

**INQUIRY INTO WASTE AVOIDANCE AND RESOURCE
RECOVERY AMENDMENT (PLASTICS REDUCTION)
BILL 2021**

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AUSTRALIAN
**FOOD &
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AFGC SUBMISSION

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BILL 2021 – NSW PARLIAMENT COMMITTEE NO.7 –
PLANNING AND ENVIRONMENT**

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Sustaining Australia

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, beverage and grocery manufacturing sector.

With an annual turnover in the 2018-19 financial year of \$127.1 billion, Australia's food and grocery manufacturing sector makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

The diverse and sustainable industry is made up of over 15,861 businesses and accounts for over \$75.1 billion of the nation's international trade. These businesses range from some of the largest globally significant multinational companies to small and medium enterprises. Industry made \$2.8 billion in capital investment in 2018-19.

Food, beverage and grocery manufacturing together forms Australia's largest manufacturing sector, representing 31.4 per cent of total manufacturing turnover in Australia.

The food and grocery manufacturing sector employs more than 274,800 Australians, representing 32.2 per cent of total manufacturing employment in Australia.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost 40 per cent of the total persons employed being in rural and regional Australia.

It is essential to the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

In Australia, the food and beverage (grocery was not included in the Government's strategy but is recognised as a vital industry) manufacturing sector has been confirmed as an essential service and a National Strategic Priority. The Australian Government through its recently announced Manufacturing Strategy has challenged the sector to develop an industry roadmap describing how it will contribute to the post-COVID-19 recovery through expanding manufacturing, growing jobs, boosting exports and enhancing sovereign capability across the sector.

Food and beverage manufacturing plays an integral role in Australia's economic and social fabric. It is the lifeblood of many regional and rural communities. As such it is well placed to do the heavy lifting in the Manufacturing Strategy through its size, its know-how in adding value to the commodities of the agricultural sector, and to leverage the reputation for safety and quality among consumers in overseas markets.

This submission has been prepared by the AFGC and reflects the collective views of the membership.

OVERVIEW

The Australian Food and Grocery Council (AFGC) welcomes the opportunity to contribute to the Portfolio Committee No.7 – Planning and Environment’s consultation process on the Waste Avoidance and Resource Recovery Amendments (Plastics Reduction) Bill 2021 (the Bill).

Australia’s food, beverage and grocery manufacturers, like the community and government, understand the impact that plastic and packaging can have on the environment when disposed of in an irresponsible manner. There is no doubt community expectations in relation to sustainability have evolved and, in regard to the food and grocery manufacturing sector, packaging sustainability is a key issue. That is why the sector has committed to increase the recycling rate and recyclability of product packaging through the 2025 National Packaging Targets:

- *Make all packaging 100 per cent recyclable, re-usable or compostable;*
- *70 per cent of plastic packaging is recycled or compostable;*
- *50 per cent average recycled content in packaging;*
- *Problematic and unnecessary single-use plastics packaging phased out.*

Given the central role the sector plays in the packaging supply chain, and the steps being taken to address sustainability in packaging, the AFGC believes it is well placed to contribute to the committee’s inquiry. There are several key issues the AFGC wishes to raise as outlined in our commentary below.

ISSUES

THE NEED FOR NATIONAL COORDINATION

While the AFGC strongly supports action to increase recovery and recycling of plastic and to reduce litter, such action needs to be coordinated across all tiers of government and the whole of the packaging value supply chain.

While the independence of the states allows governments to implement waste policy tailored to their state’s needs and to initiate and stimulate national progress, it can also produce adverse impacts that ultimately produce commercial inefficiencies, undermine commercial confidence for circular economy stakeholders to invest, and reduce potential environmental gains.

As AFGC member companies and the broader industry operate within national and often global supply chains, alignment across the jurisdictions is critical to providing brand owners with the scale necessary to drive optimal environmental outcomes. The AFGC notes that activity is being coordinated and driven at the federal level through the National Waste Policy and Action Plan, the Environment Ministers Meeting and the recent release of the National Plastic Plan.

Additionally, the AFGC urges continued support for the activity the Australian Packaging Covenant Organisation (APCO) is facilitating and driving to enable industry to achieve the voluntary National Packaging Targets. APCO has established working groups comprising government, industry, NGO’s and

other stakeholders, to enable progress towards meeting the National Packaging Targets and developing a packaging circular economy.

While the AFGC recognises and respects that each jurisdiction can legislate in their own right, it is the AFGC's view that the greatest environmental outcomes will be achieved if packaging policies and legislation are nationally compatible to drive investment in a national supply chain and circular economy.

DIVISION 2 – PLANNING FOR ELIMINATION OF PLASTICS POLLUTION

This section of the Bill requires amongst other things, the proposed Plastics Reduction Commission (to be established under this Bill) to develop strategies to achieve several targets.

Mandatory Targets

The AFGC notes that in this section the Bill seeks to mandate the National Packaging Targets but with some key differences, including the date for achieving the targets, which is problematic for several reasons.

