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Dear Mr Chapman

**Draft Regulations to ban single-use plastic items in Victoria
Submission by the Port Phillip EcoCentre**

Thank you for the opportunity to comment on the draft regulations to ban single use plastics (SUPs) in Victoria, and on the accompanying Regulatory Impact Statement (RIS).

We commend the Victorian government for taking this step towards reducing plastic pollution at source through significantly restricting the sale or distribution of items fleetingly used but with enduring harm to the environment and to the health of humans and wildlife. The proposed SUPs ban builds on recent legislative and policy commitments to reduce waste through better recycling and product stewardship. While there is still much to be done, and the proposed ban could be stronger and more comprehensive, we see the draft regulations as a positive step towards a plastic pollution-free future.

About the EcoCentre - our role and how we can assist

The Port Phillip EcoCentre ('the EcoCentre') is a leading community-managed organisation with a dedicated team of qualified scientists, teachers and 3000 volunteers, who design and implement innovative environmental programs. Our expertise is Port Phillip Bay health, its catchments and the urban ecology of Greater Melbourne. We deliver specialist education, scientific research and community action projects with over 250 cross-sector partners.

We note that the RIS has referred extensively to the EcoCentre's *Clean Bay Blueprint*¹ in assessing the status of plastic (and microplastic) pollution in Melbourne's waterways. That report is indicative of our ability to engage in collaborative citizen science with our partner organisations across a span of years to fill information gaps in existing government data sets. We see the *Clean Bay Blueprint* and other sources referred to in the RIS as setting the baseline against which the success of the ban should be assessed.

¹ 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/community-programs/baykeeper/clean-bay-blueprint/>.

Our recent partnership projects directly relating to monitoring plastic pollution include the aforementioned Clean Bay Blueprint (conducting monthly trawls in Melbourne's major rivers over 5 years with Yarra Riverkeeper Association); and Street2Bay (more than 500 street litter audits over 6 different street usage types, conducted over two years by Scouts Victoria groups across Greater Melbourne). Apart from cigarette butts being 50% of all litter recorded, the key findings of Street2Bay² were that streets in retail areas generated the most litter, with the majority of items being single-use plastic packaging typically generated by fast food and convenience outlets.

As recognised in the RIS, monitoring and evaluation are critical to determining the effectiveness of the ban in achieving its objectives. The RIS also notes that Implementation will need to be supported by education and engagement. The EcoCentre is uniquely equipped to support each of these tasks, utilising our extensive network of partner organisations, our combined range of skills and expertise, and our collective reach into the community of Greater Melbourne. With appropriate arrangements in place, the EcoCentre stands ready to design and deliver suitable community education and engagement programs as well as citizen science activities to support monitoring and evaluation of the ban.

The banned items could be broader and more comprehensive

The list of items currently proposed to be banned is limited and the Victorian government has not foreshadowed any further tranches or next steps towards eliminating plastic pollution. The bans fail to include other single-use items that are commonly littered, degrade into microplastic and cause harm to the environment such as:

- plastic cups and lids (including 'bubble tea' containers)
- plastic-lined coffee cups and lids
- fish-shaped soy sauce containers ('sushi fish')
- convenience store sauce sachets
- plastic packaging (including lolly wrappers)
- cigarette butts (with filters containing plastic fibres)

Bans are useful for items that are unnecessary or where reusable items or other alternatives can serve the same function. Where single-use items are necessary (such as for medical or forensic purposes), consideration must first be given to whether alternatives exist or can be designed for enhanced sustainability.

