

7 August 2024

Our ref: BJH 199118  
Your Ref: AA1000655

Mr Gavin Jones  
Australian Competition and Consumer Commission  
Level 17, Lonsdale Street  
MELBOURNE VIC 3000

Ben Hamilton  
Partner  
[Redacted]  
[Redacted]

Via email: [Redacted];  
[Redacted]  
[Redacted]

**Application for revocation and substitution of authorisation AA1000409: Reference: AA1000655**

Dear Mr Jones

## 1 Response to further submissions

Thank you for providing Tyre Stewardship Australia (**TSA**) with the opportunity to respond to submissions received from interested parties which have been provided in response to the ACCC's draft determination.

TSA welcomes the opportunity to respond.

TSA notes that all submissions support continuation of the Tyre Product Stewardship Scheme (**Scheme**).

The body of this letter provides context and a general response to the submissions provided by the Australian Tyre Recyclers Association (ATRA), the Australian Council of Recycling (ACOR) and Tradefaire International Pty Ltd (Tradefaire) (**Submissions**). These Submissions have raised concerns with respect to specific attributes of the Scheme or otherwise have suggested improvements to the Scheme.

More specific responses to each Submission are set out in Schedule 1.

Please note that this letter should also be read in conjunction with earlier submissions made by TSA.

## 2 Context

In TSA's view, setting out the wider context surrounding the operation of the Scheme to the interested parties who provided the Submissions will assist with TSA addressing these Submissions.

## 2.1 Competition and Consumer Act 2010 (Cth) (CCA)

Under section 88 of the CCA, an authorisation may be granted in relation to conduct that would or might otherwise contravene the competition law provisions of the CCA. If the relevant conduct is determined as not likely to have an anticompetitive effect nothing more is required (section 90(7)(a)). Alternatively, an authorisation will be granted where it is determined that, in all of the circumstances, the conduct would result, or be likely to result, in 'a benefit' to the public and the benefit would outweigh the detriment to the public that would result, or would be likely to result, from the conduct (section 90(7)(b)).

## 2.2 The RAWR Act

The *Recycling and Waste Reduction Act 2020 (RAWR Act)*:

*'provides a framework for managing Australia's recycling and waste reduction objectives. A key objective of the Act is to encourage the development of a circular economy, including through product stewardship.'*<sup>1</sup>

The RAWR Act is therefore product stewardship scheme specific legislation.

The RAWR Act provides for three levels of product stewardship: voluntary, co-regulatory and mandatory. These approaches help manage the impacts of products and materials on the environment, human health and safety throughout their lifecycle. There are currently seven accredited voluntary schemes, and the Scheme is one of them.

The stated purpose of accrediting product stewardship schemes is to:

*'[enable] industry led product stewardship arrangements to demonstrate to businesses and consumers that the arrangement has the Australian Government's stamp of approval.'*<sup>2</sup>

Accreditation is given by the Federal Government to *'provide confidence that the arrangement's environmental and human health outcomes have been verified and will contribute to Australia's recycling and waste reduction objectives'*.<sup>3</sup>

## 2.3 Minister's priority list

The RAWR Act requires publication of a product stewardship 'priority list' before the end of each financial year (**Minister's Priority List**). The Minister's Priority List identifies the products and materials most in need of industry-led product stewardship action, with reasons for the product listing, actions required and expected time frames. If there is insufficient industry action, including in a voluntary scheme, the RAWR Act provides for co-regulatory or mandatory measures.

End of life tyres (**EOLT**), including passenger, bus, truck and off-the-road (**OTR**) tyres were listed on the Minister's Priority List for 2022-2023 (and again in 2023-24). The stated purpose of listing EOLT on the Minister's Priority List is to *'drive industry participation in the [Scheme] and will include consideration of regulatory approaches'*.<sup>4</sup>

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<sup>1</sup> <https://www.transparency.gov.au/publications/agriculture-water-and-the-environment/department-of-agriculture-water-and-the-environment/department-of-agriculture-water-and-the-environment-annual-report-2021-22/annual-reports-on-the-operation-of-legislation/recycling-and-waste-reduction-act-2020>

