

New Zealand Government



**Managing microbeads in  
personal care products  
CONSULTATION DOCUMENT**

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# Message from the Minister

Globally, the issue of plastic microbeads is gaining attention as we become aware of the damage these pervasive small grains of plastic cause when released into our environment.

The problem with plastic microbeads is that they are too small to be retrieved, they are cumulative and they do not biodegrade. Recent studies have shown they can be mistaken by marine life as food, causing long-term damage to aquatic animals like fish and mussels. This also poses a potential threat to human health as these sea creatures are caught and sold as kaimoana.

The use of plastic microbeads in personal care products like facial cleansers and toothpaste makes no sense when there are suitable alternatives; especially as these products – such as facial scrubs, toothpaste and body wash – are designed to be washed straight down the drain.

It is for these reasons we are proposing a ban on the sale and manufacture of personal care products containing microbeads in New Zealand. While New Zealand is a small consumer of plastic microbead products by international comparison, this initiative is important to maintain New Zealand's good name in global marine stewardship. We have responsibility for one of the largest areas of ocean, we have one of the best fishery management systems, we are leading with conservation measures like the Ross Sea Marine Protected Area and this initiative on microbeads will enhance our clean, green reputation.

This initiative is part of a global push to reduce the amount of plastic culminating in the oceans, with estimates indicating by weight there will be more plastic in the ocean than fish by 2050. The proposed New Zealand ban parallels similar initiatives being taken in the United States, United Kingdom, Canada, the European Union and Australia to ban or phase out the use of plastic microbeads in personal care products.

Some manufacturers have already agreed to phase out plastic microbead ingredients because of environmental concerns. While this is admirable, regulation will ensure the market responds swiftly.

I welcome feedback on the Government's proposal through this consultation document. This will enable us to take a well-informed and considered approach to ensure New Zealand maintains its high environmental standards.



A handwritten signature in black ink, which appears to read 'Nick Smith'. The signature is stylized and written in a cursive-like font.

Hon Dr Nick Smith  
Minister for the Environment

# Section 1: About this consultation

The Government is considering making regulations under the Waste Minimisation Act (WMA) 2008 to prohibit or control the manufacture and sale of personal care products containing microbeads in New Zealand.

Microbeads used in personal care products (and other industrial, biomedical and scientific products and processes) are not believed to be manufactured in New Zealand, and there is currently no Government policy or regulations specifically aimed at reducing the risk of impacts from microbeads. The Government is now considering how to manage the environmental, economic, social and cultural impacts of microbeads and is seeking feedback on the proposed approach to use the regulation-making power under the WMA for this purpose.

We are also seeking more information from New Zealand businesses and consumers on the range of personal care products containing microbeads to better understand the costs and benefits of regulatory intervention.

This consultation only considers prohibiting or controlling the manufacture and sale of personal care products containing microbeads in New Zealand through regulations under the WMA. It does not address controls around the importation or exportation of such products, nor does it consider regulation or controls of other products or sources of microplastics.

Information on how to make a submission, including questions to guide your feedback, is included in [Section 5](#) of this document.

**Submissions close at 5.00pm on Tuesday 28 February 2017.**

# Section 2: The problem with microbeads

## What are microbeads?

Microbeads are plastic beads (generally polyethylene) less than 5mm in size, manufactured for specific purposes, including for use in personal care products (such as bath products, facial scrubs and cleansers, and toothpastes). They are added to products to give texture, act as an abrasive or bulking agent, prolong shelf-life of the product, or provide visual interest, and are designed to be rinsed off and washed straight down the drain.

Microbeads are also used in other industrial products and processes such as airblast cleaning products, oil and gas exploration, textile printing, automotive moulding, and medical applications.

Recently, there has been growing international attention on the environmental impacts of microbeads. When used in personal care products, microbeads can enter the environment, mainly through effluent discharged from wastewater treatment plants. New Zealand's wastewater treatment systems are unable to capture all microbeads; therefore, a certain quantity enters the environment.

## The impacts of microbeads

Like other microplastics, microbeads are persistent, non-biodegradable and accumulate over time in the natural environment. Microbeads from personal care products are believed to make up a small percentage of all microplastics entering the oceans and waterways.

