

In Confidence**Office of the Minister for the Environment****Chair, Cabinet Business Committee****Proposals for phase-outs of certain hard-to-recycle plastics and single-use items****Proposal**

- 1 This paper seeks Cabinet's approval following recent consultation on two proposals to prohibit the sale and manufacture of certain hard-to-recycle plastics (proposal one)¹ and single-use plastic items (proposal two)².

Relation to government priorities

- 2 Taking action on plastics is a step toward building a low emissions, low waste economy and contributes to the Government's objective to transition to a clean, green, and carbon neutral New Zealand. It reflects commitments made in the Labour Party's 2020 Election Manifesto and the Speech from the Throne.
- 3 Specifically, the proposals in this paper deliver on commitments made in the Labour Party's waste action plan to remove plastic rubbish from our oceans and environment by phasing out single-use and hard-to-recycle plastics such as PVC and polystyrene packaging, drink stirrers, cutlery and cotton buds. Phasing out these plastics by 2025 will support the Labour Party goal of preventing waste from the outset.

Executive Summary

- 4 The Government consulted last year on proposals to phase-out certain hard-to-recycle plastics and seven single-use items. This was part of a broader response to the *Rethinking Plastics in Aotearoa New Zealand* report (*Rethinking Plastics*) released by the Office of the Prime Minister's Chief Science Advisor in December 2019. The work sits within a larger waste and resource efficiency workprogramme.
- 5 There is wide public support for further action to reduce the impact of plastics on our environment. Consultation in late 2020 received close to 8,000 submissions with the majority of submitters supporting (either in full or in part) the proposals.

¹ Proposal one: phase-out in two stages, 2023 and 2025, food and beverage packaging made from polyvinyl chloride (PVC) and polystyrene, all oxo-degradable plastic products, and all expanded polystyrene packaging.

² Proposal two: by 2025, phase-out single-use plastic drink stirrers, plastic stemmed cotton-buds, single-use plastic produce bags, plastic tableware (plates/bowls/cutlery), some single-use plastic cups and their lids, non-compostable produce labels and plastic straws.

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- 6 I am now seeking policy decisions to progress nine of the eleven proposed phase-outs over three tranches as set out below:

Table 1: Summary of proposed phase-outs for agreement

Timeframe	Hard-to-recycle plastics	Single-use plastic items
Tranche 1: October 2022	Polyvinyl chloride (PVC) meat trays, polystyrene takeaway packaging, Expanded polystyrene grocery packaging, all degradable plastic products.	Plastic drink stirrers, plastic stemmed cotton-buds.
Tranche 2: July 2023	N/A	Single-use plastic produce bags, plastic tableware (plates/bowls/cutlery), plastic straws*, Non-compostable produce labels.
Tranche 3: July 2025	All other PVC and polystyrene food and beverage packaging.	N/A

*the Ministry for the Environment will work with disability organisations to draft exemptions that allow continued access to plastic straws for those who need them.

- 7 The proposed phase-out of certain types of expanded polystyrene used to transport cold items and as protective packaging requires further work. I plan to report to Cabinet for decisions in June 2022.
- 8 I plan to direct the Ministry for the Environment to coordinate sector expert groups to inform a comprehensive plan for the phase-out of single-use plastic cups (including coffee cups) and wet wipes that contain plastic by 2025. I anticipate that this work will take place by early 2022 and will provide the basis for consultation to take place with affected parties ahead of any final phase-out decisions.
- 9 Subject to Cabinet's approval, officials will work with the Parliamentary Counsel Office (PCO) to draft regulations ahead of the first tranche of phase-outs in late 2022.

Background

- 10 *Rethinking Plastics* set New Zealand a challenge to rethink its relationship with, and use of, plastics. The benefits of a phase-out include less litter in land, freshwater and marine environments, less contamination in our recycling system and less waste to landfill. A phase-out will encourage positive behaviour change, reduce public confusion and simplify the materials in our system.
- 11 The phase-outs are part of a broader waste and resource efficiency work programme. Complementary projects include development and implementation of regulated product stewardship schemes for plastic packaging, investigating a container return scheme, kerbside standardisation, and investment in recycling infrastructure.
- 12 Phasing out certain hard-to-recycle and single-use plastics will align New Zealand with global trends and supports our international commitments and conventions.

