



PROACTIVE RELEASE COVERSHEET

Minister	Hon Rachel Brooking	Portfolio	Environment
Name of package	Plastic phase outs tranche one and two: Cabinet papers and Cabinet Legislation Committee Minutes	Date to be published	9 November 2023

List of documents that have been proactively released

Date	Title	Author
10 March 2022	Cabinet Paper: Waste Minimisation (Prohibited Products) Regulations 2022	Minister for the Environment
10 March 2022	Cabinet Legislation Committee Minute of Decision LEG-22-MIN-0021	Cabinet Office
24 November 2022	Cabinet Paper: Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022	Minister for the Environment
24 November 2022	Cabinet Legislation Committee Minute of Decision LEG-22-MIN-0208	Cabinet Office

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld from Cabinet Paper: *Waste Minimisation (Prohibited Products) Regulations 2022* and Cabinet Paper: *Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022* under section 9(2)(h) of the Official Information Act to maintain legal professional privilege.

I N C O N F I D E N C E

Policy and Privacy

In-Confidence

Office of the Minister for the Environment

Chair, Cabinet Legislation Committee

Waste Minimisation (Prohibited Products) Regulations 2022

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Waste Minimisation (Prohibited Products) Regulations 2022 made under section 23(1)(b) of the Waste Minimisation Act 2008 (the WMA). These regulations prohibit the sale and manufacture of a range of problematic and single-use plastic products.
- 2 The proposed regulations follow through on commitments made in the Labour Party's 2020 Election Manifesto to phase-out more hard-to-recycle and single-use plastics. The regulations also relate to the Cooperation Agreement between the Labour Party and the Green Party, in particular commitments to minimise waste and problem plastics.

Executive Summary

- 3 Plastic is used throughout Aotearoa New Zealand's economy. It has several benefits, which make it a useful material in many applications. However, plastic is present in our soils, water, food and even the air we breathe, harming our wildlife through entanglement, ingestion, and toxicity, and posing risks to health.
- 4 On 14 June 2021, the Cabinet Business Committee (CBC) agreed to a plan that would see certain hard-to-recycle and single-use plastics targeted for phase-out (via regulation) across three tranches between late 2022 and July 2025 [CBC-21-MIN-0057]. The decision followed public consultation over four months in 2020, which demonstrated strong support (96 per cent) for the proposed regulations.
- 5 Phasing out problem plastics is part of a broader waste reduction work programme and another step toward achieving this Government's 2050 vision of a sustainable, low-carbon, circular economy for Aotearoa New Zealand, as outlined in the proposed new national waste strategy (consulted on in late 2020).
- 6 The proposed regulations covered in this paper are for tranche 1 (of 3 tranches) and are for the items targeted for phase-out in October 2022. Tranche 1 products include items that received broad support for phase-out and were considered straight-forward to target in the near term.
- 7 The proposed regulations prohibit the sale (including distribution) and manufacture of several problematic plastic products:
 - 7.1 certain Polyvinyl Chloride (PVC) food trays and containers

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- 7.2 expanded polystyrene food and drink packaging (EPS)
 - 7.3 other polystyrene takeaway packaging and service ware (e.g. sushi trays)
 - 7.4 degradable plastic products (e.g. oxo and photo degradable plastics)
 - 7.5 plastic stemmed cotton buds
 - 7.6 plastic drink stirrers.
- 8 Tranche 1 regulations have now been drafted by the Parliamentary Counsel Office (PCO). I am satisfied that the relevant statutory requirements under the WMA have been met and I now seek authorisation for submission of the proposed regulations to the Executive Council.

Policy*Background*

- 9 The way that we produce, use, and dispose of plastic, particularly single-use plastic products and packaging, is harming our environment.
- 10 New Zealand has already taken some steps to reduce harm from plastic through prohibiting the sale and manufacture of microbeads and single-use plastic shopping bags. These policies have helped to shift the way that New Zealand thinks about waste. The Government considers that further action is needed to eliminate the use of hard-to-recycle and single-use plastics, which are problematic in our recycling system and are used for only a short time before being discarded as waste or litter.
- 11 This paper covers proposed regulations as part of the Government's next step to regulate some of the more unnecessary and problematic single-use plastics. It is a key action under the National Plastics Action Plan (published in September 2021). The Action Plan outlines this Government's response to the *Rethinking Plastics in Aotearoa* report¹, which challenged New Zealand to rethink its relationship with, and use of, plastics.

Cabinet Decision

- 12 In June 2021, Cabinet agreed [CAB-21-MIN-0057] to phase-out certain hard-to-recycle and single-use plastics by creating regulations under the WMA to prohibit the sale and/or manufacture of the specified plastic materials contained in the products outlined in Table 1. Cabinet agreed to introduce the proposed regulations across three tranches in late 2022, mid 2023 and mid 2025 [CAB-21-MIN-0057].

Table 1: Summary of plastics for phase-out as agreed by Cabinet in June 2021

Target in force date	Hard-to-recycle plastics	Single-use plastic items	Regulation development timeframe
Tranche 1: October 2022	PVC meat trays, polystyrene takeaway packaging, EPS grocery packaging, all degradable plastic products.	Plastic drink stirrers, plastic stemmed cotton-buds.	Drafted – included within this paper.

¹ Office of the Prime Minister's Chief Science Advisor (2019).

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Tranche 2: July 2023	N/A	Single-use plastic produce bags, plastic tableware (plates/bowls/cutlery), plastic straws, non-compostable produce labels.	Regulations to be drafted and finalised in 2022.
Tranche 3: July 2025	All other PVC and polystyrene food and beverage packaging.	N/A	Regulations to be finalised in 2023.

