



WALGA

Western Australian Local Government Association

SUBMISSION

**Department of Sustainability, Environment, Water,
Population and Communities**

**Draft Guidelines for the Tyre Product
Stewardship Scheme**

PREPARED BY THE



MUNICIPAL WASTE ADVISORY COUNCIL

"Getting the Environment Right"

July 2012

Status of this Submission

This Submission has been prepared through the Municipal Waste Advisory Council (MWAC) for the Western Australian Local Government Association (WALGA). MWAC is a standing committee of WALGA, with delegated authority to represent the Association in all matters relating to solid waste management. MWAC's membership includes the major Regional Councils (waste management) as well as a number of Local Government representatives. This makes MWAC a unique forum through which all the major Local Government waste management organisations cooperate. This Submission therefore represents the consolidated view of Western Australia Local Government. However, individual Local Governments and Regional Councils may have views that differ from the positions taken here.

This Submission was endorsed by MWAC on Wednesday, 22 August.

The Municipal Waste Advisory Council's member organisations are:

Bunbury Harvey Regional Council
Eastern Metropolitan Regional Council
City of Greater Geraldton
Mid West Regional Council
Mindarie Regional Council
Rivers Regional Council
Southern Metropolitan Regional Council
Western Australian Local Government Association
Western Metropolitan Regional Council

Executive Summary

The Western Australian Local Government Association (WALGA) appreciates the opportunity to comment on the Draft Guidelines for the Tyre Product Stewardship Scheme (the Draft Guidelines). WALGA disagrees with the approach that has been taken to Product Stewardship for tyres, in that it is a Voluntary Scheme with limited direct intervention to address the key issue of the cost of recycling and tyre management currently paid by the community.

Under the proposed Scheme, producers/manufacturers will have very little responsibility for end-of-life tyres. There is no mechanism that actively increases the value of end-of-life tyres, and very few recovery targets guiding the approach of the Voluntary Scheme. It is unlikely that issues such as illegal dumping will be directly addressed by the approach suggested for this Scheme. WALGA is also concerned that this Scheme will struggle to retain accredited parties, as the costs involved with ensuring end-of-life-tyres go to environmentally sound uses becomes a reality.

The benefits of this Scheme to Local Government are very limited. Key issues have not been addressed such as the costs associated with illegal dumping, transport to markets, recycling, infrastructure and equipment, as well as the effect on site licensing and insurance. The expectation of the Tyre Implementation Working Group that the costs associated with these items will be resolved over time, by investment in market development and research does not resolve the need for practical interventions that will change the current situation.

Summary of Recommendations

Recommendation: That the Voluntary Product Stewardship Scheme directly addresses the issue of illegally dumped tyres, ensure producers take responsibility for end-of-life tyres and implements incentives for consumers to recycle end-of-life tyres.

Recommendation: That the Scheme is applied consistently nationally, so that benefits can be realised in different geographic areas.

Recommendation: That the industry 'strategy for handling end-of-life tyres' be finalised, and provided to stakeholders for comment.

Recommendation: That the Draft Guidelines be redrafted to ensure:

1. They are a clear and useful resource for users;
2. That timelines are included on the application approval / accreditation process; and
3. Clarification is provided on how accreditation will be applied consistently across all parties.

Recommendation: That targets for tyre recovery and recycling are included in order to measure the uptake, effectiveness and performance of the Scheme, and are linked to the Schemes review timeframes.

Recommendation: That the Government commits to introducing a mandatory or co-regulatory Tyre Product Stewardship Scheme, should the Voluntary Scheme fail to ensure issues with end-of-life tyres are addressed.

Recommendation: That a set of criteria be established to measure the Schemes effectiveness and that the Schemes achievements against these criteria be clearly, and independently monitored.

Recommendation: That monitoring and auditing of the Scheme be measured against baseline data from a variety of sources.

Recommendation: That the Tyre Implementation Working Group revises the data reporting requirements for accredited parties.

Recommendation: That clarification is provided on the structure and function of TSA, with regard to the Independent Chair, Board, CEO and advisory committees.

Recommendation: That funds raised by TSA are spent on direct interventions that will result in demonstrated change within the tyre industry.

Recommendation: That the Tyre Implementation Working Group reconsiders the definitions for *Environmentally Sound Use*, *Parties to the Scheme* and *Product Stewardship* in line with industry expectations and the principles of the Waste Management Hierarchy.

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1 Introduction

The Western Australian Local Government Association (WALGA) appreciates the opportunity to comment on the Draft Guidelines for the Tyre Product Stewardship Scheme. This Submission is structured in such a way that it identifies the issues Local Government has in managing end-of-life tyres, Local Governments preferred approach to Product Stewardship for tyres (and the proposed Scheme), and to address the questions asked by the Tyre Implementation Working Group in the Draft Guidelines.

