

ARA SUBMISSION

NSW PLASTICS: THE WAY FORWARD - FEEDBACK ON PROPOSED ACTIONS

NOVEMBER 2024

EXECUTIVE SUMMARY

The Australian Retailers Association (ARA) welcomes the opportunity to provide feedback to the New South Wales (NSW) Environment Protection Authority (EPA) on the actions and timeframes outlined in the NSW Plastics: Next Steps Consultation Paper.

The ARA is the oldest, largest, and most diverse national retail body, representing a \$430 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects, and unifies our independent, national, and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium-sized members, who make up 95% of our membership. Our members operate across the country and in all categories - from food to fashion, hairdressing to hardware, and everything in between.

In NSW, the ARA represents both small retail businesses and large national members with extensive store networks across supermarkets, specialty retail, hospitality, and quick-service restaurants. We have been actively engaged with the NSW EPA on single-use plastics initiatives and look forward to ongoing collaboration to facilitate a smooth transition away from problematic plastics with minimal impact on the retail sector.

The ARA commends the NSW EPA for its progress in regulating plastics and working towards phasing out problematic single-use plastics across the state. The ARA is eager to continue collaborating with the NSW EPA and members to develop sustainable solutions that minimise plastics and plastic waste.

We also welcome the ambitious nature of the EPA strategy but are concerned about the risks associated with one jurisdiction moving ahead of the rest of the country, which takes our sector further away from the ARA's stated objective of a national framework or nationally-consistent approach. The current state-by-state approach means that the phase-out of single-use plastics has taken longer and been more expensive than necessary.

It also is important to recognise that while reducing packaging waste is essential, packaging plays a crucial role in maintaining product, food and consumer safety. The development of commercially viable and safe alternatives for packaging types, along with necessary systems changes to facilitate recycling and a national harmonisation strategy are vital. Without these, businesses will continue to face challenges to make meaningful progress.

KEY CONSIDERATIONS

1. **Systems change.** Achieving meaningful reform in Australia requires a systemic overhaul of how plastic is used in packaging, collected and recovered. A comprehensive systems change is essential for the retail

industry to address the complex challenges of packaging waste and resource recovery, as current practices are inadequate and inconsistent. While the NSW EPA proposals aim to address these challenges, the phase-out of plastics is a national problem that will require systemic solutions across state borders.

2. **National harmonisation.** The lack of national harmonisation on plastics regulation remains a significant challenge for retailers. The absence of national regulations has led to inefficiencies, as states and territories adopt different approaches to the shared goal of reducing plastic use. Without a consistent national approach, these changes have taken longer to implement and have incurred higher costs than necessary. While ambitious in nature, the NSW EPA Plan does move our sector further away from a national plan.
3. **Costs and impacts.** Retailers face significant, often overlooked costs related to packaging waste management. A cost structure that shares these externalities across the industry will foster a more sustainable approach, ensuring all stakeholders contribute and reducing the financial burden on retailers. It is unclear how much the NSW EPA Plan will cost to deliver and who pays.
4. **Waste and resource recovery infrastructure.** For a successful rollout of bans on single-use plastics, adequate infrastructure must be firmly in place to support these initiatives. Without fit-for-purpose infrastructure, the transition to plastic-free systems will be hindered, leading to ineffective waste management and lower recycling rates. The vision outlined in the Consultation Paper will not be achieved without significant government investment in waste and resource recovery infrastructure in NSW.
5. **Public information campaigns.** While the retail industry can improve packaging design and labelling, effective recycling relies on consumer action, which is beyond retailers' control. The lack of national behavioural change campaigns exacerbates consumer confusion, hindering recycling efforts. Coordinated public campaigns are essential to simplify recycling and drive behavioural change, as recognised by the NSW EPA in its Consultation Paper.

FEEDBACK AND RECOMMENDATIONS

Section 1: Reducing plastic litter

1.1. Single-use plastic cups

Action 1: Require food service venues such as fast-food restaurants and cafes to accept reusable cups for takeaway hot and cold beverages.