- 13 Further work is required before regulations can be drafted for tranche 2 and 3, including engagement that is underway with the disability community to inform the regulations for plastic straws (CAB-21-MIN-0057). I intend to bring papers to Cabinet for consideration on tranche 2 later this year, and tranche 3 in early 2023.
- 14 Cabinet agreed that as Minister for the Environment, I could further clarify and develop the policy decisions set out above, including minor and technical matters and details of exemptions [CAB-21-MIN-0057].

Proposed regulations

- 15 The PCO has drafted the necessary regulations to prohibit the sale and/or manufacture of the plastic products targeted for phase-out in tranche 1. The regulations will be made under Section 23(1)(b) of the WMA, which allows for regulations to be made to prohibit the manufacture and/or sale of products that contain specified materials (e.g. plastic).
- 16 In line with the timeframes agreed by Cabinet in June 2021, I propose that the regulations come into force on 1 October 2022.
- 17 It is my intent that the proposed regulations prohibit both manufacture and sale of the targeted plastic products included in tranche 1. This will ensure that liability is shared more evenly across both parts of the supply chain. Table 2 provides a summary of the proposed regulations for each of the tranche 1 products.

Table 2: Summary of products proposed for regulation

Targeted product(s)	Specified Material	Scope of regulation	Exclusions
Plastic drink stirrer.	Plastic.	Prohibit sale and manufacture of all plastic drink stirrers.	N/A
Plastic cotton bud.	Plastic and/or synthetic polymer-based fibres.	Prohibit sale and manufacture of cotton buds with a stem that is made from plastic and/or a stem (made from any material) with non-biodegradable synthetic fibres wrapped around one or more ends.	Plastic or synthetic cotton buds that form part of a medical device and are not sold at retail, are used for veterinary purposes, used in commercial food laboratories, used for scientific investigations or as part of a medical or scientific testing kit.

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Degradable plastic products.	Plastic with pro-degradant additives.	Prohibit sale and manufacture of all plastic products which contain pro-degradant additives to accelerate the fragmentation of the plastic into smaller pieces (e.g. oxo-degradable and photo-degradable plastics).	Note: It is not intended to cover plastic products designed to biodegrade in commercial and home compost environments.
PVC trays and containers.	PVC and PVDC.	Prohibit sale and manufacture of rigid pre-formed ready-to-use trays and containers that contain PVC or PVDC and are used for packaging for any fish, poultry, meat, or a substitute for any of those, whether fresh, preserved, or frozen. As well as for use to package fresh produce and baked goods sold and packaged on-site.	N/A Note: All other PVC food and drinking packaging will be caught in tranche 3 (2025).
Specified polystyrene packaging for food and drink.	Polystyrene and Expanded Polystyrene (EPS).	Prohibit sale and manufacture of all EPS food and drink packaging. Prohibit sale and manufacture of other polystyrene packaging used for food and drink that is intended for immediate consumption (e.g. takeaway containers).	Polystyrene drink lids ² . Note: EPS bins used in cold supply chains (e.g. transporting seafood) are not included in the phase-out. Note: All other polystyrene food and drink packaging will be caught in tranche 3 (2025).

18 I have made minor and technical decisions to give effect to the policy intent agreed by Cabinet:

18.1 the scope for plastic-stemmed cotton buds was expanded to cover any plastic bud with a plastic stem and/or that includes a synthetic polymer-based fibre at the end (to replace cotton wool)

18.2 prohibiting PVC meat trays has been expanded to cover all rigid pre-formed ready-to-use trays and containers that contain PVC and/or Polyvinylidene dichloride (PVDC)³ and that are used for packaging:

18.2.1 meat and other related meat products (e.g., meat substitutes, poultry, fish)

² Polystyrene drink lids will be discussed as part of the Ministry for the Environment's work with industry experts around single-use plastic cups [CAB-21-MIN-0057 refers].

³ PVDC is a related polymer to PVC, which is not recyclable and is sometimes used to line trays including PET trays due to its oxygen and moisture barrier properties.

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- 18.2.2 fresh produce
- 18.2.3 baked goods that are sold and packaged on site (e.g., at a bakery).
- 18.3 prohibiting polystyrene packaging will include food and drink packaging that is:
 - 18.3.1 supplied for immediate consumption (e.g. a restaurant, café, hospital, takeaway outlet, or office water cooler)
 - 18.3.2 EPS packaging sold at retail
 - 18.3.3 not a polystyrene drink lid.
- 19 These minor and technical decisions are in line with the intent of the policy decisions agreed by Cabinet in June 2021 [CAB-21-MIN-0057]. This includes a decision to bring forward the phase-out date for some types of PVC packaging, which reflects feedback received from technical plastic and packaging experts who recommended that we broaden the scope of PVC meat trays to capture more 'ready-to-use' trays. This wider scope will have a greater impact on reducing contamination in recycling than just focusing on meat trays.

Timing and 28-day rule

- 20 I do not propose to waive the 28-day rule for the regulations to come into effect post Gazettal. I propose that the regulations take effect on 1 October 2022, which recognises the time required by business to adapt and provides certainty around the date that regulations will be in force. § 9(2)(h)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Compliance

- 21 The regulations comply with:
 - 21.1 Treaty of Waitangi principles
 - 21.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
 - 21.3 the principles and guidelines set out in the Privacy Act 2020
 - 21.4 relevant international standards and obligations
 - 21.5 The Legislation Guidelines (2021 edition).
- 22 The WMA provides that I must not recommend regulations controlling or prohibiting the sale of products containing 'specified materials' under section 23(1)(b), unless a reasonably practicable alternative to the specified material is available.
- 23 In addition, the WMA requires that before recommending the regulations, I must first obtain and consider the advice of the Waste Advisory Board, and must be satisfied that:

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- 23.1 there has been adequate consultation with persons and organisations who may be significantly affected by the regulations
- 23.2 the benefits expected from implementing the regulations exceed the costs
- 23.3 the regulations are consistent with New Zealand's international obligations.

