



Mr Tony Chappel
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By email: plasticsconsultation@epa.nsw.gov.au

Dear Mr Chappel

Thank you for the opportunity to provide feedback on the *NSW Plastics: The Way Forward Paper* (paper). The NSW Small Business Commission (the Commission) is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution services across NSW.

The Commission notes this paper follows on from earlier initiatives under the NSW Plastics Action Plan and that this consultation seeks feedback from communities and businesses on further proposed actions, including their scope, timelines, exemptions, associated benefits, risks and potential alternative options for consideration.

The Commission appreciates the opportunity to contribute feedback and highlight small business perspectives to help achieve the NSW Government's policy objectives, while mitigating potential risks to small businesses.

Feedback to the Commission's [Review of small business experiences with regulatory policymaking](#) demonstrates significant concern among the small business community about the suitability of regulations to their needs. This perception is reinforced by survey data showing a lack of confidence in the benefits of regulation outweighing associated costs, and a feeling of exclusion from the policymaking process. In developing the policy agenda outlined in the consultation paper, I encourage consideration of the findings and recommendations contained in our report, including ways to ensure small business needs are considered throughout the policy development cycle.

In accordance with Principle 3 of the Better Regulation Principles, the impact of government action should be properly understood, by considering the costs and benefits, using all available data, of a range of regulatory and non-regulatory options. Any regulatory action should be informed by impacted stakeholders and only proceed when there is compelling evidence that the benefits outweigh compliance costs, alongside adequate support to help businesses through the transition period.

Small business perspectives

The Commission notes that small businesses can generally be viewed as a partner in delivering on sustainability policy objectives, and are motivated by customer preferences and a desire to be environmentally responsible.

The Commission surveyed 625 small businesses in January 2024 and noted strong small business support for more eco-friendly practices and willingness to adapt to customer needs with adequate support. Out of the surveyed small businesses, approximately one in seven (14 per cent) reported they either use or supply plastic items such as plastic containers or plastic bags.

However, some small businesses raised concerns about the cost and practicality of further restrictions, including where the availability and costs of non-plastic alternatives are uncertain. When asked about further restrictions on specific items (carry bags thicker than 35 microns, takeaway cups and containers, produce bags, sauce containers, pizza savers etc), some common concerns raised by survey respondents included:

Cost implications: Businesses are concerned about the higher costs of sustainable alternatives, impacting margins and raising consumer prices. Some doubt the environmental benefits, calling for more transparent evidence.

Availability of alternatives: While alternatives are available for some items, there is uncertainty and inconsistency in their availability and suitability. For instance, businesses using takeaway cups or containers are unsure if suitable, sustainable options exist for their specific needs, such as products that can handle heavy, refrigerated, or wet items. The inconsistency in finding practical alternatives highlights a gap where additional guidance or innovation may be needed.

Operational impact: Businesses indicate varying levels of impact on their operations. For some, transitioning away from single-use plastics would require significant changes that could affect health and safety, customer experience, or operational efficiency. However, some businesses have already adapted or anticipate minimal disruption, indicating a range of readiness levels within the business community.

Environmental attitudes: Views on the effectiveness of potential restrictions are mixed. While some support the transition, others stress consumer responsibility over regulation, indicating a need for education and alignment with environmental goals.

Support and resources: Businesses suggest that more guidance, financial aid, and practical tools would ease the transition.

Based on survey feedback, the Commission also anticipates a diversity of experiences with some businesses likely to be more impacted than others. Of those businesses using or supplying plastic items such as plastic containers or plastic bags, approximately one in five (18 per cent) anticipate the restriction or banning of single-use items will have a severe or major impact on their business (for example, indicating their business survival will be impacted or there will be significant challenges and costs).

When designing potential restrictions, care should be taken to ensure they are targeted to the activities which most significantly contribute to the plastic waste stream, and do not have unintended consequences such as impacting small businesses relying on plastics for relatively low impact uses where there are no viable alternatives.

It is important to take a balanced and evidence-based approach to ensure that the benefits of any new regulatory measures justify their economic and operational impacts. While some actions may have popular appeal, robust analysis should be undertaken to ensure measures provide tangible benefits rather than superficial or aspirational gains that do not exceed their cost.

Q - To what extent do you anticipate the restriction and/or banning of single-use plastic items will affect your business?

Response	Count	%
Severe (e.g. business survival will be impacted)	1	1%
Major (e.g. there will be significant challenges and costs which are a major concern)	14	17%
Moderate (e.g. there will be some challenges and costs but they are not a major concern)	21	25%
Minor/negligible (e.g. any changes to business practices will be easy to implement and not costly)	25	30%
No negative impact (e.g. my business has already transitioned and already no longer used any banned single-use plastics in our operations)	20	24%
Positive impact (e.g. costs will fall / it will simplify operations)	3	4%
Total	84	

Comments on proposed regulatory actions

In addition to previously identified opportunities to further restrict plastic waste, the Commission notes the consultation paper contemplates a range of other proposed actions. The Commission provides specific comments on the proposed actions in the paper, highlighting potential impacts on small businesses. It identifies areas where these proposals may pose challenges and offers alternative solutions, where possible, to minimise these impacts.

