

Thursday, 8 June 2023

Committee Secretary  
Senate Standing Committee on Environment and Communications  
PO Box 6100  
CANBERRA ACT 2600

[ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

Dear Committee Secretariat,

### **Submission RE: Inquiry into greenwashing**

The Port Phillip EcoCentre ('the EcoCentre') welcomes the opportunity to contribute to the Inquiry into greenwashing, particularly the impact of these claims on human health and environment, and legislative options for protection. We commend the government on its ambitions to address greenwashing, with misleading sustainability claims taking up valuable space in the fight to protect and preserve, human and environmental health.

The EcoCentre believes greenwashing has a potentially large impact on community efforts to effectively implement alternatives to plastic products. Our concern with plastic materials centres on the environmental proliferation of plastic pollution including microplastics (<5mm). This pollution is caused by inadequate waste management and manufacturing processes, including recycling. Plastic pollution disrupts ecosystem and organism functions, and due to its properties become a vector for toxins to enter waterways, ecosystems and food chains.

Our submission will focus on the consequences of misleading and deceptive marketing, and make recommendations, with respect to household products and appliances, food and drink packaging, cosmetics, clothing and footwear being labelled as "home compostable", "biodegradable", "recyclable" or made from "recycled ocean plastics".

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## **1. About the Port Phillip EcoCentre and Port Phillip Baykeeper**

The Port Phillip EcoCentre (‘the EcoCentre’) is a leading community-managed organisation with a dedicated team of qualified scientists, teachers and 2000 volunteers, who design and implement innovative environmental programs. Our expertise is Port Phillip Bay health, its catchments and the urban ecology of Greater Melbourne within the traditional lands and waters of the Kulin Nation. We deliver specialist education, scientific research and community action projects in this region with over 250 cross-sector partners.

The EcoCentre is also home to the Port Phillip Baykeeper (since 2008) to provide an independent voice for Port Phillip Bay health. Port Phillip Bay is the largest marine embayment in Victoria, with a surface area of 1,934 km<sup>2</sup> and 333 km of coastline and a human population of more than 5 million people living in its catchments.<sup>1</sup> The Baykeeper connects everyday Bay users, community groups and organisations to learn about and protect the Bay and its catchments for today and future generations. Baykeeper programs combine citizen science and practical action to inform decision makers, educate our communities and improve coasts, the Bay and its catchments in measurable ways. The Baykeeper is affiliated with the Waterkeeper Alliance, a network of 300+ grassroots organisations on six continents working for swimmable, drinkable and healthy waterways.

## **2. Environmental problems with plastic**

Through the EcoCentre’s three-year litter study, Clean Bay Blueprint, we that found more than 2 billion microplastics flow into Port Phillip Bay annually just from the surfaces of two urban rivers.<sup>2</sup> In both rivers, the largest category of plastics were hard plastic fragments (broken from larger plastic items), followed by soft plastics.

The extent and impacts of plastic pollution on Australia’s coasts and waterways is well-documented, with ‘ubiquitous and widespread’ microplastics in Australian waters, ‘extensive and insidious’ plastic pollution in Australia’s inland waterways, and a significant amount of documented marine plastic pollution on Australia’s coasts and beaches.<sup>3</sup>

The negative and toxic impacts of plastic pollution in our waterways is detailed in the 2016 Senate Committee’s report, *Toxic tide: the threat of marine plastic*<sup>4</sup> and include affecting human health and marine fauna and flora through ingestion, entanglement, transportation of invasive species, and transport and bioaccumulation of harmful “forever” chemicals (including perfluoroalkyl and polyfluoroalkyl substances – PFAS).

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<sup>1</sup> DELWP (2017) Port Phillip Bay Environmental Management Plan. The State of Victoria Department of Environment, Land, Water and Planning

<sup>2</sup> Charko, F., Blake, N., Seymore A., Johnstone C., Barnett E., Kowalczyk N & Pattison M. (October 2020). Clean Bay Blueprint–Microplastics in Melbourne, <https://www.ecocentre.com/programs/communityprograms/baykeeper/clean-bay-blueprint/>

<sup>3</sup> Nicholas Institute for Environmental Policy Studies & UNEP Law and Environment Assistance Platform (2021).