- The ARA supports the transition to reusable cups in food service venues, recognising that many cafes already accept reusable cups, offering incentives to boost uptake and sell reusable merchandise.
- However, there are concerns about the use of reusable cups in high-volume settings like drive through and take-away environments in quick service restaurants. Overseas experience points to an overall increase in the amount of plastic needed to produce the same volume packaging, with consumers failing to return heavier reusable plastic packaging back to retailers for re-use.
- There are also concerns about customer convenience, potential contamination risks, and the need for staff training. Retailers could not support these changes without guidance on how to handle reusable cups safely and hygienically - particularly in high-volume environments – and government-funded educational campaigns to raise consumer awareness and encourage broader adoption of reusable cups.

Action 2: Trial reusable cups in government premises such as buildings, venues and stadiums.

- The ARA supports Action 2, in principle. However, the presence of reusable cups in government premises presents logistical challenges, including the collection, cleaning and redistribution of cups, as well as potential hygiene concerns.
- Implementing and managing the infrastructure for reusable cups at high-traffic venues could require significant investment and stakeholder engagement to ensure proper use and compliance. This process could disrupt existing service flows, adding complexity for venue operators, so it is important to consider location and frequency of drop off points to ensure convenience and for busy settings.
- From a consumer perspective, inconvenience and confusion may deter successful outcomes, as individuals may be required to return used cups to designated collection points rather than simply discarding them in the appropriate bins. This added step may be perceived as burdensome, especially in busy settings like stadiums. It may be useful to implement incentives e.g. *'bring back your drink container and receive a discount'* to encourage behaviour change.

Action 3: Develop reuse 'toolkits' for transforming existing locations and new developments into reuse-only precincts.

- The ARA broadly supports the proposed reuse "toolkits" as a proactive step to encourage the adoption of reusable options across precincts. For maximum impact, these toolkits should be paired with action-oriented initiatives at the state and federal levels.
- Potential limitations include the initial investment needed for infrastructure and cleaning facilities, as well as ensuring consumer convenience and compliance.
- Additionally, maintaining stringent hygiene standards and communicating the benefits of reusable systems will be essential to prevent user resistance and promote widespread participation.

Action 4: Introduce a design standard requiring single-use cups for cold beverages and their lids to be recyclable.

- The ARA does not support implementing design standards on a state-by-state basis and so therefore recommends any move toward a new design standard must be nationally implemented.
- The introduction of design standards for plastic beverage bottles and lids in NSW would be an Australian first. Action 4 would also have major effects beyond NSW, due to the nature of standardised bottle lid design across Australia and New Zealand.
- As lids are placed on the product at the design and manufacturing stage, this would result in significant costs to smaller manufacturers and businesses, who may have to implement new processes or machinery to comply with the change.

Action 5: Introduce mandatory design standards requiring an anti-littering label and the Australasian Recycling Label on single-use cups for hot and cold beverages, supported by behavioural change.

- The ARA recognises the value of an anti-littering label but believes it may confuse consumers, particularly when an Australasian Recycling Label (ARL) is already present on products. For instance, if the cup is recyclable, the ARL directs consumers to place it in a recycling bin. Instead of this approach, there may be an opportunity for a wider anti-littering campaign.
- However, for items with mixed recyclability components (for example, a recyclable cup with a non-recyclable lid), the ARL indicates separate disposal instructions for each component. If an anti-littering

label is introduced, the NSW EPA shouldn't implement it as a state-specific measure given the need for national harmonisation.

Action 6: Explore expanding Return and Earn to accept single-use plastic cups for cold beverages.

- The ARA acknowledges the success of the Container Deposit Scheme (CDS) for recycling cans, cold drink bottles, and cartons. However, the ARA advises against extending this scheme to food containers for the following reasons.
 - **Strict Design Standards:** Enforced design standards for cups and containers are essential to avoid contamination of the CDS resource stream, which is currently well-regulated in terms of the polymers collected.
 - **Limitations of Reverse Vending Machines:** Many food containers are incompatible with existing RVMs used for drink containers, and adapting these machines for food containers would be a significant undertaking.
 - **Hygiene Concerns:** A collection scheme for food containers could face hygiene issues, including rotting food waste, odours, and vermin.
- Furthermore, plastic drink and food containers are often mass-produced and unbranded for a wide variety of takeaway providers, which could complicate compliance and increase the risk of a free-rider effect. Given these concerns, the ARA does not support the expansion of the CDS to include food containers without addressing these significant issues.