Paragraphs 24-36 briefly outline how compliance with the WMA has been met.

Practicable alternatives

- 24 The 'specified material(s)' proposed for control are:
 - 24.1 polystyrene (including EPS) and PVC/PVDC contained in certain types of food and drink packaging
 - 24.2 all plastic products that contain pro-degradant additives to accelerate fragmentation (e.g., oxo and photo-degradable plastics)
 - 24.3 all types of plastic (degradable, compostable, and biodegradable) contained in drink stirrers and cotton buds.
- 25 I am satisfied that practicable alternatives exist for the products and items outlined above including reusable options, non-plastic single-use alternatives and easier to recycle plastics. Polyethylene terephthalate (PET: plastic resin type 1), including recycled PET trays, are commonly used and available in the market to replace PVC.

Advice of the Waste Advisory Board

- 26 I have received and considered advice from the Waste Advisory Board. The Board's advice has informed the policy development of the regulations.

Adequate consultation

- 27 I am satisfied that there has been adequate consultation with persons or organisations who may be significantly affected by the regulations.
- 28 Formal public consultation ran from 12 August to 4 December 2020. Consultation received good coverage in the media and was supported by a substantial social media campaign in its final three weeks, which had a potential reach of over 1.36 million people. Over 7,800 submissions were received and over 96 per cent of submitters supported taking further action on plastics including broad support for the proposed mandatory phase-outs.
- 29 The Ministry for the Environment has engaged with some affected organisations directly and several industry organisations including Plastics NZ, Retail NZ, Sustainable Business Network, Packaging Forum, Packaging New Zealand and WasteMINZ both during and outside of the formal consultation process.
- 30 Consistent with Cabinet decisions in June 2021 [CAB-21-MIN-0057], the Ministry for the Environment shared a consultation version of draft proposed regulations for tranche 1 with a small group of stakeholders to seek technical input and ensure workability of the regulations. This group included supermarkets, technical packaging experts, plastic manufacturing experts, material science expertise and representatives

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from Retail NZ and Hospitality NZ. The feedback received through this process has been considered and reflected in the proposed regulations.

Costs and benefits

31 The costs and benefits were outlined in the June policy paper [CAB-21-MIN-0057] and the Regulatory Impact Statement attached to that paper. Overall, I am satisfied that the benefits from the proposed regulations outweigh the potential costs.

International obligations

32 s 9(2)(h) [Redacted]

33 s 9(2)(h) [Redacted]

34 s 9(2)(h) [Redacted]

35 s 9(2)(h) [Redacted]

36 s 9(2)(h) [Redacted]

Regulations Review Committee

37 I do not consider that there are grounds for the Regulations Review Committee to draw the Regulations to the attention of the House under Standing Order 327.

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- 38 The draft regulations have been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 39 The Regulatory Impact Statement was submitted with the June 2021 Cabinet paper [CAB-21-MIN-0057]. A joint review panel with representatives from Treasury's Regulatory Quality Team, the Ministry for the Environment and the Ministry of Business, Innovation and Employment reviewed the Regulatory Impact Statement (RIS) "*Phasing out specific hard-to-recycle plastics and single-use plastic items*" produced by the Ministry for the Environment and dated June 2021, and it partially met the Quality Assurance criteria⁴.
- 40 The Climate Implications of Policy Assessment (CIPA) team was consulted in the development of the June 2021 policy proposals and confirmed that the CIPA requirements do not apply.

Publicity

- 41 Officials will ensure the new regulations are communicated to regulated parties through a range of communications and any press releases as appropriate.

Proactive Release

- 42 This paper will be proactively released within 30 business days of this decision. Proactive release is subject to redaction as appropriate under the Official Information Act 1982.

Consultation

- 43 As outlined in paragraphs 27-30, the proposed regulations have been informed by public consultation, engagement with a variety of stakeholders and affected industry organisations, and through a targeted consultation process on the draft regulations.
- 44 The following government departments and agencies have been provided with the opportunity to provide feedback on this Cabinet paper: The Ministry of Foreign Affairs and Trade (MFAT), the Ministry of Business Innovation and Employment (MBIE), the Ministry of Primary Industries including Food Safety New Zealand (MPI), the Ministry of Education (MOE), the Ministry of Health New Zealand (MOH), and the Department of Conservation (DOC).
- 45 MPI requested that plastic-stemmed cotton-buds used as part of manufactured testing kits used for on-site hygiene monitoring at food processing sites be excluded from the regulations. The PCO added an exclusion for manufactured testing kits as outlined in table 2.
- 46 The Department of Prime Minister and Cabinet has been informed of this Cabinet Paper.