Feedback from consultation

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- 13 Consultation on the proposed phase-outs ran from 12 August to 4 December 2020. Submitters were able to have their say via a substantive form and a short-form online survey designed to improve accessibility to the public.
- 14 The Government received 7,878 submissions, including 3,712 individual substantive submissions (includes 3,350 from form templates designed by non-governmental organisations (NGOs)), 136 substantive group submissions³ and 4,030 short-form online survey responses.
- 15 The proposals received broad support with 97 per cent of submitters indicating support or partial support for the proposals. Support is consistently high (above 96 per cent) across both proposals. While public support was overwhelming, sector analysis shows that well-informed entities such as NGOs and businesses were more likely to agree in part rather than in full. I have considered sector feedback alongside the public response.
- 16 Overall, 58 per cent of submitters supported phasing out straws. However, many submitters either raised concerns or disagreed with the proposed phase-out of straws due to the potential impact on disabled people who may require a straw to drink. I have considered this feedback alongside the benefits that a straw phase-out will bring in reducing litter and protecting the environment.

I recommend phasing out nine of eleven items consulted on

- 17 As set out in table 2, I propose to phase out nine of the eleven targeted plastics in three tranches between 2022 and 2025.

Table 2: Summary of proposed phase-outs for agreement

Timeframe	Hard-to-recycle plastics	Single-use plastic items
Tranche 1: October 2022	Polyvinyl chloride (PVC) meat trays, polystyrene takeaway packaging, Expanded polystyrene grocery packaging, all degradable plastic products ⁴ .	Plastic drink stirrers, plastic stemmed cotton-buds.
Tranche 2: July 2023	N/A	Single-use plastic produce bags, plastic tableware (plates/bowls/cutlery), plastic straws, Non-compostable produce labels.
Tranche 3: July 2025	All other PVC and polystyrene food and beverage packaging.	N/A

- 18 The intent of the proposed scope for single-use plastic items is that it will cover all types of plastic including degradable, biodegradable and compostable plastics⁵. Full descriptions of each phase-out are included in Appendix 1.

Straightforward to phase out

³ Group submitters include business/industry, local government, non-governmental organisations and others.

⁴ This will cover all degradable plastic products (eg, oxo-degradable and photodegradable) that include pro-degradant additives to cause the plastic to fragment. This is a broader description than proposed in the consultation document but reflects feedback from technical experts eg, Plastics NZ.

⁵ For produce labels, a certified home-compostable label will be allowed.

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- 19 I propose that a first tranche of phase-outs occur in October 2022⁶. These items received broad support across all submitter types. Many businesses have already taken steps to reduce their use or move toward alternatives.

More challenging to phase out

- 20 I propose that two further tranches of phase-outs occur in July 2023 and July 2025. Submissions indicate that these phase-outs require a longer timeframe, will have more associated cost and greater risks of unintended consequences, although these risks can be managed. There may also be a need to allow for specific exemptions (see Appendix 1).
- 21 In particular, exemptions for plastic straws are needed to maintain adequate access to straws for disabled people and the care sector. The Ministry for the Environment will work closely with disability organisations between now and the intended phase-out date of July 2023.

Items not for decision yet

- 22 I will bring a decision to Cabinet in June 2022 on expanded polystyrene used in cold supply chains (eg, for transporting seafood) and used for protective packaging (eg, for homewares and electronics)⁷. This needs more work. Officials will work with industry on finding opportunities to reduce the use of expanded polystyrene and to find alternative solutions.
- 23 A single-use plastic cup phase-out also requires further work. I have heard from consultation that it was not clear enough what types of cups would be in scope or not. There was also a strong response across several submitter types that a phase-out should cover coffee cups.
- 24 Consultation feedback is supportive of action on wet wipes too. The development of alternatives to coffee cups and wet wipes could be a focus for the Plastics Innovation Fund, which Cabinet recently agreed to establish [ENV-21-MIN-0020].
- 25 Moreover, I have directed the Ministry for the Environment to coordinate sector expert groups and produce a report by early 2022 with a plan for phasing-out single-use cups and wet wipes. This will inform additional consultation with affected parties to progress a phase-out of these items before 2025. I will provide an update on this when I report to Cabinet in June 2022.
- 26 Submitters identified other single-use plastic items for consideration in future phase-outs (eg, lollipop sticks, balloons and coffee pods). Details can be found in the Summary of Submissions document attached to this paper.
- 27 I intend to consider further phase-outs in the future but I am conscious of the cost and time involved in progressing individual bans on single-use items and the need for a simple and more iterative process. I have asked officials to consider opportunities for a more efficient process through their review of the Waste Minimisation Act 2008 (the Act).

Prohibiting items will not be sufficient on its own

⁶Final date to be confirmed following development of regulations. I note that retailers submitted against a commencement date for any bans occurring during the summer peak trading period.