<sup>2</sup> <https://www.dcceew.gov.au/environment/protection/waste/product-stewardship/product-schemes/voluntary-product-stewardship>

<sup>3</sup> <https://www.dcceew.gov.au/environment/protection/waste/product-stewardship/product-schemes/voluntary-product-stewardship>

<sup>4</sup> <https://www.dcceew.gov.au/environment/protection/waste/product-stewardship/ministers-priority-list/2022-23#endoflifetyres>

## 2.4 Timing

Certain conduct which relates to the operation of the Scheme is currently authorised under authorisation AA1000409.

As has been submitted in the application for revocation and substitution of authorisation AA1000409 dated 1 December 2023 (**Application**), a key driver for the present Application concerns timing issues that arise due to the passing of the RAWR Act which, while supported by TSA, is of course outside of TSA's control.

The passing of the RAWR Act represents a key regulatory change as to how product stewardship schemes will be regulated, governed and managed in Australia and, therefore, has a direct bearing on how the Scheme will operate in the future.

The following timeline is relevant:

- The current authorisation AA100409 was granted in May 2018 and expired on 15 June 2024.
- Subsequently, the RAWR Act came into effect on 16 December 2020.
- The Federal Government accredited the Scheme under the RAWR Act in March 2021. Accreditation will last for five years; that is until March 2026.
- EOLT were added to the Minister's Priority List in October 2022 for 2022-23 and were listed again in 2023-24.

The addition to the Minister's Priority List is the first step towards the Scheme potentially transitioning to a more fully regulated scheme under the RAWR Act. If insufficient activity is taken to address the Minister's Priority List recommendations, the Minister can determine that the Scheme will transition to a more fully regulated scheme under the RAWR Act.

Thus, the current timing of the Application ought to be viewed in this wider legislative context of the Scheme potentially transitioning to a more fully regulated scheme under the RAWR Act.

TSA wishes to point out that at the recent Environment Ministers' Meeting on 9 June 2023, the Ministers:

- agreed to accelerate product stewardship efforts including by developing a framework to guide interjurisdictional efforts and drive action on problematic products; and
- agreed that Western Australia will lead the development of national principles for product stewardship for tyres.<sup>5</sup>

## 3 Overall comment in response to Submissions

With the comments and context set out in heading 2 in mind, TSA wishes to provide some overall observations in response to the Submissions (noting that there are more specific responses set out in Schedule 1).

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<sup>5</sup> <https://www.dcceew.gov.au/sites/default/files/documents/emm-communicue-09-june-2023.pdf>

### **3.1 Submissions support the Scheme**

While the Submissions provide recommendations for improvement, they also support the Scheme. By implication, therefore, it appears they each support the Application, as the Scheme essentially requires authorisation of certain conduct which is fundamental to the ongoing operation of the Scheme.

### **3.2 Effect on Scheme if authorisation not granted**

TSA also wishes to point out that the Submissions do not address a scenario where Application is not granted, which would mean that current authorisation AA1000409 is the relevant authorisation. However, the current authorisation AA1000409 expired on 15 June 2024. The Submissions do not provide any alternative suggestion as to how the Scheme (which is supported) could operate in a meaningful way without authorisation of the relevant conduct under section 88 of the CCA.

### **3.3 A Submission suggests that alternative schemes can operate in competition to the Scheme**

The submission by Tradefaire International Pty Ltd dated 28 June 2024 reveals that Tradefaire has instituted '*an in-house, self-contained initiative to directly motivate end users to recycle their old tyres, in preference to continued participation*' within the Scheme.

The establishment of a different recycling scheme by a tyre importer which is an alternative to the voluntary Scheme suggests that alternative schemes can and do offer competitive alternatives to the Scheme.

This indicates that the operation of the Scheme is constrained by the effects of competition, which is a factor to be taken into account when assessing the Application under section 88 of the CCA.

### **3.4 Some submissions are requesting a 'best practice' scheme**

A number of Submissions advocate for the Scheme to implement 'best practice' or otherwise offer views for improvement. TSA welcomes this feedback and is looking to continuously improve on how the Scheme operates. TSA addresses a number of these suggestions directly in Schedule 1.