End-of-life tyre management is a significant concern to the Local Government sector in Western Australia; WALGA has previously commented on a number of documents relating to their management. The most recent of these, was the 2008 consultation documents on establishing a National Product Stewardship Scheme for Tyres and the associated Regulatory Impact Statement. WALGA's comments on these documents concentrated on the need for:

- A clear and consistent expression of the objectives of such a Scheme, with recognition of the key aims (i.e. to reduce the environmental and health impacts of illegal dumping and to increase recycling of tyres).
- Targets established under the Scheme should apply on a State by State and national basis – to ensure the Scheme is equitably implemented.
- Targets that directly measure any decreases in illegal tyre disposal.
- The establishment of reliable data to measure the progress of the Scheme, along with processes as to how and by whom the data will be provided.
- Using recent data in determining the base line figures for tyre import, recycling, illegal disposal, export and landfill.
- A mechanism that allows additional measures to be implemented, should the Scheme fail to function adequately in a particular State/area of a State (including additional regulation if necessary).
- Research to be undertaken (or sourced if already existing) on which parties are illegally dumping tyres and why.
- The Scheme to cover the Local Government transport costs for recycling tyres.
- A frequent review of any Scheme that is implemented, and that the criteria for the reviews are clearly identified.

These comments still have relevance in establishing a Product Stewardship Scheme for Tyres and have been drawn upon in the current Submission.

2 Product Stewardship Scheme Design

Local Government has identified a number of issues in managing end-of-life tyres, namely:

- An inability to recover costs from illegal dumping;
- The cost of transporting tyres to markets (particularly in the non-metropolitan area);
- Tyres are a liability in obtaining licenses and insurance cover for landfill sites;
- The cost of recycling;
- The cost of infrastructure and equipment; and
- End-of-life tyres do not have a monetary value.

WALGA considers that the current Scheme will not address these concerns. This section of the Submission details some aspects of the Scheme that require further consideration prior to implementation.

2.1 Approach to Product Stewardship

WALGA disagrees with the approach that has been taken to Product Stewardship for tyres, in that it is a Voluntary Scheme with limited direct intervention to address key issues. The Scheme, as currently designed, is very unlikely to achieve the desired objectives, and will do little to practically address the cost of recycling and tyre management currently paid by the

community. Under the proposed Scheme, producers/manufacturers will have very little responsibility for end-of-life tyres. There are also no viable disposal options that facilitate reuse.

The overall suggestion of this Scheme is that investment in market development, research and accreditation will reduce the environmental impact of tyres, create a market for tyres in Australia and eventually reduce the cost of managing and recycling tyres. Unfortunately, there are a number of flaws with this suggestion. Placing a cost to recycle on the consumer, at the point they 'dispose' of the tyre, means that there is no monetary incentive to recycle, and does not take into account scenarios such as illegal dumping. When illegal dumping occurs, Local Government has to pay to collect and manage the dumped tyres. It is unlikely that issues such as illegal dumping will be directly addressed by the interventions suggested for this Scheme. Local Government is also concerned that this Scheme will struggle to retain accredited parties, as the reality of the economics involved with ensuring tyres go to environmentally sound uses becomes apparent. Practical measures need to be implemented to address these problems, instead of assuming that investment and research into markets will eventually resolve the situation.

Recommendation 1: That the Voluntary Product Stewardship Scheme directly addresses the issue of illegally dumped tyres, ensure producers take responsibility for end-of-life tyres and implements incentives for consumers to recycle end-of-life tyres.

2.2 Scope and coverage

The Draft Guidelines define coverage of the Scheme as National. As the Scheme will primarily focus on market development, research and accreditation, Local Government seeks assurance as to how this Scheme will provide benefits on a national scale. According to the Hyder Report (2012), Western Australia has the highest number of tyres per capita. At this stage, the benefits of this Scheme to Local Government as a collector are limited. Local Governments sole purpose is to serve the community. As the main provider of transfer stations and landfill facilities in Western Australia, Local Government is effectively the default collector of tyres from the community. This has occurred, in part to an inherent expectation from residents that their Local Government facilities will provide services for all types of waste. As a result, Local Government manages tyres that are not generated from its own use. These tyres originate from a variety of sources, such as illegal dumping, bulk collection, and those brought directly to facilities by residents and commercial operators. This expectation means that they are required to manage tyres even if there is a significant market failure, and no demand for material. As a result, Local Government is unable to walk away and invest in new business ventures, unlike other parties such as independent collectors and recyclers. Local Government has identified a range of management issues in relation to tyres; therefore it is important to ensure that the same level of benefits are provided across the nation.

Unfortunately for Local Government, the scope of this Scheme has been limited to tyres entering the Australian market for the first time (Section 2.3). This Scheme does not resolve the issue of currently stockpiled tyres and the issues associated with managing these tyres. As discussed previously, there is no monetary incentive to recycle tyres. As a result, collectors with substantial stockpiles will have to manage them in the traditional manner. (i.e. landfill, or paying collectors to recycle them).

