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### Smoke-free environments: Current status and remaining challenges in Australia

Alecia Brooks

Tanya Buchanan

*University of Wollongong*, [tpb996@uowmail.edu.au](mailto:tpb996@uowmail.edu.au)

Wendy Oakes

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## Smoke-free environments: Current status and remaining challenges in Australia

### Abstract

2020 Brooks et al. Objectives: Smoke-free environments have been one of the great success stories in tobacco control in Australia. In this paper, we describe the current situation with respect to smoke-free environments in Australia, identify opportunities for extending and/or strengthening smoke-free environments, and discuss the challenges alternative nicotine delivery devices such as e-cigarettes pose to the traditional notion of 'smoke-free'. Type of program: Smoke-free environments are an essential element in a comprehensive approach to tobacco control. They are recognised in the World Health Organization Framework Convention on Tobacco Control and in the Australian National Tobacco Strategy. Results: There is strong evidence that smoke-free environments support smokers to make a quit attempt, support ex-smokers to maintain their resolve, and protect the health of non-smokers and ex-smokers alike. Lessons learnt: Smoke-free environments have contributed to reductions in smoking prevalence. They are not yet fully deployed in public policy in Australia, and policy makers should extend smoke-free environments to areas such as high-roller rooms in casinos, prisons, residential mental health facilities and multi-unit residences. E-cigarettes are challenging the ways we think about 'smoke-free', and have the capacity to undermine smoke-free successes if regulation does not prevent their use in smoke-free environments.

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# Smoke-free environments: current status and remaining challenges in Australia

Alecia Brooks<sup>a,f</sup>, Tanya Buchanan<sup>b,c,d</sup> and Wendy Oakes<sup>e</sup>

<sup>a</sup> Cancer Council NSW, Sydney, Australia

<sup>b</sup> Thoracic Society of Australia and New Zealand, Sydney, NSW

<sup>c</sup> School of Psychology, University of Wollongong, NSW, Australia

<sup>d</sup> Illawarra Health and Medical Research Institute, University of Wollongong, NSW, Australia

<sup>e</sup> National Heart Foundation of Australia, Sydney, NSW

<sup>f</sup> Corresponding author: [alecia.brooks@nswcc.org.au](mailto:alecia.brooks@nswcc.org.au)

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## Key points

- Smoke-free environments are a key element in a comprehensive approach to tobacco control, contributing to reductions in smoking prevalence and protecting the health of non-smokers and ex-smokers alike
- Smoke-free environments have been one of the great success stories in tobacco control in Australia, however implementation of smoke-free environments across the country has lacked consistency
- E-cigarettes are challenging the ways we think about 'smoke-free', and have the capacity to undermine smoke-free successes if regulation does not prevent their use in smoke-free environments

## Abstract

**Objectives:** Smoke-free environments have been one of the great success stories in tobacco control in Australia. In this paper, we describe the current situation with respect to smoke-free environments in Australia, identify opportunities for extending and/or strengthening smoke-free environments, and discuss the challenges alternative nicotine delivery devices such as e-cigarettes pose to the traditional notion of 'smoke-free'.

**Type of program:** Smoke-free environments are an essential element in a comprehensive approach to tobacco control. They are recognised in the World Health Organization Framework Convention on Tobacco Control and in the Australian National Tobacco Strategy.

**Results:** There is strong evidence that smoke-free environments support smokers to make a quit attempt, support ex-smokers to maintain their resolve, and protect the health of non-smokers and ex-smokers alike.

**Lessons learnt:** Smoke-free environments have contributed to reductions in smoking prevalence. They are not yet fully deployed in public policy in Australia, and policy makers should extend smoke-free environments to areas such as high-roller rooms in casinos, prisons, residential mental health facilities and multi-unit residences. E-cigarettes are challenging the ways we think about 'smoke-free', and have the capacity to undermine smoke-free successes if regulation does not prevent their use in smoke-free environments.

## Introduction

Smoke-free environments are an essential element in a comprehensive approach to tobacco control, addressed in both Article 8 of the World Health Organization's Framework Convention on Tobacco Control (FCTC)<sup>1</sup> and in the Australian National Tobacco Strategy.<sup>2</sup> Smoke-free environments support smokers to reduce the number of cigarettes they smoke and to make quit attempts.<sup>3</sup> Smoke-free environments also support ex-smokers to maintain their resolve and protect the health of non-smokers and ex-smokers alike.<sup>3</sup>

Second-hand smoke is harmful to health with no safe level of exposure.<sup>1</sup>

One in four Australians live in a household in which there are one or more people who smoke.<sup>4</sup> Despite this, only 2.1% of Australian children and 2.4% of non-smoking adults are exposed to tobacco smoke in their home<sup>4</sup>, signalling the support for smoke-free environments by Australians in protecting children and non-smokers from the established harms of tobacco smoke. However, out of the home, the implementation of smoke-free environments across Australia has lacked consistency. Nonetheless, smoke-free policy continues to be needed as a key lever in tobacco control within Australia. This paper explores the current state, the challenges and the future of smoke-free environments from an Australian context.