TSA respectfully suggests that, while TSA is looking to continually improve the operation of the Scheme, the suggestions around 'best practice' that have been put forward do not disturb the application of section 88 of the CCA to the Application.

TSA also respectfully suggests that comments in the Submissions which address a wider and more generalised enquiry as to what constitutes a 'best practice' tyre stewardship scheme ought to be made the Federal Government.

The outcome and timing of the recent Environment Ministers' Meeting on 23 June 2024 are not matters which TSA is responsible for and nor is TSA the decision-maker as to whether the Scheme, or a redesigned version of the Scheme, will become more formally regulated within Australia. This is a matter for government and TSA encourages the interested parties to make submissions to government in respect of the concerns raised within many of these Submissions.

TSA's Application essentially relates to continuation of the Scheme, and not for regulatory approval of future policy actions of government.

### **3.5 Submissions do not address key asserted public benefit**

Further, if any material changes to the operation of the Scheme are introduced at this time, those changes may become redundant in a relatively short space of time if, for example, the current voluntary Scheme moves to a more fully regulated scheme under the RAWR Act.

As set out in the Application, a key public benefit of allowing the Application at this time is to provide continuity for the operation of the Scheme, and thus stability for the tyre recovery sector, during this period of recent significant regulatory change, government review (and the recent passing of the RAWR Act) and potential transition of the Scheme to a more fully regulated scheme under the RAWR Act.

The Submissions which are calling for substantial and sweeping improvements to the operation of Scheme do not address these timing issues set out under heading 2.4. Instead, they appear to assume that the Scheme will be operating in its current form on an ongoing basis for some time, which may not be the case given the recent passage of the RAWR Act and the listing of EOLT on the Minister's Priority List.

### **3.6 Submissions suggest the Scheme does not provide any benefit**

A number of Submissions suggest that the Scheme does not provide any substantial benefit which is over and above what State based legislation already provides.

TSA also offers the following general observations:

- A premise of these Submissions seems to be that benefits can be provided either by the Scheme or by legislation. TSA is respectfully of the view that the operation of the industry-led Scheme and State based legislation are not mutually exclusive but are rather complementary so that they enhance the benefits of each other; and
- The proposition that the Scheme does not provide any additional benefit to what is currently provided under State based legislation is difficult to reconcile, and at odds with, the passage of the RAWR Act itself. As mentioned above, the Scheme is accredited under the RAWR Act. The accreditation regime under the RAWR Act is a Federal Government mechanism to *'provide confidence that the arrangement's environmental and human health outcomes have been verified and will contribute to Australia's recycling and waste reduction objective'*. If the Scheme did not provide any benefits which were in addition to any benefits that existed under State based legislation, it would seem to follow that there would be no policy or legislative need to accredit the Scheme, otherwise enact the RAWR Act or have the Western Australia government lead the development of national principles for product stewardship for tyres. If an interested party considers that the Scheme should not be accredited under the RAWR Act or that the RAWR Act does not provide any benefits which are in addition to existing State based legislation, then TSA respectfully suggests that this is a matter for an interested party to take up with government.

TSA provides its more specific response to this matter under Schedule 2

Please let us know if you have any further queries or require any further information.