International attention and media have focused the issue of microbeads on personal care products, possibly because they are regarded as 'unnecessary' and designed to be washed straight down the drain. There are suitable natural alternatives to microbeads already being used, such as ground nut shells and apricot kernels.

International research on microbeads to date has looked at the impacts on the marine environment. Microbeads that do enter the marine environment are likely to be present in both the water column and sediment. They can be mistaken for food and ingested by aquatic organisms or ingested passively during filter feeding, with negative impacts such as internal damage and starvation.

A recent study found that some young fish have been found to prefer tiny particles of plastic to their natural food sources, effectively starving them before they can reproduce.<sup>1</sup> They have also been found in shellfish consumed by humans, raising questions about potential impacts on human health.

There is evidence of the toxicity of plastic particles in biological systems from marine invertebrates to mammals to human tissue. However, more research needs to be done on defining how toxic microbeads can be for human, animal and plant life.<sup>2</sup>

There is limited evidence internationally of the impacts of microbeads on fresh water, although any microbeads discharged from wastewater treatment plants would flow through fresh water on their way to the ocean. One United States study on microbeads and other microplastics in the Great Lakes

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<sup>1</sup> Eriksen M, Lebreton LCM, Carson HS, Thiel M, Moore CJ, Borroero, JC. et al. 2014. Plastic Pollution in the World's Oceans: More than 5 Trillion Plastic Pieces Weighing over 250,000 Tons Afloat at Sea. PLoS ONE 9(12): e111913. doi:10.1371/journal.pone.0111913.

<sup>2</sup> UNEP. 2015. *Plastics in Cosmetics: Are We Polluting the Environment through our Personal Care?* Retrieved from <http://unep.org/gpa/documents/publications/PlasticinCosmetics2015Factsheet.pdf>.



Region has shown that, of the total plastic found in the collected samples, 20 per cent were microbeads.<sup>3</sup> Therefore, there is reason to believe that the impacts of microbeads on New Zealand’s freshwater resources are similar to those on the marine environment.

In table 1, below, we have identified some of the potential impacts of microbeads and categorised these under environmental, economic, social and cultural headings.

**Table 1: Range of potential impacts caused by microbeads**

Environmental impacts	Economic impacts	Social impacts	Cultural impacts
<ul style="list-style-type: none"> <li>• Risk of damage to marine and freshwater biological diversity and ecosystems (ingestion, hormonal impacts, bioaccumulation of toxins)</li> <li>• Risk of limiting growth or causing death to marine and freshwater biodiversity</li> <li>• Risk of smothering marine and freshwater flora</li> </ul>	<ul style="list-style-type: none"> <li>• Risk of devaluing New Zealand’s fishing and shellfish exports and impacts on industry</li> <li>• Risk of eroding New Zealand’s natural capital and provision of ecosystem services (eg, ecotourism)</li> <li>• Negative impact on New Zealand’s international brand and reputation</li> </ul>	<ul style="list-style-type: none"> <li>• Possible risk to human health from ingesting contaminated seafood</li> <li>• Risk to social and recreational interests in marine and freshwater biological diversity and ecosystem services</li> </ul>	<ul style="list-style-type: none"> <li>• Risk of devaluing taonga and mahinga kai (prized natural and food gathering resources)</li> <li>• Risk to iwi/Māori ethos of sustainable resource use and management, exposing biodiversity to unacceptable risks</li> </ul>

## International context: what are others doing?

Environmental pollution from microplastics, and microbeads in particular, is an emerging issue worldwide. Other countries are already taking a variety of actions to manage the impacts of personal care products containing microbeads. The international trend is one of market leaders in personal care products using natural alternatives to microbeads or setting self-imposed timeframes to remove microbeads from their products.

### Banning microbeads in North America

The United States has introduced a ban on personal care products containing plastic microbeads under the Microbead-Free Waters Act, which takes effect from 1 July 2017 for manufacturing and 1 July 2018 for interstate commerce. The Act aims to protect the United States’ marine environment, waterways and the Great Lakes region, which it shares with Canada. However, the scope of products subject to the ban is particularly narrow, applying only to ‘rinse-off cosmetics’ with exfoliating or cleansing purposes.