<sup>4</sup> Australia. Parliament. Senate. Environment and Communications References Committee, 2016.

The plastic crisis is now pervasive and a serious risk to human and environmental health. Studies have found plastic particles in human blood, and organs, and recent research suggests that on average 5 grams of plastic enter every person’s gastrointestinal tract each week.<sup>5</sup>

Research in 2022 has found that almost 70% of Australians think plastic pollution in the ocean is an extremely serious environmental issue and that overall responsibility for reducing plastic use is placed on industry and government.<sup>6</sup>

The EcoCentre supports alternative solutions to the epidemic of plastic pollution around the world and in Australia, and notes that people do want to invest in better products for the environment, but industry labelling practices can mislead consumers, resulting in continued plastic pollution from products that are harmful to the environment and human health; and contamination of municipal recycling schemes.

The EcoCentre supports foremost limits to plastic production, rather than incomplete solutions (recycling) or intervention strategies that focus on pollution after it has already reached the marine and terrestrial environment.

In Australia, the 2025 National Packaging Targets are supported by industry and government to “deliver a sustainable approach to packaging”. Targets include that 100 per cent of packaging used, made or sold in Australia is reusable, recyclable or made from compostable materials by 2025.<sup>7</sup> We note, however, (a) the definition of *compostable* is critical to this ambition yet problematically applied, further outlined below; and (b) the progress reported by the Australian Packaging Covenant Organisation indicates a gap between recyclable/recyclable/compostable packaging being used and the volume of it actually being recycled/composted (see *data inset at right*. Source: [apco.org.au](https://apco.org.au)).



Figure 1: Progress towards the 2025 Targets as of 2020-21.

<sup>5</sup> WWF, No Plastics In Nature: Assessing Plastic Ingestion From Nature To People, 2019, [https://assets.wwf.org.au/image/upload/v1/website-media/resources/pub-no-plastic-in-nature-assessing-plastic-ingestion-from-nature-to-people-jun19?\\_a=ATO2Bfg0](https://assets.wwf.org.au/image/upload/v1/website-media/resources/pub-no-plastic-in-nature-assessing-plastic-ingestion-from-nature-to-people-jun19?_a=ATO2Bfg0)

<sup>6</sup> Dilkes-Hoffman, L., et al (May, 2019), Public attitudes towards plastics, [https://www.researchgate.net/publication/332994666\\_Public\\_attitudes\\_towards\\_plastics](https://www.researchgate.net/publication/332994666_Public_attitudes_towards_plastics)

<sup>7</sup> Australian Packaging Covenant Organisation (APCO), Australia’s 2025 National Packaging Targets, <https://apco.org.au/national-packaging-targets>

### 3. Response to the Terms of Reference

- (a) **The environmental and sustainability claims made by companies in industries including household products and appliances, food and drink packaging, cosmetics, clothing and footwear and the impact of misleading environmental and sustainability claims on consumers.**

The EcoCentre is concerned that real solutions to end plastic pollution, appropriate waste management and the protection of our ecosystems are being lost amongst the increased use of environmental and sustainability claims in the marketing of consumer goods.<sup>8</sup> Current estimates of what the world spends as a result of plastic pollution, including ocean clean-ups, marine ecosystem service impacts, hazardous chemical clean-up, and measures to offset carbon dioxide and air pollution, range from \$US293.5 billion to more than \$US500 billion per year.<sup>9</sup>

There is significant community support for the transition to a circular economy, emissions and waste reduction, including product durability and reusability, with more than half of Australians preferring to make purchases from environmentally friendly and socially conscious brands.<sup>10</sup> However, this makes many consumers susceptible to greenwashing.