Requirement for food service venues to accept reusable cups

This proposal would require food service venues, including fast-food restaurants and cafes, to accept reusable cups for takeaway beverages, both hot and cold.

The need for this measure is unclear. The Commission does not support this proposal on the basis that it could result in unintended consequences in some settings. The consultation paper does not offer evidence of a significant problem or justify why a regulatory approach is necessary, particularly given many businesses already accept reusable cups, partially in response to consumer preferences.

The Commission is concerned some businesses may refuse reusable cups for legitimate reasons (such as where it is incompatible with their equipment or processes) and that a mandatory requirement to do so could have unintended consequences. In the absence of evidence, it is unclear why regulatory approaches need to be considered, especially given the practice of refusing reusable cups is not widespread and non-regulatory options or incentives do not appear to have been considered.

While some businesses refused reusable cups during the COVID-19 pandemic for health and safety reasons, the Commission observes that most have resumed accepting them. Additional evidence should be obtained to demonstrate the need for regulatory intervention.

Requirement for food service venues to display anti-litter messaging

This proposal requires takeaway food service venues to display anti-litter messaging in their shopfronts to encourage consumers to dispose of plastics properly.

While the intention behind anti-litter messaging is to promote responsible consumer behaviour, there is no substantial evidence presented in the consultation paper indicating that such messaging effectively changes consumer behaviour or leads to a measurable reduction in littering. It is implausible that such

signage can lead to meaningful behavioural change. The Commission contends the vast majority of littering is undertaken by those who are unreceptive to such messaging. Without a clear and proven impact, this approach places an unnecessary compliance burden on businesses.

Labelling requirements

This proposal would introduce a design standard requiring single-use plastic items, including single-serve condiment packages, cups, food containers, plastic shopping bags, and plastic barrier bags, to display both anti-littering labels and the Australasian Recycling Label within three years.

A major challenge is that many single-use plastic items are sourced through international supply chains, which may not align with the proposed labelling standards. International sources of supply may be non-compliant leading to significant barriers in securing affordable and compliant products. This misalignment could result in higher costs or supply shortages for Australian businesses, especially those that rely heavily on imports.

Additionally, ensuring consistent compliance across the industry would require extensive regulatory oversight and monitoring, placing an administrative burden on both regulatory bodies and businesses.

As with anti-littering signage, the Commission is unaware of any substantial evidence demonstrating that labelling alone, even when combined with behaviour change campaigns, effectively influences consumer behaviour or reduces litter. Mandating such a requirement should only be considered once a more detailed exploration of supply chains and the ability of the market to meet the new requirements has been tested.

Single-serve condiment packages

The paper highlights that many single-serve condiment packages, such as soy sauce fish, are hard to recycle due to the materials they are made of and their small size. This proposal outlines a plan to make single-serve condiment packages recyclable and accepted in material recovery facilities within five years, supported by a co-designed roadmap aimed at achieving circularity.

The Commission suggests that a market review would be valuable in gathering detailed information on the variety of products and practices currently in place. This review should cover the full range of single-serve condiment solutions, including those prepared in-house (where businesses fill their own mini-condiment containers rather than using pre-packaged single-serve items), to assess various options to meet recyclability standards.

It is noted that while some condiment packages are made from soft plastics, others are lined with aluminium foil, which may present additional challenges. Establishing clear recyclability standards will assist in guiding businesses to select compliant materials and ensure the proposal's feasibility across different business models.

Requirement to store plastic shopping bags out of sight

This proposal would restrict the availability of plastic shopping bags at the point of purchase to only those designed for reuse or included in an extended producer responsibility scheme for recycling. All other plastic bags would be required to be stored out of sight and only provided upon request.

The Commission recommends that small businesses be exempted from any potential requirement of this nature. For many retailers, especially those operating in small or compact premises, point-of-sale arrangements are designed for efficiency and quick access, with limited storage capacity behind or near

the counter. Storing bags out of sight may not be feasible without disrupting customer service, slowing down transactions, or requiring costly changes to their store layouts.

Additionally, small businesses may not have the same access to reusable bag suppliers or extended producer responsibility programs as larger retailers, placing them at a competitive disadvantage. Mandating compliance could lead to increased operational costs and logistical difficulties, particularly for businesses that rely on quick sales, such as takeaway services or convenience stores.

Expansion of Return and Earn to accept plastic containers

This proposal explores expanding the Return and Earn Scheme to include single-use cold beverage cups and takeaway plastic food containers. The Commission does not support expanding the Container Deposit Scheme (CDS) to include single-use cold beverage cups and takeaway plastic food containers. While little specific detail is provided as to how this would be achieved, expanding the CDS to takeaway cups and containers is likely to be an overly complex, costly and bureaucratic approach to achieving policy objectives.

Thank you for the opportunity to make a submission. If you require further information, please contact Megan Bennett, at either megan.bennett@smallbusiness.nsw.gov.au or (02) 9372 8767.

Yours sincerely

Chris Lamont
Commissioner
NSW Small Business Commission

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