Canada is also taking action to ban microbeads by adding them to the Canadian Environmental Protection Act’s list of toxic substances, which has very broad criteria for toxicity<sup>4</sup>. This allows the Canadian Government to propose new ‘risk management instruments’ for microbeads, including a ban on their use in personal care products (although specific plans have not yet been announced).

<sup>3</sup> Plastic microbeads in fresh water systems: Plastic microbead pollution a concern in Great Lakes. 2015. Retrieved from [https://thewaternetwork.com/article-FfV/plastic-microbeads-in-fresh-water-systems-zlg86dv2d7mCCp3X\\_axq4g](https://thewaternetwork.com/article-FfV/plastic-microbeads-in-fresh-water-systems-zlg86dv2d7mCCp3X_axq4g).

<sup>4</sup> The Canadian Environmental Protection Act has a definition of ‘toxic substance’, which describes a substance as toxic if “it is entering or may enter the environment in a quantity or concentration or under conditions that have or may have an immediate or long-term harmful effect on the environment or its biological diversity”.

## Bans in the United Kingdom and Europe

On 18 March 2016, the UK Parliament's independent Environmental Audit Committee launched an inquiry into the environmental impact of microplastics<sup>5</sup>, strategies to address the problem, and the state of knowledge.

Following the recommendation of the Committee<sup>6</sup>, the UK Government announced on 2 September 2016 that it would introduce a legislative ban on the sale of plastic microbeads in cosmetics and other toiletries by the end of 2017. This is a wider definition of scope for products containing microbeads than the one applied by the United States.

Media reports indicate that the Netherlands, Sweden, Austria, Belgium, Italy and Luxembourg have also lobbied the European Union to ban microbeads.

## Voluntary industry phase-out in Australia

A recent inquiry report of the Australian Senate's Environment and Communications References Committee recommended that the Australian Government "move to immediately ban the importation and production of personal care products containing microbeads".<sup>7</sup>

The Australian Government has formally notified the public that during 2016-17 it will consider whether some form of accreditation or regulation might be appropriate for plastic microbeads and products containing them. This follows the Federal Minister for the Environment's statement on 29 February 2016 that the federal government will take action to implement a ban on plastic microbeads at some point in 2018, if it is clear by 1 July 2017 that the industry voluntary phase-out, currently supported by state-level environment ministers, will not be effective.<sup>8</sup>

Two large Australian supermarket chains (Woolworths and Coles) have committed to phasing out their own products containing microbeads.

## Phase-out by international manufacturers

Alternatives are available – or can be developed – to perform the abrasive functions that microbeads fulfil in personal care products. A large number of phase-outs have recently been implemented by international manufacturers without the need for regulations, although the full scope of personal care products currently being phased out is unclear.

*Beat the Microbead* (an international campaign against microbeads in cosmetics supported by 84 NGOs from 35 countries) notes that leading international cosmetic manufacturers have eliminated or are moving to eliminate microbeads in their products.<sup>9</sup> These include Colgate-Palmolive, Unilever, Johnson & Johnson, Procter & Gamble, L'Oréal, Beiersdorf, The Body Shop, Ella Bache and Clarins.

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<sup>5</sup> House of Commons. 26 July 2016. Retrieved from <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmenvaud/179/17902.htm>.

<sup>6</sup> Ibid.

<sup>7</sup> Urquhart A. 2016. *Toxic tide: The threat of marine plastic pollution in Australia*. Retrieved from [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Marine\\_plastics/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Marine_plastics/Report).

<sup>8</sup> Australian Government: Department of the Environment and Energy: 2016-2017 Product List. 2016. Retrieved from <https://www.environment.gov.au/protection/national-waste-policy/product-stewardship/legislation/product-list-2016-17>.

<sup>9</sup> Beat the Microbead: International Campaign against Microbeads in Cosmetics. 2016. Retrieved from <https://www.beatthemicrobead.org/en/industry>.



There are UK media reports of over 40 cosmetics brands that either have not used, already phased out, or have plans to phase out microbeads in their products.

