
IMPLEMENTING THE PLASTIC-FREE NEW ZEALAND ACTION PLAN

A policy paper from Greenpeace New Zealand

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Pervasive plastic pollution in both marine and terrestrial environments is a vast and growing problem in Aotearoa and abroad, presenting grave risk to wildlife and human health. Packaging is the largest of all markets for plastics, representing approximately 40% of all non-fibre plastic production globally.¹ Estimates suggest that 32% of the world's plastic packaging escapes collection systems and that only 14% is recycled.² The Fast Moving Consumer Goods sector is a predominant user and producer of plastic packaging, much of which carries serious design flaws, including persistent use of polymer types with high toxicity, high virgin plastic content, and prevalence of single-use disposable plastics. Despite the mounting, incontrovertible evidence that current plastic usage is unsustainable, global plastic production is projected to continue increasing over the next decades.³

In response to these concerns, Greenpeace New Zealand and allied organisations developed the **Plastic-Free NZ Action Plan** (Action Plan) in 2018 (Appendix I). This policy paper outlines how the Action Plan can be operationalised in New Zealand, particularly using the **Waste Minimisation Act 2008** (WMA).

The Action Plan's core message to the New Zealand Government is that the primary solution to plastic pollution is to **prevent and reduce plastic at source**. This would move New Zealand beyond the status quo emphasis on voluntary industry-run schemes and recycling. Achieving a fundamentally different approach to current modes of plastic consumption and after-the-fact waste management, **requires Government leadership and ambitious regulation**. The task is sizeable, and it makes sense **to begin by taking advantage of existing policy tools like** the WMA. In so doing, the Government can look to policy examples from states and regional and intergovernmental institutions—including England,⁴ the EU,⁵ the UNEA,⁶ and Pacific Island States, such as Vanuatu⁷—that have begun developing, recommending and/or implementing national, regional and international strategies or legislation to regulate plastic usage and address plastic pollution.

Overall, New Zealand is well positioned to take relatively rapid action to address plastic pollution, thanks to the breadth of policy tools available in existing legislation. Although the challenge of plastic pollution is daunting, the potential for change domestically is exciting. Embracing the policy reforms outlined in this paper would not only make New Zealand a world leader on plastic waste, but also trigger the beginning of a true circular economy. Taking urgent steps to address plastic pollution also upholds the Crown's obligations under Article 2 of the Treaty of Waitangi, and supports the genealogical and spiritual ties of tangata whenua of Aotearoa to the land and sea, as kaitiaki.

Guiding Principles

The Action Plan draws on several core principles, which should also underlie any plastic policy designed by the New Zealand Government.

1. Waste Hierarchy

The Government should follow international best practice and ensure that policy to address plastic pollution adheres to the waste hierarchy.⁸ The waste hierarchy **prioritises the prevention, reduction and reuse of waste** over attempts to divert, recycle or dispose of waste once produced. As a pollution mitigation strategy, *reducing* plastic consumption is more cost-effective and efficient than researching, developing and investing in on-shore processing plants for the wide range of polymer types that exist, getting waste plastic to those plants, and spending money stockpiling or disposing of low-value, non-recyclable plastic.⁹ Simply put, if the plastic doesn't exist in the first place, we need fewer elaborate systems to deal with it.

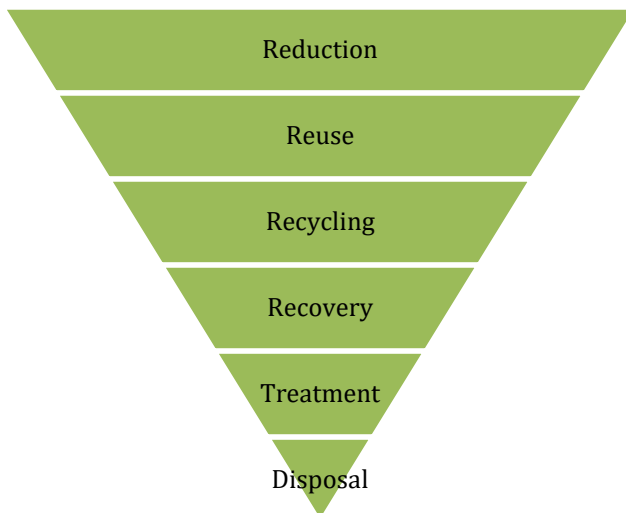


Figure 1: The waste hierarchy that territorial authorities are required to consider under s 44 of the WMA. This policy paper relies on this waste hierarchy and the definition of each term as they appear in s 5 of the WMA.

Much of the policy conversation about waste and plastic in New Zealand focuses on improving recycling. However, **recycling sits halfway down the waste hierarchy**. For plastic, it's easy to see why. Unlike glass or aluminium, plastic cannot be infinitely recycled in closed loop systems. Recycled plastic requires either the addition of virgin plastic to maintain structural integrity, or 'downcycling' to other plastic products (open loop systems). The plastic recycling process also relies on chemicals harmful to human health and the environment, thereby toxifying the loop. Furthermore, New Zealand remains dependent on overseas markets for much of our plastic 'recycling'. Greenpeace has recently uncovered how some of these destination markets use practices like illegal dumping and open-air burning, to the detriment of both the environment and local communities.¹⁰

Essentially, the approach of maintaining current levels of plastic consumption, but simply adding a bit more recycling infrastructure domestically, **contradicts the Government's circular economy aspirations**. Furthermore, it will not drive industry to reduce plastic use and production. Greenpeace International research has demonstrated that without a marked shift in policy direction, industry is likely to continue the business-as-usual approach of increasing or maintaining current levels of plastic production, while simultaneously promising increased packaging recyclability.¹¹

This policy paper focuses on **carving a policy pathway for direct reductions in plastic consumption and production**, rather than the half-measure of improving recycling.