The definition of 'reusable' in the proposed Regulations is overly vague and could be improved by reference to improved design. **We support the definition of 'reusable' subject to the inclusion of a reference to the item being manufactured *and designed* to be used for the same purpose on multiple occasions.**

The requirement for a manufacturer to include a one-year warranty is **supported**. **Additionally**, manufacturers should be required (or encouraged) to provide information

² Blake, N. (2021) *Street2Bay litter survey project*, unpublished report available upon request from the Port Phillip EcoCentre, <https://www.ecocentre.com/contact/>.

about the number of reuses a consumer can expect from a product and information about appropriate disposal of the product. This is consistent with, respectively, Australian Consumer Law obligations around product quality³ and the Australia Recycling Label which all Australian governments have endorsed.⁴

With respect to the specified list of banned SUPs, we:

- **in principle, support the proposal to exempt drinking straws used by a person with a disability or for medical reasons.** Consideration could be given to adopting the approach used in South Australia to restrict the public display or ready accessibility of plastic straws wherever they are sold or supplied.⁵
- **do not support** the exemption for plastic cotton buds as there are alternatives that are readily available and in use, such as cotton buds with paper or bamboo sticks;
- **in principle, support** the exemption for plastic cutlery in correctional and other institutions where more eco-friendly, sustainable non-plastic alternatives are not readily available or do not meet health and safety objectives
- **do not support the proposal to exempt plastic-lined plates from the ban** as there is no justification for excluding them. This proposed exemption could seriously undermine the general ban, simply shifting the harm by creating a loophole category where product purchases could increase, a perverse outcome recorded in other jurisdictions. Reusable and other durable alternatives are readily available, obviating the need for plastic-lined plates. Where plastic-lined plates are used as party decorations, no doubt alternative eco-friendly decorations or themed activities could be used instead to lend an air of festivity to the occasion. Campaigns such as Zoos Victoria 'Bubbles not balloons' and the Party Kit Network⁶ lending libraries provide a range of popular ideas and kits to support plastic-free celebrations.
- **support the temporary exemption of integrated food/drink packaging but do not support the long lead time (until 31 December 2025) until they are completely banned.** Industry has been on notice that single-use plastic items would be banned in Victoria since the government's announcement in early 2019, and have had time to consider how to move towards compliance with similar bans across the country and internationally. While a number of jurisdictions have exempted integrated food/drink packaging to provide a longer transitional period to adjust manufacturing and packaging processes,⁷ industry has already begun to implement plastic reduction strategies.⁸

³ Australian Consumer Law (2019), Guidance on the consumer guarantee as to acceptable quality and 'durability', https://consumer.gov.au/sites/consumer/files/inline-files/ACL-guidance-durability_0.pdf.

⁴ Australian Recycling Label, <https://www.awe.gov.au/environment/protection/waste/consumers/australasian-recycling-label>.

⁵ *Single-use and Other Plastic Products (Waste Avoidance) Regulations 2021 (SA)*, reg 5.

⁶ <https://www.partykitnetwork.org/>.

⁷ See the explanatory note to the exemption for prepackaged and attached products in *Explanatory Information: Regulations that Implement Exemptions under the Single-Use and Other Plastic Products (Waste Avoidance) Act 2020*, <https://www.greenindustries.sa.gov.au/resources/exemptions-sup-products-waste-avoidance-act-2020>

⁸ For example, in December 2021, Aldi Australia supermarkets began replacing plastic straws with recyclable paper straws on all beverage cartons as part of its '25by25' plastics and packaging commitments, <https://corporate.aldi.com.au/en/corporate-responsibility/environment/plastics-packaging/>.

Victoria needs to have a holistic and longer-term strategy to reduce plastic pollution

The proposed ban is limited and lags behind other Australian (and international) jurisdictions. Unlike other states and territories,⁹ Victoria lacks a strategy or plan for addressing plastic pollution into the future. Such a plan should, at a minimum, give effect to commitments set out in the National Waste Policy Action Plan 2019¹⁰ and National Plastic Plan 2021. Ideally, Victoria's strategy should plan for policies and initiatives that can be implemented over the short, medium and long term aimed at zero plastic pollution by 2030. Regard could be given to the holistic framework proposed by Ocean Conservancy which proposes a roadmap towards this end goal.¹¹

Banning a selection of single-use plastic items is a positive step but needs to go further. Legislative bans should sit alongside a range of levers to support industry, retailers and consumers to reduce plastic manufacturing, usage and waste. Consistent with Victoria's commitment to introduce a circular economy, other strategies should be adopted to conserve natural resources (such as limits on using fossil fuels for virgin plastic), keep materials and products circulating at their highest value, and design out waste.