Recommendations

- Collaborate and align with other jurisdictions to establish a nationally consistent approach for determining which items are suitable for recycling, composting, or both.
- Avoid expanding the NSW Return and Earn Container Deposit Scheme to address litter reduction and circularity challenges beyond beverage containers.

1.2. Single-use plastic beverage bottle lids

Action 1: Introduce a design standard requiring plastic lids to be 'tethered' or attached to Return and Earn-eligible plastic bottles below 600 ml.

- The ARA does not dispute the introduction of 'tethered' lids and recommends engaging the federal government in the process, either through ongoing national packaging regulation development or by seeking alignment across jurisdictions via the Environment Ministers Meeting (EMM).
- Implementing tethered lids will require upgraded methods to produce compatible caps, imposing significant costs, particularly on small businesses.
- To facilitate a smoother transition, the ARA recommends that any national introduction of tethered lids include a five-year transition period. This timeframe would allow businesses to prepare and make adjustments and minimise the risk of stock waste for items already in circulation.

Action 2: Work with other states and territories to ensure container deposit schemes across Australia

accept plastic bottle lids, including tethered lids.

- The ARA strongly endorses Action 2. A national approach is essential to ensure consistency across jurisdictions, which will simplify compliance for businesses and create clear, unified messaging for consumers. By implementing a nationwide standard, it will be easier to drive a consumer behaviour shift towards more responsible disposal practices.

Recommendations

- Encourage the NSW Government to advocate for a national approach to regulating tethered lids on plastic bottles through collaboration at the Environment Ministers Meeting.
- Provide businesses with a five-year transition period to adopt tethered lids.
- Ensure that all CDS machines are equipped to accept plastic bottle lids, including tethered lids.

1.3. Single-use plastic food containers**Action 1: Introduce a design standard requiring single-use plastic food containers and their lids to be recyclable.**

- Please refer to the above response regarding single-use plastic cups, as many of the points outlined there are also relevant to the issue of food containers.
- Specifically, for food containers, we recommend that lids are both fit-for-purpose and recyclable, given that food often comes into direct contact with the lids. It is important to ensure that the lids meet functionality standards, such as being secure enough to prevent spillage and maintaining food safety, while still being recyclable within existing waste management systems.
- The definition of 'takeaway' must be further refined to ensure it captures single-use plastic containers for single-serve takeaway food intended for consumption shortly after purchase, such as those that require no additional preparation (for example, sushi and hot food) where a non-plastic alternative is not available or commercially viable for the relevant product. This would bring the definition largely in line with other states such as Western Australia.

Action 2: Introduce mandatory design standards requiring an anti-littering label and the Australasian Recycling Label on single-use plastic food containers, supported by a behaviour change campaign.

- Please refer to our previous response regarding the similar proposal for single-use plastic cups. Additionally, for food containers, it is likely that messaging would need to be embossed rather than labelled, as most of these containers do not currently feature labels.

Action 3: Explore expanding Return and Earn to accept single-use plastic food containers.

- Please refer to our response regarding single-use plastic cups, as many of the points outlined there are also relevant to the issue of food containers. As noted, it is important to take a considered approach to implementing a collection scheme for single-use plastic food containers which would present significant hygiene challenges, such as issues with food waste, unpleasant odours, and the potential for vermin.

Recommendation

- Ensure that food containers are fit-for-purpose to avoid spillage and provide adequate protection.

1.4. Single-serve condiment packages

Action 1: Introduce a design standard requiring single-serve condiment packages to have a standardised anti-littering label and the Australasian Recycling Label.

- Please refer to our response regarding the similar proposal for single-use plastic cups. Additionally, placing labels such as the ARL on single-serve condiment packages may be particularly challenging due to their small size.

Action 2: Require takeaway food service businesses to display anti-litter messaging in their shopfronts.

- The ARA broadly supports Action 2. Requiring takeaway food service businesses to display anti-litter messaging in their shopfronts requires a clear and consistent approach. There must be careful consideration of who may be burdened with signage upkeep, printing and compliance. For effective implementation, it is important to address how this requirement applies to individually owned businesses operating in shared spaces such as food courts.