Yours faithfully

Hall & Wilcox

**Hall & Wilcox**

# Schedule 1

Statement	TSA response
<b>Australian Council of Recycling</b>	
<p><i>The TSA re-authorisation presents an opportunity for the ACCC to support best-practice product stewardship and rectify challenges with the current scheme.</i></p>	<p>TSA has applied to the ACCC to authorise certain activities, to allow it to continue to operate the Scheme during a period of regulatory change.</p> <p>TSA acknowledges ACOR's concerns with the Scheme, however rectification of any challenges with the Scheme perceived by ACOR is a matter which sits outside the current process of authorisation.</p> <p>Please refer to comments above.</p>
<p><i>There is no recycling industry representation on the Board and insufficient engagement with the recycling sector; especially at peak level.</i></p>	<p>TSA believes that this has been previously addressed.</p> <p>TSA understands the recycling industry's concern with the lack of recycler representation on the board of TSA. TSA has in the past been able to obtain recycling representation on its board and is currently willing to appoint recycling representation on its board, provided this representation does not result in an unacceptable risk of a conflict of interest. To achieve this, TSA may need to seek the appointment of a recycler representative from an overseas jurisdiction.</p>
<p><i>[t]he ACCC- and Government-endorsed TSA, like many other product stewardship schemes, often positions itself as an authority on recycling, seeking credit for recycling outcomes and claiming authority in terms of reporting and industry analysis.</i></p>	<p>TSA is a voluntary industry-based Scheme. It is not a government authority. The ACCC's authorisation is sought to allow for certain activities under the Scheme under the CCA. TSA wishes to emphasise to ACOR that the CCA is not legislation which deals specifically with product stewardship schemes.</p> <p>TSA, as the operator of the national Scheme often engages with government on matters which relate to the Scheme. TSA, being the operator of the Scheme, sees itself as a representative of the Scheme. TSA does not see itself as being the 'authority on recycling'.</p> <p>TSA has requested an independent third party (Landell Consulting) to conduct a review with the recycling sector to better understand their needs. TSA is also considering other measures to better share its data with industry.</p>
<p><i>TSA has proposed that the Federal Government now intervene in the tyre recycling system through a regulated EPR scheme.</i></p>	<p>TSA wishes to point out to ACOR that TSA's application to the ACCC for authorisation of the Scheme under section 88 of the CCA and the passing of the RAWR Act does not reflect a 'proposal' by TSA for Federal Government 'intervention' in the tyre recycling system through a regulated EPR scheme.</p> <p>While TSA is generally supportive of the imposition of a regulated scheme for tyre recycling under the RAWR Act, the decision to impose such a scheme is of course ultimately a matter for government, not TSA.</p>

Statement	TSA response
<p><i>On this subject, TSA has presented data regarding EOLT fates in Australia in ways that do not accurately reflect the true state of affairs, in an effort to seek government intervention in an already-successful recycling sector. For this reason, ACOR supports ATRA’s demand that TSA be required by the ACCC – as its authorisation agency – to publicly address the actual degree of dumping, which according to available data has remained steady at around 2–3%, and ensure policymakers are more accurately informed.</i></p>	<p>TSA would encourage any general submissions in support of ‘best practice’ tyre product stewardship schemes to be directed to government.</p> <p>In 2018-19 (reported in the 2020 Fate Analysis Report), 2-3% of all used tyre generation represented 1.16 - 1.71 million equivalent passenger tyre units (EPU). In 2023, 2-3% of used tyre generation represented 1.36 - 2.04 million EPU, indicating overall, dumping has increased by between 200,000 and 330,000 EPU. This increase in tyre dumping was further validated by the reports of tyre dumping through Snap Send Solve (reporting App) and by local and State government enforcement officers through their ‘on the ground’ experiences.</p>
<p><i>TSA, for example, points to increased EOLT recovery rates since its formation as demonstration of the Scheme’s success, however, this change should more appropriately credited to tightened state-based regulation: over the same time period, every state substantially reformed regulation of EOLT storage, transportation, fire safety, disposal, and other environmental management aspects.</i></p>	<p>ACOR’s comments appear to be premised on the assumption that ‘credit’ for increased EOLT recovery should be allocated between either State based legislation or the Scheme. In TSA’s views, the Scheme should be seen as being complimentary to legislation rather than as a potential substitute.</p> <p>In any event, the proposition that existing State based legislation is sufficient to regulate EOLT recovery does not appear to be shared by the government, as evidenced by the passing of the RAWR Act and by the views expressed by the recent Environment Ministers’ Meeting.<sup>6</sup></p> <p>Please refer to the above covering letter and to Schedule 2.</p> <p>The work of TSA and the administration of the Scheme has led to several measurable outcomes, including the deepening of markets for EOLT and waste rubber-based products. Increased state-based regulation and pathways for more sustainable uses of EOLT go hand-in-hand to creating an environment where dumping or stockpiling of EOLT is the least viable option for owners of EOLT.</p>
<p><i>The ACCC has sought comment on the extent to which participation in the Scheme should require commitments that exceed legal requirements.</i></p>	<p>ACOR has misunderstood the ACCC’s query.</p> <p>This query is requesting information on how the existing Scheme participation exceeds the obligation to comply with the law. TSA has provided substantial information regarding the positive benefits of the Scheme, which sit outside of, and are additional to, strict compliance with the law (see Schedule 2).</p>
<p><i>ACOR is concerned that dispensation granted through ACCC re-authorisation of TSA may advance member interests over genuine attempts to address EOLT recycling supply chain solutions.</i></p>	<p>TSA is not clear on what is meant by the term ‘dispensation’ in the context of section 88 of the CCA.</p> <p>In any event, TSA does not accept the implication that its application for authorisation is based upon or would otherwise facilitate an ulterior motive related to the advancing of particular member interests.</p>