2. Adopt a holistic strategy

The urgent environmental problem of plastic pollution requires **rapid, comprehensive and coordinated change** reflected in **a proactive, holistic strategy**, rather than piecemeal, occasional approaches targeting individual items. The strategy should also have input from tangata whenua and incorporate Māori perspectives and aspirations regarding plastic pollution.

New Zealand's only regulatory responses so far—the mandatory phase-outs of single-use plastic bags and plastic microbeads in personal care and cleaning products—are positive first steps but only a drop in the ocean when it comes to addressing the plastic pollution crisis. The current approach to policy reform—occasional, selective targeting of individual plastic products—also represents a missed opportunity for the Government to lead the agenda on plastic. Under-engagement with tangata whenua and lack of incorporation of mātauranga Māori also limits the creative potential to develop a strategy truly reflective of Aotearoa New Zealand.

The WMA contains numerous policy tools that could be combined to **target multiple problem plastic items simultaneously** using a tiered/escalating regulatory approach depending on the product in question. For example, ranging from total bans for certain avoidable plastic products through to consumption reduction targets and labelling requirements for products that cannot be banned immediately. This is the approach the European Commission took in its 2018 proposed Directive on the Reduction of the Impact of Certain Plastic Products on the Environment ("EU plastic Directive") (Appendix 1), which the Council of the European Union and the European Parliament provisionally agreed to adopt in December 2018.

3. Regulate Industry

Over the last three decades, New Zealand has favoured voluntary, industry-run solutions to addressing waste, including declarations or agreements with the packaging industry,¹² funding The Packaging Forum's private recycling schemes,¹³ and initiatives to target individual/consumer behaviour.¹⁴ These voluntary measures have not substantially reduced the rates of plastic packaging being landfilled or escaping into New Zealand's natural environment (the most recent example being the collapse of The Packaging Forum's Soft Plastic Recycling Scheme).¹⁵ Furthermore, focusing on how individual citizens manage plastic waste deflects policy attention from those best placed to achieve significant waste prevention (i.e. manufacturers).

The Minister should **use the WMA to implement mandatory regulation** of industry and businesses that manufacture, use and sell certain plastic products.

Recommendations: A plastic pollution strategy for Aotearoa

Addressing plastic pollution demands multiple policy responses, given not all products can be dealt with in the same way at the same time. Immediate phase-outs are feasible and appropriate for some products. In other cases, alternative, interim regulation can address products that cannot be phased out immediately but which still cause harm and are expensive to manage. Given the wide variety of plastic products on the market and the range of policy responses, reforms are best approached through an **overarching strategy or framework that can evolve over time as manufacturer, retailer and consumer behaviour moves up the waste hierarchy**.

Accordingly, this policy paper sets out 10 policy recommendations for a comprehensive programme of action including recommending:

- an overarching policy strategy
- regulations for short and mid-term commencement (within two to five years), and
- bigger picture measures to create the right conditions/framework for lasting reform (to be designed within two years).

Some measures can be implemented as standalone reforms in the short-term (such as those under s 23 of the WMA). However, we recommend **adopting an overarching strategy or plan that embraces a policy framework which allows for multiple, simultaneous regulations targeting various particular products or type of products**.

We recommend formulating this binding plastic strategy for New Zealand within the next two years. To be clear, this does not mean that all regulations must commence within two years – a staggered approach can still be taken by setting different commencement dates for each regulation, but ideally the regulations will be designed and made within two years.

Recommendation 1: Update the New Zealand Waste Strategy to include **a holistic national plastic pollution strategy** with measurable targets and clear timeframes.

The Government currently has no strategy for managing plastic pollution. **An appropriate vehicle for a plastic pollution strategy is the New Zealand Waste Strategy (NZWS)**.

The current NZWS (2010) does not reflect the new Government's present waste policy outlook (including its increased emphasis on the circular economy), contains no measurable targets for waste minimisation, and does not mention plastics. **This is out of step with international developments**. The UK Government's 2018 proposed waste strategy for England, for example, expressly includes plastic-specific policies and targets within a document addressing waste generally.¹⁶ Similarly, the EU Commission's 2015 Circular Economy Action Plan (also focused on the total waste stream) identified plastics as a priority area,

resulting in the 2018 European Strategy for Plastics in a Circular Economy and the 2018 EU Plastic Directive.

The Government should **update the NZWS to include a holistic national plastic pollution strategy** that outlines, with clear timeframes:

- which plastic products are to be phased-out immediately;
- which plastic products are to be subjected to national reduction targets;
- which plastic products are to be subjected to reuse/refill targets (e.g. packaging);
- a framework for a tiered regulatory system for different plastic products, recognising that some can be phased-out immediately, but those that cannot still require regulation to incentivise long-term reduction; with commencement of such policies following a staggered multi-year approach, where appropriate
- how the WMA will be used to achieve the strategy's desired outcomes, ideally stipulating that policy measures be taken in the context of mandatory product stewardship schemes (see recommendation 7).