## Microbeads in New Zealand

As microbeads are a relatively new issue, their impacts on New Zealand's environment are currently unclear. However, international research suggests the continued use of microbeads will result in their increased presence in the environment and long-term effects on biological diversity and ecosystems. It is likely that microbeads are already present in New Zealand's oceans and coastal waters as a result of overseas and domestic use and discharge.

### What we know about microbeads in New Zealand

- In September 2015, *Beat the Microbead* undertook a random sample of supermarkets in New Zealand and found around 100 products containing microbeads.
- Information from New Zealand business associations and international media suggests around 75 of the 100 products identified as containing microbeads in September 2015 either no longer contain microbeads, or their international manufacturers have adopted timeframes to phase them out of products.
- We are not aware of any businesses importing or producing the microbeads (raw product) for use in personal care products.
- There are around 62 local companies and 15 manufacturers of cosmetics in New Zealand, which we understand do not put microbeads into their products.
- A study of microplastics on Canterbury's coastlines (published in the *New Zealand Journal of Marine and Freshwater Research*), isolated two microbead particles, which may represent the first instance in which these particles have been detected in local coastal sediments.<sup>10</sup>

There is currently no government policy or regulations specifically aimed at managing the risk of impacts from microbeads on the environment.

While removing personal care products containing microbeads from the New Zealand market is somewhat dependent on international manufacturers and consumer choice, they are an identifiable source of microbeads found in New Zealand's marine environment, for which there are natural and readily available alternatives. We can eliminate this particular source of microbeads to prevent or reduce the risk of their impacts now and in future.

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<sup>10</sup> Clunies-Ross, PJ, Smith, GPS, Gordon, KC, & Gaw, S. 2016. Synthetic shorelines in New Zealand? Quantification and characterisation of microplastic pollution on Canterbury's coastlines. *New Zealand Journal of Marine and Freshwater Research*, 50(2). pp.317-325.

## Section 3: Our proposal for managing the impacts of microbeads

This section outlines the Government's proposal to manage the range of environmental, economic, social and cultural impacts of microbeads. It reflects on the *status quo*, defines the problem regarding microbeads in New Zealand, and describes the objectives of the Government's proposal.

### Problem definition

- Personal care products are designed to be washed off or rinsed down wastewater treatment systems. New Zealand's wastewater treatment systems are unable to capture all microbeads; therefore, a certain quantity enters the environment.
- There is currently no Government policy or regulation specifically aimed at reducing the risk of impacts from microbeads on the marine environment.
- Microbeads are persistent and non-degradable, causing damage to marine ecosystems and potentially impacting on human health through the consumption of contaminated seafood. There is an accompanying risk of devaluing New Zealand's fishing industry and exports both through the reduced safety and quality of seafood products.
- The current approach may eventually resolve the issue but it is uncertain how long this would take. Under a precautionary approach there may be merit in taking action now rather than waiting for a market-based solution.

### Objectives

The primary objective of proposed regulation is to provide certainty that the impacts of microbeads on New Zealand's environment and human health are managed.

In achieving this objective it is also desirable to ensure that costs for New Zealand businesses, consumers and the Government are minimised.

Although the range of impacts caused by microbeads are not currently precisely known or quantified, the Government's proposal takes a precautionary approach to reduce the risk of the long-term impacts of microbeads on the environment and human health, as well as their wider socio-economic and cultural impacts.

### Regulation under the Waste Minimisation Act

To achieve the Government's objectives, we are proposing to prohibit or control the manufacture and sale of personal care products containing microbeads in New Zealand that are designed to be washed down the drain under section 23(1)(b) of the Waste Minimisation Act (WMA) 2008. For the full text of Section 23 of the WMA, please refer to the [Appendix](#).

We consider our proposal and objectives to be aligned with both the overarching purpose of the Waste Minimisation Act (WMA), and for the purposes of making regulations under the Act. The

overarching purpose of the WMA is to encourage waste minimisation and a decrease in waste disposal to:

- (a) protect the environment from harm; and
- (b) provide environmental, social, economic and cultural benefits.<sup>11</sup>

Under the WMA, regulations in relation to products, materials and waste may be made on the recommendation of the Minister for, among other purposes, “controlling or prohibiting the manufacture and sale of products that contain specified materials”.<sup>12</sup>

We, therefore, propose regulating microbeads as the “specified materials” in personal care products to be prohibited from manufacture and sale in New Zealand. However, the exact scope of personal care products to be affected by the proposed prohibition has not yet been defined and will be informed by the results of this consultation.

