

New Zealand Government



**Managing microbeads in  
personal care products  
SUMMARY OF SUBMISSIONS**

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# Managing microbeads in personal care products consultation

From 2 January to 28 February 2017, the New Zealand Government consulted on a proposal to prohibit the manufacture and sale of personal care products which contain microbeads in New Zealand. The Government proposed to do this by regulation under the Waste Minimisation Act 2008.

The Ministry for the Environment received 16,223 submissions on this proposal during the consultation period. These submissions can be viewed on our website.

Microbeads are synthetic, non-biodegradable plastic beads, in dimensions of 5 mm or less. Manufacturers add them into personal care products such as bath products, facial scrubs and cleansers, and toothpastes. In these products, they act as abrasive or bulking agents. They also provide added texture, visual interest, or shelf life.

Once used, these products go down the drain into local water treatment plants. The filtering systems of these plants only partially capture the microbeads. As a result, microbeads enter the marine environment. There is increasing global evidence that, because they are not biodegradable, they have negative effects on the marine environment.

The [consultation document](#) is available on our website.

# About this report

This report presents a summary of the views expressed in the submissions, and groups them by common themes and submitter types.

The report does not provide an analysis of those views, or recommendations in response to them. Any recommendations in response to these submissions will be made through policy advice to Cabinet.

# Summary and themes

## Overwhelming support

Table 1 breaks down the 16,223 submissions received by submitter type and general position on the Government’s proposal.

To best reflect the tenor of submissions they are grouped into three categories:

- supported
- supported in part
- not specified.

Due to the nature of some of the submissions, some interpretation was necessary to apply these categories.

Identification of the submission being in *support* does not necessarily mean the submitter did not offer suggestions for improvement. This only means that the submitter did not suggest that the support was contingent on those suggestions appearing in the final regulation.

Where the position of a submission was not obvious, submissions were categorised as ‘unclear/not specified’.

A *support in part* submission was one that:

- supported a ban on microbeads in personal care products in principle, but
- disagreed with specific aspects of the proposal.

**Table 1: Breakdown of submissions by submitter type and general position**

General position	Submitter type					Total
	Individual	Business / Industry	NGO	Local government	Other	
Support	16,156	16	6	3	3	16,184
Support in part	25	6	1	1	0	33
Oppose	0	0	0	0	0	0
Unclear / Not specified	5				1	6
Total	16,186	22	7	4	4	16,223

The overwhelming majority of submitters supported the Government’s proposal for managing microbeads in personal care products (99.8%). Thirty-three submissions supported the proposal in part. Six submissions were unclear about or did not specify their position. No submissions were opposed.

## Support

As shown in table 1, the general make-up of submitters supporting the proposal was mostly individuals (16,156), followed by business/industry (16), non-governmental organisations (NGOs) (6), local government (3) and other (3).

## Support in part

Thirty-three submissions fell into this category, comprised of 25 submissions from individuals, 6 from business/industry, 1 NGO, and 1 other.

## Unclear/not specified

Five individual submitters did not explicitly state their position on the proposal either way.

## A better defined policy

Those submitters who supported the proposal and those supporting it in part echoed similar themes in their submissions.

Those supporting the proposal said:

- they supported a legislative ban under the Waste Minimisation Act
- they supported widening the scope of the definition of microbeads in the ban
- there are many alternatives to using microbeads in personal care products.

Those supporting the proposal in part said:

- they supported the general intent of the proposal, but preferred a more rigorous policy with a wider scope of products containing microbeads
- further work is needed to find out the impact of microbeads in other products and processes
- the ban must be implemented as soon as possible
- the Trans-Tasman Mutual Recognition Act should not allow microbeads to enter New Zealand via Australia
- implementing the ban through the Imports and Exports (Restriction) Act 1988 would provide greater certainty.

All submitters (supporting and supporting in part) argued:

- microbeads are part of a wider plastics problem
- the Government should take action to prevent plastic bags harming the environment.

## Support by submitter groups

### Business/Industry

We received 22 submissions from business and industry groups.

Industry organisations and businesses involved with personal care products were strongly supportive of the proposal. Some, including The Warehouse Group Ltd and the Cosmetic

Toiletry and Fragrances Association of New Zealand (CTFA), highlighted that they had already made commitments to stop supplying personal care products that contain microbeads<sup>1, 2, 3, 4</sup>. Other representative groups such as Consumer New Zealand and the New Zealand Food & Grocery Council, were also supportive.

No business / industry submissions opposed the proposal.

## Central government

No submissions were received from central government about the proposal.