Recommendation 2: That the Scheme is applied consistently nationally, so that benefits can be realised in different geographic areas.

2.3 Strategy to guide investment

In Section 4.2 of the Draft Guidelines, a statement was made that the funds generated by the Scheme are to be used to implement a strategy for handling end-of-life tyres. There is very limited detail regarding this strategy, and it is not clear from the information provided what such a strategy would entail. Local Government requests that the strategy be finalised, and

provided for comment to stakeholders. This strategy is potentially a means of informing accredited parties as to what areas of the industry Tyre Stewardship Australia (TSA) will be focusing on.

Recommendation 3: That the industry ‘strategy for handling end-of-life tyres’ be finalised, and provided to stakeholders for comment.

2.4 Security of funding mechanism

Given the voluntary nature of the Product Stewardship Scheme, and consequent funding mechanism, Local Government is concerned that TSA may not be financial viable. In section 4.2, the Draft Guidelines state that: *“the level of contribution is to be agreed by the parties to the Scheme contributing funds and is subject to review. Initial indications are that the contributions will be based on a levy of 25 cents per EPU.”* Tyre importers are under no legal obligation to sign up to the Scheme.

Other structures, such as those used to establish the Australian Packaging Covenant (APC) or Product Stewardship Scheme for TV’s and Computers could be investigated as an alternative arrangement. In both of these cases, there are regulatory consequences for companies who do not comply with the requirements of the Covenant/Scheme. Although the majority of tyre importers have agreed to be a part of this initiative, there is no long term guarantee that this will continue to be the case. Alternative approaches / contingency measures need to be established now, should importers with a key market share choose not to be part of the Scheme in the future. Local Government is also concerned that this Scheme will struggle to retain accredited parties, as the reality of the economics involved with ensuring tyres go to environmentally sound uses.

3 Governance and Scheme Operation

There are some potential issues that could arise from the way in which the governance of TSA has been structured. The following section details a number of these concerns.

3.1 Scheme operation

Environmentally Sound Use

All accredited parties under the Scheme are required to commit to environmentally sound use of tyres. There is a need for further clarification, as to how accreditation will be applied consistently to all parties in each category. For example, to resolve the question: are there any standards that apply to each type of tyre recycling technology? There is a need for the definition of environmentally sound use, to reflect the principles of the Waste Management Hierarchy. This issue is further discussed in response to Question 1 – Section 4 of this Submission.

Application Process

In broad terms, the Draft Guidelines are not user friendly. The Draft Guidelines need to be rewritten in such a way, that there is no risk of accredited parties misunderstanding what they are committing to in signing up to the Scheme. From the information provided in the Draft Guidelines, the length of the application process is unclear. To rectify this situation, the Tyre Implementation Working Group should ensure timelines for the application approval / accreditation process are included in the Draft Guidelines. As identified in response to the Draft Guidelines Questions in Section 4 of this Submission, it will be onerous for Local Governments to submit applications for (and remain compliant with) all of the different applicable categories. It will also be onerous providing updates to TSA each time there is a change in service providers.

The process of application (including verification) is likely to become a very heavy administrative burden on TSA as there is the potential for a large number of applicants to sign up to each category, throughout the entire supply chain. This is further discussed under Question 3.

Recommendation 4: That the Draft Guidelines be redrafted to ensure:

- 1. They are a clear and useful resource for users;**
- 2. That timelines are included on the application approval / accreditation process; and**
- 3. Clarification is provided on how accreditation will be applied consistently across all parties.**

3.2 Targets and timelines

Targets

There is a need for a variety of targets to measure the uptake and effectiveness of this Scheme that are linked to the timeframes for the Schemes review. For example, these could include progressive targets that identify reduction of tyres to landfill or export, as well as targets for recovery, and recycling (inclusive of the total amount recycled, and the breakdown of environmentally sound uses). Clarification is required on the period of time considered acceptable by TSA for significant changes to occur in markets that will directly influence issues associated with the costs of transport, recycling, infrastructure and illegal dumping.

In regard to measuring the performance of the Scheme, section 2.4 of the Draft Guidelines state that *“the performance measures and data requirements will be refined over time.”* This requires clarification. It is important that the type of performance measures and data required are identified prior to the establishment of the Scheme. This allows TSA to begin collecting this information consistently from the beginning of the Scheme, as well as allowing accredited parties the opportunity to become familiar with the reporting requirements.

There is also a need for an independent assessment of the performance of the Scheme. This would remove any potential for bias with TSA undertaking this type of assessment on its own progress (refer to comments in Section 3.3 of this Submission).