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- 28 Many submitters also want to see other actions taken. Alongside the phase-outs, I will task officials to advise on actions that encourage more reusable and refillable alternatives, increase recycled content, and make it easier to recycle.

Implementation*Phase-out mechanism*

- 29 Sale and manufacture of the nine targeted plastics and plastic items will be prohibited under Section 23(1)(b) of the Waste Minimisation Act 2008, which allows for regulations to prohibit the manufacture or sale of products that contain a specified material.
- 30 Officials will make an exposure draft of the proposed regulations available for a limited group of affected parties to obtain technical input and ensure workability of the regulations. This group will likely include representatives from the plastics, waste, hospitality, retail and food and grocery sectors.

Assisting businesses to transition

- 31 The Ministry intends to develop guidance to support businesses in the uptake of sustainable alternatives. Officials will work with industry associations to help affected sectors prepare for the phase-outs and will keep me informed of any significant roadblocks.
- 32 I expect to open the \$50 million Plastics Innovation Fund for expressions of interest in November 2021. This fund will enable targeted investment toward finding solutions for problem products that are challenging to phase-out, alongside other plastic waste minimisation initiatives.

Compliance, monitoring and enforcement

- 33 The Ministry is responsible for undertaking audits and investigating potential breaches of regulations made to prohibit plastic products. Unlike the plastic shopping bag ban, the focus will need to be on both manufacturers and suppliers of banned materials as well as retailers. Regulations will be drafted to ensure that responsibility sits in the appropriate place.
- 34 The Act only provides for prosecution with a maximum fine of \$100,000 for the contravention of regulations that ban the manufacture or sale of products. There is no ability to make infringement fines in regulations to address non-compliant behaviour. This is a limiting factor for ensuring a high rate of compliance. The range of enforcement tools is a key consideration for the ongoing review of the Act.

Financial Implications

- 35 The costs of transitioning to new materials and alternative items will mostly fall on businesses. The greatest costs will fall on those businesses that need to make changes to capital equipment within their production lines.
- 36 For small business, alternatives may have a small cost increase (eg, a plastic spoon costs six cents and a wooden spoon costs ten cents). I anticipate that businesses will pass on some costs to the public and absorb others. Spread across the volume of affected products sold into market these costs are negligible and do not make material difference to average weekly living costs.

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37 Costs to the Crown for compliance, awareness and implementation will be met from departmental baselines or waste levy revenues where appropriate.

Legislative Implications

38 Before recommending the making of regulations, under section 23(3)(a) of the Waste Minimisation Act 2008, I must obtain and consider the advice of the Waste Advisory Board (which has occurred), and under section 23(2)(b) I must consider that reasonably practicable alternatives are available for the product being regulated.

39 I consider that reasonably practicable alternatives are available for the items proposed for phase-out. Alternatives include recyclable plastic types, reusable alternatives, and non-plastic alternatives.

40 To make regulations under the Waste Minimisation Act, I must also be satisfied that:

40.1 there has been adequate consultation with persons or organisations who may be significantly affected by the regulations;

40.2 the benefits expected from implementation exceed the costs;

40.3 the proposed regulations are consistent with international obligations.

41 I confirm that these requirements can be met for the proposed phase-outs.

42 The PCO was consulted and confirmed that regulations can be drafted following approval of policy decisions.

Consistency with international obligations

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

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

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

IN CONFIDENCE**Impact Analysis****Regulatory Impact Statement**

- 46 A Regulatory Impact Statement (RIS) has been prepared and is attached to this paper. A joint panel chaired by the Ministry with representatives from the Ministry for Business, Innovation and Employment and Treasury's Regulatory Impact Analysis team has reviewed the RIS.
- 47 The panel considers that the RIS partially meets Cabinet's quality assurance criteria for impact analysis.
- 48 The RIS clearly establishes the problems the interventions are seeking to address, considers a range of possible solutions, and potential impacts of the solutions. Consultation feedback has been considered in detail and is drawn on throughout the analysis. Some proposals have been changed as a result of consultation feedback, including to respond to concerns about particular impacts on certain groups.
- 49 The analysis is hampered by a lack of available data on both the extent of the problem (eg, quantities of certain items on the market), and to an extent, any impacts that might be specific to a certain product type (rather than general to plastics more widely). However, the analysis draws on a range of information sources to counter this, including international research. The proposals cover a wide range of products, including many imported products, and further consideration would be beneficial on the monitoring and other tools that will be necessary to ensure successful implementation.
- 50 The RIS is clear and well-communicated, although the range of materials covered does contribute to it being a lengthy document.