⁴ The partial meet reflected that impact analysis was constrained by a lack of available data [CBC-21-MIN-0057]

IN CONFIDENCE**Recommendations**

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 14 June 2021 the Cabinet Business Committee agreed to phase-out certain hard-to-recycle and single-use plastic packaging and products as outlined below [CAB-21-MIN-0057]:

Targeted plastic	Proposed timeframe
PVC food and beverage packaging	(1) certain pre-formed PVC and PVDC trays by October 2022
	(2) all other PVC food and beverage packaging by July 2025
Polystyrene food and beverage packaging	(1) All polystyrene takeaway packaging and expanded polystyrene grocery packaging by October 2022
	(2) all other rigid polystyrene by July 2025
Degradable plastic products (plastic products containing pro-degradants to accelerate fragmentation including oxo and photodegradable)	October 2022
Plastic drink stirrers	October 2022
Plastic stemmed cotton-buds	October 2022
Single-use plastic produce bags	July 2023
Plastic tableware (plates/bowls/cutlery)	July 2023
Plastic straws (with exemptions to be drafted in consultation with disability organisations)	July 2023
Non-compostable produce labels	July 2023

- 2 **note** that the Waste Minimisation (Prohibited Products) Regulations 2022 will give effect to the decision referred to in recommendation 1 above, for the items targeted for a 2022 phase-out date.
- 3 **note** that the Ministry for the Environment is still working with the PCO to draft the regulations for tranche 2 (items with 2023 phase-out date) and tranche 3 (items with 2025 phase-out date) and I will bring relevant paper(s) to Cabinet for approval at later stage.
- 4 **note** that Section 23(1)(b) of the Waste Minimisation Act 2008:

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- 4.1 provides that the responsible Minister must not recommend regulations under Section 23(1)(b) unless a reasonably practicable alternative to the specified material proposed for control or prohibition is available
- 4.2 requires the Minister to obtain and consider the advice of the Waste Advisory Board before recommending regulations
- 4.3 requires the Minister to be satisfied that:
 - 4.3.1 there has been adequate consultation with persons or organisations who may be significantly affected by the regulations
 - 4.3.2 the benefits expected from implementing the regulations exceed the costs; and
 - 4.3.3 the regulations are consistent with New Zealand's international obligations.
- 5 **note** that I consider that the requirements outlined above have been met.
- 6 **note** that phasing out hard-to-recycle and single-use plastics is part of a wider waste reduction work programme and supports the Government's vision under the proposed new national waste strategy of a sustainable, low-carbon, circular economy for Aotearoa New Zealand.
- 7 **note** that the proposed regulations relate to the Cooperation Agreement between Labour and the Green Party, in particular commitments to take action to minimise waste and problem plastics.
- 8 **authorise** the submission to the Executive Council of the Waste Minimisation (Prohibited Products) Regulations 2022.
- 9 **note** that the Waste Minimisation (Prohibited Products) Regulations 2022 come into force on 1 October 2022.

Authorised for lodgement

Hon David Parker
Minister for the Environment



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Waste Minimisation (Prohibited Products) Regulations 2022

Portfolio **Environment**

On 10 March 2022, the Cabinet Legislation Committee:

- 1 **noted** that on 14 June 2021, the Cabinet Business Committee agreed to phase-out certain hard-to-recycle and single-use plastic packaging and products as outlined below [CBC-21-MIN-0057]:

Targeted plastic	Proposed timeframe
PVC food and beverage packaging	(1) certain pre-formed PVC and PVDC trays by October 2022
	(2) all other PVC food and beverage packaging by July 2025
Polystyrene food and beverage packaging	(1) All polystyrene takeaway packaging and expanded polystyrene grocery packaging by October 2022
	(2) all other rigid polystyrene by July 2025
Degradable plastic products (plastic products containing pro-degradants to accelerate fragmentation including oxo and photodegradable)	October 2022
Plastic drink stirrers	October 2022
Plastic stemmed cotton-buds	October 2022
Single-use plastic produce bags	July 2023
Plastic tableware (plates/bowls/cutlery)	July 2023
Plastic straws (with exemptions to be drafted in consultation with disability organisations)	July 2023
Non-compostable produce labels	July 2023

- 2 **noted** that the Waste Minimisation (Prohibited Products) Regulations 2022 will give effect to the decision referred to in paragraph 1 above, for the items targeted for a 2022 phase-out date;
- 3 **noted** that the Ministry for the Environment is still working with the Parliamentary Counsel Office (PCO) to draft the regulations for tranche 2 (items with 2023 phase-out date) and tranche 3 (items with 2025 phase-out date) and the Minister for the Environment will bring relevant paper(s) to Cabinet for approval at a later stage;
- 4 **noted** that Section 23(1)(b) of the Waste Minimisation Act 2008:
- 4.1 provides that the responsible Minister must not recommend regulations under Section 23(1)(b) unless a reasonably practicable alternative to the specified material proposed for control or prohibition is available;
 - 4.2 requires the Minister to obtain and consider the advice of the Waste Advisory Board before recommending regulations;
 - 4.3 requires the Minister to be satisfied that:
 - 4.3.1 there has been adequate consultation with persons or organisations who may be significantly affected by the regulations;
 - 4.3.2 the benefits expected from implementing the regulations exceed the costs; and
 - 4.3.3 the regulations are consistent with New Zealand's international obligations.
- 5 **noted** that the Minister for the Environment considers that the requirements outlined above have been met;
- 6 **noted** that phasing out hard-to-recycle and single-use plastics is part of a wider waste reduction work programme and supports the Government's vision under the proposed new national waste strategy of a sustainable, low-carbon, circular economy for Aotearoa New Zealand;
- 7 **noted** that the proposed regulations relate to the Cooperation Agreement between Labour and the Green Party, in particular commitments to take action to minimise waste and problem plastics;
- 8 **authorised** the submission to the Executive Council of the Waste Minimisation (Prohibited Products) Regulations 2022 [PCO 24090/11.0];
- 9 **noted** that the Waste Minimisation (Prohibited Products) Regulations 2022 come into force on 1 October 2022.