Before the release of this consultation document, a range of regulatory and non-regulatory options was considered as part of the Ministry for the Environment’s [regulatory impact analysis](#). The regulatory impact analysis considers regulation under the WMA to be the most targeted and effective intervention for managing the impacts of microbeads.

The effects of proposed regulation, including the affected scope of products, are discussed in [Section 4](#) of this document.

## International trade obligations

The policy approaches under consideration will be developed to take account of New Zealand’s international legal obligations.

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<sup>11</sup> Section 3 of the Waste Minimisation Act 2008.

<sup>12</sup> Section 23(1)(b), Waste Minimisation Act 2008.

## Section 4: Effects of the proposed regulations

This section considers the effects that the proposed regulations will have on the New Zealand public, including businesses and consumers. It is framed by the *scope of affected products*, their *available alternatives*, *administration and enforcement* mechanisms, and a suggested *timeframe* for entry-into-force of the proposed regulatory framework.

In addition, we want **your feedback** to inform the process of making regulations. We have provided specific questions under each of the subheadings of this section (products in scope, available alternatives, administration and enforcement, timeframe) to guide your feedback.

## Products in scope

Section 23(1)(b) of the Waste Minimisation Act (WMA) allows regulations to be developed for controlling or prohibiting the manufacture or sale of products that contain specified materials. We propose using this specific provision to prohibit the manufacture and sale in New Zealand of personal care products containing microbeads that are designed to be washed down the drain.

Regulation would provide a precise phase-out date and, therefore, certainty for the market that personal care products containing microbeads cannot be manufactured or sold in New Zealand. The information we have gathered indicates the New Zealand market is following the international trend of phasing out the use of microbeads, although the scope of products is unknown.

### Definition of products in scope

We have not yet devised a specific definition for the scope of personal care products containing microbeads that will be affected by the proposed regulations. This is because there is limited information available in New Zealand on the full range of products containing microbeads. There is a risk that the definition could be too narrow to achieve the Government's objectives for managing the range of impacts of microbeads on the environment and human health. However, the intent of the proposed regulation would be to ban the sale and manufacture of all personal care products containing microbeads that are 'rinsed off', for example body scrubs, facial cleaners, and toothpastes.

Our preference is to define the scope of products as broadly as possible to achieve the Government's objectives, extending the definition to all personal care products containing microbeads regardless of their size, function or use. We note, however, that United States legislation restricts the prohibition on manufacture, importation and sale of microbeads products to "rinse-off cosmetics" that are for the purposes of exfoliation or cleansing only.

Therefore, we would be interested in your feedback on the range of different personal care products currently being used that contain microbeads, as well as their specific uses and functions (refer to the Questions on the next page to guide your feedback).

### Out of scope

It should be noted that developing regulations under section 23(1)(b) of the WMA will only prohibit the manufacture and sale of products containing microbeads. They would not prohibit the importation or use of products containing microbeads in New Zealand.

If regulations were developed under the WMA, it is unclear to what extent products containing microbeads would continue to be imported into New Zealand (eg, for personal use). However, we anticipate the majority of consumers would purchase personal care products from local suppliers, which, following the entry-into-force of the proposed regulations, would no longer contain microbeads.

We have not identified any personal care products containing microbeads in New Zealand that have an essential or critical use, such as healthcare or medical products. However, we note that the proposed legislation in Canada does not apply to prescription drugs containing microbeads. There is a risk in New Zealand that controlling or prohibiting the manufacture and sale of products containing microbeads may unintentionally capture products that serve an essential purpose.

Section 23(1)(b) of the WMA allows for “controls” to be put in place, rather than a blanket prohibition. We anticipate that controls could set out a general prohibition and provide for exemptions on the grounds of essential or critical uses, if such products are identified.

The ban on sale of personal care products containing microbeads in New Zealand would not apply to any microbeads products produced in or imported into Australia that may lawfully be sold in Australia, by virtue of Section 10 of the Trans-Tasman Mutual Recognition Act.