The Australian Competition & Consumer Commission's ('ACCC') recent internet sweep of 247 Australian business has shown **over half of businesses reviewed made “concerning claims about their environmental or sustainability practices”** and the ACCC holds ongoing concerns of misleading packaging and labelling claims.<sup>11</sup>

The ACCC found that greenwashing claims were made in the following eight ways:<sup>12</sup>

1. **Vague and unqualified claims:** including, terms like 'green, 'kind to the planet', 'eco-friendly', or 'sustainable' to describe products;
2. **A lack of substantiating information:** many businesses made environmental and sustainability claims without providing any evidence to back up their claims;

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<sup>8</sup> ACCC, Greenwashing by businesses in Australia – Findings of the ACCC's internet sweep of environmental claims, March 2023,

<https://www.accc.gov.au/system/files/Greenwashing%20by%20businesses%20in%20Australia.pdf>

<sup>9</sup> The battle for an anti-plastics treaty, The Saturday Paper, Russell Marks, Online,

<https://www.thesaturdaypaper.com.au/news/environment/2023/06/03/the-battle-anti-plastics-treaty#mtr>

<sup>10</sup> Statista, Sustainable consumption in Australia - statistics & facts,

<https://www.statista.com/topics/10534/sustainable-consumption-in-australia/#topicOverview>

<sup>11</sup> Australian Competition and Consumer Commission, ACCC 'greenwashing' internet sweep unearths widespread concerning claims, Media Release, 2023, <https://www.accc.gov.au/media-release/accc-greenwashing-internet-sweep-unearths-widespread-concerning-claims>

<sup>12</sup> ACCC, Greenwashing by businesses in Australia – Findings of the ACCC's internet sweep of environmental claims, March 2023,

<https://www.accc.gov.au/system/files/Greenwashing%20by%20businesses%20in%20Australia.pdf>

3. **Use of absolute claims:** such as 100% plastic free, 100% recyclable, made from 100% recycled content and non-polluting;
4. **Use of comparisons:** such as businesses that uses fewer raw materials, or less water or plastic packaging to produce a product without explaining how much fewer resources were used or what it was being compared to;
5. **Exaggerating benefits or omitting relevant information:** for example, businesses promoting its investments in renewable energy products, but still sourcing most of its products from fossil-fuel based industries;
6. **The use of aspirational claims, with little information on how these goals will be achieved:** this related to reducing the amount of packaging, using energy from renewable sources, reducing waste to landfill, and claims about Net Zero targets;
7. **Use of third-party certifications:** claiming affiliation with a variety of certification schemes, such as trademarks where they could mislead consumers. Some businesses have also created their own certification schemes for their own products; and
8. **Use of images which appear to be trustmarks:** Several businesses used logos of symbols on their websites and packaging that appeared as trustmarks, and commonly used nature-based imagery with leaves and the planet, and the colour green.

In this context, the EcoCentre is highly concerned with the following examples of greenwashing used by businesses around Australia:

i. ***“Compostable” – uncertified, or certified with nowhere to go***

Many Australians currently participate in some form of organics recycling or compost. In 2018-19, the nation generated 15.3 million tonnes of organic waste and 42 per cent was sent for recycling. In 2013, it was found that over a third of Australians (35%) always compost or recycle garden waste and 23% always compost or recycle kitchen or food waste.<sup>13</sup> To reduce climate-threatening greenhouse gas emissions, state and local governments conduct significant campaigns to divert food and garden waste from landfill.

The ACCC has identified that many consumers do not understand that many products labelled “compostable” only do so under a range of specific conditions that may or may not be present in a home compost bin, or even available at municipal facilities. For example, food and garden organic waste collections for industrial composting in Cities of Melbourne, Port Phillip, Bayside (and many councils) do not accept compostable food packaging ‘including biodegradable marked items’<sup>14</sup>

<sup>13</sup>ABS, Waste Account, Australia Experimental Estimates, 2013, 4602.0.55, (19 February 2013), <https://www.abs.gov.au/ausstats/abs@.nsf/Products/4602.0.55.005~2013~Main+Features~Main+Findings?OpenDocument#:~:text=Over%20a%20third%20of%20Australians,and%2073%25%20reused%20consumed%20item>

<sup>14</sup> The NSW Environment Protection Authority recent clarified its guidelines around what was allowed in green compost bins, banning items such as cardboard and certified compostable packaging after research found that some products contained chemicals like PFAS, which can be harmful to human and animal health. NSW EPA,

Many technically compostable products, purchased in good faith (often attempting to replace traditional plastics), are in effect not compostable. Notably, there are currently no national guidelines for what is allowed in Australia's Food Organics Garden Organics programs ("FOGO"), with the rules differing between each state and territory.