Rebecca Davies
Committee Secretary

Attendance: (see over)

Present:

Hon Chris Hipkins (Chair)
Hon Dr Megan Woods
Hon Carmel Sepuloni
Hon Andrew Little
Hon Poto Williams
Hon Michael Wood
Hon Kiri Allan
Hon Dr David Clark
Hon Meka Whaitiri
Hon Phil Twyford
Kieran McAnulty, MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Policy and Privacy

In-Confidence

Office of the Minister for Environment

Cabinet Legislation Committee

Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022

Proposal

- 1 This paper seeks agreement to authorise submission of the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 to the Executive Council.
- 2 The proposed amendment regulations will add new provisions for the products being phased out in tranche 2 (of 3) of the plastic phase-outs. They follow through on commitments made in the Labour Party's 2020 Election Manifesto to phase-out more hard-to-recycle and single-use plastics. The amendments also relate to the Cooperation Agreement between the Labour Party and the Green Party, in particular commitments to minimise waste and problem plastics.

Executive Summary

- 3 On 14 June 2021, the Cabinet Business Committee (CBC) agreed to a plan that would see certain hard-to-recycle and single-use plastics targeted for phase-out (via regulation) across three tranches between late 2022 and July 2025 [CBC-21-MIN-0057]. The decision followed public consultation over four months in 2020, which demonstrated strong support (96 per cent) for the proposed regulations.
- 4 While the products in tranche 1 could be readily phased out (with alternatives widely available), more time was needed for businesses to adapt and prepare for phasing out tranche 2 and 3 products.
- 5 On 10 March 2021, the Cabinet Legislation Committee authorised the submission of the Waste Minimisation (Plastic and Related Products) Regulations 2022 [CAB-21-MIN-0067]. These regulations came into force on 1 October 2022 and prohibited tranche 1 products including some PVC and polystyrene food and drink packaging, degradable plastic products, plastic cotton buds and drink stirrers.
- 6 Amendments to these regulations are now needed to prohibit tranche 2 products. Consistent with Cabinet's previous decision, the proposed regulations will ban these tranche 2 products from 1 July 2023.

- 7 The proposed amendment regulations prohibit:
- 7.1 the sale (including distribution for free) and manufacture of plastic produce bags and plastic tableware (plates, bowls and cutlery)
 - 7.2 the sale (including distribution for free) of plastic straws and non-home compostable produce labels. As there are some exemptions for these products, the regulations are not proposed to prohibit their manufacture.
- 8 The tranche 2 amendment regulations have now been drafted by the Parliamentary Counsel Office (PCO). I am satisfied that the relevant statutory requirements under the Waste Minimisation Act 2008 (WMA) have been met and I now seek authorisation for submission of the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 to the Executive Council.
- 9 Tranche 3 regulations will be finalised in 2023.

Policy

Background

- 10 The way we produce, use, and dispose of plastic, particularly single-use plastic products and packaging, is harming our environment.
- 11 Aotearoa New Zealand, like many countries is on a journey toward reducing waste and plastic pollution. Progress has already been made including bans on plastic microbeads, single-use plastic shopping bags and more recently the first tranche of hard-to-recycle and single-use plastic phase-outs, which came into force this year. The proposed amendment regulations for tranche 2 build on this momentum and take further steps toward eliminating more unnecessary and problematic plastics.
- 12 The plastic phase-out regulations are also a key action under the National Plastics Action Plan (published in September 2021). The Action Plan outlines this Government's response to the *Rethinking Plastics in Aotearoa* report¹, which challenged Aotearoa New Zealand to rethink its relationship with, and use of, plastics. These regulations are also a key step in helping to achieve the proposed Waste Strategy's 2050 vision of a low-emissions, low waste society built upon a circular economy.

Cabinet Decision

- 13 In June 2021, Cabinet [CAB-21-MIN-0057]:
- 13.1 agreed to phase-out certain hard-to-recycle and single-use plastic products by creating regulations under the WMA to prohibit the sale and manufacture of the specified plastic materials contained in the products outlined in Table 1 below

¹ Office of the Prime Minister's Chief Science Advisor (2019).

- 13.2 agreed to introduce the proposed regulations across three tranches in late 2022, mid 2023 and mid 2025
- 13.3 directed the Ministry for the Environment to work closely with disability organisations to draft appropriate exemptions that allow continued access to plastic straws for those who require them (plastic straws are included in tranche 2)
- 13.4 agreed that as the Minister for the Environment, I could further clarify and develop the policy decisions set out above, including minor and technical matters and details of exemptions.

Table 1: Summary of plastics for phase-out as agreed by Cabinet in June 2021

Target in force date	Hard-to-recycle plastics	Single-use plastic items	Regulation development timeframe
Tranche 1: October 2022	Pre-formed PVC trays and containers used for produce, meat or baked goods, all polystyrene (including rigid and expanded) takeaway food and beverage packaging, expanded polystyrene retail food and beverage packaging, all plastic products that contain a pro-degradant additive.	Plastic drink stirrers, plastic stemmed cotton-buds.	Regulations in force 1 October 2022.
Tranche 2: July 2023	N/A	Plastic produce bags, plastic tableware (plates, bowls and cutlery), plastic straws, non-home compostable plastic produce labels.	Drafted – included in this paper.
Tranche 3: July 2025	All other PVC and polystyrene food and beverage packaging.	N/A	Regulations to be finalised in 2023.