Timelines

Local Government acknowledges and agrees with the inclusion of a commitment by TSA to review the Local Government contractual arrangements after one year. This will allow any deficiencies in geographical coverage of the Scheme (across the entire supply chain) to be identified and addressed.

Local Government requests that a greater number of timelines be included in the Draft Guidelines. For example, sections 5.3 and 5.4 have very clear timelines in regards to revocation and resignation of participant. This level of consistency throughout the document would remove the possibility of accredited parties (or TSA) failing to implement agreed initiatives.

Recommendation 5: That targets for tyre recovery and recycling are included in order to measure the uptake, effectiveness and performance of the Scheme, and are linked to the Schemes review timeframes.

Recommendation 6: That the Government commits to introducing a mandatory or co-regulatory Tyre Product Stewardship Scheme, should the Voluntary Scheme fail to ensure issues with end-of-life tyres are addressed.

3.3 Monitoring, auditing and review

As has been previously identified, a key challenge to the success of this Scheme could well be its voluntary nature. WALGA strongly supports the inclusion of provisions for monitoring and auditing of the Scheme. Government monitoring of the overall effectiveness of the Scheme also needs to be a key element of the Scheme, considering that this Scheme will be industry run and operated. This issue is further discussed in Section 4 of this Submission.

Additionally, reference needs to be made as to how data reported by importers will be verified (for example, will TSA use customs / ATO data? Relying on data from importers without the appropriate verification process, could leave the Scheme open to criticism).

As discussed above in Section 3.2 of this Submission, WALGA supports the inclusion of a commitment to review the Local Government contractual arrangements after one year. However, the information provided to accredited parties on the actual Scheme reviews at two and then ten years needs to be clarified. The review needs to focus on a set of clear terms of reference for the Scheme, along with the definition for success or failure of the Scheme.

Recommendation 7: That a set of criteria be established to measure the Schemes effectiveness and that the Schemes achievements against these criteria be clearly, and independently monitored.

3.4 Data collection and use

For the performance of the Scheme to be effectively assessed, accurate data will be needed. There is a great deal of pre-existing information available on tyre management, such as the recent Study commissioned by the COAG Standing Council of Environment and Water, titled *Study into domestic and international fate of end-of-life-tyres* (Hyder 2012). The information from this Report (and others) should be incorporated into the measurement and monitoring provisions for the Scheme. Specific statistics and references should be included in the Draft Guidelines to substantiate a number of statements (for example, the destination of tyres).

Other data considerations for the Scheme relate specifically to the verification of data reported to TSA by members. As discussed in Section 3.3 of this Submission, data reported by importers should be cross referenced to other sources of information such as Customs import data. This will increase confidence in the Schemes validity and assist in accurate reporting.

In relation to the specific data required by those involved in the Scheme, Local Government agrees with the need to monitor how many tyres are processed by recyclers. However, Local Government questions the need for recyclers to document if their customers are accredited by TSA. It would be difficult and time consuming to check if customers are providing correct information on their accreditation status (additionally, the auditing process by TSA should capture this information). Local Government requests that the Tyre Implementation Working Group reviews this requirement, due to the burden it will place on recyclers to undertake this level of reporting.

Recommendation 8: That monitoring and auditing of the Scheme be measured against baseline data from a variety of sources.

Recommendation 9: That the Tyre Implementation Working Group revises the data reporting requirements for accredited parties.

3.5 Structure of TSA

The Draft Guidelines specifies the need for an Independent Chair. Clarification is required as to whether this refers to independence from TSA, or independence from the Tyre Industry; so not to compromise the activities and transparency of TSA. Additionally, it would be beneficial to have a predetermined number of directors for TSA, rather than a fluid structure with “*additional directors from time to time*” (Section 4.1). Local Government is concerned that having a fluid structure, could undermine the decisions of the pre-existing board. TSA would need to ensure that any change to the board maintained the balance of different parties so that no individual sectors of the industry are disadvantaged.

Section 4.1 also states that “*the Board of TSA will be responsible for determining the most effective and efficient arrangements for administration but may include establishment of a small*

office headed by a Chief Executive Officer, and/or outsourcing of elements of the scheme to other organisations which may have experience or other resources to apply meeting the objects of the scheme.” In other sections of the Draft Guidelines, the appointment of a CEO is discussed as something that will definitely occur (for example, section 4.6). It would be beneficial if the structure of TSA could be explained consistently in the Draft Guidelines.

There is a possibility that some conflict could occur, with the process for amending the Draft Guidelines as stated in section 4.6. This is due to the fact that the CEO can determine if an amendment to the Guidelines is either a minor/major change. Minor changes do not need to be approved by the directors.

The Draft Guidelines also allude to the possibility of TSA establishing advisory committees to provide specialist or expert advice, such as a research advisory committee (Section 4.3). Clarification is required on the mechanism that will trigger the establishment of an advisory committee, and how key stakeholders such as Local Government can be involved in these types of committees.

