2024.

Progressing an amendment Bill this year

4. To implement recent Cabinet decisions on the policy direction for Smokefree 2025, you will need to take a paper to Cabinet on 19 June 2024 that seeks agreement on the details of the policy proposals for an amendment bill. To draft the Cabinet paper, we need to confirm the scope of the disposable ban (ie, what vaping products the ban covers), the nature of offences and penalties for breaches of the ban, and whether the ban extends to imports, including for personal use. We will also need to seek your agreement to substantive policy proposals for display restrictions, registered Early Childhood Education centres (ECEs), and proposed implementation timeframes.
5. This briefing seeks your agreement regarding the scope of the disposable ban. The next briefing will seek all remaining decisions needed.

Banning disposable vapes

6. You have been clear about your concerns that despite changes under the previous government, too many teenagers continue to use disposable vapes and that this is why these cheap, single-use vape products will be banned outright.
7. To implement Cabinet's decision to ban disposable vapes, we seek your agreement on what the ban might cover. Our legislation does not currently define what a disposable vape is and although our regulations define a single-use vaping device, this may not capture the range of products available that could be considered disposable.
8. We have identified 2 broad options for you to consider:
 - a. Option 1 (recommended): Narrow scope. All vapes that are not both rechargeable and refillable are banned
 - b. Option 2: Wide scope. All vapes that are not both rechargeable and refillable are banned (as per Option 1), as well as all single-use containers such as tanks, pods, and cartridges.
9. Option 1 will have the effect of removing the traditional all-in-1 disposable vape from the market and is our recommendation. These have been extremely popular with young people. However, this is unlikely to have a material impact on the current availability of other low-priced products, such as pod-vapes, which can arguably be reused, and are also appealing to young people both for convenience and price. While implemented with the intention of improving safety, the regulations requiring all single-use vaping devices to have removable batteries and child safety mechanisms has had the effect of already removing most traditional all-in-1 disposable vaping products from the New Zealand market.

10. s 9(2)(h)

Recommendations

We recommend you:

Regulations Review

- a) **Note** that product safety requirements for removable batteries and child safety mechanisms have been in place for all single-use vaping devices since 21 December 2023. **Noted**
- b) **Note** the Ministry of Health's review of the product safety requirements for removable batteries and child safety mechanisms found no new information to suggest a reason to amend these. **Noted**

- c) **Agree** no changes are required to the current regulatory requirements for removable batteries and child safety mechanisms, and that these come into force for all reusable vaping products from 1 October 2024. **Yes/No**

Disposable vaping products ban

- d) **Indicate** your preferred option for the scope of the disposable vaping ban Cabinet has agreed to:

Option 1: Narrow scope (all vapes that are not both rechargeable and refillable are banned) **(recommended)** **Yes/No**

Option 2: Wide scope: (all vapes that are not both rechargeable and refillable are banned, as well as all single-use containers such as tanks, pods, cartridges) **Yes/No**



Dr Diana Sarfati

Director-General of Health

Te Tumu Whakarae mō te Hauora

Date: 15.05.24

Hon Casey Costello

Associate Minister of Health

Date:

Outcome of Regulations Review and options for scope of disposable vaping products ban

Background

Overview

1. At its meeting on 18 March 2024, Cabinet agreed on the policy direction for Smokefree 2025 [CAB-24-MIN-0084 refers]. This included:
 - a. deferring requirements for removable batteries and child-safety mechanisms for all reusable vaping products until 1 October 2024
 - b. amending the Smokefree Environments and Regulated Products Act 1990 (the Smokefree Act) to ban the manufacture and sale of disposable vaping products
 - c. amending the Smokefree Act to increase penalties for unlawful sales of regulated products to minors
 - d. further work, with a report back to Cabinet at the end of 2024 outlining recommendations for (amongst other things):
 - i. restricting display of vapes, including in the storefronts of specialist vape retailers (SVRs)
 - ii. including registered ECEs in proximity restrictions for SVRs.