Climate Implications of Policy Assessment

- 51 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal.
- 52 Depending on the alternatives selected to replace the prohibited plastics, this proposal may have a small indirect impact on emissions. The use of organic-based alternatives could lead to a small increase in domestic emissions if these are disposed of at landfill. Work to increase the uptake of reusable alternatives and increased recycling from the uptake of higher value materials is likely to lead to global net emissions reductions by reducing the emissions associated with upstream plastic production processes.

Population Implications

- 53 Phase-outs of some items (particularly straws) may affect disabled people. Officials consulted with the Disabled Persons Assembly during the consultation period but did not receive responses to the attempts to engage with other relevant disability organisations. As set out in paragraph 21, I propose that officials undertake additional engagement with disability organisations to draft appropriate exemptions, which enable disabled people access to plastic straws where needed.

IN CONFIDENCE**Human Rights**

- 54 The proposals in this paper and the attached consultation document are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 55 Te Puni Kōkiri, Department of Internal Affairs, Ministry of Health, Ministry of Education and Statistics New Zealand have been consulted on this paper. The Department of Prime Minister and Cabinet has been informed.
- 56 The Treasury, MFAT, Ministry of Business, Innovation, and Employment, Ministry of Primary Industries including New Zealand Food Safety⁸, Department of Conservation, Environmental Protection Authority, and the Office for Disability Issues, provided feedback on the proposals, which is reflected in this paper and the RIS.

Communications

- 57 I intend to announce the policy decisions alongside an announcement on the Plastics Innovation Fund. Details and timing of an announcement will be confirmed in consultation with the Prime Minister. The Summary of Submissions will be released on the Ministry's website following policy announcements.

Proactive Release

- 58 I propose to proactively release this Cabinet paper following the policy announcements. The documents will be redacted as appropriate under the Official Information Act 1982.

⁸New Zealand Food Safety has confirmed that food grade virgin or recycled PET, if used as an alternative to PVC meat trays, are packaging materials that would meet international standards demonstrating as fit for an intended food contact use.

IN CONFIDENCE**Recommendations**

The Minister for the Environment recommends that the Committee:

- 1 **note** that in July 2020, Cabinet agreed to the release of a consultation document including two proposals to phase-out certain hard-to-recycle and single-use plastics [ENV-20-MIN-0027];
- 2 **agree** that regulations be developed under the Waste Minimisation Act 2008 to prohibit the sale and manufacture of the following products that contain the materials specified as the targeted plastic:

Targeted plastic	Proposed timeframe
PVC food and beverage packaging	Staged approach: (1) Meat trays by October 2022 and (2) all other PVC food and beverage packaging by July 2025
Polystyrene food and beverage packaging	Staged approach: (1) All polystyrene takeaway packaging and expanded polystyrene grocery packaging by October 2022 and (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

- 3 **invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to draft regulations under Section 23(1)(b) of the Waste Minimisation Act 2008;
- 4 **note** that officials will seek technical input from a selected group of stakeholders through an exposure draft process;
- 5 **agree** that the Minister for the Environment can further clarify and develop policy decisions set out above, including minor and technical matters and details of exemptions, in line with the policy decisions agreed by Cabinet;
- 6 **note** that the Ministry for the Environment will work with sectors to support the transition to sustainable alternatives including development of communications and awareness campaign and implementation guidance;
- 7 **note** that a phase-out of plastic straws will have population impacts for disabled people;
- 8 **note** that the Ministry for the Environment will work closely with disability organisations to draft appropriate exemptions that allow access to plastic straws for those who require them;

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- 9 **note** that the Ministry for the Environment will undertake additional work with sector experts to come up with a phase-out plan for single-use plastic cups and their lids (including coffee cups) and wet wipes;
- 10 **note** that the Ministry for the Environment will undertake additional work to provide advice on expanded polystyrene cold-chain and protective packaging;
- 11 **invite** the Minister for the Environment to report-back to Cabinet in June 2022 with updates on the items listed in recommendations nine and ten;
- 12 **approve** the public release of the attached Summary of Submissions;
- 13 **agree** that the Minister for the Environment can make further minor changes to the Summary of Submissions including final editing and design prior to publication;

Authorised for lodgement

Hon David Parker

Minister for the Environment

Proactively released

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Appendix one – High-level scope and description of items for phase-out

The scope and descriptions of the items proposed for phase-out are outlined in table 1 below. The Ministry will develop final wording for regulations with the PCO.