Recommendation 10: That clarification is provided on the structure and function of TSA, with regard to the Independent Chair, Board, CEO and advisory committees.

3.6 Use of Funds

Issues and barriers to be resolved

In the Draft Guidelines, the issues and barriers facing the entire industry are outlined in Section 1.1. These are:

- *“Lack of viable markets for end-of-life tyres and tyre derived products;*
- *Limited, and geographically concentrated, tyre recycling infrastructure;*
- *Lack of standards for the use of end-of-life tyres and tyre derived products in roads and other infrastructure projects;*
- *Demand for whole baled tyres from international energy markets, and*
- *Regulatory regimes governing the handling of end-of-life tyres that are inconsistent between Australian jurisdictions.”*

In section 3.1, the Draft Guidelines state that enterprise to enterprise agreements can accommodate the following improvements:

- *“Incorporating requirements for recovering the full cost of disposal of an end-of-life tyre by including it in the consumer price and ensuring that the money is paid to an accredited recycler*
- *Requiring the appropriate disposal of end-of-life tyres to accredited recyclers, thereby helping to address the inappropriate disposal of tyres to an unregulated baled tyre export market and increasing the supply of end-of-life tyres to build domestic markets for tyre derived products, and*
- *Ensuring compliance with existing regulatory controls.”*

Use of funds as per this Scheme

The Draft Guidelines identify, in section 4.2, that funds generated through the Scheme will be expended on:

- *“Organisational management costs;*
- *Implementation of its strategy for handling end-of-life tyres;*
- *Administration of the scheme, including costs associated with accreditation and audit of participants and reporting;*
- *Communication, education and awareness raising to support the Scheme; and*
- *Market development and research.”*

Unfortunately, these activities do not address the immediate issues for Local Governments associated with the cost of transporting tyres to markets, the cost of recycling, infrastructure and illegal dumping. The costs associated with these items, are stated as being additional costs that

are to be covered by the consumer (or Local and State Government in the case of illegal dumping). The Draft Guidelines clearly states that: *“it is expected that, over time, investment by TSA in the domestic markets for tyre derived products and research into other impediments to resource recovery and recycling will reduce the cost...”* Local Government is concerned with this approach, as it does not set a clear timeframe for this outcome to be realised. Additionally, the outcomes are entirely reliant on the assumption that markets will provide an effective intervention; rather than the approach of directly influencing the costs associated with transport, recycling, infrastructure and illegal dumping. The initiatives proposed by TSA to support the industry, are relatively general i.e. *‘education, communication, market development and early stage research.’* There is a need for viable disposal options that facilitate reuse. Without viable options, the actual disposal reuse costs cannot be benchmarked.

Local Government does not consider that the use of funds outlined in the Scheme will adequately address these issues, or the issues identified by industry, given the quantum of funds to be generated and the lack of a clear strategy.

Community Education

The Tyre Implementation Working Group should carefully consider the implications of educating the public and promoting the Scheme – as this could result in a situation with Local Government as a collector (discussed under Section 2.2 of this Submission) managing an influx of tyres from unfunded sources. Clarification is required on whether funds will be assigned to any form of implementation of the research findings.

There is a possibility that the language used to promote the Scheme will cause confusion for the general public. For example, in Part B, section 4.4 of the Draft Guidelines the Scheme is described as *“the product stewardship scheme for tyres is voluntary and aims to increase the recycling of Australia’s end-of-life tyres. The scheme is administered by Tyre Stewardship Australia, a company established specifically for this purpose by the Australian Tyre Industry Council.”* Local Government believes that using this type of text to educate the public will not work, and needs to be re-drafted.

Recommendation 11: That funds raised by TSA are spent on direct interventions that will result in demonstrated change within the tyre industry.

4 Statements Addressing the Consultation Questions

Question Box 1 Glossary and acronyms

Are these definitions adequate? Do they raise any concerns with regards consistency with other processes or legislation? Please note that the definition of “environmentally sound use” is very significant in this scheme as it is included in some of the most important commitments for participants, for example the General Commitment “All Participants in the scheme also commit to contribute to the environmentally sound use of end-of-life tyres”.

Local Government is concerned with the definitions of key elements to this Scheme, namely *Environmentally Sound Use*, *Parties to the Scheme*, and *Product Stewardship*. These definitions have the potential to cause confusion in relation to expectations of what the Scheme will deliver.