### Questions

1. Do you agree with the Government’s proposal to prohibit the manufacture and sale of personal care products containing microbeads (eg, body scrubs, facial cleaners, toothpastes) to reduce their impacts on New Zealand’s environment and human health? Why/why not?
2. What are your views on the Government narrowing or widening the definition of the scope of personal care products containing microbeads that are designed to be washed down the drain to be prohibited from manufacture and sale in New Zealand?
3. Do you currently manufacture, sell or use any personal care products containing microbeads? Please specify.
4. Do you currently manufacture, sell or use any personal care products containing microbeads for medically prescribed uses or purposes? Please specify.
5. Do you currently import any personal care products containing microbeads into New Zealand, either for sale or personal use? Please specify, including the source of the product.
6. Are you aware of any personal care products containing microbeads for any purpose that could be considered an essential or critical use? Please specify.



## Available alternatives

The Waste Minimisation Act states that regulations must not be developed unless a reasonably practicable alternative to the specified materials (in this case, microbeads) is available.

We consider this condition would be met as alternatives are available or can be developed to perform the same functions as microbeads, enabling the same desirable product qualities. Many natural alternatives to microbeads are being added to existing personal care products, such as apricot kernels and ground nut shells (almonds, walnuts, etc), which do not have the same impacts on the environment or human health.

Therefore, we do not consider there to be any obstacles to businesses or consumers obtaining alternative products to be used for the same purposes as those containing microbeads. However, specific quantifiable information on the range of products containing microbeads (and their alternatives) is not currently available in New Zealand.

It is unlikely, but a possibility, that there are critical differences between personal care products containing microbeads and their alternatives in terms of price, availability and function. This may make the alternative products not reasonably practicable as required under the Waste Minimisation Act. Therefore, we would appreciate your feedback on whether such critical differences exist.

### Questions

7. Do you currently manufacture, sell or use any alternatives to personal care products containing microbeads (or components therein), which are designed and used for the same purpose(s)? Please specify.
8. Do you consider the alternatives to personal care products containing microbeads (or components therein) to be reasonably practicable, readily available, and similarly priced for existing personal, business or other uses? Why/why not?
9. Is there any reason why the alternatives would not be reasonably practicable, readily available, or similarly priced for personal, business or other uses? If so, would you consider operating against the policy intent and importing personal care products containing microbeads from overseas?
10. What would be the impact on you or your business if personal care products containing microbeads were prohibited from manufacture and sale in New Zealand and the alternatives were not reasonably practicable, readily available, or similarly priced?

## Administration and enforcement

In developing regulations under section 23(1)(b) of the Waste Minimisation Act (WMA) to prohibit the manufacture and sale of personal care products containing microbeads, it would also be necessary to create mechanisms for the administration and enforcement of the regulations.

Under section 76(1) of the WMA, the Secretary for the Environment can appoint a person as an enforcement officer for the purposes of ensuring compliance with regulations made under the WMA. We consider the Environmental Protection Authority (EPA) is best placed to undertake enforcement of the proposed regulations, as well as ongoing monitoring and evaluation.

Section 65(1)(d) of the WMA states it is an offence to “knowingly contravene” regulations made under section 23(1)(b) of the WMA to prohibit manufacture or sale of products. Any person committing an offence is liable for a fine on conviction in court not exceeding \$100,000. We expect there would be no (or very few) breaches for manufacturing personal care products containing microbeads, as manufacture does not currently take place in New Zealand. However, there may be a considerable number of breaches annually for selling personal care products containing microbeads, most likely from smaller New Zealand retailers.

The appointment of the EPA as an enforcement officer under the WMA would incur initial set-up costs, as well as ongoing administrative costs per year, which would be covered by the Government.

### Questions

11. Do you support the Government’s approach to administration and enforcement of the proposed regulations under the Waste Minimisation Act? Why/why not?
12. Are there any other considerations for administration and enforcement of the proposed regulations that have not been outlined in the Administration and enforcement section of this consultation document?

## Timeframe

The Government proposes that, should the proposed new regulations under section 23(1)(b) of the Waste Minimisation Act be progressed through the necessary government process, they could be aligned with those in the United States to enter into force sometime in 2018.