## Current state of smoke-free environments in Australia

Smoke-free environments have been one of the great success stories in tobacco control in Australia. Not only have they directly contributed to the significant reduction in smoking prevalence<sup>5</sup> and reduced individual consumption of tobacco products<sup>6</sup>, but they have gained widespread community support and changed social norms and expectations relating to smoking.<sup>7</sup> In Australia, legislation regarding smoke-free environments is under the jurisdiction of state and territory governments. Initial legislative interventions to introduce smoke-free environments sought to address the dangers of exposure to tobacco smoke in workplaces. The success of legal action against employers was one of the initial drivers of the smoke-free legislation. With increasing levels of community support for smoke-free environments, legislation that bans smoking in cars carrying children, in restaurants, including outdoor dining areas and in licensed premises, has been enacted across Australia, albeit at different times and with different requirements.

Smoke-free environments are increasingly being implemented through the power of community expectation. In fact, this is an area of tobacco control where the community has raced ahead of policy makers. In a 2019 New South Wales (NSW) survey, more than half of respondents expressed support for legislation to create smoke-free environments.<sup>8</sup> Smoke-free homes are now normalised, without legislative intervention. Local councils are now finding strong community support for banning smoking in many outdoor areas not covered by state smoke-free legislation such as children's playgrounds, sporting fields, public beaches and city shopping precincts.<sup>9</sup> Whether smoke-free environments are implemented via legislation, local government regulations or voluntarily by the public, concerns regarding health impacts of tobacco smoke, fire hazard, workplace health and safety, environmental impacts, public amenity, threat of legal action and political expediency have all been equally strong drivers for their implementation.

Most indoor venues and a large number of outdoor venues, such as bus stops and stadiums, are now smoke-free across Australia. Table 1 provides a summary of smoke-free environments across the Australian states and territories.

## The challenges and opportunities for smoke-free environments

Despite the successes achieved to date in implementing smoke-free environments, there remain substantial challenges to fully deploying them across Australia. Policy inconsistency and incremental change have been the hallmark for smoking bans in Australia since they were first introduced, as seen in Table 1. Ironically, Australian Government offices were made smoke free by policy in 1986, long before most governments were prepared to pass legislation to protect the rest of the community in other areas. There remain many areas where people continue to be exposed to cigarette smoke.<sup>10</sup> Political hesitancy in the face of the tobacco, gambling and alcohol lobby appeared to be an underlying driver of amendments to the *NSW Smoke-free Environment Act 2000*<sup>11,12</sup>, which gave hotels and clubs an exemption from the Act – a decision that was justified based on economic grounds (subsequently found to be incorrect).<sup>12</sup> Similarly, in Victoria, the gambling lobby argued that as smokers were the biggest poker machine users, forcing them to take a break from their gambling to move outside to smoke would result in a reduction in poker machine revenue (and subsequently poker machine tax to the government).<sup>13</sup>

The power of the tobacco, gambling and alcohol lobbies continues to undermine the potential effectiveness of smoke-free legislation. Smoking continues in some poker machine areas in NSW, which have been specially designed to take advantage of inconsistencies and unclear definitions of an "enclosed public place" in the legislation. Likewise, high-roller rooms in casinos across most states of Australia remain exempt for smoke-free legislation. This is despite the 2003 guidance note on the elimination of environmental tobacco smoke in the workplace<sup>14</sup> under occupational health and safety legislation, where employers are required to take all measures that are practicable to protect the health and safety of employees and others in the workplace. Employers are obliged to provide healthy and safe workplaces. Allowing workers and others to harm persons through passive smoking in the workplace contravenes this obligation; workers who are exposed in pubs and clubs while servicing smoking areas and outdoor workers on building sites are just two examples where further regulation and compliance with existing regulation needs to be strengthened.

