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Attn: Monica McDonald
Department of Tourism, Arts and the Environment
Environment Division

By email: Monica.McDonald@environment.tas.gov.au

7 August 2006

Dear Ms McDonald,

Draft Litter Bill 2006

Thank you for the opportunity to comment on the redevelopment of Tasmania's litter legislation, in particular the Draft *Litter Bill 2006*.

The Environmental Defenders Office (**EDO**) is a non-profit, community legal centre specialising in public interest environmental and planning law. We provide legal representation and advice, take an active role in law reform and policy formulation and offer education programs designed to facilitate public participation in environmental decision-making.

We support the general intent of the bill and are pleased that Tasmania is willing to redevelop its litter laws in line with those recently undertaken in Victoria, NSW and the ACT. The bill provides for overall improvement in the litter laws in Tasmania.

We make the following comments in relation to the draft bill:

1. The Definition of Litter

The general widening in the definition of litter is appropriate particularly the inclusion of liquid waste. The extension of the act's application to coastal waters is also an important improvement.

2. Range of Offences/Penalties

(a)The VIC, NSW and ACT legislation all include specific provision for deliberate deposition of potentially harmful material (**aggravated littering**). This allows for larger fines to be levied in cases where people engage in this conduct. An example from the ACT legislation (*Litter Act 2004*):

[Section]”9 Aggravated littering

A person commits the offence of aggravated littering if the person intentionally deposits at a public place litter that, by its nature or the way it is deposited, is likely to cause injury to a person or animal, or to damage property.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.”

(b)The *Litter Bill 2006* does not have provision for penalties associated with the deposition of “**dangerous**” litter. Whilst we note the concerns about enforcement expressed in the June 2004 Options Paper, on public safety grounds, we see this distinction as a useful addition to the Bill.

(c)The bill does not allow for increasing fines for **repeat offenders**. We feel this could be made overt in the legislation as a means of providing disincentive to repeat offences.

(d)As drafted there is an absence of a provision in relation to the **vandalising of rubbish receptacles** (such as in the Victorian legislation). The damaging and/or setting fire of bins results in fewer receptacles for the public to use presumably increasing litter volumes. According to the 2004 Options Paper 21% of people depositing litter stated “no bin” as their reason. Given the apparent support from Tasmania Police (as per the Options Paper) we suggest consideration be given to including such a provision.

(e)The introduction of **abatement notices** is a positive move. The flexibility that these instruments will provide in addressing litter is an important addition to Tasmanian law.

3. Obligations of vehicle owners

Imposing liability on vehicle owners for litter emanating from their vehicle, subject to the driver identifying the culprit or proving the car was being used unlawfully, is appropriate from a practical and policy view point. This is consistent with the legislation in both Victoria and NSW.

4. Unsolicited Documents and Advertising Material

Division 3 of the bill is seen as a positive although the lack of any provision in relation to “No Junk Mail” is a limitation. The Victorian legislation provides for an offence where material is left where a “No Junk Mail” sign is present. We feel that this would be a valid addition to the Bill as it would lessen the likelihood of receivers of this mail disposing of it incorrectly.

5. Product Stewardship

The 2004 Options Paper canvassed “Product Stewardship” briefly. The Draft Bill only addresses this in allowing for the issue of abatement notices. As described above we consider the creation of power to issue abatement notices a positive step. Nonetheless in our view further consideration should be given as to how best to address litter issues at source. The need for outlets using disposable packaging to have rubbish/recycling bins is one example (as previously seen in the now rescinded regulation). According to the 2004 Options Paper 21% of people depositing litter stated “no bin” as their reason.

Please do not hesitate to contact us if you wish to discuss anything raised in this submission.

Kind regards,
Environmental Defenders Office (Tas) Inc
Per:

Adam Beeson
Interim Principal Lawyer