Upon entry-into-force, the manufacture and sale in New Zealand of personal care products containing microbeads that are designed to be washed down the drain would be prohibited, and any breach of the regulations could be investigated under the administration and enforcement mechanisms outlined in the previous section.

The proposed timeframe would enable the Government to undertake the necessary policy decisions and processes, and would provide businesses, consumers and the Environmental Protection Authority with enough lead-in time to prepare for entry-into-force of the regulations throughout 2017.

We consider this to be a reasonable amount of time for any individuals and businesses that currently sell or use personal care products containing microbeads to phase out existing stocks and replace them with the available alternatives.

### Questions

13. What are your views on the Government's proposed timeframe for entry-into-force of the regulations under the Waste Minimisation Act to prohibit the manufacture and sale of personal care products containing microbeads?
14. Are there any issues about the proposed timeframe for entry-into-force of the regulations that the Government should consider?
15. Are there any ways the Government could help industry or consumers transition away from personal care products containing microbeads ahead of the regulations' entry-into-force?

# Section 5: Consultation process

## How to make a submission

The Government welcomes your feedback on this consultation document. The questions posed throughout this document are provided below. They are a guide only and all comments are welcome. You do not have to answer all the questions.

To ensure your point of view is clearly understood, you should explain your rationale and provide supporting evidence where appropriate.

You can make a submission in three ways:

- use our online submission tool, available at [www.mfe.govt.nz/consultation/proposal-ban-sale-and-manufacture-plastic-microbeads-personal-care-products-new-zealand](http://www.mfe.govt.nz/consultation/proposal-ban-sale-and-manufacture-plastic-microbeads-personal-care-products-new-zealand)
- download a copy of the submission form to complete and return to us. This is available at [www.mfe.govt.nz/consultation/proposal-ban-sale-and-manufacture-plastic-microbeads-personal-care-products-new-zealand](http://www.mfe.govt.nz/consultation/proposal-ban-sale-and-manufacture-plastic-microbeads-personal-care-products-new-zealand). If you do not have access to a computer, a copy of the submission form can be posted to you
- write your own submission.

If you are posting your submission, send it to Microbeads consultation, Ministry for the Environment, PO Box 10362, Wellington 6143 and include:

- the title of the consultation (*Managing microbeads in personal care products*)
- your name or organisation
- postal address
- telephone number
- email address.

If you are emailing your submission, send it to [microbeads.submissions@mfe.govt.nz](mailto:microbeads.submissions@mfe.govt.nz) as a:

- PDF
- Microsoft Word document.

**Submissions close at 5.00pm on Tuesday 28 February 2017.**

## Contact for queries

Please direct any queries to:

Phone: +64 4 439 7400

Email: [info@mfe.govt.nz](mailto:info@mfe.govt.nz)

Postal: Microbeads consultation, Ministry for the Environment, PO Box 10362, Wellington 6143

## Publishing and releasing submissions

All or part of any written submission (including names of submitters) may be published on the Ministry for the Environment's website, [www.mfe.govt.nz](http://www.mfe.govt.nz). Unless you clearly specify otherwise in your submission, the Ministry will consider that you have consented to website posting of both your submission and your name.

Contents of submissions may be released to the public under the Official Information Act 1982, following requests to the Ministry for the Environment (including via email). Please advise if you have any objection to the release of any information contained in a submission and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. We will take into account all such objections when responding to requests for copies of, and information on, submissions to this document under the Official Information Act.

The Privacy Act 1993 applies certain principles about the collection, use and disclosure of information about individuals by various agencies, including the Ministry for the Environment. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in relation to the matters covered by this consultation. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.

## Questions to guide your feedback

### Products in scope

1. Do you agree with the Government's proposal to prohibit the manufacture and sale of personal care products containing microbeads (eg, body scrubs, facial cleaners, toothpastes) to reduce their impacts on New Zealand's environment and human health? Why/why not?
2. What are your views on the Government narrowing or widening the definition of the scope of personal care products containing microbeads to be prohibited from manufacture and sale in New Zealand?
3. Do you currently manufacture, sell or use any personal care products containing microbeads? Please specify.
4. Do you currently manufacture, sell or use any personal care products containing microbeads for medically prescribed uses or purposes? Please specify.
5. Do you currently import any personal care products containing microbeads into New Zealand, either for sale or personal use? Please specify.
6. Are you aware of any personal care products containing microbeads for any purpose that could be considered an essential or critical use?