Further, in the absence of clear labelling and differentiation of "home compostable" versus "industrial compostable", people are likely to assume that they can effectively complete breakdown of bioplastic products in their home compost bin.

Certified *Home compostable* bioplastics will break down very slowly in a compost bin, or in the environment, but they still do need high microorganism loads and consistent moisture levels, so if sent to landfill with little oxygen, they may behave like convention plastic and take years to degrade while producing methane. Further, as many as 60 per cent of plastics marketed as "home compostable" have been found not to work, failing to disintegrate after six months according to research.<sup>15</sup>

In a UK study, it was found that the majority of the plastic that people put in their home compost bin cannot be composted either due to requiring industrial compost conditions, or not having been manufactured in a manner/material genuinely designed to compost.<sup>16</sup>

In Australia, there is currently no mandatory certification for labelling of compostable products. Packaging in Australia can be voluntarily classified as "compostable" if it has been certified by the Australian Bioplastics Institute ('ABA') either as: (1) Industrial Composting certification code - AS4736-2006, or (2) Home Composting - certification code AS5810-2010 (EN13432 – European Standard). This is only a voluntary verification scheme, providing little to no protection for consumers who purchase products do not apply to display the logo, or uncertified products which use words or symbols implying trustmarks.

The EcoCentre also notes that the ABA Home Compostable Verification Logo claims to identify and differentiate clearly specific packaging materials as *biodegradable* or *compostable*, however ABA appears to use these terms interchangeably in their Application form for certification.<sup>17</sup>

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FOGO information for households, <https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/household-recycling-overview/fogo-information-for-households>

<sup>15</sup> Purkiss, D., et al, (November 2022). The Big Compost Experiment: Using citizen science to assess the impact and effectiveness of biodegradable and compostable plastics in UK home composting, <https://www.frontiersin.org/articles/10.3389/frsus.2022.942724/full>

<sup>16</sup> Ibid.

<sup>17</sup> Australian Bioplastics Association, 'The Home Compostable Verification logo is a symbol that the product's claims of biodegradability and compostability as per AS 5810-2010 has been verified', <https://bioplastics.org.au/certification/home-compostable-verification-programme/>



For packaging to fall into either voluntary compostable certification, it needs to pass certain standards and thresholds that include:

- i. No toxic effects as a result of composting processing on earthworms or plants;
- ii. Heavy metals and hazardous substances cannot exceed maximum allowed levels;
- iii. Within 180 days, a minimum of 90 per cent of plastic biodegradation in a compost environment;
- iv. Within 12 weeks, 90 per cent of plastic material should disintegrate into pieces less than 2mm in size; and
- v. Plastic should contain more than 50 per cent volatile solids.

The National Plastics Plan 2021 has aimed to phase out plastic packaging products with additive fragmentable technology that do not meet these compostable standard codes by July 2022.<sup>18</sup> This was a positive step. However, the EcoCentre notes that even if a product successfully passes the above criteria to reach ABA certification, consumers may not be aware that in Australia, the infrastructure for widespread collection and industrial processing of compostable waste has not been set up adequately.

A product may still be labelled as *compostable* without certification, or certified as compostable by ABA, even if it requires appropriate industrial composting facilities to successfully disintegrate – meaning that a large amount of compostable products might end up in landfill and a significant risk of misleading consumers. Industrial composting can still be misleading and false if products do not specifically make them aware of limitations of available facilities in their area. For example, if your local authority uses industrial composting to process food waste then you must use specifically approved compostable bags.<sup>19</sup>

Further, the EcoCentre has found multiple Australian products currently for sale claiming to be “compostable” but which do not include the ABA certified logo.

## ii. “*Biodegradable*” – *no legislated definition*

There is currently no single understanding of, or definition for “biodegradable” under Australian consumer legislation. Without a definition of “biodegradable” under Australian law, including how long the process may take and under what conditions, consumers are likely to be easily misled when purchasing products marketed as biodegradable.