Review of regulations requiring removable batteries and child-safety mechanisms

2. On 20 March 2024, the Smokefree Environments and Regulated Products Amendment Regulations 2024 deferred requirements for removable batteries and child-safety mechanisms for existing reusable vaping products. The same requirements have been in place for single-use vaping devices since 21 December 2023.
3. Unless any further amendments are made, these requirements will come into force for all reusable vaping products on 1 October 2024. As per your direction in the 18 March Cabinet paper, *'Smokefree 2025: Crackdown on Youth Vaping'*, the Ministry has reviewed these requirements and considered whether any amendments are required. Our findings and advice are provided below.

Plan for progressing Smokefree 2025 legislative and regulatory amendments

4. On 9 April 2024 we discussed our proposed work plan for Smokefree 2025 with you (H2024038848 refers). We agreed to bring forward our recommendations regarding display restrictions for vaping products so that you could include substantive policy proposals in the first of 2 proposed Smokefree amendment bills. We also agreed to bring forward our advice on ECEs.
5. Except for the policy regarding taxing smoked tobacco only, we are progressing the remaining policy matters with the intent of enabling you to report back to Cabinet by the end of the year. This includes considering the sale of reduced-harm smokeless tobacco and oral nicotine products, potential amendment to the vape licensing regime,

review of the vape compliance system, and advice on achieving a proportional and consistent approach across the suite of regulated products. Removing excise duties on heated tobacco products is being considered, per Cabinet’s direction, as part of Budget 2024.

6. To give effect to Cabinet’s decision to ban disposable vaping products, and issue comprehensive drafting instructions, we need your agreement to the details for implementing the policy. Confirming the scope of the ban is the first step and the focus of this briefing.
7. We will send you a second briefing on 30 May 2024 to seek your agreement regarding all additional policy matters for the first amendment bill, including substantive proposals for introducing display restrictions.

s 9(2)(h)

8. s 9(2)(h)

Regulations Review: removable batteries and child safety mechanisms

9. On 20 March 2024, the regulatory requirement for all reusable vaping products to have removable batteries and child safety mechanisms (due to come into effect on 21 March 2024) was deferred until 1 October 2024. You requested that we review whether these regulations are appropriate, and whether they align with other jurisdictions. These requirements have applied to all single-use vaping devices since 21 December 2023.¹
10. Removable batteries and child safety mechanisms for vaping devices were introduced as additional product safety requirements. Child safety mechanisms were to prevent the device being activated or accidentally operated by a child. Removable batteries were intended to address concerns around user safety and the risk of explosions/fire at the point-of-use and point-of disposal.
11. As directed, we have completed an international review of both requirements.
12. Internationally, there have been no major advancements. Our requirements for removable batteries align with regulations ratified by the European Union (EU) in 2023.² Generally, all vaping products in comparable jurisdictions must be sold in child-resistant packaging or be child-resistant and tamper-evident. The approach other jurisdictions

¹ They have also applied to new product notifications for both single-use and reusable vaping devices since 21 October 2023. This means any applications to bring new products into the country had to comply with the regulations – both for single-use and disposable products.

² Portable batteries incorporated in appliances shall be readily removable and replaceable by the end-user or by independent operators during the lifetime of the appliance, if the batteries have a shorter lifetime than the appliance, or at the latest at the end of the lifetime of the appliance. A battery is readily replaceable where, after its removal from an appliance, it can be substituted by a similar battery, without affecting the functioning or the performance of that appliance.

have taken varies, for instance, Canada and the EU use ISO standards and the United States prescribes testing requirements.)³ If we were to specify a testing approach in relation to requirements for child safety for vaping devices, the regulator would need to be resourced to assess and approve vaping products. Updating this approach would require significant change. An additional consideration is the extra cost to manufacturers to carry out this testing.

13. It is our view that where the regulations have taken effect, they have improved safety – by making it less likely that young children can pick up vapes and immediately start using them.
14. We therefore recommend no change to the requirements for removable batteries and child safety mechanisms and that they come into force for all reusable vaping products, as per the current regulations, on 1 October 2024. Given the rapid evolution and innovation of the vaping market, we will continue to monitor the market and review whether these regulations are adequate and suitable on an ongoing basis.