## Local government

Four submissions were received from local government.

Northland Regional Council<sup>5</sup>, Christchurch City Council<sup>6</sup> and the Bay of Plenty Regional Council<sup>7</sup> all supported the proposals. Auckland Council supported the proposals in part<sup>8</sup>.

No submissions were received from local government opposing the proposal.

## Non-governmental organisations

Seven NGOs made submissions.

NGOs who submitted included:

- environmental interest groups (eg, Greenpeace, and Environmental and Conservation Organisations of New Zealand Inc.)
- industry organisations (eg, The New Zealand Product Stewardship Council, the Packaging Council of New Zealand Inc., and Civic Trust Auckland)
- community groups (eg, Working Waters Trust and Hāpai Te Hauora Tāpui).

Six of the NGO submitters supported the proposal. The Packaging Council of New Zealand Inc. (PCNZ) supported the proposal in part.

## Iwi

No submissions were received from iwi. However, a submission from Hāpai Te Hauora Tāpui, an NGO focused on Māori health issues, supported the proposal. This submission is examined in more detail below.

## Political parties

No political parties made submissions.

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<sup>1</sup> Individual submitter, Submission reference number 31473.

<sup>2</sup> Cosmetic Toiletry and Fragrances Association of New Zealand Inc, Submission reference number 31545.

<sup>3</sup> New Zealand Food and Grocery Council, Submission reference number 31576.

<sup>4</sup> Foodstuffs, Submission reference number 32673.

<sup>5</sup> Northland Regional Council, Submission reference number 24314.

<sup>6</sup> Christchurch City Council, Submission reference number 30335.

<sup>7</sup> Bay of Plenty Regional Council, Submission reference number 31619.

<sup>8</sup> Auckland Council, Submission reference number 31584.



## Individuals

A total of 16,186 individuals made submissions (ie, those not submitting on behalf of an organisation). Greenpeace provided a form template for individuals to use to make submissions on the proposals. A total of 15,888 of the individual submissions received used the Greenpeace form template<sup>9</sup>. All these submissions supported the proposal.

## Key themes

The key themes identified during the analysis of submissions all focused on creating a more wide-ranging policy and earlier implementation. These themes were:

- define the scope of the ban on microbeads
- alternatives to using microbeads
- microbeads in other products and processes
- ban import as well as manufacture and sale
- timing of the ban
- microbeads part of a wider plastics problem.

## Defining the scope of the ban on microbeads

The majority of the submissions supporting the proposals did so because of concern about the effects of microbeads on the marine environment.

Greenpeace recommended that the legislation should:

- encompass all microplastic ingredients
- apply to all relevant product types
- give no exemptions for biodegradable plastic ingredients<sup>10</sup>.

Some submitters argued that there is confusion around the terminology in the proposal. These submitters asked that the term 'plastic microbeads' be used in the proposed regulations (rather than 'microbeads', or 'microplastics')<sup>11, 12, 13</sup>. The PCNZ requested that the proposed regulations give a clear definition of the chemical composition and size of microbeads, and the products or types of products to be banned<sup>14</sup>. Similarly, the CTFA recommended that the definition of the products to be banned only refer to facial cleansing products designed to go down the drain<sup>15</sup>.

The CTFA also made the point that any legal definitions in New Zealand law will need to align with international definitions, as all microbead-containing products are imported from

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<sup>9</sup> 160 submitters included additional comments to the Greenpeace form template. We have included all additional comments in our analysis of submissions.

<sup>10</sup> Greenpeace, Submission reference number 31546.

<sup>11</sup> Individual submitter, Submission reference number 31473.

<sup>12</sup> Shiseido Co. Ltd., Submission reference number 31168.

<sup>13</sup> New Zealand Food and Grocery Council, Submission reference number 31576.

<sup>14</sup> Packaging Council of New Zealand, Inc., Submission reference number 31556.

<sup>15</sup> Cosmetic Toiletry and Fragrances Association of New Zealand Inc., Submission reference number 31545.

overseas<sup>16</sup>. Other business-related submitters (mostly writing from overseas) recommended that the definition of microbeads align with those used in overseas legislation<sup>17, 18, 19</sup>.

Both the CTFA and Northland Regional Council suggested that any medicine accepted by the Ministry of Health that contains microbeads should be permitted<sup>20, 21</sup>.

## Alternatives to using microbeads

The majority of the submissions supporting the proposals argued that there are natural alternatives to microbeads<sup>22</sup>, which should be used. The New Zealand Product Stewardship Council (NZPSC) stated that alternatives to microbead-containing products are readily available in New Zealand<sup>23</sup>. The Warehouse Group stated that it already sells alternatives which contain crushed almond shells and oats<sup>24</sup>.