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<sup>18</sup> The National Plastics Plan 2021, Australian Government, <https://www.agriculture.gov.au/sites/default/files/documents/national-plastics-plan-2021.pdf>

<sup>19</sup> Australian Bioplastics Association, ‘The Home Compostable Verification logo is a symbol that the product’s claims of biodegradability and compostability as per AS 5810-2010 has been verified’, <https://bioplastics.org.au/certification/home-compostable-verification-programme/>

As stated above, the EcoCentre observes that the ABA Home Compostable Verification Logo uses the terms “biodegradable” and “home compostable” interchangeably in their Application form and is it unclear if certification includes biodegradable products.<sup>20</sup>

The term ‘biodegradable’ refers to a material being degraded by biological activity, but is not specific about how long that might take and under what conditions. Therefore most, if not all, of products we purchase can be said to be biodegradable under this definition, because materials will eventually break down.

The EcoCentre’s search of Australia products claiming to be “biodegradable,” also revealed multiple products which did not include an ABA certified logo on the front of the product. This included:

- Simple Biodegradable Facial Wipes 25 Pack, which claims to take just 42 days to biodegrade, “*better than grapefruit peels, melon peels and onions. The fabric we use is made from sustainably-sourced wood pulp and plant fibres.*”<sup>21</sup>
- Essano, Collagen Boost Biodegradable Sheet Mask, which does not comment further on the biodegradable qualities of the product
- Sukin, Deeply Hydrating Biodegradable Sheet Mask, which claims that the product, made from 100% cotton, will biodegrade 6 months after use and does not state with circumstances it will biodegrade in.<sup>22</sup>

The EcoCentre is especially concerned with the terms, “100% biodegradable” or “100% degradable” as an absolute claim that the entire product will biodegrade or degrade in the same way over the same time period which is extremely unlikely.

Consumers may believe that they are making better purchasing choices, when in fact;

- *Degrading* simply means breaking into smaller pieces, and could include environmentally unfriendly scenarios like fragmenting into microplastics, or off-gassing problematic chemicals when plastic polymers weaken with exposure to sunlight.
- *Biodegrading* plastics generate two greenhouse gases: methane and carbon dioxide.

In 2011, ‘Goody’ brand bags were declared by the Federal Court in Adelaide to be engaging in “misleading and deceptive conduct” regarding their plastic bags. These bags were branded as “biodegradable and compostable”. The bags exceeded the maximum permitted levels of Molybdenum, a heavy metal released by the bag breaking down. Additionally, the bags did not biodegrade, disintegrate or compost within the Australian certified time frame. This is just one of numerous claims of biodegradable products in Australia.

<sup>20</sup> Ibid.

<sup>21</sup> Simple, ‘All out wipes are now biodegradable’, <https://www.simpleskincare.com/au/our-ranges/biodegradable-wipes.html>

<sup>22</sup> Sukin, deeply hydrating biodegradable sheet mask, hydration 25ML, <https://sukinnaturals.com.au/products/deeply-hydrating-biodegradable-sheet-mask-25ml>



iii. ***“Recyclable” – theoretically true, often functionally untrue***

Only 9.4% of manufactured plastic is being recycled in Australia,<sup>23</sup> which is consistent with 9% world-wide. Recycling depends on the availability of processing facilities and also an end market for recycled plastic materials. In Australia, flexible “scrunchable” plastics, including shopping bags, plastic food packaging, fruit netting and dry-cleaning bags, all relied on a single, private entity for recycling – but the lack of end market saw plastics stockpile for years then eventually go to landfill (due to safety concerns of warehouse fires). With this prominent end of the REDcycle bins across Australia in late 2022, soft plastics have no recycling system. Yet soft plastic packaging on many food and home care products found at supermarkets continue to be labelled as recyclable.

Compared to 9.4% of plastics being recycled, an astonishing 11% enters the oceans.<sup>24</sup> Currently local councils and the community are expected to deal with the consequences of unregulated production of a material that lasts in the environment forever.

A national audit of recycling information on consumer products and packing confirmed that there was no consistent style, placement, or sizing of recyclable labels on packaging.<sup>25</sup>

Using the term “recyclable” or symbols suggests that a plastic product can be recycled may be misleading unless the business quantifies that a product can only be recycled through specialised collection facilities.