Multi-unit residences also present particular challenges, as residents leave their apartments to smoke on balconies and in communal areas, only for their smoke

**Table 1.** Current state and territory smoke-free environments

Smoke-free area	NSW	VIC	QLD	SA	NT	TAS	WA	ACT
<b>Indoor public spaces</b>								
Indoor (enclosed) public spaces (% closed space required for space to be considered enclosed)	Y (75)	Y (75)	Y (50)	Y (70)	Y (75)	Y (50)	Y (50)	Y (75)
High-roller rooms in casinos	N	N	N	Y	N	Y	N	Y
<b>Outdoor public spaces</b>								
Play equipment	Y	Y	Y	Y	NI	Y	Y	Y
Public transport stops	Y	Y	Y	Y	Y	Y	N	Y
Taxi ranks	Y	NI	Y	NI	Y	NI	NI	NI
Sports grounds/stadiums	Y	Y <sup>a</sup>	Y <sup>b</sup>	NI	NI	Y	NI	NI
Swimming pools (public)	Y	Y	Y	Y	NI	Y	NI	NI
Beaches (only patrolled areas)	Y <sup>a</sup>	Y	Y	Y	NI	Y	Y	NI
Skate parks	NI	Y	Y	NI	Y	NI	NI	NI
National Parks	Y	NI	Y	NI	NI	NI	NI	NI
Outdoor shopping/pedestrian malls	Y <sup>a</sup>	N	Y	Y	NI	Y	N	Y
Events	NI	NI	NI	NI	Y <sup>b</sup>	Y	NI	Y <sup>a</sup>
Under-age events	NI	NI	Y	NI	NI	NI	NI	Y
Near building entry/exit	Y <sup>a</sup>	Y <sup>a</sup>	Y	N	Y	Y	Y	Y
Near air conditioning vents	NI	NI	NI	N	Y	Y	Y	NI
Commercial outdoor eating	Y	Y	Y	Y	Y <sup>b</sup>	Y	Y <sup>b</sup>	Y
Commercial outdoor drinking	N	N	Y <sup>b</sup>	N	N	N	N	Y <sup>b</sup>
<b>Other</b>								
Cars carrying children (up to age, years)	16	18	16	16	16	18	17	16
Health facilities	Y <sup>b</sup>	NI	Y	NI	NI	NI	NI	NI
Government-funded housing	NI	NI	NI	NI	NI	NI	N	NI
Prisons	Y <sup>b</sup>	Y <sup>b</sup>	Y	Y	Y	Y	N	Y <sup>b</sup>
Multi-unit dwellings	Y	NI	NI	Y <sup>a</sup>	NI	NI	N	NI
Residential aged care facilities	NI	Y	Y <sup>b</sup>	Y <sup>a</sup>	NI	NI	NI	NI
Early childhood centres	NI	Y	Y	NI	Y	NI	NI	NI
Schools (primary, secondary)	NI	Y	Y	Y <sup>b</sup>	Y <sup>b</sup>	NI	NI	NI
Tertiary/ technical/other education facilities	NI	NI	NI	Y <sup>b</sup>	Y <sup>b</sup>	NI	NI	NI

NSW = New South Wales; VIC = Victoria; QLD = Queensland; SA = South Australia; NT = Northern Territory; TAS = Tasmania; WA = Western Australia; ACT = Australian Capital Territory; Y = specifically covered in legislation; N = specifically not covered in legislation; NI = not identified or covered in legislation

<sup>a</sup> Legislation exists with significant variation (e.g. legislation present at a local council level)

<sup>b</sup> Allows for designated outdoor smoking areas

Note: This table covers relevant legislation and regulations, not individual or sector policies or guidelines.

to waft back into their neighbours' residences. Almost 40% of people living in multi-unit housing report being exposed to tobacco smoke<sup>10</sup>, and these private areas present regulatory and compliance challenges as governments are loath to face the 'nanny state' accusations which regulation and enforcement would inevitably bring. However, progress is being made in some jurisdictions with regard to multi-unit dwellings. In NSW, for example, smoke-free multi-unit housing has become possible through the introduction of strata by-laws for all new buildings from November 2016. As this option is open to owners in both new and existing buildings, this is small step forward for all new buildings as well as creating the opportunity for individuals to advocate for change in existing buildings. There is an opportunity for other states to capitalise on this change in legislation and replicate for consistency across the federation. Although there are inconsistencies among states, this can also provide an opportunity for states to leverage off the success of others to increase their own smoke-free areas. Policy makers can use this as an opportunity to reset the bar and create consistent policy among states, and community and advocacy groups can use the inconsistencies to drive the need for equitable access to an environment that is free from second-hand smoke.

Areas where people with high rates of smoking live or frequent present opportunities for smoke-free policies. Prisons, community housing and mental health settings are key environments which would benefit from a combination of smoke-free policy reinforced with supportive quit programs needed for these smokers. It is vital that policy makers work with communities where smoking prevalence is high to facilitate regulation, ongoing compliance and/or voluntary implementation of smoke-free environments.