The current NZWS also makes no reference to tangata whenua perspectives or kaupapa Māori initiatives or approaches. A truly Aotearoa strategy would draw on mātauranga Māori as well as current Māori leadership spanning across initiatives promoting waste minimisation, researching plastic pollution, and campaigning for policy reform.¹⁷

Immediate regulatory action under the Waste Minimisation Act

Recommendation 2: implement **immediate mandatory phase-out of 'avoidable' plastic products**, including biodegradable and compostable plastic alternatives to these products, within the current electoral cycle.

Several of the top ten plastic products listed in Appendix II (including coffee stirrers, straws, disposable cutlery and expanded polystyrene food packaging and cups) can be subjected to immediate mandatory phase-outs under **s 23(1)(b) of the WMA**. We also recommend including in the phase-outs any **biodegradable/compostable plastic alternatives to these products** (as was done for New Zealand's single-use plastic bag ban), to pre-empt adoption of these false alternatives.

We suggest **applying s 23(1)(b) to plastic glitter and synthetic cleaning accessories** (sponges, cloths, dishbrushes), in light of preliminary research from the University of Canterbury finding glitter and microfibre particles from kitchen sponges in wastewater treatment plant effluent.¹⁸ We also recommend banning **all** oxo-degradable plastics, in line with the EU Plastic Directive, given oxo-degradable plastics provide no environmental benefit nor additional advantages for product functionality.

International precedent exists for actual or proposed mandatory phase-outs of various plastic products, including cotton buds, cutlery, stirrers, straws, polystyrene cups and takeaway containers.¹⁹ In New Zealand, we have already used s 23(1)(b) twice, for plastic microbeads in personal care products and household cleaning products, and single-use plastic bags, so domestic precedents also exist.

Recommendation 3: adopt a national Container Deposit Scheme (CDS)

Option 1: Section 23(1)(e) of the WMA allows the Minister to create a national CDS. To design the scheme, the Government can refer to numerous overseas examples,²⁰ and consult domestic experts (e.g. Envision NZ, The Kiwi Bottle Drive, local authorities, Zero Waste Network, WasteMINZ and the beverage industry).

Option 2: Set mandatory collection rate targets of 90% for beverage containers, which can be done either:

- under s 23(1)(c) of the WMA or
- by declaring beverage containers a priority product under s 9 of the WMA, after which the Minister can create guidelines under s 12 for the subsequent product stewardship scheme, which could include the collection rate target.

Only a CDS could allow the beverage industry to attain such high collection rates, so setting these targets would incentivise industry to design and introduce a CDS, or request the Government do so under s 23(1)(e).²¹

While CDS has been shown internationally to improve recycling rates, the high collection rate targets that nationwide CDS facilitates would also increase the logistical and economic feasibility of standardised refill/reuse systems. This means that **CDS could help New Zealand move up the waste hierarchy from recycle to reuse for an assortment of containers for beverages and other liquids**. To harness this potential, we recommend that whichever policy option is chosen, a nationwide CDS should also be complemented by additional regulations under s 23(1)(c) of the WMA to incentivise collected beverage containers being taken back for refill/reuse (see Recommendation 4).

Recommendation 4: require **producers to take back packaging for refill** to incentivise movement up the waste hierarchy towards “reuse” rather than recycling or disposal.

Addressing pervasive plastic usage across multiple sectors necessitates new ways of bringing goods to consumers, particularly shifting from our current single-use, disposal-oriented society towards becoming a “refill nation”²². One tool for achieving this is using s 23(1)(c) of the WMA **to require producers/retailers of certain products to take-back those products for reuse**. The Minister can prescribe requirements for take-back services (e.g. target collection rates) and the reuse or recycling of the products taken back (e.g. setting targets and stipulating that products taken back should be recycled only if they cannot practically be refilled/reused).

Such regulations could be applied to beverages, milk, agricultural chemicals, personal care products and cleaning products, requiring manufacturers/retailers take back empty receptacles for refill. This may incentivise use of alternative materials that are more effectively sterilised and reused, such as glass bottles and jars. Combining s 23(1)(c) with carefully allocated fees under s 23(1)(d) (see recommendation 6) could further incentivise refillable packaging over single-use and/or recyclable.

Recommendation 5: control manufacture of certain products containing plastic to mitigate environmentally problematic design features

Section 23(1)(b) also permits controls on the manufacture of products containing specified materials (rather than outright prohibition). This could permit regulations to modify certain aspects of product design that have been shown to increase harmful impact. For example, requiring that beverage containers be manufactured with non-detachable lids (where those lids contain a significant part made of plastic) to minimise their leakage into the environment (as in Article 6(1) of the EU Plastic Directive). Or setting an upper limit on the permissible virgin plastic content (or a minimum required percentage of recycled plastic content) in certain products made of plastic that are not subject to an immediate phase-out, such as plastic bottles.²³

Recommendation 6: set **fees for the management of certain plastic products**

The notion of levying or taxing certain types of plastic is gaining international currency.²⁴ We support this type of intervention to raise the price of plastic (especially “one-way”²⁵/“single-use” plastic) and place the costs of managing/cleaning-up plastic on manufacturers/retailers, and incentivise reduced plastic consumption and increased uptake of alternative packaging systems.