<sup>6</sup> <https://www.dcceew.gov.au/sites/default/files/documents/emm-communicue-10-nov-2023.pdf>



Statement	TSA response
<p><i>TSA's lack of meaningful engagement with the recycling sector has led to decisions with unintended consequences. For instance, by accrediting tyre balers – which provided the cheapest avenue for disposal – many millions of unprocessed EOLT were exported to developing countries. This practice, which has been banned by the Australian Government, likely to led to very poor environmental outcomes, such as open burning. It should also be noted that TSA actively opposed the ban on the export of whole baled EOLT.</i></p>	<p>TSA supports the Federal Government's world-leading ban on the export of unprocessed waste to other countries.</p> <p>TSA does not accept that TSA was '<i>actively opposed [to] the ban on the export of whole baled EOLT</i>'. To the contrary, TSA actively engaged the sector in consultation with government on this issue. TSA believes that it was integral in disseminating information about the government's policy change on this important issue.</p> <p>TSA believes that it supports best practice approaches to waste management.</p>
<p><b>Australian Tyre Recyclers Association</b></p>	
<p><i>ATRA would support this proposition as being a needed focus for TSA but also possibly Federal regulatory attention. It is clear voluntary moves are being made by sectors of the mining industry to address their waste/ resource recovery sustainability obligations. This is welcome and the industry is responding with improved infrastructure to manage this material. Ultimately, it may also be useful for the mining sector to have some form of stewardship program to further advance this work, capture free riders etc But as a key focus for attention, given the success in collection of passenger and commercial tyres, enhanced recovery of OTR's is in urgent need of policy focus.</i></p>	<p>TSA's Application is essentially related to the continuation of the Scheme, not for regulatory approval of future policy actions of government. ATRA's position regarding the creation of other product stewardship schemes and other potential policy initiatives is noted, however these issues do not appear to materially disturb the assessment under section 88 of the CCA.</p> <p>TSA encourages ATRA to direct its submissions on these aspects to relevant state and federal government authorities.</p>
<p><i>ATRA contends that TSA has not used the data provided by Scheme participants (namely recyclers) and therefore the privilege associated with ACCC authorisation, in the manner the TSA guidelines and requirements stipulate.</i></p>	<p>TSA notes the industry's comments regarding the transparency of data reporting, and the ACCC's commentary on this point within its draft determination.</p> <p>TSA wishes to point out that it believes that it is committed to being transparent and makes its information publicly available on its website and annual reports as well as other public facing documents.</p> <p>TSA takes on feedback and is in the process of reviewing its data and modelling and is working with external consultants (Blue Environment Pty Ltd) to achieve its goal of increasing transparency.</p> <p>TSA wishes to highlight the submission by Blue Environment Pty Ltd dated 11 June 2024<sup>7</sup> and positive comments around TSA's data modelling practices.</p>
<p><i>Nevertheless, many policy makers and industry observers are of the view that TSA's previous unsubstantiated contention that 'Australia's dumped tyre pile is getting bigger', and which was amplified by an associated and coordinated media campaign in major mainstream media, remains a fact.</i></p> <p><i>This statement has never been substantiated by TSA.</i></p>	<p>ATRA has not specified who the '<i>many policy makers and industry observers are</i>' and no context is provided around the assertion that '<i>unsubstantiated contentions have been amplified by an 'associated and coordinated media campaign in major mainstream media</i>'.</p>