Progressing Cabinet’s decision to ban disposable vapes

15. To implement Cabinet’s decision to ban disposable vapes, we seek your agreement on what vaping products the ban covers.
16. There are a range of different vaping products available. Vaping manufacturers often group these into ‘open’ and ‘closed’ vape systems. An open system has a tank that can be refilled by the user when empty. A closed system will be either an all-in-1 disposable or have a pod (or pod-like attachment, sometimes referred to as a cartridge). The pod part is usually purchased pre-filled and is intended to be used only once. In some cases, additional parts of the vape mechanism such as the heating coil and wicking material can be replaced, separately or as part of a pod.
17. Some of the vaping products or product parts that are available in both the open and closed vape systems could arguably be described as reusable, and others as disposable. We therefore need to be very clear about the intended scope of Cabinet’s agreed ban as this will have a significant bearing on the impact the ban has on the current products available in New Zealand.

Options for the scope of the ban

18. A key driver for the Government’s recent policy decisions to ban disposable vaping products and increase penalties for sales of regulated products (including vaping products) to minors, is to make it harder for young people to take up vaping. A major part of the appeal of disposable vaping products to youth is the low price. The lowest price vapes are within the average young person’s buying power.
19. We have identified 2 broad options to give effect to Cabinet’s decision to ban disposables:

³ Products must meet adult and child testing standards, where groups of adults and children are given the products and assessed on whether the contents of the products can be accessed. See Code of Federal Regulations. [eCFR :: 16 CFR 1700.20 -- Testing procedure for special packaging.](#) (accessed 7 May 2024).

- a. Option 1: Narrow scope. All vapes that are not both rechargeable and refillable are banned.
 - b. Option 2: Wide scope. All vapes that are not both rechargeable and refillable are banned, as well as all single-use containers such as tanks, pods, cartridges.
20. The option you select will inform the detail of drafting instructions. In addition to the narrative description below, a table of examples of currently available products that would be covered by Option 1 and Option 2 respectively is provided in **Appendix 1**.

Option 1: Narrow scope: all vapes that are not both rechargeable and refillable are banned

21. Until recently, the vaping market in New Zealand featured many products with the entire vape as one unit, inclusive of the battery and the vaping substance. Once the substance was used up, the entire product would be disposed of. Under Option 1, the scope of the ban would include these all-in-1 disposable vapes. The scope would mean that vapes would need to be both rechargeable and refillable.
22. The ASH Year 10 Survey found that 10% of 14-to-15-year-olds vaped daily in 2023. The most often used device by those daily youth vapers was a disposable vape (68.1%) as distinct from a pod or tank vape. It is likely that these all-in-1 disposable vapes are the type of disposable vape product the ASH Year 10 Survey results from 2023 refer to.
23. However, Option 1 is unlikely to address concerns raised in the media by academics, concerned parents, and at a recent Health Committee hearing, that the ban will be worked around with similarly low-price reusable vapes.⁴ This is evidenced by the recent rapid evolution of available vaping products in response to the December 2023 regulations. Using indirect or proxy measures, such as design requirements, to control price is unlikely to be effective in the medium to long-term.
24. While implemented with the intention of improving safety, the recent regulations requiring all single-use vaping devices to have removable batteries and child safety mechanisms has had the effect of removing most traditional all-in-1 disposable vaping products from the New Zealand market.
25. Although some of these all-in-1 disposable products remain available in New Zealand, they have largely been replaced by a new range of vaping products.
26. We do not have statistical data on the number and nature of disposable versus reusable vaping products on the market. Vaping manufacturers and importers are required to provide sales-related information no later than 31 January in respect of the previous year. To have an accurate picture of the market now, we would need to analyse the data we receive by 31 January 2025. In addition, this data would need to be combined with physical inspection of vaping products to produce analysis of the market share. This is because manufacturers and importers are not required to provide information about whether the vaping device, substance, kit etc is disposable or reusable.
27. New products include prefilled pod vapes. The pod is an enclosed container that holds the vaping substance and can be clipped on or into the vape. Once the pod is finished it