A plastic pollution levy would require new legislation. However, the Minister can **use s 23(1)(d) of the WMA to set fees payable for the management of a product** instead.²⁶ The Minister can specify who pays the fee, when in the product's life the fee is paid, and what purposes the fee is put to.

Section 23(1)(d) could be applied to all plastic packaging and those items listed in Appendix II not subject to immediate phase-out. Fees could be payable by manufacturers, consumers or retailers at the point of production, sale or disposal, and put towards the costs of collection, transportation, storage, disposal, recycling, clean-up, plastic waste data collection, or development of reuse systems. For example:

- Fees on takeaway packaging paid by the customer, to ensure that single-use products are not provided for free.
- Fees on tobacco products with filters to fund appropriate disposal infrastructure, the clean-up costs of cigarette butts, and stormwater drain nets to capture escaped butts.
- Fees on “one-way” beverage packaging to incentivise refillables.
- Fees on the packaging of consumer goods, such as electronics and appliances, toys and furniture.
- Fees on plastic packaging made of plastic polymer types 3-7 given the difficulty and expense of finding recycling markets for these plastic polymer types, alongside the costs of collection, stockpiling, or landfilling, currently borne by councils and ratepayers.

More desirable packaging systems or products (i.e refillable/reusable/non-toxic home compostable) could attract lower (or no) fees.

Recommendation 7: introduce **labelling requirements** to raise awareness about certain plastic products

Consumers are not always aware that certain products contain plastic, how that impacts appropriate disposal options, or that reusable alternatives exist. **Manufacturers and retailers should be obliged to inform their customers of these matters through labelling on plastic products** not immediately subject to phase-out.²⁷ **Under s 23(1)(f), the Minister can prescribe labelling requirements**, which could include:

- Tobacco products and filters clearly labelled “contains plastic”, with accompanying explanation that throwing butts on the pavement/gutter/ground causes plastic pollution and can harm and/or kill marine/aquatic life.
- Take-away food and drink containers (other than those subjected to mandatory phase-outs) labelled with information about reusable alternatives. Retailers/outlets stocking disposable takeaway receptacles required to have signage encouraging customers to BYO reusables.
- Synthetic sponges, dishcloths and all synthetic clothing to be labelled “Warning: This product contains plastic and can leach microplastic particles down your drain” (or similar).
- Wet wipes, sanitary pads and tampons to include (alongside standard labelling stating the items are not flushable) labelling specifying if the product contains plastic.
- Agricultural farm waste/plastics/silage wrap and chemical containers labelled with warnings against burying or burning the product in farm dumps, and highlighting refill or reuse options (once developed) and recycling schemes, such as Plasback or AgRecovery.
- Fishing gear containing plastic to be labelled as such with information detailing the detrimental impact of disposing of the gear at sea.

Lasting Reform: Creating the Right Framework and Conditions

Recommendation 8: Implement **mandatory product stewardship schemes to regulate various sectors who use or produce certain** plastic products not subject to immediate mandatory phase-out

Section 23 of the WMA permits a great range of policy actions, but used alone it only offers isolated actions targeting specific items at different points in time. As mentioned, the most effective, efficient approach would be to take **multiple s 23 actions together**, in the context of a **mandatory product stewardship scheme**. This would streamline consultation and permit implementation of a suite of simultaneous and coordinated measures for various products under one overarching policy framework. Measures could be designed and tailored to different types of plastic products falling within the product category to which the scheme applies (say, plastic packaging). **The product stewardship scheme framework is also more flexible, allowing for periodic updates, and includes accountability provisions for monitoring and reporting on the scheme’s performance.**

Product stewardship schemes (sometimes termed “extended producer responsibility”) are well suited to facilitating a cultural shift away from single-use and/or harmful plastic products, by shifting the cost of collection, recycling, recovery or disposal on to the producers or businesses that choose to manufacture or use harmful products still in circulation, rather than the status quo where councils, ratepayers and taxpayers shoulder these costs. In so doing, such schemes internalise these products’ costs, incentivising producers/retailers to develop and adopt scalable alternatives, which in turn makes eventual phase-outs achievable in the medium and long-term.

Part 2 of the WMA allows for both voluntary and mandatory schemes. To date, successive governments have only ‘encouraged’ businesses to adopt voluntary product stewardship schemes, resulting in patchy coverage of the full array of plastic products and a failure to achieve significant reductions in plastic consumption or pollution. Numerous commentators, including academics, members of the waste sector and some industry groups, local government, the Organisation for Economic Co-operation and Development, and the Parliamentary Commissioner for the Environment, have called for mandatory product stewardship schemes, while public consultations have demonstrated wide support for mandatory schemes also.²⁸

The Minister **should implement mandatory product stewardship schemes to address multiple problematic plastic items** that will not be subjected to immediate mandatory phase-outs, including some listed in Appendix II.²⁹ For example:

