

Guideline for assessing prohibited single-use plastic products (cutlery and straws) under the *Single-use and Other Plastic Products (Waste Avoidance) Act 2020*

August 2023

EPA 1146/23: This guideline has been prepared to provide assistance with understanding the definition of 'single-use' prohibited plastic products (cutlery and straws) in South Australia's [Single-use and Other Plastic Products \(Waste Avoidance\) Act 2020](#) (SUP Act).

Introduction

Guidance on the Environment Protection Authority's (EPA) assessment of 'single-use' cutlery and straws is provided to assist retail and food and hospitality businesses, suppliers, distributors, manufacturers and the community to comply with the legislation.

Context

The objects of the SUP Act are:

- a provide for the restriction or prohibition of certain single-use and other plastic products
- b promote and support better waste management practices including the reduction of marine litter
- c promote and support the principles of the waste management hierarchy
- d promote and support the principles of the circular economy.

Section 7 of the SUP Act restricts and prohibits the manufacture, production, distribution, sale and supply of certain single-use and other plastic products. It came into effect from 1 March 2021.

This guideline relates to the SUP Act's restrictions and prohibitions for¹:

- a single-use plastic drinking straws
- b single-use plastic cutlery
- c single-use plastic beverage stirrers.

See the [full list of products banned](#) under the SUP Act.

¹ In section 16 of the SUP Act, regulations have been made to enable single-use plastic drinking straws to remain accessible to people with a disability or medical need and to exempt single-use plastic drinking straws and cutlery attached to another product at the point of manufacture and packaging, eg straws attached to fruit boxes and spoons packaged with yoghurt.

In the SUP Act (Part 1 Section 3) Interpretation:

plastic means a material made from, or comprising, organic polymers, whether plant extracts or of fossil fuel origin.

single-use, in relation to a product, means a product designed or intended to be used once or for a limited number of times before being disposed of.

Takeaway venues

Any single-use product prohibited by the SUP Act must not be supplied at a takeaway venue, regardless of design characteristics. Any such product provided at a takeaway venue will be defined as single-use by an Authorised Officer due to its intent (see legislated definition below).

Assessment of single-use prohibited plastic products

Currently there is no one standard available, nationally or internationally, that is applicable to determining if a plastic product is 'single-use'. EPA Authorised Officers must consider the circumstances of a product being sold or supplied and undertake assessments to form an opinion and make a determination as to whether a listed plastic product is prohibited under the SUP Act.

There are two important aspects of the definition of 'single-use' in the SUP Act that must be considered in determining if an item is prohibited:

- Design – has the product been designed to be used once or for a limited number of times before being disposed of?
- Intent – is the product intended to be used once or for a limited number of times before being disposed of?

In assessing a product, an Authorised Officer must be satisfied that criteria for both aspects, 'design' and 'intent', have been met.

Assessment criteria for single-use plastic cutlery and straws

In undertaking assessment of whether a single-use plastic product should be prohibited Authorised Officers will consider each individual case using the following criteria.

Design

- Does the **strength/rigidity** of the item indicate that it is designed to be used once or for a limited number of times before being disposed of?
 - Does the *item break, tear or separate* when an Authorised Officer applies reasonable force to the item at what appears visually or tactilely at its weakest point, eg the tine of a fork.
- Does the **durability** of the item indicate that it is designed to be used once or a limited number of times before being disposed of?
 - when an Authorised Officer applies reasonable force to the item, does the item **fail to return to its usable state** with or without assistance.
- Does the **durability** of the item indicate that it is designed to be used once or a limited number of times before being disposed of after cleaning cycles?
 - when an item is sanitised does it **fail to return to its usable state**, including structural integrity or aesthetically, eg stained.

Intent

- Does the **price** of the product indicate that it is intended to be used once or a limited number of times before being disposed of?

- is the recommended retail **sale price** is less than \$1 per individual cutlery item?
- Does the **labelling** of the product indicate that it is intended to be used once or for a limited number of times before being disposed of?
 - does the labelling **fail to demonstrate** supported evidence of intention for reuse on the product?
- Does the **marketing** of the product indicate that it is intended to be used once or a limited number of times before being disposed of?
 - does the marketing **fail to demonstrate** supported evidence of intention for reuse? For example, location of item in store with other disposable or alternatively reusable items such as party ware vs. reusable kitchen equipment and any advertising (such as on shelf, catalogues/pamphlets and online).

Assessment process

To ensure consistent assessment and rigour is applied to the decision-making process, an initial assessment using the above criteria will be undertaken by an Authorised Officer with a second peer assessment undertaken by another Authorised Officer. If a decision cannot be made about an item, it will be submitted to EPA executive for a final assessment and decision.

If a product is determined as prohibited, the EPA will communicate with the retail outlet and/or supplier to inform them of the decision and discuss next steps to remove the product.

Full list of prohibited products

The SUP Act restricts and prohibits the sale, supply or distribution of the following products:

- From 1 September 2023:
 - plastic stemmed cotton buds
 - plastic pizza savers
 - single use plastic bowl
 - single use plastic plate.
- From 1 March 2022:
 - expanded polystyrene cups, bowls, plates and clamshell containers
 - oxo-degradable plastic products²
- From 1 March 2021:
 - single use plastic drinking straw
 - single use plastic cutlery
 - single use beverage stirrer.

There is also a [guideline for assessing prohibited plastic bowls and plates](#) under the SUP Act.

Beyond September 2023, the South Australian Government will prohibit further single-use plastic products within the SUP Act's definition of prohibited plastic products. Further information can be found at website <https://www.replacethewaste.sa.gov.au/>.

This guideline will be updated as necessary when and if additional products are included.

² As defined in the SUP Act **oxo-degradable plastic**, means a material (however described) made of plastic which includes additives to accelerate the fragmentation of the material into smaller pieces, triggered by ultraviolet radiation or heat exposure, whether or not this is, or may be, followed by partial or complete breakdown of the material by microbial action.

Disclaimer

This publication is a guide only and is not a substitute for reading the legislation. It seeks to explain, in a helpful and accessible way, some relevant considerations in the assessment of whether a product is a 'single-use' prohibited plastic product. You may wish to seek further information from the EPA itself regarding your possible obligations and, where appropriate, seek your own legal advice.

Further information

The [Replace the Waste](#) is available for information regarding the development of the legislation, the announcement of future prohibitions and provides supporting advice and resources to provide alternative products that do not require regulatory assessment.

Retailers, suppliers and distributors of products that might meet the definition of a prohibited plastic product in the SUP Act are able to provide samples of their products to the EPA to undertake an assessment and provide a determination on those products.

Legislation

[Online legislation](#) is freely available.

General information

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