- 14 On 10 March 2021, the Cabinet Legislation Committee authorised the submission of the Waste Minimisation (Plastics and Related Products) Regulations 2022 [CAB-21-MIN-0067]. These regulations prohibited the sale and manufacture of tranche 1 products. They were published in the New Zealand Gazette in March 2022 and came into force on 1 October 2022.
- 15 This paper covers proposed amendment regulations to prohibit tranche 2 products. Further work is still required before regulations can be drafted for tranche 3. I intend to bring a paper to Cabinet on tranche 3 in 2023.

Proposed regulations

- 16 The PCO has drafted the necessary amendment regulations to prohibit the sale, or sale and manufacture, of the plastic products targeted for phase-out in tranche 2. The regulations will be made under Section 23(1)(b) of the WMA, which allows for regulations to be made to prohibit the manufacture and/or sale of products that contain specified materials (eg, plastic).
- 17 In line with the timeframes agreed by Cabinet in June 2021, I propose that the regulations for tranche 2 come into force on 1 July 2023.
- 18 It is my intent that the proposed regulations prohibit:
 - 18.1 the sale (including distribution for free) and manufacture of plastic produce bags and plastic tableware (plates, bowls and cutlery)
 - 18.2 the sale (including distribution for free) of plastic straws and non-home compostable produce labels. However as there are some exemptions for these products, they do not prohibit their manufacture.
- 19 Table 2 provides a summary of the proposed regulations for each of the tranche 2 products.

Table 2: Summary of tranche 2 products proposed for regulation

Targeted product(s)	Specified Material	Scope of regulation	Exclusions
Plastic produce bags	Plastic	Prohibit sale and manufacture of all single-use plastic produce bags used to pack fresh fruits and vegetables.	N/A
Plastic tableware (plates, bowls and cutlery)	Plastic	Prohibit sale and manufacture of single-use plastic tableware (plates, bowls and cutlery).	<p>Bowls with lids (as these are hard to differentiate from containers).</p> <p>The ban is not intended to apply to single-use plastic-lined fibre tableware. This is because there are currently limited alternatives that have the water and oil resistant properties that plastic linings can provide.</p>
Plastic straws	Plastic	Prohibit sale (not manufacture) of single-use plastic straws.	<p>Plastic straws that are integrated to packaging of a product by a machine-automated process (eg, a sealed straw attached to a juice box by a machine) are exempt until 1 January 2026.</p> <p>Pharmacies, supermarkets, hospitality businesses, crown</p>

			<p>agents, education entities and health and disability services can still provide plastic straws (on request) to those who need them because of a disability or health condition.</p> <p>Wholesale suppliers can still sell plastic straws to the above listed exempt businesses and entities.</p>
Plastic produce labels	Non-home compostable plastic	Prohibit sale (not manufacture) of non-home compostable plastic produce labels.	<p>The label material (face stock and ink) will need to be home compostable from 1 July 2023. However, the adhesive will be exempt until 1 July 2025.</p> <p>Imported fruits and vegetables are exempt until 1 July 2025.</p> <p>The regulations are only intended to apply to New Zealand's domestic market, therefore produce labels attached to exported fruits and vegetables are not included.</p> <p>The regulations will not apply to produce labels attached to fruits and vegetables prior to the commencement of the ban (1 July 2023).</p>

Minor and technical decisions based on stakeholder feedback

- 20 With direction from Cabinet, the Ministry for the Environment engaged with the disability and health community to help inform the drafting of exemptions for the plastic straw ban. Based on this engagement, I propose to allow plastic straws to be available on request at pharmacies, supermarkets, hospitality businesses, crown agents, education entities and health and disability services.² The proposed regulations are in line with the intent of the policy to enable continued access to plastic straws for disabled people, as agreed in June 2021 [CAB-21-MIN-0057].
- 21 The Ministry for the Environment has also engaged with different businesses and industry sectors on the tranche 2 prohibited products. Based on this engagement, I have made minor and technical decisions to give effect to the polity intent agreed by Cabinet:
- 21.1 Exemption for on-pack plastic straws that are integrated to the packaging of a product by a machine-automated process (eg, sealed straw

² The regulations will enable businesses to supply plastic straws but will not compel them to.

attached to a juice box by a machine), until 1 January 2026. Key industry players have indicated that they intend to have a suitable non-plastic alternative ready by this time.

21.2 Exemption for:

21.2.1 *any* non-compostable label adhesive until 1 July 2025 – while label face stock and inks can be made home compostable, a home or industrially compostable adhesive will not be available in 2023.³ Industry is working on a solution for home compostable adhesive and have assured me it will be ready by mid-2025.

21.2.2 non-home compostable plastic produce labels attached to imported fruits and vegetables until 1 July 2025 – it is unlikely that international produce suppliers will have completed the changes needed to remove plastic labels on produce exported to New Zealand before then. This exemption will help avoid additional costs of produce or a reduced range of imported produce due to de-labelling.

21.3 To allow the manufacture of plastic straws and produce labels to continue for the following reasons:

21.3.1 Plastic straws: allowing for onshore manufacturing and commercial sale of plastic straws will help mitigate against risks of a limited supply chain following the ban and will therefore help achieve the policy intent agreed by Cabinet – to allow continued access to plastic straws for people who require them.

21.3.2 Produce labels: enabling the continued onshore manufacturing of non-home compostable produce labels will ensure that New Zealand produce growers can continue to use labels where needed on exported produce.

22 I understand that the produce sector will likely move to a one label solution once production of a fully home compostable alternative has been proven and can be scaled up to support demand across all markets.