- Plastic packaging: particularly polymer types 3-7, which produce low-value recyclate that is difficult to recycle, both on and off-shore. Increasingly, these items are being excluded from kerbside recycling collections (in areas where they were collected in the first place), signalling that action further up the waste hierarchy is needed to incentivise dramatic reductions in their use and shift the costs of managing these products onto the manufacturers and businesses that choose these polymer types to package their products.
- Cigarette butts and filters
- Fishing gear
- Agricultural plastics
- Take-away food and drinks containers (other than those made of expanded polystyrene)
- Plastic pellets (nurdles)
- Synthetic fabrics
- Manufactured microplastics (e.g. in paints and industrial abrasives)
- Tyres (the Minister has indicated a willingness to establish a mandatory product stewardship scheme for end-of-life tyres, but we recommend any scheme be extended to cover tyre’s impact during its functional life, given tyres shed microplastic dust during their use, i.e. before they reach end-of-life).
- E-waste (the Minister has indicated a willingness to establish a mandatory product stewardship scheme for e-waste. We recommend any scheme be designed to include measures targeting the plastic components of this waste—not just the valuable metal components—as these flame retardant plastics can be particularly harmful).

The Minister should **declare these products “priority products” under s 9 of the WMA** (following consultation), triggering the requirement that a product stewardship scheme be developed for the products (s 10). The Minister could then set guidelines for the content and expected effects of the schemes under s 12 (a non-exhaustive list of examples is contained in subsection 12(3)), which could include:

- target reuse/refill or reduction rates (s 12(3)(b))
- that the ultimate waste minimisation objective is reusable alternatives (s 12(3)(d))
- that in the case of recyclable or compostable alternatives (in cases where these are not also subject to mandatory phase-outs), the producer/retailer must arrange and fund adequate and accessible collection and/or recovery options) (s 12(3)(d))
- subjecting the products to any of the s 23 regulations; and
- allocating fees for the management/reduction of the product (i.e. polluter pays).³⁰

Product Stewardship Case Study: Fishing Gear

Greenpeace New Zealand considers fishing gear a priority candidate for product stewardship. Fishing gear also demonstrates how multiple policy responses can be effectively coordinated through such a scheme to target one product. The EU Plastic Directive singles out fishing gear as a key product worthy of regulation, using ‘extended producer responsibility’ (or product stewardship) as the key policy tool (see Articles 8 and 10).

The goal of policy reform to address plastic pollution from fishing gear is to reduce the dumping of waste fishing gear at sea by incentivising its return on-shore for appropriate recycling, treatment or disposal, and to incentivise the design of gear with greater reusability potential, ideally also using materials other than plastic.

To achieve these outcomes, the Minister could declare fishing gear a priority product under the WMA, and indicate in the guidelines for the scheme’s content that manufacturers of fishing gear containing plastic be required to take-back their products for reuse, recycling, treatment or disposal under s 23(1)(c) and to cover the costs of doing so under s 23(1)(d). To increase incentives for fishers to return waste fishing gear, s 23(1)(e) could be used to require a refundable deposit be attached to the purchase price of the gear, redeemable upon return.

Recommendation 9: Future-proof long-term phase-outs/plastic reduction through improved data collection

Over time, phase-outs and reductions of further plastic products may become necessary if they are identified as escaping into the natural environment or constituting a recurring, measurable proportion of municipal landfill/recycling collections. Making such determinations requires consistent, accurate data. Under s 86(b) of the WMA, the Minister can require any class of person to keep and provide records and information to assist in compiling statistics to “measure progress in waste management and minimisation”. The Minister should use this regulation-making power for the following two categories of data as soon as possible in order to develop the dataset.

1. Plastic items escaping into the natural environment

New Zealand has three datasets on plastic escaped into natural environments: Sustainable Coastlines’ data from their nationwide beach clean-ups; and two National Litter Surveys.³¹ Sustainable Coastlines has received funding to undertake systematic data collection on waste found in coastal areas.

These studies are useful, but not tailored to long-term policy development. Neither are guaranteed to continue at regular intervals for the foreseeable future. The Sustainable Coastlines study does not cover inland or freshwater data. The National Litter Surveys' current funding comes from The Packaging Forum, creating a conflict of interest if data from future surveys were to be used to inform possible regulation of plastic packaging.

The Government should use s 86(b) to require and fund an independent body to conduct **triannual surveys of escaped plastic waste found in inland, freshwater and coastal environments**, to inform future potential regulation. In identifying and/or establishing such a body, it may be most appropriate for the Government to consider individuals and groups who already carry some legislative responsibility for addressing waste in the natural environment under the Litter Act 1979, such as Litter Control Officers and Litter Wardens or Keep New Zealand Beautiful Incorporated.³²

2. *Plastic products in waste and recycling streams*

Reducing total plastic consumption requires more precise awareness of not just what escapes into the natural environment, but also what plastic products are most commonly landfilled and/or sent to recycling. Given the current recycling crisis for plastic types 3-7, more precise data classification of each plastic polymer type in waste and recycling streams is critical for evaluating the efficacy of any regulations implemented to achieve plastic reduction, and for ensuring that future regulation is targeted appropriately.