Environmentally sound use

Local Government requests guidance on how the concept of environmentally sound use will be applied in a practical sense. It is a very real threat to the Scheme that recyclers will use the cheapest recycling technology (not the most environmentally sound option), available to them, to retain accreditation. It would be beneficial for a mechanism to be built into the Scheme that provides encouragement and incentive for reuse in line with the principles of the Waste Management Hierarchy. For example, the Federal Oil Product Stewardship Scheme (although somewhat flawed) is designed to financially reward recyclers that carry out oil to oil recycling, rather than use oil as a fuel source. It would appear that this definition, also allows for the

possibility of exporting tyres for 'recycling' and 'energy recovery' overseas. This is interesting, considering that a core objective of the Scheme is to develop the tyre recycling industry and markets for tyre derived products in Australia.

Parties to the Scheme

The definition of *parties to the scheme* appears to only include those that originally designed the Scheme. The Draft Guidelines should specify that this is the case; otherwise all those that sign up for accreditation under the Scheme could incorrectly assume that they are a *party to the scheme*.

Product Stewardship

The definition widely accepted by the waste management sector for *Product Stewardship*, can be taken from the *Product Stewardship Act 2011*: "*Product stewardship is an approach to reducing the environmental and other impacts of products by encouraging or requiring manufacturers, importers, distributors and other persons to take responsibility for those products.*"

This definition clearly places the onus of responsibility for products on those that benefit from selling these products to the market. This is very different to the definition given to the proposed Scheme, where all parties have a "shared responsibility", including the consumer. As the *Product Stewardship Act 2011* is the legislation under which this Scheme will apply for accreditation, the same definition should be used to ensure consistency.

Multiple words with the same definition

It is interesting to note that some definitions apply to more than one section of the supply chain. For example, for the purpose of the Scheme, a *transporter* is a *collector*, and a *re-treader* is a *retailer*. In some cases this may be a fair assumption to make, but consideration should occur for when there are alternative arrangements in place. For example, independent parties often transport tyres to recycling centres. If these definitions are to be used, there needs to be awareness that they could cause some confusion during implementation of the Scheme.

Recommendation 12: That the Tyre Implementation Working Group reconsiders the definitions for *Environmentally Sound Use*, *Parties to the Scheme* and *Product Stewardship* in line with industry expectations and the principles of the Waste Management Hierarchy.

Question Box 2 General commitments (section 3)

Are these general commitments appropriate, particularly in reference to the principles and objectives of the scheme? Do they impose an unreasonable burden on those that might consider becoming participants? Should there be additional general commitments?

A significant problem with these commitments is that TSA does not have the ability to impose significant penalties on those that fail to meet them. Revoking accreditation for 12 months may not be a sufficient deterrent to this type of activity, especially in areas where there are limited parties accredited under the Scheme. As previously noted in this Submission, Legislative backing is required to resolve this issue.

Supporting the objectives of the Scheme

All parties are required to commit to '*supporting the objectives of the Scheme.*' These objectives are to "*increase resource recovery and recycling and minimise the environmental, health and safety impacts of end-of-life tyres generated in Australia, and develop Australia's tyre recycling industry and markets for tyre derived products.*"

Local Government is concerned that these objectives do not address issues such as illegal dumping and the actual cost of managing/recycling end-of-life tyres. Local Government is also concerned that not every participant in the supply chain will have an equal ability to support these objectives (for example, recycler vs collector).

Audits and surveys

Local Government is concerned that the commitment to cooperate with surveys and audits is particularly vague. Local Governments could be faced with an unnecessary reporting burden if they become accredited under the Scheme, and are required to complete surveys for each signatory category. Clarification is required on this point. Local Government is already used as a data source by both the State and Federal Governments for numerous purposes. Compiling data to suit the requirements of these established survey types is already time consuming. It would be beneficial if the Tyre Implementation Working Group could investigate if there are any opportunities to obtain data from pre-existing sources (e.g. import data). The Working Group should also consider what the administrative burden to TSA will be in analysing surveys from potentially thousands of signatories across the different categories.

Committing to environmentally sound use

All accredited parties under the Scheme are required to commit to contribute to the environmentally sound use of tyres. Clarification is required as to how accreditation will be applied consistently to all parties in each category in relation to environmentally sound use (i.e. are there any standards that apply to each tyre recycling technology?). Accreditation should only be awarded to those parties that deal ethically and uphold the concept of environmentally sound use in line with the Waste Management Hierarchy. The general commitment approach taken in the Draft Guidelines, almost assumes that each participant in the supply chain has an equal capacity to influence. This is often not the case (see comments above: *supporting the objectives of the Scheme*).

Question Box 3 process and compliance (section 5)

Are the processes for audits, revocation, resignation and re-applying clear and reasonable? Will the audit processes impose an unreasonable burden on those that might consider becoming participants?

Verification

In section 5.2.1, the process for verifying accredited parties is explained. The Tyre Implementation Working Group should consider the amount of time and resources required for TSA to carry out the necessary cross-referencing to determine if the claims made in application forms match industry practise. To put this in perspective, there are 560 Local Governments Australia wide (ALGA 2012), and potentially thousands of retailers, collectors and recyclers. It could be useful to consider alternative methods of accrediting participants, to reduce the number of participants that need to submit forms. Local Government is concerned that TSA resources will be spent untangling administrative issues pertaining to membership instead of resolving issues for tyre recycling.