There was some divergence of opinion on whether products which do not contain microbeads will be more expensive or not. The NZPSC stated that these alternatives are not necessarily more expensive than microbead-containing products<sup>25</sup>. Individual submitters tended to believe that the alternative products would be slightly more expensive, but stated that they would use them regardless of this<sup>26</sup>.

## Microbeads in other products and processes

Many of these submissions supported banning the use of microbeads in personal care products, but made the point that microbeads are also found in other common products. These include textile printing, automotive moulding, and air blasting. All submitters who noted this recommended that the Government investigate these uses of microbeads, and plan to address them as well<sup>27, 28, 29, 30, 31, 32, 33</sup>.

Because of this, many individual submitters argued that all products that contain microbeads should be banned. For example, one submitter stated:

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<sup>16</sup> Cosmetic Toiletry and Fragrances Association of New Zealand Inc., Submission reference number 31545.

<sup>17</sup> U.S Personal Care Products Council (PCPC), Submission reference number 31241.

<sup>18</sup> Japan Cosmetic Industry Association, Submission reference number 30895.

<sup>19</sup> Shiseido Co. Ltd., Submission reference number 31168.

<sup>20</sup> Cosmetic Toiletry and Fragrances Association of New Zealand Inc., Submission reference number 31545.

<sup>21</sup> Northland Regional Council, Submission reference number 24314.

<sup>22</sup> Individual submitter, Submission reference number 15471.

<sup>23</sup> The New Zealand Product Stewardship Council, Submission reference number 24312.

<sup>24</sup> The Warehouse Group, Submission reference number 30168.

<sup>25</sup> The New Zealand Product Stewardship Council, Submission reference number 24312.

<sup>26</sup> Individual submitter, Submission reference number 15467.

<sup>27</sup> Individual submitter, Submission reference number 15467.

<sup>28</sup> WasteMINZ (TA Steering Forum Committee), Submission reference number 31455.

<sup>29</sup> Auckland Council, Submission reference number 31584.

<sup>30</sup> The New Zealand Product Stewardship Council, Submission reference number 24312.

<sup>31</sup> The Warehouse Group, Submission reference number 30168.

<sup>32</sup> Auckland Council, Submission reference number 31584.

<sup>33</sup> Bay of Plenty Regional Council, Submission reference number 31619.

“Marine life doesn’t distinguish between plastic from a face wash and plastic from a washing detergent, so the microbeads ban must cover all plastics in all household and industrial products that go down our drains”<sup>34</sup>

Alternatively, another submitter proposed focusing the ban on microbeads themselves, and not products which contain microbeads:

“It is illogical to define the prohibition on product type, the law must logically be used to define a prohibition on ingredients: i.e. the ban must be of microbeads, not the product types that may contain them”<sup>35</sup>

Another submitter, an overseas expert and academic, suggested exempting microbeads that are non-toxic, non-bioaccumulative and that biodegrade reasonably rapidly<sup>36</sup>. However, Greenpeace argued that microbeads should not be replaced by so-called ‘bioplastics’, as these also cause environmental damage<sup>37</sup>.

## **Ban import as well as manufacture and sale**

A number of submitters stated that products that contain microbeads are not manufactured in New Zealand<sup>38</sup>, but are imported from overseas<sup>39</sup>. These submitters stated that this means that microbead-containing products will only enter the country from overseas, implying that it is more important to regulate their importation into the country<sup>40</sup>.

Because of this, Auckland Council and WasteMINZ (TA Forum Steering Committee) argued that regulatory action through the Imports and Exports (Restriction) Act 1988 would provide more certainty that these products are not used in New Zealand<sup>41</sup>. WasteMINZ also suggested that Government ensures the proposed regulations are implemented in tandem with other international legislation banning microbeads, to ensure that excess products from overseas are not sold in New Zealand<sup>42</sup>.

Also, Retail NZ suggested that the proposed regulations should include penalties for importers of personal care products which contain microbeads<sup>43</sup>. The NZPSC suggested differentiated penalties for large and small importers<sup>44</sup>.

Greenpeace raised concerns around the potential effects of the Trans-Tasman Mutual Recognition Agreement. Under this agreement, a ban on the sale of microbead-containing products could potentially not apply to products imported from Australia. Greenpeace urged the Ministry for the Environment to:

“... explore all options for ensuring products containing microbeads do not enter supermarket shelves in New Zealand via the Australian market”<sup>45</sup>.