<sup>7</sup> [https://www.accc.gov.au/system/files/public\\_registers/documents/Submission%20by%20Blue%20Environment%20Pty%20Ltd%20-%20PR%20-%20AA1000655%20TSA\\_0.pdf?ref=0&download=y](https://www.accc.gov.au/system/files/public_registers/documents/Submission%20by%20Blue%20Environment%20Pty%20Ltd%20-%20PR%20-%20AA1000655%20TSA_0.pdf?ref=0&download=y)

Statement	TSA response
	<p>It is therefore difficult to respond to these comments without further information or specificity.</p> <p>In so far as the assertion that TSA has ‘never substantiated statements that ‘Australia’s dumped tyre pile is getting bigger’’, please refer to the comments above in respect of the 2020 Fate Analysis Report.</p>
<p><i>b. Collection rates must be publicly reported.</i></p>	<p>TSA’s collection rates are publicly reported annually as part of its KPI’s. TSA is currently considering other methods to make data availability easier for its participants.</p>
<p><i>c. Policy makers and the community are primarily concerned with illegal and dangerous behaviour namely excessive stockpiling and dumping in the environment, to which ATRA has been advised by TSA that this rate has remained stable at 2-3% of the passenger and commercial markets</i></p>	<p>TSA has spoken to ATRA about this directly. As set out above, in 2018-19 (reported in the 2020 Fate Analysis Report), 2-3% of all used tyre generation represented 1.16 - 1.71 million equivalent passenger tyre units (EPU). In 2023, 2-3% of used tyre generation represented 1.36 - 2.04 million EPU, indicating overall, dumping has increased by between an estimated 200,000 and 330,000 EPU. This increase in tyre dumping was further validated by the reports of tyre dumping through Snap Send Solve (reporting App) and by local and state government enforcement officers on the ground experiences.</p>
<p><i>It’s rather the fact of manufacturer dominance of the Scheme, and the fact that importers currently pay the voluntary levy (which is the primary consideration for board seat distribution), that the focus has been on apparent recycler governance issues only.</i></p>	<p>TSA refers to its previous submissions (including its submission dated 30 April 2024) on its governance structure and the composition of its board, in particular in response to ACOR’s submission above.</p> <p>TSA does not accept the implication that the payment of the voluntary levy is the primary consideration for board seat distribution.</p>
<p><i>As an example, manufacturers / importers on the TSA Board have endorsed TSA seeking to prosecute a case for a highly interventionist extended producer responsibility model for Australia, despite grave concerns with these models from the recycling sector. ATRA believes a highly interventionist EPR model (as defined by the examples put forward by TSA in New Zealand, Canada and Italy) would represent a clear conflict of interest as a TSA styled Scheme Coordinator would determine collection prices and who can and cannot operate within such schemes and prescribed geographic zones.</i></p> <p><i>This is particularly so when considering that TSA states in the ‘Application for revocation and substitution’ In respect of a transition to a Regulated Scheme, TSA submits that: Effective transition will likely require the expertise of TSA to help inform the Minister’s decision and may also be required to help re-design the Scheme. TSA itself states that it will provide expertise to the Minister to redesign the Scheme. It is therefore paramount that broad, industry wide representation is on the Board to ensure a balanced re-design of the Scheme, should that eventuate.</i></p>	<p>TSA is not a decision-maker in relation to the regulatory process being conducted under the RAWR Act. The outcome of any imposition of a regulated scheme under the RAWR Act is a matter for the Federal Government.</p> <p>TSA has been seeking a stronger approach to stewardship of EOLT to deal with the potential weaknesses and gaps in the current legislative landscape and notes that the Submissions agree that improved stewardship arrangements are needed.</p> <p>TSA encourages ATRA to engage with the regulatory process under the RAWR Act in relation to the potential movement towards a regulated scheme.</p>
<p><i>The following additional objectives on Scheme participants could be required to advance improvements in the industry. ATRA would suggest, given the lack of progress that has occurred in these areas since TSA</i></p>	<p>It appears that ATRA has not addressed the query. This query is requesting information on how the existing Scheme participation exceeds the obligation to comply with the existing law. TSA has provided</p>

