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Ms Karen Lau
Deputy Secretary, Environment and Climate Change
Department of Environment, Land, Water and Planning
Level 1, 8 Nicholson Street
EAST MELBOURNE VIC 3002

1 April 2022

Dear Ms Lau,

**REGULATORY IMPACT STATEMENT FOR ENVIRONMENT PROTECTION AMENDMENT
(BANNING SINGLE-USE PLASTIC ITEMS) REGULATIONS 2022**

I would like to thank staff at the Department of Environment, Land, Water and Planning (DELWP) for working with our team to prepare the Regulatory Impact Statement (RIS) for the Environment Protection Amendment (Banning Single-Use Plastic Items) Regulations 2022 (the proposed Regulations).

As you know, under section 10 of the *Subordinate Legislation Act 1994* (the SLA), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is appropriate to the proposal's expected effects. The RIS also needs to be clearly written, so it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 1 April 2022 meets the adequacy requirements of the SLA.

Background

Single-use plastics (SUPs) are plastic items such as straws, cutlery and plates, which are typically designed to be used once, often for a brief period, and are then thrown away. These items represent approximately one-third of Victoria's litter stream, contributing significantly to Victoria's plastic litter, waste and pollution issues.

The Department explains that the proposed Regulations aim to reduce the harms and inefficiencies of SUPs to the environment, human health, amenity and the economy by banning the supply and sale of these items. The Department highlights the fact that plastic pollution damages the ecosystem by injuring or poisoning wildlife, particularly in the marine environment. There is also emerging evidence that

microplastics ingested by humans through food and water can cause health effects, the extent of which are uncertain.

The Victorian Government committed in 2021 to a ban of SUPs as part of its 10-year circular economy policy and action plan, 'Recycling Victoria: a new economy.' The proposed ban will build on the ban on lightweight plastic bags introduced in November 2019 and will follow the actions of other Australian jurisdictions which are introducing (or have already introduced) a ban on SUP items.

Objectives and Options

The objectives of the proposed Regulations are to:

- reduce plastic littering and pollution;
- reduce the amount of plastic waste going to landfill; and
- reduce contamination of recycling streams.

Alternatives to a ban including information campaigns, litter clean-up programs, provision of more public litter bins and improved consumer labelling were considered by the Department but not examined in detail because the Department considered that they would be insufficiently effective in achieving all three of the objectives and addressing the underlying cause of the problem.

The RIS analyses two options for a SUPs ban:

Option 1 – Ban of items with an exemption for 'integrated items' until 31 December 2025: a ban on the supply and sale of the following SUP items: drinking straws, cutlery, plates, drink stirrers or sticks, expanded polystyrene food service items and drink containers, and cotton bud sticks.

The following items are exempted under Option 1:

- banned SUP items that are integrated into packaging by a machine-automated process (e.g. forks pre-packaged in a ready-made salad) until 31 December 2025;
- SUPs which are used for specified medical, health, disability, scientific, forensic, or law enforcement or safety reasons; and
- plastic lined paper or cardboard plates.

Option 2 – Ban of items with no exemption for 'integrated items': a legislated ban on the supply and sale of the same SUP items as included in Option 1, with SUP items integrated into packaging by a machine automated process banned from 1 February 2023, when the broader SUP ban commences.

Analysis of options

To determine its preferred option, DELWP uses a two-step process beginning with a Cost Benefit Analysis (CBA) to analyse the quantifiable costs and benefits of Option 1, followed by a second step consisting of a qualitative analysis of the differences between the impact of Options 1 and 2.

To estimate the costs and benefits of Option 1, DELWP estimates the number and mass of SUPs consumed per year across different industries. It then estimates the likely response to the ban, including replacement of SUP products with reusable or non-plastic single-use alternatives or avoidance of the product altogether. These changes in consumption are then valued based on the cost of the different products and the benefits of reduced SUP use.

DELWP explains that total costs are estimated to be approximately \$2.4 million over 10 years. This is comprised of:

- \$7.2m in costs to consumers;
- \$0.6m in costs to Government; and
- \$5.4m in cost savings to industry.

Costs are primarily borne by consumers, who are expected to pay higher prices for certain alternative products, especially non-plastic cotton bud sticks. The analysis indicates that industry will experience overall cost savings, primarily due to wholesale SUP alternatives being cheaper on average than SUPs (for example bamboo cutlery is generally cheaper than plastic cutlery).

DELWP explains that total benefits to the community are estimated to be approximately \$15.4 million over 10 years. This is comprised of:

- \$15.1m in avoided litter costs; and
- \$0.3m in avoided landfill costs.

DELWP explains that the primary benefit of the proposed Regulations is the expected 1,893 tonnes of avoided plastic litter over the next ten years, which has been valued based on avoided clean-up costs. Avoided clean-up costs represent a way of estimating the damage costs of litter, as they show how much it would cost to reverse damage after it has occurred or as it is occurring. However, avoided clean-up costs are an indirect measure of the harms as the cost to clean-up a certain amount of litter may not be the same as the value of the harms associated with that litter.

In addition, DELWP estimates that there is a small benefit from reducing the amount of material going to landfill. DELWP also expects that there will be unquantified benefits on the environment, human health and on resource efficiency. Option 1 is preferred over the base case due to its net present value (NPV) of \$13m over 10 years.

Due to the uncertainty associated with the value of avoided litter clean-up costs and the difference between plastic and non-plastic litter valuations, DELWP conducted a break-even analysis demonstrating that the Regulations would break-even with a value 88% lower than the central estimate. DELWP also assessed a litter clean-up cost approximately three times higher than the central estimate, reflecting more recent estimates of litter clean-up cost relating to beverage containers, resulting in an indicative increased NPV of \$42.7m.

DELWP explains that Option 2 creates additional short term implementation risks, including complexities associated with producers moving to alternatives and inadvertent removal of items from the Victorian market. These are expected to outweigh the slightly higher benefits Option 2 would deliver, since integrated items are a small part of the overall market. Therefore, Option 1 is the preferred option.

Implementation and Evaluation


The proposed ban would be effective from 1 February 2023 and a ban on integrated items would commence on 1 January 2026. DELWP explains that implementation will involve an education and engagement project in collaboration with Sustainability Victoria prior to the ban coming into effect. This will provide businesses and the community with information to understand the requirements and alternative pathways (e.g. non-plastic single use alternatives and reusables).

DELWP will have primary responsibility for the implementation and evaluation of the reform in collaboration with the EPA, which will be responsible for enforcement.

The effectiveness of the proposed regulations will be evaluated including by measuring changes in recycling contamination, plastic pollution and landfill rates. This will occur through litter audits undertaken every 6 months, regular business surveys and a regulation review, which will be conducted in February 2026.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on 03 7005 9772.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation