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Ms Jennifer Buckley
Secretary to the Committee
Economic Policy Scrutiny Committee
GPO Box 3721
DARWIN NT 0801

Dear Ms Buckley

Re: Submission to Economic Policy Scrutiny Committee – Tobacco Control Legislation Amendment Bill 2018

On 24 August 2018 the Economic Policy Scrutiny Committee invited the Department of Health to make a submission to its inquiry into the Tobacco Control Legislation Amendment Bill 2018.

The Department of Health provides the following information set out in the sub headings as provided in your request for submissions.

a) whether the Assembly should pass the Bill

Electronic Cigarettes

The intention is to treat e-cigarettes and e-cigarette accessories, heat not burn and heat not burn accessories and similar devices as if they were tobacco products. E-cigarettes have recently gained prominence in Australia and the use of e-cigarettes is growing exponentially in many countries, including Europe, the United Kingdom, and the United States of America.

The availability of e-cigarettes and other such devices has the potential to undermine the gains in smoking reduction over the past ten years by their potential to re-normalise or re-socialise smoking in the community especially with young people. The absence of legislative control means there is no control over who sells e-cigarettes and other products designed to simulate the act of smoking and their accessories, nor is there any control over who may purchase these products, meaning they can be purchased and used by children.

There is currently minimal evidence about the risks or benefits of e-cigarettes. However the 2014 World Health Organization (WHO) report, Electronic Nicotine Delivery Systems, notes limited testing has revealed wide variation in the toxicity of contents and emissions, and that the available evidence is sufficient to caution children and pregnant women against e-cigarette use. The United States Surgeon General advised in December 2016 that e-cigarette products are now the most commonly used form of tobacco among youth in the United States, surpassing conventional tobacco products, including cigarettes, cigars, chewing tobacco and hookahs with an average of 15 per cent take-up amongst high school students in 2015.

The Department of Health recommends the regulation of e-cigarettes in order to maintain control over the sale, supply and promotion of e-cigarette products.

10 Meter Smoke Free Buffer

Community expectations have grown in the past five years where there is an expectation that community events and community facilities are to be smoke free. There is now an expectation that the entry point and boundary to such events and facilities should also be smoke free. The introduction of a 10 metre smoke free boundary at events and facilities will help to limit any smoke drift at such events or facilities. It will also create a more supportive environment for those who have quit. Children are more susceptible to the harmful effects of smoking due to their smaller lung capacity, body weight and undeveloped immune system. Exposure of children to second hand smoke is associated with increased rates of respiratory illness, middle ear infections, asthma and sudden infant death syndrome.

An entry and boundary area will include school grounds; BMX and motorbike racing facilities; car racing facilities; community festivals; community markets; horse racing facilities; playground equipment; public swimming pools; show grounds; skate parks and sports fields, the majority of which are mostly frequented by children.

The Department of Health recommends the regulation of a 10 Meter Smoke Free Buffer at community events and community facilities.

Prohibit employees under the age of 18 from selling tobacco products

The intent is to prohibit employees under 18 years of age to sell tobacco products. The 2012 Victorian Western Region Tobacco Project reported that retailers perceived to be under 18 years of age were more likely to sell cigarettes to minors than older aged retailers.

A 2007 United States study also demonstrated that store clerks who were also under 18 showed very high sales to minors. The Food and Drug Administration in the United States recommends that retailers consider requiring employees who sell cigarettes and smokeless tobacco to be at least 18 years of age.

Increasing the age to 18 years of age for employees who can sell tobacco products is supported by the WHO Framework Convention on Tobacco Control. Limiting young people's access to tobacco products has shown that they are less likely to commence smoking.

The Department of Health recommends the regulation to prohibit employees under the age of 18 from selling tobacco products.

Prohibit cigarette vending machines (currently restricted for use in licensed premises only) from outlets that allow under 18 year olds on premises

The changes will require that tobacco product vending machines may only be located at areas on liquor licensed premises that are children free areas. Currently tobacco product vending machines are only permitted in licensed premises and are limited to one machine per bar in the facility.

Research has shown that despite the best intentions of licensed premises staff, people under 18 years of age are able to access tobacco products from vending machines. A survey of smoking among children in England revealed that 17 per cent of 11 to 15 year olds who smoked regularly said that vending machines were their usual source of cigarettes. This survey was part of the body of evidence that resulted in banning vending machines in pubs and clubs in the United Kingdom in 2011.

In New South Wales vending machines are only activated by a staff member or by a token which is only available from a staff member. Vending machines are prohibited in the Australian Capital Territory.

The Department of Health recommends the regulation that tobacco product vending machines may only be located at areas on liquor licensed premises that are children free areas.

b) whether the Assembly should Amend the Bill

The Department of Health submits that the proposed legislation amendments are sufficient to achieve the intended outcomes of the amendments.

c) whether the Bill has sufficient regard to the rights and liberties of individuals

The proposed amendment are within the framework and supported by the World Health Organisation Framework Convention on Tobacco Control to help regulate the sale, supply and use of tobacco products in the community.

Individual rights and liberties are not impede to any extent and are enhance by ensuring people are not adversely exposed to tobacco products or tobacco smoke.

The Department of Health supports the rights of individuals not to be exposed to tobacco products and tobacco smoke.

d) whether the Bill has sufficient regard to the institution of Parliament

The aim of the Parliament is to serve and protect the community to which it serves. The Bill provides for protections to individuals from the harmful effects of tobacco products and tobacco smoke, especially children.

The Department of Health supports the institution of Parliament in providing the Bill to provide protection to individuals from the harmful effects of tobacco products and tobacco smoke, especially children.

I look forward to your positive submission to Parliament.

Yours sincerely



Prof Catherine Stoddart
September 2018

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