Timing and 28-day rule

23 I do not propose to waive the 28-day rule for regulations to come into effect post Gazettal. I propose that the regulations take effect on 1 July 2023, which recognises the time required by business to adapt and provides certainty around the date that regulations will be in force. s 9(2)(h)

³ The challenge has been developing an adhesive that sticks sufficiently and lasts long enough in the cold-chain. Industry have advised that an industrially compostable adhesive is not currently available.

Compliance

- 24 The regulations comply with:
- 24.1 Treaty of Waitangi principles
 - 24.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
 - 24.3 the principles and guidelines set out in the Privacy Act 2020
 - 24.4 relevant international standards and obligations
 - 24.5 The Legislation Guidelines (2021 edition).
- 25 The WMA provides that I must not recommend regulations controlling or prohibiting the sale of products containing ‘specified materials’ under section 23(1)(b), unless a reasonably practicable alternative to the specified material is available.
- 26 In addition, the WMA requires that before recommending the regulations, I must first obtain and consider the advice of the Waste Advisory Board, and must be satisfied that:
- 26.1 there has been adequate consultation with persons or organisations who may be significantly affected by the regulations
 - 26.2 the benefits expected from implementing the regulations exceed the costs
 - 26.3 the regulations are consistent with New Zealand’s international obligations.
- 27 Paragraphs 28-40 briefly outline how compliance with the WMA has been met.

Practicable alternatives

- 28 The ‘specified material(s)’ proposed for control are:
- 28.1 all types of plastic (compostable and biodegradable) contained in plastic produce bags, plastic tableware (plates, bowls and cutlery), and plastic straws
 - 28.2 non-compostable plastic contained in produce labels (with an exemption for *any* non-compostable label adhesive permitted until 1 July 2025).

- 29 I am satisfied that practicable alternatives exist for the items outlined above including reusable options and non-plastic single-use alternatives. Signage at the point of sale can also be used instead of produce labels.⁴

Advice of the Waste Advisory Board

- 30 I received and considered advice from the Waste Advisory Board (the Board) prior to Cabinet approving the policy in June 2021 [CAB-21-MIN-0187]. The Board's advice has informed the policy development of the regulations.

Adequate consultation

- 31 I am satisfied that there has been adequate consultation with persons or organisations who may be significantly affected by the regulations.
- 32 Formal public consultation ran from 12 August to 4 December 2020. Consultation received good coverage in the media and was supported by a substantial social media campaign in its final three weeks, which had a potential reach of over 1.36 million people. Over 7,800 submissions were received and over 96 per cent of submitters supported taking further action on plastics including broad support for the proposed mandatory phase-outs.
- 33 The Ministry for the Environment has engaged with some affected organisations directly and several industry organisations affected by the tranche 2 phase-outs. Officials have also leveraged the recent coverage of the tranche 1 plastic phase-outs to raise awareness for the upcoming tranche 2 deadline.
- 34 In line with direction from Cabinet in June 2021 [CAB-21-MIN-0057], the Ministry for the Environment undertook targeted engagement with the disability and health community to help inform the drafting of the plastic straw provisions [CAB-21-MIN-0057].
- 35 Consistent with Cabinet decisions in June 2021 [CAB-21-MIN-0057], the Ministry for the Environment shared a consultation version of draft proposed regulations for tranche 2 with a small group of stakeholders to seek technical input and ensure workability of the regulations. This group included supermarkets, the plastics industry body, the produce industry, material science expertise, food/food and packaging businesses (Fonterra and Tetra Pak), and a representative from Diversity NZ with a lived experience of a disability. The feedback received through this process has been considered and reflected in the proposed regulations.

⁴ Signage can replace a produce label to provide brand and origin details but doesn't replace all the functionality of a label (eg, traceability, barcode, Price Look Up information).

Costs and benefits

36 The costs and benefits were outlined in the June policy paper [CAB-21-MIN-0057] and the Regulatory Impact Statement attached to that paper. Overall, I am satisfied that the benefits from the proposed regulations outweigh the potential costs.

International obligations

37 s 9(2)(h) [Redacted]

38 s 9(2)(h) [Redacted]

39 s 9(2)(h) [Redacted]

40 s 9(2)(h) [Redacted]

Regulations Review Committee

41 I do not consider that there are grounds for the Regulations Review Committee to draw the Regulations to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

42 The draft regulations have been certified by the PCO as being in order for submission to Cabinet.

Impact Analysis

- 43 The Regulatory Impact Statement was submitted with the June 2021 Cabinet paper [CAB-21-MIN-0057]. A joint review panel with representatives from Treasury’s Regulatory Quality Team, the Ministry for the Environment and the Ministry of Business, Innovation and Employment reviewed the Regulatory Impact Statement (RIS) “*Phasing out specific hard-to-recycle plastics and single-use plastic items*” produced by the Ministry for the Environment and dated June 2021, and it partially met the Quality Assurance criteria.⁵
- 44 The Climate Implications of Policy Assessment (CIPA) team was consulted in the development of the June 2021 policy proposals and confirmed that the CIPA requirements do not apply.

Publicity

- 45 Officials will ensure the new regulations are communicated to regulated parties through a range of communications and any press releases as appropriate. This will include strong communication and engagement to ensure there is widespread understanding of the exemptions, particularly for plastic straws and produce labels.

Proactive Release

- 46 This paper will be proactively released within 30 business days of this decision. Proactive release is subject to redaction as appropriate under the Official Information Act 1982.