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<sup>34</sup> Individual submitter, Submission reference number 15479.

<sup>35</sup> Individual submitter, Submission reference number 15477.

<sup>36</sup> Individual submitter, Submission reference number 31617.

<sup>37</sup> Greenpeace, Submission reference number 31546.

<sup>38</sup> Cosmetic Toiletry and Fragrances Association of New Zealand Inc., Submission reference number 31545.

<sup>39</sup> Informal queries by Ministry for the Environment staff have revealed at least one manufacturer of affected products in New Zealand.

<sup>40</sup> Individual submitter, Submission reference number 15479.

<sup>41</sup> Auckland Council, Submission reference number 31584.

<sup>42</sup> WasteMINZ (TA Steering Forum Committee), Submission reference number 31455.

<sup>43</sup> Retail NZ, Submission reference number 31598.

<sup>44</sup> The New Zealand Product Stewardship Council, Submission reference number 24312.

## Timing of the ban

Submitters were divided in their opinions of when the ban should come into effect. Many individual submitters argued for banning microbead-containing products before 2018<sup>46, 47, 48</sup>, or “... as soon as possible”<sup>49</sup>.

Business submitters mostly stated that the proposed date of 2018 (at the earliest) gives adequate time to clear their own existing stocks of products that contain microbeads<sup>50, 51, 52</sup>. Other business submitters suggested timeframes of between 12 months<sup>53</sup> to 2 years as being enough to allow enterprise to reformulate products<sup>54</sup>, and sell those products that are already on the market<sup>55</sup>. This is because many customers will not want to buy these products once concerns about microbeads are made more public<sup>56, 57, 58, 59</sup>.

Together with the Shiseido Company Ltd<sup>60</sup> and the US Personal Care Products Council<sup>61</sup>, the Japan Cosmetic Industry Association also requested an adequate grace period for overseas-based companies to comply with the proposed regulation<sup>62</sup>.

Greenpeace stated that two years from the announcement is a reasonable upper limit for the timeframe, as several multinational brands have adopted this internally and the United States of America has used it in its own legislation<sup>63</sup>.

## Microbeads part of a wider plastics problem

Business and local government submitters made the point that microbeads are only a small part of a much larger problem<sup>64, 65</sup>. The NZPSC argued that:

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<sup>45</sup> Greenpeace, Submission reference number 31546.

<sup>46</sup> Individual submitter, Submission reference number 15467.

<sup>47</sup> Individual submitter, Submission reference number 15479.

<sup>48</sup> Individual submitter, Submission reference number 15477.

<sup>49</sup> Individual submitter, Submission reference number 15471.

<sup>50</sup> The New Zealand Product Stewardship Council, Submission reference number 24312.

<sup>51</sup> Cosmetic Toiletry and Fragrances Association of New Zealand Inc., Submission reference number 31545.

<sup>52</sup> The New Zealand Product Stewardship Council, Submission reference number 24312.

<sup>53</sup> Retail NZ, Submission reference number 31598.

<sup>54</sup> Shiseido Co. Ltd., Submission reference number 31168.

<sup>55</sup> U.S Personal Care Products Council, Submission reference number 31241.

<sup>56</sup> The Vault, Submission reference number 15469.

<sup>57</sup> Individual submitter, Submission reference number 31473.

<sup>58</sup> Cosmetic Toiletry and Fragrances Association of NZ Inc, Submission reference number 31545.

<sup>59</sup> Retail NZ, Submission reference number 31598.

<sup>60</sup> Shiseido Co. Ltd., Submission reference number 31168.

<sup>61</sup> U.S Personal Care Products Council (PCPC), Submission reference number 31241.

<sup>62</sup> Japan Cosmetic Industry Association, Submission reference number 30895.

<sup>63</sup> Greenpeace, Submission reference number 31546.

<sup>64</sup> Bay of Plenty Regional Council, Submission reference number 31619.

<sup>65</sup> Auckland Council, Submission reference number 31584.

*“... microbeads are a subset of the much larger problem of micro-plastics in the environment. Micro-plastics are fragments produced by the breakdown of larger pieces of plastic which enter the environment from many sources and pose a significant environmental problem ... Further action is required to address this larger volume, particularly from commercial sources. The NZPSC recommends: The Government investigate and address all sources of micro-plastics released into the environment”*

Similarly, the PCNZ stated that:

*“... selective measures such as microbeads in cosmetics will be seen as immaterial in addressing the underlying problem ostensibly being targeted. Our preference is that the growing concern and interest in plastic in the marine environment be utilised to investigate more comprehensive solutions to intractable plastic waste”<sup>66</sup>.*

## Greenpeace and the form template

Some additional points made by submitters were not covered in the key themes analysis above. This section summarises these, according to submitter.

