



16 September 2024

Darren Patterson
Chairperson
Waste Advisory Board
darren@pattersonenvironmental.co.nz

Dear Darren

Request for advice on amending the implementation date in the Waste Minimisation (Plastic and Related Products) Regulations 2022 in relation to requirements for produce labels

I am writing to the Waste Advisory Board (the Board) to seek your advice on the proposed amendment to extend the implementation date in relation to requirements for produce labels on produce sold in New Zealand. I propose to extend the implementation date for certain requirements relating to produce labels from 1 July 2025 to 1 July 2028. The Waste Minimisation Act 2008 requires that I obtain and consider the advice of the Board before making changes to the Tranche 2 regulations.¹

Produce Label Bans

In June 2021, Cabinet agreed to phase out certain hard-to-recycle and single-use plastic products in three tranches, ensuring adequate lead in time for harder to replace products. The Waste Minimisation (Plastic and Related Products) Regulations 2022 (Tranche 1) and Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 (Tranche 2) are in force. Tranche 2 came into force on 1 July 2023, banning a range of single-use items, with a phased approach to banning non-home compostable produce labels. I have included a copy of the original Regulatory Impact Statement and the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 (Tranche 2 regulations).

The Tranche 2 regulations create a prohibition the sale of plastic produce labels unless they are:

- home compostable; or
- used, or intended for use, only on fruit or vegetables that are intended for export.²

Officials are applying the produce labels bans through a two-step phased approach:

- **Phase 1 (came into force on 1 July 2023):** Labels on produce grown domestically must be certified home compostable, except for the adhesive. Labels on imported produce sold in New Zealand are subject to a transitional period, so no change required until 1 July 2025.

¹ Section 23(3)(a) Waste Minimisation Act 2008.

² Clause 6(b) Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022.

- **Phase 2 (due to come into force on 1 July 2025):** Both the label and the adhesive on domestic and imported produce sold in New Zealand must be certified home compostable.

The Tranche 2 regulations are only intended to regulate produce sold in New Zealand and not to prohibit the use of labels on exported produce from New Zealand into other markets. Officials have already implemented phase 1 as outlined above, and I am not proposing to make any changes to those aspects of the regulations that have already come into force.

A key objective of the regulations is to reduce contamination and litter in New Zealand. Additionally, because New Zealand imports and exports produce with labels affixed, alignment with other jurisdictions is a key objective, along with ensuring compliance with relevant free trade agreements. It is also important to provide a level playing field between domestic and international producers.

The proposal to extend the transitional period through further Amendment Regulations

When Tranche 2 took effect in 2023, the objective of the transitional period for imported produce sold in New Zealand was to allow time for a global shift towards the use of compostable produce labels. This was in light of regulations being implemented in France³ and Flanders (Belgium),⁴ with the European Union (EU) likely to follow suit. Many stakeholders were confident about being able to comply with the regulations (both in 2023 and later in 2025).

However, international progress towards compostable produce labels has been slower than expected. Following industry push back on bans, France has not enforced their regulations, and Flanders (Belgium) amended their regulations so that they are more permissive allowing for both industrially and home compostable labels. As a result, many stakeholders in New Zealand have also raised concerns about the implementation of requirements in New Zealand on 1 July 2025.

Stakeholders are concerned international importers will not see the value in making the necessary operational changes to meet New Zealand's requirement, particularly given the size of our market, which may result in reduced availability of offseason produce in New Zealand (e.g. lemons, limes).

The EU has announced they will implement a ban on non-compostable produce labels taking effect from 2028 allowing only industrial or home compostable labels. Other jurisdictions such as France, Flanders (Belgium) and South Australia have announced they will transition to compostable labels by 2028. Many stakeholders have stated their preference that New Zealand aligns with the EU bans.

Extending the transitional period for both domestic and imported produce would provide sufficient lead time for domestic producers to use any excess stock of non-compliant labels and is likely to be perceived as fairer for domestic producers. However, it may also be unnecessary to allow for three more years to complete the domestic transition to a fully home

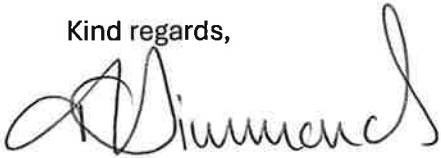
³ LAW No. 2020-105 of 10 February 2020 on the fight against waste and the circular economy. Title IV: Producer Responsibility – Article 80.

⁴ Article 5.3.14.1 - "It is prohibited to use stickers on fruit and vegetables, unless the stickers are industrially compostable or home compostable".

compostable label, which began in 2023 and is achievable by 1 July 2025, according to stakeholders.

Following consultation with officials I see an opportunity for New Zealand to align more closely with other larger international jurisdictions and mitigate any potential risk to New Zealand's produce imports. Therefore, I would like to seek the Board's advice on extending the transitional period for all produce sold in New Zealand from 1 July 2025 to 1 July 2028 through an amendment to the Waste Minimisation (Plastic and Related Products) Regulations 2022, without affecting the requirements that took effect on 1 July 2023 relating to produce labels.

Kind regards,

A handwritten signature in black ink, appearing to read 'Penny Simmonds', written in a cursive style.

Hon Penny Simmonds,
Minister for the Environment