⁴ 'Loopholes will be exploited in new vape rules – experts', Radio New Zealand, 26 April 2024, <https://www.rnz.co.nz/news/national/515222/loopholes-will-be-exploited-in-new-vape-rules-experts> (accessed 8 May 2024).

is disposed of (or potentially recycled).⁵ Despite consisting of 2 separate parts, or being described as a kit, they are often marketed for 1-off use. Indeed, many of these pod-products are specifically marketed as being disposable (and at low price points), though the device could be reused by inserting a new pod.

28. There are also tank products that will typically have an opening that can be (re)filled by the vape user and are therefore arguably reusable.
29. Finally, there are some hybrid products that are a cross between a pod and a tank. For instance, Shosha offers an empty refillable pod for \$7.99 that can be attached to one of its pod-style vaping devices,⁶ as well as a disposable tank.⁷
30. Changes in types of vaping devices used by New Zealand youth over the past few years indicates how readily adaptable young people are to shifts in the market. We anticipate seeing an increase in use of pod vapes (rather than disposables) by young people when data is next released.⁸ **Appendix 2** provides more details regarding available data on the type of devices used by young people in New Zealand.

Option 2: Wide scope. All vapes that are not both rechargeable and refillable are banned, as well as all single-use containers such as tanks, pods, cartridges

31. We have considered whether taking a broader scope to the ban, affecting a larger part of the market, could achieve your policy objective.
32. The scope of this option could include banning:
 - a. all-in-1 vaping devices that are pre-filled with a vaping substance and that are not designed to be refilled once used (as per Option 1), as well as
 - b. pod or similar vaping component parts that are not designed to be used more than once (ie, to also capture disposable cartridges or pods).
33. Studies indicate part of the appeal of the disposable vape to young people, in addition to low price, is convenience and simplicity of use. Requiring vaping products to be reusable across the board may create some additional work for vape users, for instance, through needing to refill a device. Option 2 may therefore create a barrier or disincentive to use, however this would not necessarily be limited to impacting youth. Accessibility of use for adults who smoke and wish to vape to quit smoking would also be impacted.
34. The market impact will be much greater than with Option 1. Option 2 will require removal or redevelopment of products that rely on disposable pods, cartridges or similar, and any costs may potentially be passed on to the customer.
35. Based on our current assessment Option 2 would, at least initially, leave the market made up predominantly of refillable tank products. Although it is tempting to scope the ban so that it effectively extends to banning the low-priced end of the pod-vape market, there could be unintended consequences. Research carried out by the EU identified

⁵ VapeCycle was established in 2019 by VAPO and alt. It's website states that all VAPO, VEX, Bud, alt. and solo products (including e-liquid bottles, vape devices and vape pods) can be recycled. <https://www.vapecycle.co.nz/#who> (accessed 6 May 2024).

⁶ See [Salty Pro Bar Refillable Replacement Pod - Vape Devices | Shosha NZ](#) (accessed 6 May 2024).

⁷ For example the Shosha Disposable Tank 4ml is "designed to be thrown away with the end of the coil": [Shosha Disposable Tank 4ml | Vape Kits | Shosha NZ](#) (accessed 6 May 2024).

⁸ We expect new ASH data in November or December.

hazards relating to the refill process for tank style products. Because a wide scope would likely favour tank products, this may create additional safety issues to address.⁹ There is also the potential risk that a more comprehensive ban incentivises an illicit market. Whilst not directly comparable, tighter regulation in Australia has seen the rise of a significant illicit market - 87% of Australians report sourcing their vapes illegally.¹⁰

36. Finally, even if the disposable ban extended to eliminate pod-style vapes, we can reasonably expect industry to continue to innovate, and produce low-cost tank-style or other reusable devices. Loss leading tactics, for instance, offering discounted prices at the low end of the market may also be used to maintain the youth market. The most effective policies to control price will be through specific price levers, such as excise duties and/or minimum prices (additional detail is provided in **Appendix 3**).