Auditing

The process for auditing in section 5.2.2 states that the frequency of audits, and the percentage of participants audited each year is at the discretion of TSA. This has the potential to affect the validity of results. Local Government requests that a clear definition on what constitutes *reasonable notice* is provided in the Draft Guidelines. Access to sites, personnel and documents requires some lead time.

Revocation and resignation

The inclusion of guidance on revocation and resignation of a participant in sections 5.3 and 5.4 of the Draft Guidelines is entirely reasonable. Local Government requests that timelines also be included in other sections of the draft guidelines (for example, the period of time it would take for TSA to provide accreditation upon application to the Scheme). The revocation of a participant's accreditation appears to be the only form of enforcement that TSA has.

Question Box 4 importers (section C)

Are these specific commitments for importers appropriate, particularly in reference to the principles and objectives of the scheme? Do they impose an unreasonable burden on importers that might consider becoming participants? Should there be additional commitments? Are the data requirements and reporting requirements appropriate and reasonable? Is the advice clear and complete?

There needs to be recognition in the Draft Guidelines that some Local Governments can be classed as an importer (for example, a Local Government ordered machinery directly from an international source). Clarification is required on the requirement for Local Governments to sign up to the Scheme as an importer, the subsequent quarterly reporting and if they are required to pay the EPU levy. Local Government considers that the guidance provided in the Draft Guidelines is unclear on these items, and will result in a heavy administrative burden to both Local Governments and TSA.

This question again highlights the need for legislative underpinning of the Scheme. An integral flaw in the design of this Scheme is that tyre importers are under no legal obligation to sign up to the Scheme. As previously mentioned in Section 2.4 of this Submission, mandatory and co-regulatory approaches should be used.

Data reporting

While the requirement for data reporting is included as a specific commitment in the Participant Commitments for Recyclers (pg 61 - 63), this commitment has not been included in the Participant Commitments for Tyre Importers and Vehicle Manufacturers and Importers section of the Draft Guidelines (pg 26 - 28). This may be an editorial issue. Local Government considers that the key point of data reporting is at the import/manufacture stage for determining tyre numbers.

Question Box 5 retailers (section D)

Are the specific commitments for retailers appropriate given the principles and objectives of the scheme? Do they impose an unreasonable burden? Should there be additional commitments? Are the data requirements appropriate and reasonable? Is the advice clear and complete? Are the requirements for retailers contracting with non-accredited collectors and recyclers reasonable and clear? Is the standard scheme docket useful?

Local Government as a customer

Although Local Government is not a tyre retailer to the community, it does have an interest as a customer of tyre retailers. The advice provided in the Draft Guidelines on dealing ethically and transparently needs to be clarified. It may be beneficial to explain the reasoning behind this commitment to retailers, as well as provide an example of what TSA means by transparent fees and charges – along with where the tyres go after they leave the retailer.

Question Box 6 fleet operators (section E)

Are the specific commitments for fleet operators appropriate given the principles and objectives of the scheme? Do they impose an unreasonable burden? Should there be additional commitments? Are the documentation requirements appropriate and reasonable? Could currently used documentation be easily adapted for these requirements? Is the advice clear and complete? Are the requirements for fleet operators contracting with non-accredited collectors and recyclers reasonable and clear? Is the standard scheme docket useful?

Local Government as Fleet Operators

This section of the Draft Guidelines has many similarities with the section for Local Governments. It should be clearly stated that Local Governments are not to fill out this section.

Question Box 7 collectors (Section F)

Are the specific commitments for collectors appropriate given the principles and objectives of the scheme? Do they impose an unreasonable burden? Should there be additional commitments? Are the documentation requirements appropriate and reasonable? Could currently used documentation be easily adapted for these requirements? Is the advice clear and complete? Is the standard scheme docket useful?

Local Government Collectors

This Scheme does not acknowledge that in many areas of Western Australia, Local Government, as the main provider of waste management facilities is effectively the default collection point for tyres from the community. This has occurred, in part to an inherent expectation from residents that their Local Government facilities will provide services for all types of waste. As a result, Local Government manages tyres that were not generated from its own use. These tyres originate from a variety of sources, such as illegal dumping, bulk collection, and those brought directly to facilities by residents and commercial operators. As a result, clarification is required as to whether Local Government is required to sign up as a collector and if so the type of data required.

Question Box 7 recyclers (section G)

Are the specific commitments for recyclers appropriate given the principles and objectives of the scheme? Do they impose an unreasonable burden? Should there be additional commitments? Are the documentation and reporting requirements appropriate and reasonable? Could currently used documentation be easily adapted for these requirements? Is the advice clear and complete? Is the standard scheme docket useful?