Generally, territorial authorities measure and classify the municipal waste and recycling stream as part of their six-yearly Waste Management and Minimisation Plan review. However, the quality and depth of such analyses varies across the country. By and large audits record the quantity of “plastic”, without providing breakdowns by polymer type nor product categories based on purpose (e.g. beverage/food containers, single-use disposable plastics, cleaning products, personal care products etc.). The destination of plastic recycling is also not recorded.³³

The Minister should use s 86(b) to require territorial authorities and those who manage disposal facilities to keep more detailed records about plastic in waste and recycling streams, including secondary classifications of plastic (i.e. polymer types and categories of plastic products). Recyclers should also be required to record the destination of plastic recycling.

As noted above, fees placed on certain plastic products under s 23(1)(d) of the WMA could go towards funding data collection for these two categories of plastic waste.

Recommendation 10: prohibit plastic recycling exports

China's decision to restrict importation of recyclate has dramatically impacted New Zealand's entire waste and recycling industry, raising public awareness about the limitations of the recycling system and triggering multiple policy discussions about how to address recycling stockpiles. Recyclers have scrambled to find alternative markets, but have not always done due diligence on the outsourced markets in terms of their environmental and quality credentials.³⁴ Reports have emerged of exported plastic recycling leaking into the environment in these receiving countries through practices like illegal dumping or open air burning, which also causes harm to local communities.³⁵

The saga has driven home the fact that **there is no “away place” to throw things**, especially for plastics. If we cannot address our own waste problems at home, we should not expect other countries to do so for us. Turning a blind eye to what happens to our plastic waste shipped off-shore contradicts the principles underlying the suggested plastic pollution regulations set out in this document, the principle of kaitiakitanga, as well as the New Zealand Government's aspiration for a circular economy.

Accordingly, **we recommend a prohibition on plastic recycling exports**, to force and accelerate drastic reductions in our on-shore plastic consumption and production. Under a separate legislation, **s 96 of the Customs and Excise Act 2018**, the Minister can recommend prohibiting exportation of specified goods/a

specified class of goods to a specified place by or to a specified person/class of persons. The Minister can only recommend such a prohibition if he or she considers it **necessary in the public interest**. Regulations recommending export prohibitions are confirmable instruments and so require new legislation to effect.

Conclusion

Addressing global plastic pollution is a daunting challenge and the costs of inaction are high. Thanks to existing legislation, **New Zealand is very well positioned to make domestic policy changes relatively quickly that could place us as a leader internationally**. We can grasp the opportunity to build on the policy practice already developed by first-moving states on this issue, including our Pacific Island neighbours, and set an example for others to follow. In our interconnected world, **the benefits of our domestic policy reforms can extend beyond our borders**. For example, the recommendations in this policy paper would require industry (including multinational corporations) to adapt and adopt new practices and processes, which could then be replicated overseas. At home, these new practices and processes would represent **the beginning of an exciting, new green economy and a cultural shift** towards services and systems that offer the greatest potential for circularity.

As a small, geographically-isolated island nation with limited capacity to manage the plastic waste we produce, surrounded by ocean with endangered seabirds, fish and mammals, we have every reason to act decisively.

End Note: The use of s 23 - Consultation and Cost-Benefit Analyses

Before making regulations under s 23, the Minister must obtain and consider the advice of the Waste Advisory Board, and be satisfied that “adequate consultation” has taken place with persons or organisations who may be significantly affected by the regulations and that the regulations’ benefits will exceed the costs. These procedural requirements are **essential for ensuring transparent and effective policy**. However, they do not require single consultation processes for each individual plastic waste item nor that MfE conduct its own cost-benefit analyses before putting proposals to the public.

Adequate consultation can generally be satisfied through a public consultation process, as occurred for the proposed single-use plastic bag ban and microbead ban. However, to move at a pace that reflects the urgency of the plastic pollution problem, **the Government should adopt a single consultation process, combining proposed actions under s 23 for multiple plastic products in one discussion document** (which could be achieved through a plastic strategy). The approach of addressing multiple items to be regulated in a single proposal document can be seen in the EU plastic Directive.

In relation to cost-benefit analyses, prior MfE analysis of a particular proposed regulation may be appropriate in cases where the topic is under-considered in the New Zealand context (and where overseas evidence is not transferable). However, if preliminary analysis exists already (for example, in the case of CDS³⁶), proposals could go straight to public consultation with only a simple discussion document. Resulting submissions could provide the evaluative material that MfE presents to the Minister to assess the regulation’s potential costs/benefits.

APPENDIX I: List of Key Associated Reports and International Policy

Examples

- Greenpeace Aotearoa New Zealand and allied organisations (2018) *Plastic-Free NZ Action Plan* (see attached documentation).
- Department for Environment, Food and Rural Affairs (2018) *Our Waste, Our Resources: A strategy for England* (London: Department for Environment, Food and Rural Affairs).
- European Commission (2018) ‘Proposal for a directive of the European Parliament and of the Council on the Reduction of the Impact of Certain Plastic Products on the Environment’, COM (2018) 340 – 2018/0172(COD). (NB: The final text provisionally agreed upon by the European Parliament and the Council of the European Union in December 2018 is yet to be formally approved, after which it will be published/available).
- United Nations Environmental Assembly of the United Nations Environment Programme *Marine Plastic Litter and Microplastics* UNEP/EA.2/Res.11 (2016)
- United Nations Environment Assembly of the United Nations Environment Programme *Combating marine plastic litter and microplastics: An assessment of the effectiveness of relevant international, regional and subregional governance strategies and approaches* UNEP/EA.3/INF/5 (2017).
- Republic of Vanuatu, Waste Management Regulations Order No 15 of 2018.
- Greenpeace Malaysia (2018) *The Recycling Myth: Malaysia and the Broken Global Recycling System* (Kuala Lumpur: Greenpeace Malaysia).
- Jonathan Hannon (2018) *(Un) Changing Behaviour: (New Zealand’s delay and dysfunction in utilising) economic instruments in the management of waste?*, submission to the Parliamentary Commissioner for the Environment prepared on behalf of the New Zealand Product Stewardship Council
- Envision New Zealand (2015) *The InCENTive to Recycle: The case for a container deposit system in New Zealand*, Auckland: Author.
- Davies, P. (2017) *Cost-benefit analysis of a Container Deposit Scheme*, Wellington: Sapere Research group (prepared for the Auckland Council).

