

Brief for the Health and Environment Committee on the Waste Reduction and Recycling (Plastic Items) Amendment Bill 2020

Prepared by the Department of Environment and Science

Background

Plastics are durable, widely used and convenient materials that are suitable in a wide range of applications. Uses for plastic include reusable and single-use items such as food and beverage product packaging and utensils for the consumption of food and beverages. Plastic is not inherently bad and there are many practical and necessary uses for the material. However, plastic that ends up in the environment can have significant and long term environmental and economic impacts. Single-use plastics can also create challenges for waste management and resource recovery systems.

Much of the plastic that is used in Queensland, and Australia, is designed to be used once and then discarded. Global estimates indicate that close to 50 per cent of the world's plastic production goes into 'single-use' plastic products. According to industry information, the majority of single-use plastics in Queensland are imported, although this is not capable of being easily quantified.

Plastic is persistent in the environment, lasting for hundreds of years and breaking down over time into microplastics that are also highly mobile in the environment. Research has shown that microplastics are now found in all parts of the food chain, in drinking water, in productive agricultural soil and in the air we breathe.

Many of the single-use plastics in common use (including straws, stirrers, plates, and cutlery) are difficult to recycle as the small size of these items mean that conventional collection and sorting technologies can't handle them effectively. More often than not, when these items come through a Material Recovery Facility, they will end up either as a contaminant in sorted plastic or paper streams or disposed of to landfill. As many single-use plastic items are used away from home for convenience, they have a greater tendency to end up in the environment as litter.

Globally, nationally and within Queensland, community awareness and concern about plastic consumption and pollution is at an unprecedented level. There is increasing community pressure and expectation that companies and governments need to do more to address the issues and challenges associated with single-use plastic use.

Feedback obtained during public consultation on both the Queensland Government's single-use lightweight plastic shopping bag ban and container refund scheme discussion papers indicated strong support for Government action to go further in addressing other plastics.

Policy drivers for the Bill

On 7 November 2019, the Queensland Government released *Tackling Plastic Waste: Queensland's Plastic Pollution Reduction Plan* (the Plastics Plan). The Plastics Plan identifies and prioritises actions to reduce plastic waste and reduce the environmental and economic impacts of plastic pollution.

The Plastics Plan outlines short term 'headline' actions for immediate implementation, complemented by a range of future actions, which recognises the complex and long term nature of plastic waste and pollution challenges along all parts of the plastic supply chain.

As a key headline action of the Plastics Plan, the Queensland Government identified the introduction of legislation in 2020 as an option to meet the objective of reducing plastic waste and plastic pollution. The proposed legislation enables a ban on the supply of specific single-use plastic items, starting with straws, hot and cold drink stirrers, plates and cutlery as Stage 1. Stage 2 would involve further analysis on additional single-use plastic items including coffee cups, other plastic cups, takeaway food containers, plastic balloon sticks and heavyweight plastic bags that may result in extension of the legislation.

The Plastics Plan supports the broader Waste Management and Resource Recovery Strategy (the Waste Strategy) released on 1 July 2019. The Waste Strategy sets the course for Queensland to become a zero-waste society, where waste is avoided, reused and recycled to the greatest possible extent. The Waste Strategy focuses on moving towards a circular economy approach for waste, in which unnecessary waste is eliminated as much as possible, and products and materials keep circulating within the economy at their highest value for as long as possible.

The Waste Strategy identifies plastics as a priority waste stream requiring increased actions and commits to Government action to implement the Plastics Plan.

The single-use plastic items identified in the Waste Reduction and Recycling (Plastic Items) Amendment Bill 2020 (the Bill), which was re-introduced into Parliament on 3 December 2020, are consistently reported in the top 10 littered items in state, national, and international litter surveys. There is evidence to suggest that the littering of these single-use plastic items is significant in Queensland, including:

