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By email: [plasticsconsultation@epa.nsw.gov.au](mailto:plasticsconsultation@epa.nsw.gov.au)

Dear Mr Chappel

Thank you for the opportunity to provide feedback on the *NSW Plastics: Next Steps* Paper (paper).

The NSW Small Business Commission (the Commission) is an independent statutory office of the NSW Government. It provides strategic advice, advocacy and affordable dispute resolution services across NSW.

The Commission's role includes:

- encouraging government agencies and larger businesses to enter productive working relationships with small businesses
- facilitating and encouraging the fair treatment of small businesses
- promoting a fair operating environment in which small businesses can flourish.

The Commission welcomes the paper and consultation process to obtain stakeholder feedback to inform the next steps of *NSW Plastics Action Plan*. The Commission acknowledges the exploratory nature of the paper and the opportunity it presents for a wide range of stakeholders to contribute their perspectives.

### **Better understanding costs and benefits**

The paper sets out a range of specific consequences relating to the use of plastic waste in general terms. For example, greenhouse gas emissions, litter and chemical additives are cited as general problems relating to plastic use. However, plastic use comes with a range of costs and benefits, and the usefulness of certain plastic items for use in specific applications should not be overlooked. Equally, some plastic items may be more harmful than others due to their integration into proper waste disposal or recycling channels, or their general design attributes.

For these reasons, the Commission encourages more detailed and specific assessment of the benefits of use associated with the items proposed for additional regulation. For example, it is essential to understand how businesses are currently using takeaway beverage and food packaging, and assessing any costs within the context of the benefits they provide.

Analysis of business impacts, particularly those affecting smaller enterprises, is crucial to assessing the merits of new regulatory proposals. An understanding of those impacts is also important to the initial phases of the policy development process to meet policy objectives while minimising unnecessary

impacts. The Commission encourages thorough analysis of each proposed action, including a detailed assessment of costs and benefits, with a focus on the impacts on small enterprises. As noted in the *NSW Government Guide to Better Regulation*, all new regulatory proposals should consider the impacts on small business.

### **Small business consultation process**

There are approximately 850,000 small businesses in NSW, including approximately 35,000 small businesses in the accommodation and food services sector, comprising cafes, restaurants and takeaway food services.<sup>1</sup>

New regulatory burdens can disproportionately affect small businesses due to their limited capacity to absorb compliance costs, interpret and implement requirements and keep up with regulatory changes. Yet there can be significant barriers to effectively engaging small business perspectives during consultation processes. Many small businesses are disengaged from government consultation channels and only become aware of new requirements and raising concerns only after they have been enacted. In some cases, this can lead to some businesses feeling unsupported if their specific needs were not contemplated during the policy design stage.

For example, the Commission notes some industry stakeholders remain unsatisfied with the lack of support in managing existing stock of previously banned plastic items, citing the absence of reimbursement or compensation for recycling and the problematic necessity of disposing of certain unused items in landfills. It is suggested that the challenges faced by businesses could have been mitigated with a longer timeframe for businesses to adjust to the ban of certain plastic items and a more gradual implementation. This would have likely reduced the transition costs for these businesses while also minimising environmental impacts.

The Commission notes the impacts on small business, particularly in key industries such as food services, are not detailed in the paper at this time and that further analysis may be undertaken once key policy parameters are defined. For industry to meaningfully contribute to the policy development process, the Commission recommends future consultation processes engage small businesses with specific details of how proposals might impact them, and supplementing consultation with proactive consideration of potential impacts even if they have not been raised by stakeholders.

### **Concerns raised by small businesses**

The Commission recently surveyed 625 small businesses and noted strong small business support for more eco-friendly practices and evolving to meet customer needs

While small businesses are currently facing ongoing pressures stemming from challenging trading conditions, escalating costs, and various other challenges; they remain mindful of their impact on the environment and the increasing preferences of consumers for eco-friendly practices:

*“We are transitioning away from plastics in general for environmentally friendly and sustainable packaging, reducing waste to landfill.”*

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<sup>1</sup> This division comprises of units providing short-term accommodation for visitors and/or meals, snacks, and beverages for consumption by customers both on and off-site. <https://www.abs.gov.au/statistics/classifications/australian-and-new-zealand-standard-industrial-classification-anzsic/2006-revision-2-0/detailed-classification/h>

*“We will no longer be receiving material at our recycle yard that then either sits or needs to go to landfill.”*

*“We already rarely offer plastic bags and the majority of customers do not take them when offered.”*

Small businesses can generally be viewed as a partner for delivering on sustainability policy objectives. However, small businesses raised concerns about the availability and higher costs of non-plastic alternatives. They raised issues relating to the definition of reusability, uncertainty regarding future regulations on plastics in specific sectors such as medical and aviation, and the need for consumer education and behaviour change.

*“I would have to source and use alternative and more expensive packaging, thereby increasing the cost to my customers.”*

*“Unsure of availability of alternatives.”*

*“Alternatives available but at a higher cost.”*

*“No alternates available and if restricted would be very vocal against those that made that decision (regarding plastic bags).”*

*“We have refrigerated items that can sweat so cannot use paper bags on all products.”*

Out of the surveyed small businesses, 14 per cent reported they either use or supply plastic items such as plastic containers or plastic bags. Of those businesses using or supplying these plastics, approximately one in five (18 per cent) anticipate the restriction or banning of single-use items will have a severe or major impact on their business (for example, indicating their business survival will be impacted or there will be significant challenges and costs).

To address identified concerns, further analysis should consider:

- the availability of alternative materials
- the costs associated with sourcing new materials
- the costs of exhausting or disposing of existing stock
- the costs of investing in new equipment, redesigning products to comply with new regulations, including new design standards and the impacts on innovation
- the cumulative impact of non-concerted initiatives at the Federal level, with a particular focus on how these affect franchisees
- the timeframe for implementation
- the timeframe required for consumer behaviour to adapt to these changes, acknowledging the indirect effects on small business operations.

The Commission recommends the consideration of enhanced policy support measures to assist small businesses in mitigating the compliance costs and successfully adhering to new regulations. A detailed comparative analysis of best practices from various jurisdictions should guide the development of effective support mechanisms, which could include targeted exemptions, grants for research and development, or the provision of expert business advisory services to assist small businesses in adapting to the future changes.

The Commission also encourages care when considering use of design standards as a solution to achieve certain policy objectives. Design standards have the potential to stifle innovation if they are insufficiently flexible to accommodate new approaches where can achieve objectives more efficiently or effectively.

Given the scale of the proposed actions, the Commission strongly recommends any regulatory actions be implemented in a staged process informed by impacted stakeholders. Initial actions should be prioritised against clear benefits and low risks for small businesses, with consideration to all available viable alternatives. This staged process will support a practical and manageable transition for small business, aligning regulatory changes with the feasibility and readiness of the market.

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

Yours sincerely

Chris Lamont  
**Commissioner**  
**NSW Small Business Commission**

Date: 01/02/24