Action 3: Require single-serve condiment packages to be recyclable and accepted in material recovery facilities in five years.

- The ARA supports Action 3 but notes that the small, multi-material design of condiment packages presents challenges for the existing recycling infrastructure. Retailers, especially smaller businesses, may face additional costs to redesign packaging to comply with new recycling requirements. The success of this initiative will heavily rely on consumer behaviour, highlighting the importance of government-led awareness campaigns to promote proper disposal and recycling practices.

Action 4: Co-design a roadmap for making single-serve condiment packages circular by 2030.

- The ARA supports the initiative to bring together stakeholders across the packaging supply chain. This collaborative approach provides an opportunity for retailers to engage with key partners in the packaging industry, share best practices, and align on standards that make condiment packages recyclable.

Recommendation

- Examine how the requirement for takeaway food service businesses to display anti-litter messaging should be applied to businesses operating in shared spaces, such as food courts.

1.5. Plastic lollipop sticks

Action 1: Phase out the supply of single-use plastic lollipop sticks.

- Whilst the ARA commends the government on its proactive approach to problematic items, we support a nationally aligned approach and therefore do not support the proposal to ban lollipop sticks, and other food service items ahead of other states and territories.
- The banning of these items would be a first in Australia, which will result in significant challenges in compliance for retail, wholesale and manufacturing businesses that operate across state borders. Not only does this create supply chain challenges for businesses operating across multiple jurisdictions, but it also increases complexity and compliance risk for retailers with stores in NSW.

Recommendation

- Defer any ban on single-use plastic lollipop sticks until national alignment has been secured. If pursued, a transition period of at least 24 months should be allowed to give the industry adequate time to shift to suitable alternatives.

1.7. Using our litter data

Action 1: Explore ways to make the way we report our litter data more transparent, including publishing the brand data of littered items.

- The ARA broadly supports increased data transparency, provided the provision of such data does not unduly increase cost, complexity or compliance risk for retailers. This approach supports informed decision-making, enhances waste reduction efforts and will help businesses take more targeted actions to reduce product-specific litter.
- However, this must be a national approach to minimise complexities for retailers, particularly national retail business. It is also important to note that collecting and analysing data at this granular level may require additional resources, including time, funding, and specialised data collection tools.

Action 2: Consider requiring the brand owners of highly littered plastic items to set litter reduction targets.

The ARA supports Action 2 in principle but recommends the implementation of a centralised, government-led education campaign focused on responsible disposal practices. This should be complemented by increased bin availability in public spaces and stronger enforcement of anti-littering laws to achieve more effective litter reduction.

Recommendation

- Launch a centralised, government-led education campaign aimed at promoting responsible disposal and raising awareness of the environmental impact of littering.

Section 2: Reducing harmful chemicals in plastics and microplastics

2.1. Harmful chemicals in packaging

Action 1: Develop and publish a 'green list' of chemicals that are permitted in plastic and non-plastic food packaging below certain tolerable risk thresholds.

The ARA believes that implementing a 'green list' will be impractical, given that thousands of chemicals are used in plastic products and packaging to achieve various properties. This raises concerns about how chemicals not included on the green or red lists could still be used.

Furthermore, a 'green list' approach could potentially limit innovation in material development. It's also important to recognise that existing national frameworks already address the phase-out of harmful chemicals.

Action 2: Develop and publish a 'red list' of chemicals that are proposed to be phased out of plastic and non-plastic food packaging supplied in NSW within specified time frames.

While developing a 'red list' may be more straightforward than a 'green list,' it still presents challenges in terms of creation and ongoing maintenance. A key concern is that a 'red list' could drive product and packaging developers to seek out untested chemicals as alternatives, potentially leading to unintended negative consequences.

The ARA believes consultation will be needed to determine whether chemicals on the list should be subject to maximum limits or banned outright. The 'red list' should focus on chemicals that migrate from products and packaging into food. A national consensus would be required to establish the criteria for inclusion, such as demonstrated public health risks or proven environmental harm.