Statement	TSA response
<p><i>inception, that these improvements are unlikely to eventuate without ACCC requirements.</i></p>	<p>substantial information regarding the positive benefits of the Scheme, which sit outside of, and are additional to, strict compliance with the law.</p> <p>Please also refer to Schedule 2.</p>
<p><b>Tradefaire International Pty Ltd</b></p>	
<p><i>TSA is seeking authorisation for specific provisions of the guidelines which govern the Scheme.</i></p>	<p>To clarify, TSA is seeking authorisation for conduct that may otherwise raise risks under the CCA. The Scheme Guidelines reflect how the Scheme is conducted currently and is proposed will be conducted until the process of regulatory change under the RAWR Act is completed.</p>
<p><i>The Giant tyre Levy had been approved by the TSA prior to its securing authorisation from the ACCC.</i></p>	<p>TSA does not have a role in approving specific tyre levies. These are set at the ratios set out in the Scheme guidelines.</p>
<p><i>The meeting took place in or around September, 2021, and it was agreed that in approximately six months from the date of the meeting, TSA would make an application with the ACCC to remove/replace the levy on Giant Tyres with a more suitable levy perhaps based on weight.</i></p>	<p>TSA does not accept that there was ever an 'agreement' of the nature described.</p> <p>Changes to the Scheme levies may well be required to provide a more fair and equitable ratio across the tyre categories. TSA believes that this issue is best addressed to the Commonwealth in consideration of a wider regulatory approach. Failing a more fully regulated approach if the Scheme continues under a voluntary arrangement Scheme levy changes could be considered in the future.</p> <p>For completeness, TSA notes that Tradefaire is not a contributor to the Scheme and is not impacted by levies which are currently paid by other tyre manufacturers/importers, which potentially provides Tradefaire with a competitive advantage.</p>
<p><i>At its core, TSA accepts levies to expand the use of the processed end of life tyre e.g. rubber crumb for paths, asphalt, road barriers etc. As part of its ancillary functions, it also issues approvals and disseminates information on the benefits of tyre recycling to the public. Later, I understand that it will be applying for regulatory authority for compulsory levies.</i></p>	<p>TSA is not a decision-maker in relation to the regulatory process being conducted under the RAWR Act. The outcome of any imposition of a regulated scheme under the RAWR Act is a matter for the Federal Government. TSA encourages Tradefaire to engage with the regulatory process under the RAWR Act in relation to the potential movement towards a regulated scheme.</p>
<p><i>To the extent consideration is given to administration of the Scheme or a similar scheme in the future, TFI considers the industry's interests and those of consumers and the environment, would be better served by the Environmental Protection Agency (EPA) taking on such work.</i></p>	<p>As above, a key driver for TSA's Application is to encourage stability in the current Scheme during this period of potentially significant regulatory reform.</p> <p>TSA suggests that Tradefaire's comments regarding the role of the EPA be raised with the government.</p>

# Schedule 2

## 1.1 Introduction

This schedule sets out TSA's comments on the extent that participation in the Scheme requires commitments from participants that go beyond what is required by existing law and therefore results in (additional) public benefit.

Paragraph 4.38 of the draft determination, states the following invitation for further information:

*The ACCC considers that some environmental benefits may be achieved due to the Scheme requiring commitments from participants that go beyond what is currently explicitly required by the law. However, the ACCC lacks sufficient information to understand exactly to what extent the Scheme does so, and therefore, to be satisfied of the magnitude of this public benefit. The ACCC invites submissions from TSA and interested parties on this issue.*

## 1.2 General - accreditation and levies

A business or organisation that joins the Scheme is required to comply with the commitments and requirements that apply to them. The commitments are set out in the Scheme Guidelines, and the elements that require authorisation by the ACCC are limited (see Table 1).