Our preferred option is Option 1: Narrow scope

37. Taking all these aspects into consideration, we recommend option 1. This will remove some products that we know have been very appealing to young people, however, may not have the level of impact some stakeholders would like to see.
38. As canvassed above, if you agree to progress option 1 this will primarily work to maintain the current market rather than change it, due to the rapid evolution of vaping products and the current prevalence of 'pod vapes', which will largely be unimpacted. The main impact will be to eliminate any remaining all-in-1 products from the New Zealand market.

International direction

39. We have met with our equivalent United Kingdom (UK) colleagues and are organising a meeting with Australia. On 1 January 2024, Australia implemented a ban on the import of disposable vapes and the UK has recently released draft regulations for its proposed ban on disposables. Our recommended approach aligns with the current scoping both countries have taken to banning disposables.

s 9(2)(h)

⁹ The Commission has identified four main risks related to the use of refillable e-cigarettes. These risks are: (1) poisoning from ingesting e-liquids containing nicotine (especially for young children), (2) skin reactions related to dermal contact with e-liquids containing nicotine and other skin irritants, (3) risks associated with home blending and (4) risks due to using untested combinations of e-liquid and device or hardware customisation.

¹⁰ National Drug Strategy Household Survey 2022–2023 | 29 Feb 2024 [National Drug Strategy Household Survey 2022–2023 \(aihw.gov.au\)](https://www.aihw.gov.au/national-drug-strategy-household-survey-2022-2023)

Equity

41. Removing disposable vaping products from the New Zealand market will have a disproportionately greater effect on those populations who currently have higher rates of use. Māori and Pacific youth have higher vaping rates, and higher usage of disposables (Table 1).

Table 1: Youth daily vaping by ethnicity (2023).

Youth daily vaping (Ethnicity)	Māori	Pacific	Asian	European/Pākehā
% who vape daily in 2023	22.3	13.7	2.5	7.5
% of those daily vapers who use disposables in 2023	63.1	64.9	56.2	53.7

42. Option 2 may potentially have more impact reducing inequities in vaping rates for youth (subject to new statistics regarding percentage of daily vapers who use pod-products). However, it may also increase inequities in smoking rates for adults, if those adults would switch back to smoking with the effective removal of single-use pods and cartridges, as Māori and Pacific adults have higher smoking rates and higher usage of vapes (Table 2).

Table 2: adults daily smoking and vaping by ethnicity (2022/23)

Adults daily smoking and vaping (Ethnicity)	Māori	Pacific	Asian	European/Pākehā
% who smoke daily in 2022/23	17.1	6.4	3.3	6.1
% who vape daily in 2022/23	23.5	18.7	6.5	8.3

Next steps





43. Along with other advice regarding the first amendment bill, the Ministry will provide you with a briefing by 30 May 2024 on further matters for your consideration building on the option you choose for the scope of the ban. This includes advice on the intersection the ban has with imports of disposable vapes (including for personal use), offences and penalties, and proposed implementation timeframes.
44. We will work with the Ministry of Justice to confirm suitable penalties and enforcement tools in relation to the sale of disposables, and with New Zealand Customs to determine any practical steps to monitor or prevent imports of disposable vapes.

45. We will also continue working with international regulators regarding the specific wording in the legislation with other jurisdictions.

ENDS.

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Appendix 1: Examples of available vaping products that would be covered by Option 1 and Option 2