- Tangaroa Blue's 2016 and 2017 beach clean-up activities across Australia, which found that approximately 75 per cent of litter on beaches was plastic including over 20 per cent of total litter in the form of straws, confection sticks, cups, plates and cutlery and other plastic consumer items.
- Tangaroa Blue's beach clean ups around Townsville and Magnetic Island between 2008 and 2017, which netted more than 67,000 litter items, 62 per cent of which were plastic, including disposable items such as straws. Plastic straws are listed as one of the top 10 most found items on the beach cleans.
- Clean Up Australia reports on Clean Up Australia Day activities in Queensland in 2019, which reported that plastic straws were the tenth most common item reported, making up 2.7 per cent of the total of rubbish surveyed. This is an increase of two places from 2018.
- Litter audits undertaken between 2014 and 2016 near highways by the then Department of Environment and Heritage Protection under the South West Queensland Litter Prevention Pilot Project. The audit found that plastic was the most littered material type in the region, accounting for 32 per cent of litter. Take away containers/packaging and utensils and straws accounted for around 7 per cent of the litter observed.

Responding to litter (and illegal dumping), including plastic litter, is one of the key actions under Strategic Priority 1 – *Reducing the impact of waste in the environment* – of the Waste Strategy. This includes developing a Litter and Illegal Dumping Plan for Queensland, which the Department of Environment and Science has already commenced.

Current arrangements under the Act

Queensland's *Waste Reduction and Recycling Act 2011* (the Act) provides the primary legislation for the management of waste and resource recovery in Queensland. The Act does not currently contain any provisions banning the supply or sale of single-use plastic straws, stirrers, plates and cutlery.

Proposed arrangements under the Bill

Items to be banned

The Bill will ban the sale and supply of single-use plastic straws, stirrers, plates, and cutlery. These items have been selected to be banned because:

- their use can, in many circumstances, be avoided in the first instance;
- they have a high degree of consumption in Queensland;
- litter surveys consistently list them in the top 10 of littered items;
- they are not recyclable and can contaminate recyclable items collected via kerbside collection services;
- there are a range of suitable alternatives available as replacements;
- there is a high level of community and business support for action on these items as a starting point; and
- several food and retail businesses have already committed to a voluntary phase out of items such as straws, stirrers and cutlery.

The Bill makes provision for additional items to be banned through regulation. To ensure the process is logical, fair, and robust, the Bill sets out the requirements that must be met prior to making a regulation to ban additional single-use plastic items.

First, the public must be consulted about the proposal to ban additional single-use plastic items. This will ensure that the opportunity is provided for impacted and interested stakeholders to share their concerns, which must then be considered in the decision-making process.

Several matters must also be considered to determine whether a ban is the most appropriate course of action, including:

- the results of the public consultation;
- whether the objects of the legislation are likely to be achieved by the proposed ban;
- the effectiveness of voluntary or other measures;
- the availability of alternative products to the item(s) proposed to be banned; and
- whether the costs of monitoring, enforcement and market development are proportional to the proposed ban.

Other items that have been identified in the Plastics Plan for investigation are coffee cups, other plastic cups, and heavyweight plastic shopping bags.

Commencement

The Bill provides for the legislative provisions to commence by proclamation.

Exemptions

Items exempted

The ban proposed by the Bill does not include compostable plastic items that meet the Australian Standards for home or industrial compostability, or items that would otherwise be banned but are part of a pre-packaged product, including:

- a straw attached to a juice box;
- a fork included in a pre-packed salad;
- a spoon attached to a yoghurt container; and
- a plate included in a frozen meal.

The Bill defines compostable plastic as plastic that is compostable under Australian Standards AS 4736, which applies to industrial composting; or AS 5810, which applies to home composting. This exemption recognises:

- the availability and suitability of these items as alternatives;
- the success of the Plastic Free Places initiative, which suggests compostable alternatives to replace single-use plastic items; and
- public support for alternatives to single-use plastic items, including compostable plastic, expressed in submissions on the Single-use Plastic Items Consultation Regulatory Impact Statement.

The Bill requires that a person involved in manufacturing, selling, distributing, or importing compostable plastic items must ensure information about the item's composting conditions is clearly labelled on the item, or provided in a document supplied with the item. This includes whether the plastic item is suitable for industrial or home composting and whether it is compostable under AS 4736 or AS 5810. This will help to ensure that the items are disposed of and managed correctly when they become waste.