There are several barriers to achieving the targets and a whole of supply chain approach and sufficient time is needed to develop the solutions to address these. APCO has established working groups, comprising of industry and other stakeholders, to address specific issues identified with the recoverability of 'problematic' packaging materials to enable progress towards meeting the National Packaging Targets.

The Australian Food and Grocery Council (AFGC) supports the National Packaging Targets because they allow for an industry average to be achieved. Mandating targets is impractical to enforce at a company level due to different packaging and food and chemical safety risk combinations.

Mandatory targets can also cause perverse outcomes that undermine the aim of developing a circular economy. Setting a mandatory recycled content target that all brand owners must achieve irrespective of product mix or packaging availability will be detrimental. To achieve mandatory national packaging targets would force brand owners to source packaging offshore when in food and/or chemical contact application resulting in a lower use of local recycled content. This undermines the development of a circular economy.

The National Packaging Targets are aligned with global best practice and in April 2020 APCO announced an increase in the target for overall recycled content across all packaging from an industry average of 30% to an average of 50% as data analysis found that Australia had already achieved the 30% target. This is a positive development and demonstrates industry's willingness to work towards achieving the National Packaging Targets and increase their ambition. However, it also underscores that mandating a target via legislation can become redundant. Moreover, mandating targets may act to suppress more ambitious levels being achieved as mandating a target can in effect serve as a signal to achieve a minimum compliance outcome.

Single- Use Plastic bans

The AFGC supports the initiative to address the impacts of single-use plastic products. The AFGC and brand owners recognise that plastic packaging can negatively impact land and marine environments when it is not disposed of in a responsible manner. The AFGC is supportive of reducing the usage of problematic

and unnecessary single use items, however a national definition is required to remove any ambiguity and to ensure any measures that are considered do not have unintended consequences for the community.

Packaging plays an important role in maintaining product freshness, quality and safety across many product and food types. It is critical that any proposed action to address single-use plastics and plastic packaging achieves the best environmental and community outcomes.

The AFGC has been collaborating with APCO to develop a process for brand owners to identify, phase out and substitute problematic and unnecessary single-use plastic packaging. The AFGC has also collaborated with the SA, ACT & Qld governments, through membership on their working groups to develop single use plastic ban legislation.

The AFGC recommends that a nationally consistent list of unnecessary and problematic single-use plastic items is developed to provide industry with certainty, clarity and confidence to invest in selecting environmentally superior substitutes and a national timeline be developed for implementing food and organics collections nationwide. Rather than establishing broad legal definitions of unnecessary and problematic single-use plastics, which may prove ambiguous in the long-term, a simple list of nationally consistent items could be drafted and agreed by all jurisdictions which would provide industry with certainty, clarity and confidence to invest. As AFGC members operate within national and often global supply chains, alignment across the jurisdictions will provide brand owners with the scale necessary to drive optimal environmental outcomes.

I note that the recent National Plastics Plan has included actions to phase out problematic and unnecessary plastics including to *“work with industry to fast-track the phase out of polymer types in certain applications, and consider regulatory action should industry phase outs not be achieved.”*

Microbeads

The Bill also includes a target to eliminate products containing microbeads. The AFGC notes that a voluntary phasing out of microbeads has been largely successful, with the Department of the Environment and Energy's May 2018 *Assessment of the voluntary phase out of microbeads* reporting concluding that *“.... on balance, industry's efforts to deliver a voluntary phase out of microbeads in rinse-off, personal care, cosmetic and cleaning products will be effective as at 1 July 2018 and that regulation is not needed at this stage”*.

Given the strong progress that has been made – and is continuing to be made – by industry, it is unclear why the Bill proposes to legislate a ban.

Recycled plastic packaging content targets

Regarding the provision in the Bill that all plastic packaging used in the State is comprised of at least 30% recycled content by the end of 2024, there are a number of barriers to achieving this, for example, a low recycling rate, low quality, and limited processing infrastructure limits the use of post-consumer recyclate in food and grocery packaging. Also, it must be stressed that plastics cannot be assessed as one single material type, as the various plastic polymers perform various packaging functions and also have a variety of recycling and recycled content rates.

There is currently a global shortage of food grade recycled plastic content and significant complexity in using recycled plastic material in food and other products due to health, hygiene and safety requirements. Any policy or regulation needs to consult very carefully on this issue due to the potential for unintended negative outcomes. While larger companies take a global leadership position, not all local manufacturers have the product mix, financial capability, or resources to move quickly. This needs to be a key consideration in any relevant policy development. Other recycling options such as chemical recycling also need to be considered as a potential solution to the recovery of mixed plastics that are unsuitable for recycling back into food, medicinal or chemical contact plastic products.