Material for phase-out	Scope and description	Not in scope/possible exemptions
PVC meat trays	The intent is to prohibit the manufacture and sale of PVC meat trays. A PVC meat tray is a flat, shallow container with a raised rim, made primarily from polyvinyl chloride plastic, used to package or contain meat for sale.	N/A
Expanded polystyrene (EPS) food and beverage packaging including takeaway containers	The intent is to prohibit the sale and distribution of food and beverage packaging made from expanded polystyrene packaging including takeaway containers and expanded polystyrene used in supermarket settings. Expanded polystyrene food and beverage packaging is a container (either with lids, without lids, or clamshell) plate, bowl or cup made from expanded polystyrene, which is used to contain food and carry it from the point of sale for consumption.	EPS bins used in cold-chain supply lines.
Rigid polystyrene takeaway packaging	The intent is to prohibit the sale and distribution of rigid polystyrene food and beverage packaging used in the hospitality sector. Rigid polystyrene takeaway packaging is a single-use container (either with lids, without lids, or clamshell), plate, bowl or cup, made from rigid polystyrene, used to contain food and carry it from the point of sale for consumption.	Polystyrene cup lids.
Degradable plastic products	The intent is to prohibit the manufacture and sale of all degradable plastic products including oxo-degradable and photodegradable. A degradable plastic is a material made of plastic, which includes pro-degradant additives to accelerate the fragmentation of the material into smaller pieces.	N/A
Plastic drink stirrers	The intent is to prohibit the sale and distribution of all plastic drink stirrers. A drink stirrer is a short plastic stick used to stir drinks, made partly or wholly of any type of plastic including degradable, biodegradable, and compostable plastics.	N/A
Plastic stemmed cotton-buds	The intent is to prohibit the manufacture and sale of cotton-buds, which contain a plastic stem. A plastic stemmed cotton-bud is a small rod made wholly or partly of any type of plastic including degradable, biodegradable and compostable plastics, with cotton wrapped around one or both ends; not designed or intended for reuse.	Plastic stemmed cotton-buds required for medical or science purposes.
Single-use plastic produce bags	The intent is to prohibit the sale and distribution of single-use plastic produce bags. A single-use plastic produce bag is a lightweight bag under 70 microns thick, without handles, made from any type of plastic including degradable, biodegradable and compostable plastics, and used for the purpose of carrying fruit or vegetables from the point of sale.	Produce pre-packaged into bags at point of manufacture. Re-usable produce bags made from synthetic fabrics and under 70 microns thick.
Tableware	The intent is to prohibit the sale and distribution of plastic tableware including plates, bowls, trays and cutlery, which are designed to be used once or a limited number of times before being thrown away, including bulk-packs. Plastic tableware includes plates, bowls, trays and cutlery designed for single-use and made primarily of any type of plastic including degradable, biodegradable and compostable plastics and sold for the purpose of eating food. Cutlery includes any utensil that can be used to eat food – spoons, forks, knives, sporks, splayds and chopsticks.	Plastic bowls made with attached lids.
Plastic straws	The intent is to prohibit the sale and distribution of plastic straws whilst maintaining access to enable disabled persons to continue to use plastics straws if needed. A plastic straw is a thin tube used to suck liquid into the mouth, made wholly or partly of any type of plastic including degradable, biodegradable and compostable plastics that are not designed or intended for reuse.	Plastic straws used for medical purposes and to support independent living. Straws attached to drink cartons. Rigid plastic straws designed for multiple uses.
Non-compostable produce labels made from plastic	The intent is to prohibit the sale of produce with labels that are unable to be composted. A non-compostable produce label made from plastic is a label on fruit or vegetables, sold in New Zealand, and made partly or primarily of plastic, which is not certified as home compostable.	Home compostable labels.
All other PVC food and beverage packaging	The intent is to prohibit the manufacture and sale of food and beverage packaging that is primarily made from polyvinyl chloride. Sold either full or empty. PVC food and beverage packaging is a tray, container (either with a lid or without a lid), packet, bowl, cup, film or wrap, sold as packaging that contains food and beverage products, or with the purpose of containing food and beverage products for sale and made from polyvinyl chloride.	PVC cling film used for commercial purposes such as wrapping meat and in catering. Other flexible PVC applications to be identified through follow-up targeted engagement.
All other rigid and high-impact polystyrene food and beverage packaging	The intent is to prohibit the manufacture and sale of food and beverage packaging that is primarily made from rigid polystyrene packaging. Sold either full or empty. Polystyrene food and beverage packaging is a tray, container (either with a lid or without a lid), packet, bowl or cup sold as packaging that contains food and beverage products, or with the purpose of containing food and beverage products and is made from rigid polystyrene including high-impact polystyrene.	N/A