The Bill also empowers the chief executive to require a person to provide a certification about whether or not the sold plastic item is compostable. This will enable the administering authority to check that genuinely compostable items are being supplied and that correct information is being provided.

Business exemptions

The Bill also provides for certain businesses and undertakings to be exempted from the ban ('exempt business or undertaking'). An exempt business or undertaking includes a school, or a healthcare business (e.g. hospital, aged care centre, pharmacy, medical and dental clinic). The Bill also makes provisions for other businesses or undertakings to be exempt in regulation.

These exemptions allow for the relevant businesses to purchase and supply otherwise banned single-use plastic items to patients, residents, students and other individuals with disability or healthcare needs. This will ensure that people with disability or healthcare needs have access to single-use plastic items to meet their needs.

The Bill also allows a person (e.g. a distributor) to sell otherwise banned items to these businesses for the purpose of providing to another person for a healthcare or disability requirement.

These exemptions are automatic and a person operating one of these businesses or undertaking does not need to apply for an exemption.

Offences

The Bill prescribes a maximum of 50 penalty units for several offences and penalties, which is consistent with the penalty applied under the single-use plastic shopping bag ban under the Act. The prescribed offences are:

- selling a banned single-use plastic item;
- providing false or misleading information about banned single-use plastic items;
- not providing clear information (on or with the plastic item) about the conditions under which the item is compostable;
- failing to comply with a notice to provide a certification about a sold single-use plastic item; and
- giving false or misleading information that a plastic item is compostable.

Review

The Bill provides for a review of the efficacy of the ban within two years of its commencement. The review must address several matters including:

- the impacts on various sectors including persons with disability or healthcare needs;
- levels of public awareness and knowledge, and compliance;
- effectiveness of the ban in reducing single-use plastic items; and
- impact of the ban on alternatives to single-use plastics.

Enforcement of the ban

The approach is firstly to educate individuals, industry and governments about the laws and how to comply with them. It is in Queensland's interest to educate and encourage the right behaviours enabling businesses to meet these expectations.

This approach was successful with the introduction of the single-use lightweight plastic shopping bag ban, which saw over 14,000 retailers engaged in an 18-month awareness campaign. This resulted in no enforcement action being necessary due to the high level of retailer engagement and awareness, which led to a high rate of understanding and compliance.

The Queensland Government will continue to work with the peak bodies (such as the National Retailers Association, Master Grocers Association, Queensland Hotels Association and the Australian Food and Grocery Council) to raise awareness of the ban as a proactive means to reduce enforcement activities.

Stakeholder consultation

To facilitate a comprehensive understanding and consideration of the economic, social and environmental impacts of the proposed ban, a Stakeholder Advisory Group and Inter-Departmental Committee were established in February 2020.

The Stakeholder Advisory Group included peak bodies representing the retail, hospitality, tourism, food service, disability, aged care, local government, and environment sectors. The Stakeholder Advisory Group and Inter-Departmental Committee will continue to meet and advise on various matters for the implementation of the ban.

Public consultation on the proposed ban occurred between 13 March and 30 April 2020 with the release of the Single-use Plastic Items Consultation Regulatory Impact Statement. The Consultation Regulatory Impact Statement put forward four options, which were:

- Option 1 – Maintain the status quo.
- Option 2 – Introduce a ban on the supply of single-use plastic straws, stirrers, plates and cutlery.
- Option 3 – Implement non-regulatory approaches, including greater education and awareness.
- Option 4 – Install additional litter collection and clean up infrastructure.

Ninety four per cent of the nearly 20,000 respondents showed overwhelming support for the introduction of a ban. An analysis of the submissions was undertaken and included in a Consultation Report, which was released on 15 July 2020.

Public consultation and stakeholder submissions strongly supported the inclusion of a ban on expanded polystyrene takeaway food containers.

Delivering on the commitment for further consultation to occur prior to consideration of expanded polystyrene being included in the Bill, the Queensland Government commenced public consultation on 30 November 2020. This consultation remains open until 15 January 2021. Further consultation is also being undertaken targeting the retail and business sector. Analysis from this feedback will be considered prior to any amendments to the Bill.