### Greenpeace

Greenpeace provided a form template, which was used by 15,888 submitters. In addition, Greenpeace also made its own submission, in which it strongly supports a legislative ban under the Waste Minimisation Act, as voluntary self-regulation has not proved effective. Greenpeace also argued that this ban be implemented as soon as possible.

Greenpeace argued against a narrow definition of microbead-containing products, and suggested that a broad definition would:

- encompass all microplastic ingredients
- apply to all relevant product types
- not exempt biodegradable plastic ingredients
- not exempt plastic ingredients below a certain size
- give a clear and prompt timeline for phase-out.

Greenpeace also expressed strong concern about the possible effects of the Trans-Tasman Mutual Recognition Agreement – a ban on microbead-containing products in New Zealand could potentially be nullified if those same products are permitted in Australia<sup>67</sup>.

### The Greenpeace form template

The vast majority of the submissions received were form templates, created by Greenpeace. These submissions all made the same points as the Greenpeace submission, with less detail. The form submissions strongly supported a legislative ban on microbeads in New Zealand, created under the Waste Minimisation Act<sup>68</sup>.

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<sup>66</sup> Packaging Council of NZ, Inc., Submission reference number 31556.

<sup>67</sup> Greenpeace, Submission reference number 31546.

<sup>68</sup> Individual submitter, Submission reference number 15495.

These form submitters argued that the scope of the definition of microbead-containing products be defined as widely as possible. They also requested that the proposed regulations:

- include all solid plastic ingredients smaller than 5 mm
- include microbeads used for any purpose (not just exfoliation)
- should not include a lower size limit in the definition
- not include 'biodegradable' plastics as allowed alternatives<sup>69</sup>.

These submitters echoed concerns that provisions under the Trans-Tasman Mutual Recognition Agreement would mean that microbead-containing products could still enter New Zealand via Australia<sup>70</sup>.

They also argued for a clear timeline for phasing out microbeads as an ingredient, with the ban coming into full effect within 2 years of the legislation being enacted<sup>71</sup>.

## Hāpai Te Hauora Tāpui

The submission from Hāpai Te Hauora Tāpui focused on how the proposal might affect Māori.

This submission supported the proposal, on the basis that the international evidence base for the potential harm caused by microbeads on the environment and human health is conclusive.

This submission focused on ensuring that Māori are fairly represented in the discussion around broadening the scope of these regulatory approaches. More specifically, this submission made the point that Māori are overrepresented in deprivation indices in New Zealand. This means that they would be disproportionately affected by any ban on microbead-containing products which only leaves more expensive alternatives for sale. Because of this, Hāpai Te Hauora Tapui argued that:

“We would have to investigate this specific aspect further to be sure the ban of microbeads wasn’t contributing to inequities for Māori”<sup>72</sup>.

Hāpai Te Hauora Tapui also suggested an education campaign focused on providing communities with knowledge of the potential harm of microbeads. This could take place in kohanga reo, kura and marae to facilitate Māori engagement<sup>73</sup>.

## Waste Advisory Board

The Waste Advisory Board plays a crucial role in the regulation-making process. According to the Waste Minimisation Act (23)(3)(a), the Minister must obtain and consider its advice before making regulations.

The Waste Advisory Board has given advice to the Minister on banning the manufacture and sale of microbeads. This advice was not counted as one of the public submissions received on these proposals, but will be outlined here because of its importance.

The Waste Advisory Board indicated support for the proposal and suggested that the beneficial impact of the ban would be strengthened if the scope of captured products were to be

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<sup>69</sup> Individual submitter, Submission reference number 15501.

<sup>70</sup> Individual submitter, Submission reference number 15506.

<sup>71</sup> Individual submitter, Submission reference number 15485.

<sup>72</sup> Hāpai Te Hauora Tapui, Submission reference number 31422.

<sup>73</sup> Hāpai Te Hauora Tapui, Submission reference number 31422.

widened. The Board gave useful advice regarding implementation, timeframes and public education. The Board also encouraged the establishment of a broader work programme on the wider issue of marine pollution from microplastics.

# Conclusion

The vast majority of the submissions received supported the proposals in the discussion document. Most submissions asked for the final policy to be more wide-ranging and to be implemented earlier.