The codes and symbols to represent that a product may be recycled, are in of themselves, confusing and likely to be misleading. Resin Identification Codes (RICs) were created in 1988, by which plastics are categorised by numbers inside equilateral triangles to assist the sorting of recycling stock.<sup>26</sup> Only some of these resin categories are functionally recyclable or economically viable to recycle, however many consumers associate the ‘triangle arrows’ with a sign that the product is recyclable without understanding the technical nuance of the RIC.

The ACCC has expressed concerns over exaggerating benefits or omitting relevant information with respect to recycling claims where there is no system in place to collect it.<sup>27</sup> This is especially the case when no or only a few facilities exist, when they are not available to the public or they are only pilot manufacturing plants.

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<sup>23</sup> O’Farrell K (2019) 2017-2018 Australian Plastics Recycling Survey – National Report. Envisage Works, Australian Government Department of the Environment and Energy, EPA NSW, Sustainability Victoria, Government of Western Australia – Department of Water and Environmental Regulation

<sup>24</sup> Borelle S. B., et al, (2020) Predicted growth in plastic waste exceeds efforts to mitigate plastic pollution. Science 369 (6510), 1515-1518.

<sup>25</sup> Australian Council of Recycling, Audit and review of packaging environmental labelling and claims (May 2009) [https://irp.cdn-website.com/ed061800/files/uploaded/acor\\_environmental\\_labelling\\_claims\\_final\\_report\\_28july20\\_1\\_1\\_.pdf](https://irp.cdn-website.com/ed061800/files/uploaded/acor_environmental_labelling_claims_final_report_28july20_1_1_.pdf)

<sup>26</sup> Chemistry Australia, Plastics Identification Code, <https://chemistryaustralia.org.au/Content/PIC.aspx>

<sup>27</sup> Above n 11.

CleanUp Australia reports that many Australians inadvertently contaminate their recycling; including 15% of Australians who think that we can just put everything in the recycling bin and it will get sorted out at the recycling facility, leaving many community members confused and susceptible to misleading marketing with respect to recycling.<sup>28</sup> This is not aided by the variation of recycling facilities in each local government area.

From 2018, China's new bans and 99.5% purity standards for uncontaminated recyclables has left Australia with large stockpiles of items now needing onshore processing. Extensive ripple impacts of this challenge – from facility fires to paying fees to send recyclable plastics to landfill – have compelled significant rethinking of Australian waste management systems, including materials redesign, reduction, re-use and recycling.

Australia's *National Waste Policy: Less waste, more resources* (Commonwealth of Australia, 2018) and *National Waste Policy Action Plan* (2019) apply the 'principles of a circular economy to waste management, to support better and repeated use of our resources.' Industry bodies alongside the Australian government, considered plastics and other materials in a range of commitments and aspirations towards an Australian circular economy, in which 'waste' and pollution are designed out, and products and materials are kept in use through principles such as repair and maximising use of recycled materials over virgin resources.

However, brands are now taking advantage of the commitment towards circular economy waste management and complex recycling coding system to market their products as recyclable, which are either difficult to recycle, not recyclable at all, or are using just a small fraction of "ocean-bound" plastic purchased from overseas clean-ups. An example of such marketing include the makers of Mentos mints, Perfetti Van Melle, who have made grand eco claims about new cardboard box packaging, but they fail to mention the packaging is an unrecyclable composite material made out of card, aluminium and plastic.<sup>29</sup>

In promoting the circularity of plastic products, it is crucial that known or foreseeable perverse outcomes are avoided, such as microplastic leakage of microplastic feedstock at plastic recycling facilities.<sup>30</sup> In this instance, without practices like Operation Clean Sweep<sup>31</sup> becoming legislated, it is the plastics recycling industry (as well as anyone using their materials for packaging, textiles, and similar) that is greenwashing.

#### iv. "Recycled ocean plastic"

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<sup>28</sup> CleanUp Australia, Recycling, <https://www.cleanup.org.au/recycle>

<sup>29</sup> Coca-Cola among brands greenwashing over packaging, report says, Online, Sandra Laville, <https://www.theguardian.com/environment/2022/jun/30/coca-cola-among-brands-greenwashing-over-packaging-report-says>

<sup>30</sup> Report to European Commission on investigating sources, pathways and impacts of unintentionally releases of microplastics into the aquatic environment (Simon Hann et al., 2018).