Clarifying what transparency means

Local Government agrees with the principle of the specific commitment for recyclers to *'guarantee that all end-of-life tyres received with a recycling gate fee go to an environmentally sound use.'* The terminology associated with the gate fee may cause some confusion during implementation of the Scheme, as some tyres have this fee placed on them by retailers. Additionally, it may be beneficial to explain the reasoning behind this commitment to recyclers, as well as provide an example of what TSA means by transparent fees and charges – along with where the tyres go after they leave the recycler (refer to comments on retailers).

Reporting data

Local Government agrees with the need to monitor how many tyres are processed by recyclers. However, Local Government questions the need for recyclers to document if their customers are accredited by TSA. It would be difficult and time consuming to check if customers are providing correct information on their accreditation status (the auditing process by TSA should capture this information). Local Government requests that the Tyre Implementation Working Group reviews this requirement in light of the capacity of recyclers to undertake this level of reporting.

Question Box 8 Local Governments (section H)

Are the specific commitments for local governments appropriate given the principles and objectives of the scheme? Do they impose an unreasonable burden? Should there be additional commitments? Are the documentation requirements appropriate and reasonable? Could currently used documentation be easily adapted for these requirements? Is the advice clear and complete? Are the requirements for local governments contracting with non-accredited collectors and recyclers reasonable and clear? Is the standard scheme docket useful?

These commitments are not appropriate in the sense that the Scheme primarily views Local Government as a fleet operator (i.e. the commitments are essentially the same as those for fleet operators). The Scheme does not recognise the significant role Local Government plays in other categories.

As the Draft Guidelines are currently structured, Local Government will have to sign up to multiple categories, with no clear benefit. This could also mean that the auditing and surveying requirements could become onerous. Local Government requests that the Tyre Implementation Working Group provides clarification on this issue, and considers how to reduce the reporting burden on Local Government.

Eliminating tyres to landfill

Local Government is also concerned with the commitment to eliminate tyres to landfill (Local Government often manages landfills), as there are some instances where Local Governments has no control over what goes into landfill, for example at unmanned landfill sites. Local Government seeks clarification on whether accreditation will be revoked should an auditor discover tyres in a Local Government landfill.

Role of the State and Federal Government

Although the role of Local Government has been somewhat mentioned in the Draft Guidelines, there is no recognition of the significant role that the State and Federal Governments could potentially have in this Scheme. Binding commitments from the State and Federal Governments are required for this Scheme to be successful, as these levels of Government can play a key role in addressing the barriers previously identified by industry (for example, in the area of procurement).

Question Box 8 miners (section I)

The Tyre Implementation Working Group (IWG) has had some liaison with mining industry representatives but is keen to discuss the draft Guidelines further with miners. Currently the Guidelines provide a basic framework for the involvement of miners in the scheme which the Tyre IWG is keen to build on in consultation with the mining industry. In this context, are the specific commitments for miners appropriate given the principles and objectives of the scheme? Do they impose an unreasonable burden? Should there be additional commitments?

Local Government supports the inclusion of mining companies in this Scheme, given the significant number of tyres used in this sector. Local Government requests that TSA considers employing a regional approach instead of an industry approach when attempting market development in remote mining areas.

Clarification is required as to why there is no specific commitment for miners to report quarterly on the number of tyres coming into Australia, like the requirement on importers. A failure to record this information could result in a large number of tyres disappearing from the overall data. This is especially a concern, if miners directly import tyres and then use them on site instead of sending them to recyclers.

5 Conclusion

The benefits of this Scheme to Local Government are very limited. Key issues have not been addressed such as the costs associated with illegal dumping, transport to markets, recycling, infrastructure and equipment, as well as the effect on site licensing and insurance. The

expectation of the Tyre Implementation Working Group that the costs associated with these items will be resolved over time, by investment in market development and research does not resolve the need for practical interventions that will change the current situation.

A number of different parties have been identified as potential accredited parties in the Draft Guidelines, including manufacturers, importers, retailers, fleet operators, collectors, recyclers, Local Government and mining companies. However, there is no mention of the State and Federal Governments. Binding commitments from the State and Federal Governments are required for this Scheme to be successful. These levels of Government can play a key role in addressing the barriers previously identified by industry (for example, in the area of procurement).

WALGA disagrees with the approach that has been taken to Product Stewardship for tyres, in that it is a Voluntary Scheme with limited direct interventions addressing these key issues. Under this Scheme, producers/manufacturers have very little responsibility for managing end-of-life tyres. There is no mechanism that actively increases the value of end-of-life tyres, and very few targets guiding TSA's actions in establishing the Scheme. These deficiencies need to be addressed, prior to implementation of the Scheme.

6 References

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Legislation

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