Consultation

- 47 As outlined in paragraphs 31-35, the proposed regulations have been informed by public consultation, engagement with a variety of stakeholders and affected industry organisations, and through a targeted consultation process on the draft regulations.
- 48 The following government departments and agencies have been consulted on the development of the draft regulations and this Cabinet paper: the Ministry of Foreign Affairs and Trade, Office for Disability issues within Whaikaha – Ministry of Disabled People, the Department of Conservation, the Ministry of Justice, the Ministry of Business Innovation and Employment, the Ministry of Primary Industries, and the Ministry of Health.

⁵ The partial assessment reflected that impact analysis was constrained by a lack of available data [CBC-21-MIN-0057]

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 14 June 2021 the Cabinet Business Committee agreed to phase-out certain hard-to-recycle and single-use plastic packaging and products as outlined below [CAB-21-MIN-0057]:

Targeted product	Proposed timeframe
PVC food and beverage packaging	(1) Meat trays by October 2022
	(2) all other PVC food and beverage packaging by July 2025
Polystyrene food and beverage packaging	(1) All polystyrene takeaway packaging and expanded polystyrene grocery packaging by October 2022
	(2) all other rigid polystyrene by July 2025
Degradable plastic products (plastic products containing pro-degradants to accelerate fragmentation including oxo and photodegradable)	October 2022
Plastic drink stirrers	October 2022
Plastic stemmed cotton buds	October 2022
Single-use plastic produce bags	July 2023
Plastic tableware (plates, bowls and cutlery)	July 2023
Plastic straws	July 2023
Non-compostable produce labels	July 2023

- 2 **note** that the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 will give effect to the decision referred to in recommendation 1 above, for the items targeted for a 2023 phase-out date.
- 3 **note** that the Ministry for the Environment will work with the PCO to draft the regulations for tranche 3 (items with 2025 phase-out date) and I will bring relevant paper(s) to Cabinet for approval at a later stage.

- 4 **note** that Section 23(1)(b) of the Waste Minimisation Act 2008:
- 4.1 provides that the responsible Minister must not recommend regulations under Section 23(1)(b) unless a reasonably practicable alternative to the specified material proposed for control or prohibition is available
 - 4.2 requires the Minister to obtain and consider the advice of the Waste Advisory Board before recommending regulations
 - 4.3 requires the Minister to be satisfied that:
 - 4.3.1 there has been adequate consultation with persons or organisations who may be significantly affected by the regulations
 - 4.3.2 the benefits expected from implementing the regulations exceed the costs; and
 - 4.3.3 the regulations are consistent with New Zealand's international obligations.
- 5 **note** that I consider that the requirements outlined above have been met.
- 6 **note** that phasing out hard-to-recycle and single-use plastics is part of a wider waste reduction work programme and supports the Government's vision under the proposed Waste Strategy's 2050 vision for a low-emissions, low waste society, built upon a circular economy.
- 7 **authorise** the submission to the Executive Council of the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022.
- 8 **note** that the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 will come into force on 1 July 2023.

Authorised for lodgement

Hon David Parker

Minister for the Environment



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022

Portfolio Environment

On 24 November 2022, the Cabinet Legislation Committee:

- 1 **noted** that in June 2021, the Cabinet Business Committee agreed to phase-out certain hard-to-recycle and single-use plastic packaging and products as outlined below:

Targeted product	Proposed timeframe
PVC food and beverage packaging	Meat trays by October 2022
	all other PVC food and beverage packaging by July 2025
Polystyrene food and beverage packaging	All polystyrene takeaway packaging and expanded polystyrene grocery packaging by October 2022
	all other rigid polystyrene by July 2025
Degradable plastic products (plastic products containing pro-degradants to accelerate fragmentation including oxo and photodegradable)	October 2022
Plastic drink stirrers	October 2022
Plastic stemmed cotton buds	October 2022
Single-use plastic produce bags	July 2023
Plastic tableware (plates, bowls and cutlery)	July 2023
Plastic straws	July 2023
Non-compostable produce labels	July 2023

[CBC-21-MIN-0057]

- 2 **noted** that the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 will give effect to the decision referred to in paragraph 1 above, for the items targeted for a 2023 phase-out date;
- 3 **noted** that the Ministry for the Environment will work with the Parliamentary Counsel Office to draft the regulations for tranche 3 (items with 2025 phase-out date), and the Minister for the Environment will bring a relevant paper to Cabinet for approval at a later stage;
- 4 **noted** that Section 23(1)(b) of the Waste Minimisation Act 2008:
- 4.1 provides that the responsible Minister must not recommend regulations under Section 23(1)(b) unless a reasonably practicable alternative to the specified material proposed for control or prohibition is available;
 - 4.2 requires the Minister to obtain and consider the advice of the Waste Advisory Board before recommending regulations;
 - 4.3 requires the Minister to be satisfied that:
 - 4.3.1 there has been adequate consultation with persons or organisations who may be significantly affected by the regulations;
 - 4.3.2 the benefits expected from implementing the regulations exceed the costs; and
 - 4.3.3 the regulations are consistent with New Zealand's international obligations;
- 5 **noted** that the Minister for the Environment considers that the requirements outlined above have been met;
- 6 **noted** that phasing out hard-to-recycle and single-use plastics is part of a wider waste reduction work programme and supports the Government's vision under the proposed Waste Strategy's 2050 vision for a low-emissions, low waste society, built upon a circular economy;
- 7 **authorised** the submission to the Executive Council of the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 [PCO 24933/12.0];
- 8 **noted** that the Waste Minimisation (Plastic and Related Products) Amendment Regulations 2022 will come into force on 1 July 2023.

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Poto Williams
Hon Jan Tinetti
Hon Dr David Clark
Hon Kieran McAnulty

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Dr Duncan Webb, MP