Action 3: Introduce a voluntary chemical certification and labelling scheme for plastic and non-plastic food packaging.

The ARA partially supports a voluntary chemical certification and labelling scheme. The ARA agrees that it should remain voluntary, primarily due to the lengthy and costly testing process, which is exacerbated by the limited availability of testing facilities in Australia.

However, caution is advised against implementing a scheme that could unintentionally create unnecessary consumer concern. Without proper education, consumers may misinterpret the purpose of chemical labelling, leading to misconceptions about the potential risks of unlabelled products and packaging.

Recommendations

- Defer any state-based regulation, until national packaging regulations have been defined and implemented by the Federal Government.
- Prioritise national harmonisation rather than state-specific regulations.
- Focus on a risk-based 'red list' with clear criteria.

2.2 Plastics containing pro-degradant additives

Action 1: Phase out the supply of plastics containing pro-degradant additives, such as oxo-, photo-, and landfill-degradable plastics, that do not meet relevant compostable standards or other certification requirements.

The ARA supports the phase out of degradable plastics and additives that promote the fragmentation of plastic items. However, as terms such as 'compostable' are now widely used and understood by many consumers, the ARA suggests the NSW EPA consider allowing the use of the term for products that are identified as certified compostable to AS 5810:2010 or AS 4736:2006.

Recommendation

- Establish clear, standardised terms for businesses and consumers when discussing sustainable alternatives. This approach would help promote proper disposal practices, enable consumers to make informed decisions, and reduce the risk of greenwashing.

2.3 Plastic microfibres released by washing synthetic textiles

Action 1: Introduce a design standard requiring all new washing machines to have a rating against a minimum performance standard for their ability to capture and reduce microfibres.

Whilst the ARA commends the government on its proactive approach, we suggest this design standard would be better managed and implemented by a national approach.

Recommendation

- Collaborate with federal government and other relevant bodies such as the Water Efficiency Labelling and Standards (WELS) scheme to manage this change and consider incentivising innovation for businesses.

2.4. Plastic microbeads in all cleaning products

Action 1: Phase out plastic microbeads from all cleaning products.

The ARA supports the phase-out of plastic microbeads from all cleaning products.

Section 3: Keeping pace on plastics action

3.1 Heavyweight plastic film shopping bags

Action 1: Adopt Queensland's approach through a design standard requiring heavyweight plastic film shopping bags to meet certain reuse and recycled content standards.

The ARA endorses the proposed initiative to adopt Queensland's approach to heavyweight plastic film shopping bags by implementing a design standard that mandates specific reuse and recycled content criteria. However, any design standard should be implemented nationally.

Action 2: Only allow shopping bags made of plastic to be readily available at the point of purchase if they are clearly designed for reuse or are part of an extended producer responsibility scheme for plastic recycling. All other plastic shopping bags will be required to be stored out of sight and only provided on request.

The ARA supports the proposed action to have plastic shopping bags readily available only at points of sale if they are explicitly designed for reuse or covered by an extended producer responsibility scheme for recycling. All other plastic shopping bags should not be on display and provided solely upon request.

Action 3: Introduce a design standard requiring plastic shopping bags to have a standardised anti-littering label and the Australasian Recycling Label.

Please see the response to the related proposal concerning single-use plastic cups.

Action 4: Introduce a design standard to eliminate harmful chemicals from plastic shopping bags.

Whilst the ARA commends the government on its proactive approach, we suggest this design standard would be better managed and implemented by a national approach.

Recommendation

- Defer development of any state-based design standards, until national standards have been developed and implemented by the Federal Government.

3.2 Plastic barrier bags

Action 1: Phase out unnecessary plastic barrier bags that have safe alternatives available.

The ARA acknowledges the NSW EPA's understanding of the critical role plastic barrier bags play in ensuring food safety and reducing food waste. As efforts to phase out these plastic barrier bags progress, it is essential to identify suitable alternatives and provide a clear definition of barrier bags, along with reasonable criteria for identifying those that are non-essential.

Action 2: Introduce a design standard requiring plastic barrier bags to have a standardised anti-littering label and the Australasian Recycling Label.

Please refer to the response to the related proposal for single-use plastic cups.