Public education and support for smoke-free areas remain key components of successfully achieving new legislation. For example, between 2000 and 2005 a 'Smoke-free homes and cars' campaign aimed to influence parental smoking around children in private spaces like cars and homes. This campaign educated the public on the harms of second-hand smoke, thereby building public support and easing the passage of legislation that makes it an offence to smoke with a child aged below 16 years in a vehicle.

## A new challenge: alternative nicotine delivery systems

The use of alternative nicotine delivery systems (ANDS), such as e-cigarettes, heat-not-burn devices and other emerging consumer products, are currently prohibited for use in all smoke-free environments in all states and territories except in Western Australia. The tobacco industry and vaping lobby have taken an aggressive position in promoting these products as safe or safer alternatives to combustible cigarettes and argue that they

should be able to be used in smoke-free environments. Phillip Morris International has gone as far as to argue that it has a "smoke-free future" and that smokers should move to "unsmoking" with use of their ANDS products.<sup>15,16</sup>

One of the significant achievements of smoke-free environments has been a sustained decline in the number of cigarettes consumed by smokers.<sup>17</sup> This decline in consumption is no doubt a key driver behind the tobacco industry's move into ANDS as they are a potential solution to declining markets. If ANDS can be promoted as not generating harmful smoke, they can also be used to challenge smoke-free policies, which occurred recently in New Zealand.<sup>18</sup>

In Australia, the majority of states and territories have demonstrated leadership in prohibiting e-cigarette use in smoke-free environments and public support for regulating e-cigarette use in smoke-free environments is high. In 2019, 69% of Australian respondents supported restricting e-cigarette use in public places.<sup>4</sup> As more disruptive smoking technology enters the market place, the challenge will be to continue to be vigilant in achieving the goals of smoke-free policies, even if these new devices appear to function in the absence of actual smoke. New ways of thinking about smoke-free environments need to develop to inform appropriate policy and regulatory responses. This includes:

- 1) Ceasing to compare ANDS with combustible cigarettes, which are deadly, and compare them to the known healthy alternative of clean air
- 2) Ensuring that non-users are not exposed without their knowledge or consent to addictive substances and emissions from these products, especially when the long-term health consequences are poorly understood
- 3) Continue the focus of advocacy efforts on comprehensive tobacco control policies, including smoke-free environments, to further reduce smoking prevalence rates and prevent smoking initiation.

## Conclusion

Increasing community expectations for a smoke-free environment, including an e-cigarette-free environment, should provide policy makers and legislators with confidence to explore extending smoke-free environments, including those in residential settings as well as confronting the influence of the tobacco, gambling and alcohol lobbies to close loopholes such as high-roller rooms. It is vital that public health practitioners identify and work with communities where smoking prevalence rates are high and where exposure to second-hand smoke remains high. Community support in combination with expert political champions is paramount in navigating new smoke-free environments.

Smoke-free areas have reduced smoking prevalence, helping smokers find ways to control and then overcome their nicotine addiction, making smoking less tempting to young non-smokers and supporting ex-smokers to

maintain their decision to quit. The tobacco industry is not going to let that go unchallenged. The industry is adept at seeking new ways to reduce the effectiveness of tobacco control strategies. Their future profitability – in fact their entire future – depends on maintaining existing customers and recruiting new users for their products. ANDS have the potential to replace their dwindling customer base and to confuse the discussion about what constitutes a smoke-free environment. Companies such as Phillip Morris International are actively claiming the smoke-free space as they attempt to legitimate the sale of their ANDS products.

There is a need for health advocates to be vigilant and assume that the current smoke-free legislation will not automatically deal with future developments in smoking technology. Tobacco control regulation needs to be constantly evaluated and monitored to ensure that it is delivering against its objectives. As technology changes we need to ensure that legislation is amended in a timely fashion and that any attempts by the tobacco industry and its supporters to continue damaging the health of Australians are vigorously opposed.

Recent history has shown us – the Phillip Morris-funded Foundation for a Smoke-free World being just one example – that the tobacco industry will not just attack tobacco control legislation but subvert the language of tobacco control to help promote its products.<sup>16</sup> Ensuring the efficacy of existing smoke-free areas and increasing smoke-free areas will be the new challenges for tobacco control in coming years.

## Peer review and provenance

Externally peer reviewed, invited.

## Competing interests

None declared.

## Author contributions

AB, TB and WO were all equally responsible for the design, drafting, analysis of data, and editing of the manuscript.

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