The European Union's Single Use Plastics Directive¹² models how bans can sit within a range of interventions. The bans should be accompanied by labelling and consumer information at the point of sale, financial (dis)incentives to increase the affordability of reusable or more sustainable alternatives, and product stewardship restrictions on the manufacture of non-recyclable and other problematic plastic.

⁹ See, e.g. *Tackling plastic waste: Queensland's Plastic Reduction Plan* (2019) <https://www.qld.gov.au/environment/pollution/management/waste/recovery/reduction/plastic-pollution/tackling-plastic-waste>; *NSW Plastics Action Plan* (2021) <https://www.dpie.nsw.gov.au/our-work/environment-energy-and-science/plastics-action-plan>; and *WA's Plan for Plastics* (2021) <https://www.wa.gov.au/service/environment/business-and-community-assistance/western-australias-plan-plastics>.

¹⁰ These waste and plastics plans are available respectively at <https://www.awe.gov.au/environment/protection/waste/publications/national-waste-policy-action-plan> and <https://www.awe.gov.au/environment/protection/waste/publications/national-plastics-plan>.

¹¹ Ocean Conservancy and Trash Free Seas Alliance (2019) *Plastics Policy Playbook: Strategies for a Plastic-Free Ocean*, available at <https://oceanconservancy.org/news/ocean-conservancy-report-shows-recycled-content-standards-extended-producer-responsibility-schemes-can-bridge-plastic-collection-financing-gap/>. See especially 'Figure 1: Roadmap for success across four key themes' at pages 20-21 of the document.

¹² *Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment*, available at https://ec.europa.eu/environment/topics/plastics/single-use-plastics_en. Also see the United Nations Environment Programme's discussion of a range of legislative, economic and other non-regulatory approaches used to reduce plastic in *Single-Use Plastics: A Roadmap for Sustainability - Fact Sheet for Policymakers* (2018), <https://www.unep.org/resources/report/single-use-plastics-roadmap-sustainability> and *Tackling Plastic Pollution: Legislative Guide for the Regulation of Single-Use Plastic Products* (2021) <https://www.unep.org/resources/toolkits-manuals-and-guides/tackling-plastic-pollution-legislative-guide-regulation>.

The ban should extend to regulating problematic plastics - not just SUPs

We support the proposal to define the SUPs ban to include plastic items whether wholly or partly comprised of plastic including conventional and biodegradable, degradable and compostable plastics.

This is consistent with our recommendation in *Clean Bay Blueprint* to ban broad-scale SUPs including oxo-degradable plastics and non-recyclable/non-compostable packaging.

Consideration should be given to regulating material types, rather than simply banning item-by-item. This approach is adopted by a number of jurisdictions including the New Zealand government who will prohibit the sale or manufacture of all oxo- and photo-degradable plastic products by October 2022.¹³

Product stewardship schemes should be mandated for manufacturers and retailers of plastic that ends up in landfill, contaminates recycling or resource recovery streams, or otherwise pollutes the environment (such as PVC¹⁴).

Regulating problematic plastics needs to extend to the materials and practices used in other sectors, notably in construction. While the proposed SUPs ban includes polystyrene food and drink containers, it doesn't address more significant sources of ongoing pollution. In two consecutive reports,¹⁵ the Yarra Riverkeeper found that construction sites contributed the highest amount of polystyrene pollution, followed by retail, then markets/produce, manufacturers and retailers. We support the recommendations by the Yarra Riverkeeper, including a call on government to develop industry guidance aimed at minimising environmental harm associated with mishandling polystyrene, and to promote more sustainable bio-based products (such as packaging made from mycelium or recycled wool).

Promoting the circularity of plastic products must avoid known or foreseeable perverse outcomes (e.g. microplastic leakage at plastic recycling facilities)

Introducing pollution-reduction strategies can result in unintended outcomes, such as shifting the purchase of one type of plastic to another. The plastic bag ban illustrates this point. While the 2019 Victorian ban of lightweight plastic bags has not yet been evaluated, the effectiveness of the South Australian ban has: In 2012, Green Industries South Australia published a report finding that, while there was a reduction of lightweight single use plastic bags in landfills, the purchase of bin liners by households increased from 15% to 80%.¹⁶

¹³ *Waste Minimisation (Plastic and Related Products) Regulations 2022 (NZ)*, <https://legislation.govt.nz/regulation/public/2022/0069/13.0/whole.html>.