<sup>31</sup> Operation Clean Sweep Australia, <https://www.opcleansweep.org.au/>

There is a growing number of organisations claiming that their products are made from a percentage of “recycled ocean plastic”, “beach plastic”, “ocean-bound plastic” or “100% recycled ocean plastic”. This is an emerging greenwashing issue.

There is considerable uncertainty surrounding what constitutes ocean plastic within the industry and definition far broader than that likely to be understood by the average consumer or understood by looking at broad claims on packaging. There is currently no legally accepted definition of “ocean plastic”, or “ocean bound plastic”.

Scientific studies originally considered ocean plastic to be waste located within a certain distance of the ocean that had the potential to end up in the ocean or become ‘ocean bound through wind, or water transport or mismanaged’. The plastics industry has accordingly adopted the definition of “ocean bound plastic” from a 2015 research report, as any plastics located within 50km from shores where waste management is inefficient and therefore could end up in the ocean.<sup>32</sup>

Very little ocean plastic is collected and processed in Australia. Much of this plastic is sourced in Indonesia and Malaysia and there is little regulation.

In the absence of a definition of “ocean plastic”, consumers are likely to assume that ocean plastic is remove from the ocean whereas most is not removed from the ocean. There is currently no evidence that recycling plastic that is removed from the ocean improves the marine environment or marine life. (It can also be complicated by what toxins the plastics have adsorbed, or biota that attached to them, while in marine environment.)

There has been uncertainty of quantity to ocean plastic found in products, with waste-free mission-driven such as Zero Co having issued statements confirming that they don’t know what percentage of ocean plastic was in their products that had previously claimed were made of 100 per cent ocean plastic; and in some cases, it could be less than 3 per cent.

The positive association derived by global brands using so-called ocean plastics often does not stack up to sufficient positive change, when considered in a wider context:

- Coca Cola has spent millions promoting an innovation which says that its bottles are 25% marine plastic. However, Break Free From Plastic’s brand audits during clean ups, found four consecutive years that Coca Cola is remains the world’s biggest plastic polluter.<sup>33</sup>

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<sup>32</sup>Jambeck, J, R, et al, (February 2015). Plastic waste inputs from land into ocean, <https://www.obpcert.org/what-is-ocean-bound-plastic-obp/>

<sup>33</sup> Break Free From Plastic, (2021). Brand Audit Report Vol IV, <https://www.breakfreefromplastic.org/wp-content/uploads/2021/10/BRAND-AUDIT-REPORT-2021.pdf>

- Bottles of Procter & Gamble’s Head and Shoulders shampoo are promoted as made out of “beach plastic”, but the bottle is dyed, meaning it cannot be recycled further.<sup>34</sup>

The result of the above factors is the real possibility that consumers of products which claim to be made of ocean plastic, are misled about the constitution and impact of that product.

#### **4. Port Phillip EcoCentre Recommendations for legislation options to protect consumers from green washing in Australia**

The EcoCentre suggests that the following legislative protections are put into place:

- a. Increase education and ‘plastic literacy’ of all plastic users. As part of cultivating a shared responsibility for plastic use and disposal, education of plastic users is essential. The general public has become much more aware of the issues of plastic pollution in the environment thanks to a boom in scientific research, followed by mainstream film documentaries and social media and community campaigns over recent years. However, there is still much confusion about how plastic can be avoided, or what plastics are more preferable to others.
- b. Mandatory implementation of the Australian Bioplastics Association verification scheme into Australian consumer law.
- c. Mandatory implementation of Operation Clean Sweep for manufacturers to prevent feedstock ‘loss’ at all stages of the supply chain (suppliers, transporters, manufacturers, recyclers). To illustrate, the EcoCentre and Tangaroa Blue Foundation have been monitoring the issue of plastic feedstock (nurdles/pellets or shredded) leakage from plastic manufacturing facilities and is concerned that the issue is not being addressed, despite the recent introduction of a general environmental duty under Victoria’s Environment Protection Act; and despite the industry endorsement of Operation Clean Sweep for voluntary adoption, supported by the Victorian EPA Guidelines<sup>35</sup>. Voluntary adoption remains too slow, and with the increase of onshore plastic recycling and re-manufacturing as part of the shift to the circular economy, we risk the perverse impact of increasing microplastics from factories so long as industry has no firm obligation to ‘plug the leaks’.
- d. Set standard legal definitions and mandatory verification schemes for degradability labels, including for “degradable”, “biodegradable”, and “recyclable”. People generally try to do the right thing and want to invest in better products, but industry uses the terms in misleading ways.
- e. Analysis into the success of voluntary Resin Identification Codes including, but not limited to, (1) whether they are in line with the key general environmental duties under the *Environment Protection Act* (2) whether the codes in and of themselves breach Australian consumer law as misleading and deceptive.