APPENDIX II: Top Ten SUP List for New Zealand

Greenpeace New Zealand’s ‘top ten’ list of ‘problematic’ and ‘unnecessary’ single-use plastics in Aotearoa that require regulatory intervention through bans, levies or corporate responsibility measures as outlined in the action plan above and this policy paper. This ‘top ten’ list is based on independent litter surveys from Sustainable Coastlines and Be a Tidy Kiwi (2018 datasets for both).*

1. Food wrappers and containers
2. Bottles, Bottle caps and lids
3. Polystyrene Foam packaging and cups
4. Plastic bags
5. Cigarette butts and filters
6. Coffee cups, lids and other take-away food containers
7. Industrial plastics including: Fishing gear, rope, plastic strapping), plastic sheeting tarps and pellets/nurdles
8. Straw/ stirrers
9. Lollipop sticks/ balloon sticks
10. Disposable cutlery

*The top ten list is not an exhaustive list of problematic and unnecessary SUPs.

APPENDIX III: Signatory partners and allies

1. Our Seas Our Future Charitable Trust
2. Kiwi Bottle Drive
3. Jane Goodall Institute New Zealand
4. Zero Waste Network
5. Para Kore
6. The New Zealand Product Stewardship Council

References

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- ² World Economic Forum, Ellen MacArthur Foundation and McKinsey & Company (2016) *The New Plastics Economy: rethinking the future of plastics*, <https://www.ellenmacarthurfoundation.org/publications/the-new-plastics-economy-rethinking-the-future-of-plastics>, p.26.
- ³ Centre for International Environmental Law (2017) “How Fracked Gas, Cheap Oil, and Unburnable Coal are Driving the Plastics Boom” *Fueling Plastics* No 2. Retrieved from <https://www.ciel.org/reports/fuelingplastics/>.
- ⁴ Department for Environment, Food and Rural Affairs (2018) *Our Waste, Our Resources: A strategy for England* (London: Department for Environment, Food and Rural Affairs).
- ⁵ European Commission (2018) ‘Proposal for a directive of the European Parliament and of the Council on the Reduction of the Impact of Certain Plastic Products on the Environment’, COM (2018) 340 – 2018/0172(COD) (“EU plastic Directive”). On 19 December 2018, the European Parliament and the Council of the European Union provisionally agreed to adopt the proposed Directive – once formally approved by the European Parliament and Council the Directive will become law and Member States will have two years to apply it domestically. See http://europa.eu/rapid/press-release_IP-18-6867_en.htm.
- ⁶ United Nations Environmental Assembly of the United Nations Environment Programme *Marine Plastic Litter and Microplastics* UNEP/EA.2/Res.11 (2016) and United Nations Environment Assembly of the United Nations Environment Programme *Combating marine plastic litter and microplastics: An assessment of the effectiveness of relevant international, regional and subregional governance strategies and approaches* UNEP/EA.3/INF/5 (2017).
- ⁷ Republic of Vanuatu, Waste Management Regulations Order No 15 of 2018.
- ⁸ See, for example, United Nations Environment Assembly of the United Nations Environment Programme *Marine Plastic Litter and Microplastics* UNEP/EA.2/Res.11 (2016) para 7.
- ⁹ As the explanatory memorandum of the European Commission’s proposed EU plastic Directive notes “[u]pstream measures aiming to reduce consumption are more efficient” (p.10).
- ¹⁰ Greenpeace Malaysia (2018) *The Recycling Myth: Malaysia and the Broken Global Recycling System* (Kuala Lumpur: Greenpeace Malaysia).
- ¹¹ Madeleine Cobbing (2018) *A Crisis of Convenience: The corporations behind the plastic pollution pandemic* (Amsterdam: Greenpeace International). Retrieved from https://issuu.com/greenpeaceinternational/docs/crisis_of_convenience_final.
- ¹² See, for example, Jonathan Hannon (2018) *(Un) Changing Behaviour: (New Zealand’s delay and dysfunction in utilising economic instruments in the management of waste?*, submission to the Parliamentary Commissioner for the Environment prepared on behalf of the New Zealand Product Stewardship Council, p.41, and Ministry for the Environment (2018) ‘New Zealand plastic packaging declaration’, https://www.mfe.govt.nz/sites/default/files/media/Waste/FINAL_NZ%20Plastic%20Packaging%20Declaration.pdf.
- ¹³ Such as the Soft Plastics Recycling Scheme and the Public Place Recycling scheme.
- ¹⁴ For example, multi-million dollar Waste Minimisation Fund grants to anti-littering campaigns such as Keep New Zealand Beautiful’s ‘Do the Right Thing’ Campaign and The Packaging Forum’s ‘Litter Less Recycle More’ programme.
- ¹⁵ Amber-Leigh Woolf (21 December 2018) ‘Soft Plastic Recycling Scheme Suspended as Overseas Markets Dry Up’ *Stuff*. Retrieved from <https://www.stuff.co.nz/environment/109545455/soft-plastic-recycling-suspended-as-overseas-markets-dry-up>.
- ¹⁶ *Our Waste, Our Resources: A strategy for England*, above n 4.
- ¹⁷ For example, Para Kore (www.parakore.maori.nz) and The PURE Tour and associated research into microplastics on New Zealand’s coastlines (see for example Marcus Eriksen (2018) “Polynesian Sailing Vessels Are Being Used to Clean Up Microplastics” *National Geographic*, retrieved from <https://www.nationalgeographic.com/travel/destinations/oceania/new-zealand/maori-polynesia-waka-boats->