¹⁴ A voluntary product stewardship is currently being administered through the Vinyl Council of Australia, <https://vinyl.org.au/sustainability/stewardship>.

¹⁵ The Yarra Riverkeeper's February 2020 and April 2022 reports, *Polystyrene pollution in the Yarra River: Sources and solutions* and *Polystyrene pollution in the Yarra River: Deep dive 2022*, are available at <https://yarrariver.org.au/reports/>.

¹⁶ Martin Aspin (Independent Consultant) (November 2012) *Review of the Plastic Shopping Bags (Waste Avoidance) Act 2008*, available at [https://www.greenindustries.sa.gov.au/resources/review-of-the-plastic-shopping-bags-\(waste-avoidance\)-act-2008](https://www.greenindustries.sa.gov.au/resources/review-of-the-plastic-shopping-bags-(waste-avoidance)-act-2008).

In terms of Victoria's proposed SUPs ban, monitoring and evaluation of its effectiveness should extend to assessing behavioural shifts - whether to more, or less, sustainable alternatives. If consumers and businesses end up using more durable, 'reusable' plastic items as single-use items, the objectives of the ban will not have been achieved. **A focus on reducing the use of single-use items is needed - irrespective of the material used.** As noted in a life cycle assessment commissioned by the United Nations Environment Programme, "Replacing one disposable product (e.g. made of plastic) with another disposable product made of a different material (e.g. paper...) is only likely to transfer the burdens and create other problems."¹⁷

Consideration also needs to examine the life cycle of 'reusable' plastic items after their final use. Plastic recycling and reuse is likely to significantly increase in the coming years, in line with Victoria's circular economy strategy. Plastic recycling facilities risk leakage of shredded plastic during the remanufacturing process. Early mitigation measures should be explored and introduced to avoid microplastic pollution becoming an unintended and perverse outcome of the move to reduce and reuse plastic materials.

The EcoCentre has been monitoring the issue of plastic 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*. It has become increasingly apparent that the regulatory framework is not designed to deal with the cumulative impacts of microplastic pollution. The EcoCentre is interested to work with government and industry to develop mitigation strategies and standards in this area.

Concluding remarks

1. The EcoCentre has provided baseline data and has capacity, if resourced, to contribute to ongoing monitoring of the impact of the ban and cumulative impacts of (micro)plastic pollution on ecosystems. Long term evaluation is critical, and often missing even in laudable policy commitments. Lack of data erodes our understanding of which environmental protection mechanisms are actually working.
2. A more strategic, comprehensive approach is needed to move towards a plastic pollution-free future. Include specific timeframes, diverse complementary approaches and the principle to *design out waste*. A strategy beyond item-by item bans could accelerate change and reduce perverse outcomes.
3. Emphasise reducing the use of single-use items - irrespective of the material used.
4. Identify community champions and invest in education and behaviour change campaigns to implement the ban. Community organisations and local leaders (EcoCentres, Scouts, sports clubs, faith groups, schools) have credibility, place-based language and connections beyond the typical reach of government agencies.

¹⁷ United Nations Environment Programme (2021), Addressing single-use plastic products pollution using a life cycle approach, <https://www.unep.org/resources/publication/addressing-single-use-plastic-products-pollution-using-life-cycle-approach>.



Do not let the diffuse and incremental sources of (micro)plastic pollution obscure the urgency of stopping their cumulative, dramatic damage to ecosystems upon which we depend.

The Port Phillip EcoCentre is well-placed to collaborate in the implementation, community education, and citizen science to monitor effects of Victoria's proposed interventions, which we hope expand over time.

A handwritten signature in black ink that reads "April Seymore".

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A handwritten signature in black ink that reads "Neil A Blake".

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