<sup>34</sup> Coca-Cola among brands greenwashing over packaging, report says, Online, Sandra Laville, <https://www.theguardian.com/environment/2022/jun/30/coca-cola-among-brands-greenwashing-over-packaging-report-says>

<sup>35</sup> EPA, How to manage nurdles, (online), <https://www.epa.vic.gov.au/for-business/find-a-topic/manage-industrial-waste/nurdles>

- f. The EcoCentre supports Tangaroa Blue's position that a full lifecycle analysis be conducted prior to any recycling/ downcycling programs are supported for upscaling with public funds. This ensures that non-for-purpose recycling/downcycling solutions are assessed and potential harm from products and materials on the environment and human health is eliminated and minimised.<sup>36</sup>
- g. Prohibit the term "ocean bound plastic" or "recycled ocean plastics" by Australian consumer law and instead set a standard legal definition for formerly known as "ocean bound plastic" to "post-consumer plastic waste".
- h. Prohibit products based on design qualities rather than product type, for example banning non-recyclable/non-compostable packaging.
- i. Consider the term "biodegradable" be prohibited by Australian consumer law, as it is a generic term that indicates a plastic material will break down microbially. There is also risk that when a product is described as biodegradable, this simply means that the product breaks down into microplastics further polluting the environment.
- j. Provide additional resourcing to not-for-profit organisations, education groups and as well as local councils who play a key role in facilitating action on waste management and educating the community. Organisations that specialise in this should be adequately resourced. In our Clean Bay Blueprint study, it is likely the reduction in plastic straws in the Yarra River can be attributed to education efforts and community behaviour change projects, showing that these approaches work.
- k. Develop project grants, forums and strategic ongoing partnerships that integrate community, government, research and industry efforts.<sup>37</sup>

## 5. Concluding remarks

The EcoCentre encourages your strong support for tackling greenwashing claims with respect to labelling and packing of products. As demonstrated, there is currently significant technical knowledge required to understand material composition and circularity, acting as a deterrence for consumers in making properly informed purchasing decisions. Greenwashed alternatives to plastic, including recycling and compostable products without systems to close the loop, are false and dangerous solutions, which continue to support the plastic supply chain causing harm to human health and environment.

There is very little meaningful manufacturing industry accountability for the end-of-life destination of plastic.<sup>38</sup> Greenwashing the labelling of products is only one example of how accountability has been removed from the industry, shifted onto the consumer and local councils to attempt to understand a complex labelling system and properly manage waste.

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<sup>36</sup>Tangaroa Blue, Submission to Inquiry into plastic pollution in Australia's oceans and waterways, Standing Committee on Climate Change, Energy, Environment and Water (21 December 2022), Submission 26, page 4 – recommendation 4

<sup>37</sup> Above n 2.



<sup>38</sup> Above n 1.

That is why, as a primary solution the EcoCentre advocates for the elimination of problematic plastic altogether, and to reduce overall consumption. This is key to protecting human health, environmental and our natural waterways for future generations.

Yours sincerely,



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The EcoCentre acknowledges the Kulin Nations, including the Yalukut Weelam clan of the Boon Wurrung language group, traditional owners of the land on which we are located. We pay respects to their Elders past and present, and extend that respect to other First Nations and Elder members of our multicultural community.