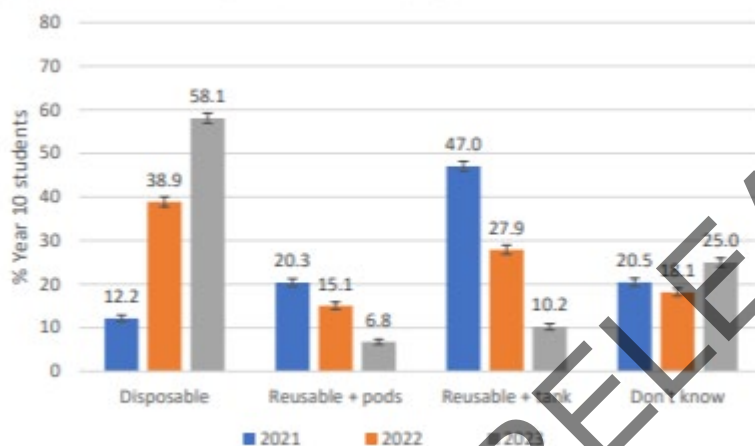
Option 1 & Option 2		<p>This kind of product will be banned under both Option 1 and Option 2.</p> <p>A limited number of products are available in New Zealand that will be affected by a narrow-scoped ban, such as the Solo Banana Disposable Vape \$9.99 - Shop Banana solo Disposable Vape VAPO NZ</p>
Option 2		<p>This kind of product will only be banned under Option 2.</p> <p>A more comprehensive range of products are affected by a wider-scoped ban. For example:</p> <p>Solo pod kit Mint \$9.99 Shop Mint solo Pod Kit VAPO NZ</p> <p>VAPO NZ's website has a range of solo pod starter kits for \$9.99. The product contains 1x 2.5mL solo Pods, 1x solo Pod Device/Battery and 1x Charging cable: https://www.vapo.co.nz/products/solo-kit-passionfruit. Replacement pods can be purchased in a pair, with 2x 2.5mL solo Pods available for \$13.99: Shop Strawberry Mint solo Replacement Pod 2-Pack VAPO NZ</p> <p>https://www.vapo.co.nz/products/solo-pod-lemon. A similar Bud pod kit is priced at \$24.99, and a 2x 7mL pack of replacement Bud pods is priced at \$24.99, see: https://www.vapo.co.nz/products/bud-pod-kit-cherry-pomegranate and https://www.vapo.co.nz/products/bud-replacement-pod-tobacco</p>
Option 2		<p>Although marketed as 'disposable' this kind of product will also only be banned under Option 2.</p> <p>The Salty Prime Bar Kit Watermelon Strawberry Disposable Vape priced at \$39.99. Salty Prime Bar Kit Watermelon Strawberry Disposable Vape Vape Kits Shosha NZ. See also Salty Pro Bar Citrus Grape Disposable Vape priced at \$30.00 Salty Pro Bar Citrus Grape Disposable Vape Vape Kits Shosha NZ</p>
Not covered by either option		<p>An example of the kind of product that will remain if Option 2 is progressed.</p> <p>A broader scoped ban will not cover some reusable pod and tank type products. For example, Geekvape Aegis legend RRP \$124.99 Comes with A-Lock safety system.* Batteries sold separately. Geekvape - Aegis Legend 2 (L200) Mod Kit w/ Z Sub Ohm Tank Lion Labs NZ — Lion Labs Wholesale</p> <p>*Nb this product may not meet the Child Safety Mechanism (deferred for reusable vapes until 1 October 2024).</p>

NB All products listed were accessed from the above websites on 13 May 2024.

Appendix 2: Current available data on the type of devices young people use in New Zealand

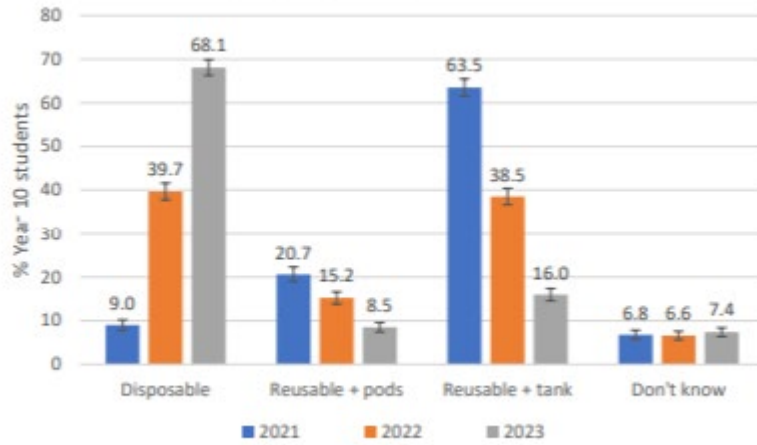
1. Data about the type of vaping devices used by New Zealand youth indicates how readily adaptable young people are to shifts in the market. Over the period 2021-2023 the ASH Year 10 Snapshot Survey has asked students about the type of vaping device they used most often.