### Available alternatives

7. Do you currently manufacture, sell or use any alternatives to personal care products containing microbeads (or components therein), which are designed and used for the same purpose(s)? Please specify.
8. Do you consider the alternatives to personal care products containing microbeads (or components therein) to be reasonably practicable, readily available, and similarly priced for existing personal, business or other uses? Why/why not?

9. Is there any reason why the alternatives would not be reasonably practicable, readily available, or similarly priced for personal, business or other uses? If so, would you consider operating against the policy intent and importing personal care products containing microbeads from overseas?
10. What would be the impact on you or your business if personal care products containing microbeads were prohibited for manufacture and sale in New Zealand and the alternatives were not reasonably practicable, readily available, or similarly priced?

### **Administration and enforcement**

11. Do you support the Government's approach to administration and enforcement of the proposed regulations under the Waste Minimisation Act? Why/why not?
12. Are there any other considerations for administration and enforcement of the proposed regulations that have not been outlined in the Administration and enforcement section of this consultation document?

### **Timeframe**

13. What are your views on the Government's proposed timeframe for entry-into-force of the regulations under the Waste Minimisation Act to prohibit the manufacture and sale of personal care products containing microbeads?
14. Are there any issues about the proposed timeframe for entry-into-force of the regulations that the Government should consider?
15. Are there any ways the Government could help industry or consumers transition away from personal care products containing microbeads ahead of the regulations' entry-into-force?

### **Other comments**

16. Do you have any further comments you wish to make on the Government's proposal?



# Appendix: Section 23 of the Waste Minimisation Act 2008

## 23 Regulations in relation to products (whether or not priority products), materials, and waste

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes:

### *Control or prohibition on disposal, sale, etc*

(a) controlling or prohibiting the disposal, or anything done for the purpose of disposing, of products or waste:

(b) controlling or prohibiting the manufacture or sale of products that contain specified materials:

### *Take-back services, fees, and refundable deposits*

(c) requiring specified classes of person to provide a take-back service for products, and prescribing requirements for—

(i) the take-back service; and

(ii) the reuse, recycling, recovery, treatment, or disposal of products taken back:

(d) setting fees payable for the management of a product and specifying—

(i) the class or classes of person who must pay the fee; and

(ii) the stages in the life of the product where the fee must be paid; and

(iii) the purposes to which the fee must be applied:

(e) requiring specified classes of person to charge a deposit on the sale of a product, requiring the deposits to be refunded in specified circumstances, and prescribing requirements for the application of any deposits not refunded:

### *Labelling of products*

(f) prescribing requirements for the labelling of a product:

### *Quality standards*

(g) for any product or material that has become waste, prescribing standards to be met when reusing, recycling, or recovering the product or material:

(h) requiring specified persons or specified classes of person to ensure that the standards prescribed under paragraph (g) are met:

*Information to be collected and provided*

(i) requiring specified persons or specified classes of person to collect, and provide to the Secretary, information about any requirements imposed in regulations made under paragraph (a), (b), (c), (d), or (e):

*Miscellaneous*

(j) providing for any other matter contemplated by this Part.

(2) The Minister must not recommend the making of regulations—

(a) under subsection (1) (a), unless he or she is satisfied that there is adequate infrastructure and facilities in place to provide a reasonably practicable alternative to disposal or, if not, that a reasonable time is provided before the regulations come into force for adequate infrastructure and facilities to be put in place:

(b) under subsection (1) (b), unless a reasonably practicable alternative to the specified materials is available.

(3) Before recommending the making of regulations under subsection (1), the Minister must—

(a) obtain and consider the advice of the Waste Advisory Board; and

(b) be satisfied that—

(i) there has been adequate consultation with persons or organisations who may be significantly affected by the regulations; and

(ii) the benefits expected from implementing the regulations exceed the costs expected from implementing the regulations; and

(iii) the regulations are consistent with New Zealand's international obligations.

# References

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