While industry is striving to meet the NPTs, there are several factors that make mandatory recycled content targets impractical or difficult to implement and/or could drive health and safety risks for community when applied to food and grocery products. These are detailed below:

- Lack of availability – Currently, only 18% of plastic packaging is recycled, making it difficult for brand owners to procure recycled content. For example, how could the Bill mandate 30% recycled content when only 18% is being recycled?
- Level playing field - Limited availability of recycled content would unfairly disadvantage SME's who cannot access material due to lack of global buying power. If mandated, a process would be needed to allocate the limited supply of recycled content between brand owners to ensure equitable distribution.
- Lack of quality – With only 18% being recycled, and an absence of recycling quality standards, there is very limited availability of food grade plastics.
- Conflict with food contact standards – The current voluntary food standard recommends that post-consumer recycled material (plastic) should not be used in direct contact with food.

Diagram 2 - Excerpt from Australian Standards AS 2070-1999 Plastics Materials for Food Contact Use

4.2 Rework materials

4.2.1 Source Rework materials used in the manufacture of plastics items for food contact use shall be prepared from plastics items that have not been used or printed and have been manufactured in compliance with this Standard from plastics materials prescribed in Clauses 4.1.1 and 4.1.2. Post-consumer recycled material shall not be used in direct contact with food.

However, as this is a voluntary standard, and is not referenced in the regulations, brand owners can include recycled content in their packaging, but must exercise extreme caution and undertake high levels of due diligence when introducing or increasing post-consumer recycle in food contact situations. As each chemical or food type and each polymer type differ considerably in chemical make-up and can therefore have differing chemical migration outcomes, a mandatory single recycled content threshold for all food types and all polymer types will increase the health and safety and food safety risk for the community. Hence the need for time and flexibility to achieve the recycled content aims in the National Packaging Targets.

- Technical recycled content limits – While 100% recycled content usage is technically feasible for some items like smaller carbonated beverage bottles, in many cases there is a technical limit to the

recycled content percentage. For example, larger carbonated beverage containers may be limited to 20-30% recycled content due to the additional pressure in 1ltr and 2 ltr bottles. Similarly, AFGC members report that the maximum recycled content that is technically feasible for use in milk and/or some laundry bottles is approximately 25% due to technical limitations of the recycled content when in food and/or chemical contact applications.

- Enforcement – Enforcement of a recycled content threshold is not practical without providing extensive food & health safety exemptions to prevent community health & safety risks.
- Traceability - It is a prerequisite to mandating recycled content usage and therefore reporting that recyclate has full (and independently verified) traceability through the supply chain to meet ACCC labelling and Modern Slavery reporting legislation. As this is currently an issue, the AFGC supports the APCO project to establish a recyclate traceability system for use by the recycling sector.

Due to the above technical realities that brand owners are facing, the AFGC supports the voluntary National Packaging Targets that allow brand owners time and flexibility to achieve the targets without inadvertently creating unnecessary community health and food safety risks as they are applied at a polymer level taking into account the following:

- The recycling rate of each polymer,
- The available recycled content of each polymer,
- The general use of each packaged item that considers chemical migration, product risk profiles to protect chemical and food safety,
- Allows each company to achieve the recycled content target based on their product mix, availability of fit for purpose/food grade recycled content without jeopardising community health and safety.

DIVISION 4 – PLASTICS REDUCTION COMMISSION

Part 48P Functions of the Commission

The AFGC notes that one of the functions listed for the proposed Plastics Reduction Commission is to advise the Minister on the implementation of extended producer responsibility schemes in relation to plastic waste.

The AFGC wishes to inform the Committee that it is currently developing the *National Plastics Recycling Scheme* (NPRS) to deliver a national scheme initially focusing on increasing the diversion of soft plastics from landfill. Supported by funding from the Federal Government's National Product Stewardship Investment Fund (PSIF), the scheme will initially focus on increasing the diversion of soft plastics such as bread, cereal and frozen vegetable bags, confectionery wrappers and toilet paper wrap from landfill and it will move on to support the increased recycling of other plastics that are currently difficult to collect and/ or recycle.

As an industry led and funded scheme, the NPRS will coordinate and focus the efforts of well-known food and grocery brands to significantly increase the recycling and reuse of plastic packaging. This will build on existing soft plastics recycling initiatives including the industry funded REDcycle program and the soft plastic kerbside collection trial run by Nestlé in collaboration with IQ Renew, Central Coast City Council and Licella, as well as projects and research by the Australian Packaging Covenant Organisation.

The AFGC recommends EPR schemes should only be considered in cases of market failure. For example, as the market for aluminium or steel recyclate is strong, an EPR would not be required. However, as collection rates, recycling rates and availability of food grade post-consumer recyclate for soft plastics are very low, the AFGC is creating an industry led product stewardship scheme.

CONCLUSION

In closing, the AFGC supports well-constructed regulation that has clear aims, is directly linked to outcomes, is nationally consistent and does not add an unnecessary burden on industry that is ultimately borne by the community as higher prices.

The AFGC supports the development of a circular economy and is committed to the achievement of the National Packaging Targets. As mentioned earlier, to enable the delivery of these aims, the AFGC is developing the National Plastics Recycling Scheme (NPRS).