

Impact Analysis Statement template

Summary IAS

Details

Lead department	Department of Environment, Science and Innovation
Name of the proposal	Deeming vaping device and vaping accessory litter as dangerous litter
Submission type	Summary IAS
Title of related legislative or regulatory instrument	Tobacco and Other Smoking (Vaping) Products and Other Legislation Amendment Bill 2024
Date of issue	4 June 2024

For all other proposals

What is the nature, size and scope of the problem? What are the objectives of government action?

The proposed amendment to the *Waste Reduction and Recycling Act 2011* clarifies the position that depositing a vaping device or vaping accessory is deemed to be dangerous littering under section 103 of the Act.

One of the objects of the *Waste Reduction and Recycling Act 2011* is to minimise the overall impact of waste generation and disposal in Queensland. One approach to achieving this object is by prohibiting particular conduct in relation to waste.

Chapter 5 of the *Waste Reduction and Recycling Act 2011* creates offences relating to littering and illegal dumping, with specific offence provisions for dangerous littering (s103). Dangerous littering is defined at subsection (5) to mean depositing waste that causes or is likely to cause harm to a person, property or the environment and attracts a maximum penalty of 40 penalty units. Examples of dangerous littering include throwing a lit cigarette on to dry grass in extreme fire conditions and smashing a bottle and leaving broken glass on a footpath.

According to the 2023 Clean Up Australia Report, vapes were collected at 22% of surveyed sites, an increase from 2022 where vapes were found at only 10% of surveyed sites. Additionally, litter audits conducted across more than 300 sites in Queensland also indicate that between November 2022 (when vapes were added as a litter category) and October 2023, found that the occurrence of vape littering doubled over that time in metropolitan areas, with the highest concentration occurring in car parks, residential areas, near waterways and along highways. Increased vape litter was also found at some regional sites.

Littered vaping devices and vaping accessories are known environmental hazards as they contain toxic chemicals and heavy metals that can leach into the environment, entering waterways and soil. Many vaping devices are brightly coloured, making them potentially attractive to children, which creates a health and safety risk from possible leaking chemicals, heavy metals and battery electrolytes if they pick them up. Vaping devices also contain lithium-ion batteries and other electronic componentry that can cause, and have been directly linked to, fires.

To help address the issue of vape littering and to make it clear that depositing a vaping device or a vaping accessory is dangerous littering, amendments to the *Waste Reduction and Recycling Act 2011* through the Tobacco and Other Smoking (Vape) Products and Other Legislation Amendment Bill 2024 to create a specific

dangerous littering offence for depositing a vaping device or vaping accessory (as defined under the *Tobacco and Other Smoking Products Act 1998*).

While the ability currently exists to consider the depositing of a vaping device or vaping accessory to be dangerous littering, the provision of a specific subsection removes any doubt as to the nature of the offence.

What options were considered?

An alternative to deeming the deposit of a vaping device or vaping accessory to be dangerous littering would be to provide clarifying information under the existing provisions that, similar to a lit cigarette butt or a syringe in a public place, depositing a vaping device or vaping accessory would also be an example of dangerous littering.

However, this would still link to the circumstances where depositing the waste was likely to cause harm to a person, property or the environment, in order to be considered to be dangerous littering, placing the onus on the prosecution to prove the likelihood of harm.

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Raising awareness among vape users of the hazards of inappropriate management of vaping devices and vaping accessories is important; however strong, unambiguous offences are also necessary to support awareness and behaviour change messaging.

Considering the known risks associated with inappropriate management of vaping devices relying on awareness alone is not considered to be an appropriate option that will support delivery of the objects of the *Waste Reduction and Recycling Act 2011* and reduce the overall risk associated with inappropriate management of vapes.

What are the impacts?

The proposal is likely to have modest but not significant, impacts. The direct costs of the proposal are related to the incidence and maximum penalty of the offence and where the fines imposed are subject to the discretion of the Court. Under these circumstances, the Department has not estimated the direct costs to the community or to government. It should be noted the community, local councils and the State Government currently bear cost associated with littered materials, their environmental impact and costs associated with collection and processing.

Who was consulted?

No consultation on the proposed amendments have been undertaken.

What is the recommended option and why?

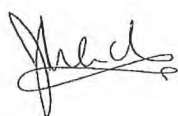
It is recommended that the *Waste Reduction and Recycling Act 2011* be amended to explicitly state that the deposit of a vaping device or vaping accessory is dangerous littering. This will remove any doubt about the nature of the offence, enabling clear guidance and awareness messages to be provided to both authorised officers and members of the public.

Impact assessment

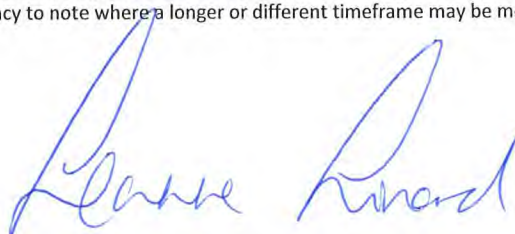
All proposals – complete [do not delete]:

	First full year	First 10 years**
Direct costs – Compliance costs*	See above	
Direct costs – Government costs	See above	

* The direct costs calculator tool (available at www.treasury.qld.gov.au/betterregulation) should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.



Jamie Merrick
Director-General
Department of Environment, Science
and Innovation
Date: 6 June 2024



Leanne Linard MP
Minister for the Environment and the Great Barrier Reef
Minister for Science and Innovation

Date: 6th June 2024