[plastic-conservation/](#) and Plastic Pollution Coalition (13 February 2018) “Ocean Plastic Tour Signals Change for New Zealand” retrieved from <https://www.plasticpollutioncoalition.org/pft/2018/2/13/ocean-plastics-tour-signals-change-for-new-zealand>).

¹⁸ Helena Ruffell (2018) ‘Microplastics from New Zealand Wastewater Treatment Plants and in Our Oceans’ (An interview with The Rubbish Trip), <https://therubbishtrip.co.nz/podcast/podcast-16-helena-ruffell-microplastics-from-new-zealand-wastewater-treatment-plants-and-in-our-oceans>

¹⁹ See the EU Plastic Directive proposal, Article 5; Republic of Vanuatu, Waste Management Regulations Order No 15 of 2018; *Our Waste, Our Resources: A Strategy for England*, p.54.

²⁰ E.g. multiple states in Australia, Canada, and the United States, or nationwide in countries such as Germany and Denmark. Other countries are considering implementing CDS, including the UK

²¹ An example of the approach of setting high beverage collection targets (90%) instead of mandating a deposit-refund system outright can be found in Article 9 of the EU Plastic Directive.

²² See UK application of this concept for drinking water, specifically: <https://refill.org.uk/>

²³ The approach of requiring or incentivising a minimum percentage of recycled content in certain plastic items can be seen in *Our Waste, Our Resources: A strategy for England*, above n 4.

²⁴ See, for example, David Powell and New Economics Foundation (2018) *The price is right... or is it?: the case for taxing plastic* (report prepared on behalf of the Rethink Plastic Alliance) http://zerowasteurope.eu/wp-content/uploads/2018/09/PlasticsTax_FINAL.pdf; and *Our Waste, Our Resources: A strategy for England*.

²⁵ That is, packaging that is designed to be discarded or recycled after use, rather than refilled/reused for the same purpose.

²⁶ Regulations under s 23(1)(d) are not confirmable instruments.

²⁷ See Article 7 of the EU plastic Directive for an example of this approach.

²⁸ See Hannah Blumhardt (2018) ‘Trashing Waste: unlocking the wasted potential of New Zealand’s Waste Minimisation Act’ *Policy Quarterly* 14(4), p.18.

²⁹ The EU plastic Directive recommended product stewardship (referred to as “extended producer responsibility”) for items such as take-away food containers, take-away cups, food wrappers for food intended for immediate consumption, tobacco products with filters, wet wipes, and balloons (Article 8).

³⁰ See, for example, the UK Packaging Waste Recovery Note system (described in HM Treasury (2018) *Tackling the Plastic Problem: Using the tax system or charges to address single-use plastic waste*, London: HM Treasury, p.5).

³¹ National Litter Survey 2014-2015 (Prepared for The Packaging Forum by Waste Not Consulting, 2015) accessible at https://recycling.kiwi.nz/files/3914/3201/1821/National_Litter_Survey_1415_e.pdf; National Litter Survey 2017 (Prepared for The Packaging Forum by Waste Not Consulting, 2017).

³² Litter Act 1979, ss4, 5 and 8.

³³ Most territorial authorities collect data using the Minister for the Environment’s Solid Waste Analysis Protocol (SWAP). This lists “plastic” as a “primary classification”; the polymer types come under the “secondary classification” category. In practice, most territorial authorities only categorise waste and recycling stream data using primary classifications.

³⁴ For example, Greenpeace recently uncovered that New Zealand’s plastic recycling sent to Malaysia is often burned or dumped, causing harm to the local environment and surrounding communities.

³⁵ *Greenpeace Malaysia*, above n 10.

³⁶ Three New Zealand studies on CDS exist already. Two contradict each other (Envision New Zealand’s report and The Packaging Forum’s report), but the third—an Auckland Council commissioned independent economic analysis—weighed these reports’ competing claims and conducted a more global analysis, concluding that the benefits of CDS would be double the costs on a *worst-case scenario*. Alongside numerous overseas examples of CDS, ample information exists in the public domain for a CDS consultation to proceed. Nevertheless, the Minister has suggested that further MfE investigation is needed; it is unclear what is to be gained from a fourth study prior to public consultation.