Figure 32: Vaping device used most often (ever tried vaping), 2021–2023, with 95% CIs



2. The most often used device in 2023, by those 14-15-year-olds who have ever tried vaping, was a disposable vape (58.1%), distinct from pod or tank vapes (refer Figure 32 above). On the face of it, this suggests that banning this type of device (ie, as per *Option 1: Ban the all-in-1 disposable vape*) will have a material impact on young people trying vaping.
3. However, 3 factors are relevant to interpreting the survey data. Firstly, the survey is carried out in Term 2, so the 2023 figures are from the period before the new vaping product safety requirements came into force and subsequent shifts in the market as described above. Second, there was also a significant increase in participants not knowing what type of device they used most often. This may reflect the marketing of some pod and tank vapes as 'disposable', creating confusion. It is also possible that there be overreporting of disposable vape use for the same reason. Third, that young people have previously had high rates of using tank style devices, and may readily shift back to using them.
4. Given the market evolution described above, it is likely that the next survey will indicate a further shift in the devices used most often as has happened above with the decline in tank use by daily vapers (from 63.5% in 2021 to 16.0% in 2023, per Figure 33). Based on cost, we anticipate the next survey results due November/December will show a higher use of reusable pod vapes.

Figure 33: Vaping device used most often (daily vapers), 2021–2023, with 95% CIs



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Appendix 3: How specific price levers could help combat youth vaping

1. Young people are particularly price sensitive,¹¹ so we would expect to see a reduction in youth vaping as the cost of vapes rise. A price increase could be achieved through a combination of a vaping tax and minimum price policy.
2. A vaping tax would likely act to raise prices overall (and provide revenue to government). Although a tax is not automatically passed on to customers, a rapid scan of evidence suggests in the United States, about 90% of the tax on vaping products is passed through to price. However, it is likely that industry/retailers would shift some of the price increase to higher value products, thereby maintaining affordability at the lower end of the market (as has happened with tobacco prices in response to excise tax increases¹²).
3. A minimum price would complement introduction of a vaping tax, as it would mean no products could be sold below a set price, thereby removing the lowest price items completely. Alternatively, a minimum price could be introduced on its own, but this would not generate any government revenue.
4. Minimum price and tax policies are complex and need to consider many elements such as appropriate levels, proportionality with other products, and which products or parts of products are taxed (eg, the device, liquids, nicotine content, replacement parts etc). This would require substantial work with the New Zealand Customs Service, the Treasury, and the Ministry of Business Innovation and Employment. This is not currently on the work plan we have agreed with you.

¹¹ Jawad, M., Lee, J. T., Glantz, S., & Millett, C. (2018). Price elasticity of demand of non-cigarette tobacco products: A systematic review and meta-analysis. *Tobacco Control*, 27(6), 689–689. <https://doi.org/10.1136/tobaccocontrol-2017-054056>

IARC Working Group on the Effectiveness of Tax and Price Policies for Tobacco Control, & International Agency for Research on Cancer. (2011). Effectiveness of tax and price policies for tobacco control (Ser. IARC Handbooks of Cancer Prevention, v. 14). International Agency for Research on Cancer.

¹² Between 2010 and 2020, NZ tobacco companies introduced more Super Value cigarette brands and shifted excise tax increases to reduce the impact these had on low-priced brands. Gendall P, Gendall K, Branston JR, *et al* Going 'Super Value' in New Zealand: cigarette pricing strategies during a period of sustained annual excise tax increases *Tobacco Control* 2024;**33**:240-246. [Going 'Super Value' in New Zealand: cigarette pricing strategies during a period of sustained annual excise tax increases | Tobacco Control \(bmj.com\)](https://doi.org/10.1136/tobaccocontrol-2023-024024)

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