Action 3: Introduce a design standard to eliminate harmful chemicals from plastic barrier bags.

The ARA supports, in principle, the proposal for a design standard to eliminate harmful chemicals from plastic barrier bags, provided it applies to bags used for food contact and is followed by further consultation to identify the chemicals of concern. However, any design standard should be implemented nationally.

3.3 Phase out the release of lighter-than-air balloons.

Action 1: Phase out the release of lighter-than-air balloons.

The ARA support the phasing out of helium balloon releases.

3.4 Plastic balloon accessory items.

Action 1: Adopt South Australia's approach to phase out the supply of plastic balloon sticks, clips and ties.

The ARA broadly supports the proposed action to adopt South Australia's approach to phasing out balloon accessory items, provided it includes the adoption of the state's definitions for plastic balloon sticks, clips, and ties.

Recommendations

- Adopt South Australia's approach to phasing out balloon accessory items, including the state's definitions for plastic balloon sticks, clips, and ties.
- Align states on phase-out items, definitions and timeframes to ensure consistency and impact for change.

3.5 Expanded plastic packaging

Action 1: Adopt Western Australia's approach of phasing out supply of food trays, loose-fill packaging, moulded or cut packaging made wholly or partly of any form of expanded and foamed plastic.

The ARA supports adopting Western Australia's approach, including the exemptions that make the regulations practicable (for example, exemptions for fragile and heavy goods). A member has shared lowering the threshold from 45kg to 25kg would help protect fragile and bulky products over 25kg from potential damage.

However, any change in regard to packaging provided by national retailers must be deferred until there is national alignment.

Due to long lead times for these products, the implementation timeline and compliance enforcement should be based on the product's manufacture date, rather than its import date or when it is placed on retail shelves. These challenges are more pronounced for national retailers.

Recommendations

- Defer any action until there is national alignment.
- Encourage the adoption of Western Australia's approach to expanded plastic packaging, including its exemptions and definitions, ensuring alignment of definitions.

3.6 Fruit stickers

Action 1: Introduce a design standard requiring fruit and vegetable stickers and their adhesives to be certified compostable.

The ARA does not oppose a ban on plastic stickers in principle, this change must be implemented only after a compostable alternative is widely available, effective and commercially viable. Produce stickers continue to play a valuable role in the retail supply chain, supporting traceability for products, as well as supporting retail workers and the consumer in correctly identifying product types.

Many producers will require new or updated equipment to allow for the adoption of compostable (or other alternative) stickers in compliance with any future ban. While a certified compostable adhesive is still under development, excluding the adhesive from the regulations would allow the industry to transition to paper or compostable stickers. However, these stickers cannot be marketed as compostable until a certified compostable adhesive is developed.

In terms of implementation, due to minimum order requirements, producers will likely continue to purchase and hold traditional plastic stock for up to 12 months. To prevent unnecessary landfills, it is important to consider a timeline that allows for a smooth transition, including time for purchasing, testing stickers on growers' machinery, and using existing stock.

Recommendations

- Modify the proposal for fruit stickers to permit paper stickers, excluding the adhesive requirement until a certified compostable adhesive is developed.
- Implement a 12-month transition period from the date of regulation.

3.7 Plastic pizza savers

Action 1: Phase out supply of plastic pizza savers.

The ARA endorses a phased removal of plastic pizza savers.

3.8 Plastic food-bag tags

Action 1: Phase out supply of plastic food tags.

The ARA supports the proposed action to phase out plastic food tags for bread, bakery, and dry pantry items, provided the change is introduced by the end of 2025. Additionally, an awareness campaign for consumers will be essential to ensure a smooth adoption of the new measures.

Recommendations

- Include a 12-month transition period from the publication of the regulations.

CONCLUSION

The ARA supports the goal of banning single-use plastics but highlights the significant challenges faced by the industry in achieving this objective. Difficulties in finding suitable alternatives, inconsistent definitions across states, and a lack of public awareness underscore the need for a more coordinated and strategic approach.

A unified national framework for plastic regulation, supported by enhanced communication and planning, is essential for the success and sustainability of efforts to reduce plastic waste in NSW and across the nation.

Thank you for the opportunity to provide a submission to this inquiry. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.