In summary, the two provisions under current Scheme Guidelines which go beyond current law, relate to accreditation and to the levy.

### (a) Accreditation

Participants are required to deal only with other accredited participants, or otherwise to enter into enterprise-to-enterprise agreements or contractual agreements that give effect to the commitments and the objects of the Scheme.

These include:

- Retailers to prioritise dealings with accredited tyre importers and to deal only with collectors and recyclers accredited by TSA when disposing of EOLT.
- Fleet operators to prioritise dealings with accredited tyre importers and deal only with retailers accredited by TSA when disposing of EOLT.
- Local governments to deal only with accredited retailers when replacing the EOLT generated by their fleets and deal only with collectors and recyclers accredited by TSA when disposing of EOLT tyres.
- Collectors to ensure all EOLT collected from retail and other outlets are passed on to accredited recyclers.

### (b) Levy

The Scheme Guidelines require the imposition of a levy on tyre importers and vehicle manufacturers of a minimum of \$0.25 per Equivalent Passenger Unit imported into Australia and to allocate the levy funds to support initiatives and projects regarding the use and disposal of EOLT.

## 1.3 General - industry knowledge

As an additional comment, in TSA's view, TSA offers specific industry knowledge which complements the role of government or regulators, who tend to have wider more general waste management focus.

TSA believes that it plays a significant role in the management of used tyres, complementing and enhancing legal frameworks through several key activities that address gaps or areas not fully covered by the law.

TSA believes its specialist knowledge assists regulators and government with:

- An increased understanding of the tyre recycling industry.
- Information and assistance to more accurately assess risks and enforce regulations.
- Assistance with keeping up with industry trends, changes and innovations.
- Enhancing communication and dialogue with industry stakeholders.
- Enforcement and compliance issues.
- Policies which increase efficiencies for businesses.

## 1.4 More specific comparisons

With those general observations in mind, TSA provides the following more specific comments on how these general benefits provide benefits which are in addition to existing legislation:

### Comprehensive Industry Standards and Best Practices

#### What the Scheme provides:

**Voluntary Accreditation:** The Scheme establishes detailed industry standards and best practices for tyre collection, storage, and processing. These standards often exceed general legal requirements.

**Guidelines and Codes of Practice:** TSA provides comprehensive guidelines and codes of practice that address various aspects of tyre management, including innovative recycling technologies and efficient processing methods.

#### Comparison to what law currently provides:

**Lack of Specific Industry Standards:** Legal frameworks may set basic requirements but might not cover the detailed, industry-specific practices that TSA provides. Guideline standards often go beyond minimum legal requirements to ensure best practice.

### Holistic and Proactive Approach to Stockpile Management

#### What the Scheme provides:

**Stockpile Audits and Management:** TSA conducts regular audits of accredited participants to ensure proper stockpile management and timely processing of tyres. It actively works to identify and address potential issues before they become significant problems. This includes monitoring monthly reporting requirements to TSA from participants.

**Prevention Programs:** TSA implements proactive programs (e.g., online satellite map-based surveillance) to prevent the accumulation of large stockpiles, which might not be fully addressed by existing laws.

#### Comparison to what law currently provides:

**Reactive Rather Than Proactive Measures:** Legal frameworks often focus on penalizing violations rather than proactively preventing them. TSA's proactive approach helps prevent stockpiling issues before they escalate.

### Enhanced Transparency and Accountability

#### What the Scheme provides:

**Detailed Reporting and Monitoring:** TSA requires accredited participants to provide detailed records and performance data, which is then made publicly available through TSA's reporting obligations within the Scheme.

Public Reporting: TSA publishes reports and indicators on the performance of accredited participants (SOI rating), offering transparency about how tyres are managed and recycled; as well as publishing participant operational capabilities and products.

**Comparison to what law currently provides:**

Limited Transparency Requirements: Legal requirements may not mandate the same level of transparency or reporting. Information on the fate of tyres sent to recycling is lacking and not required by current laws. TSA's emphasis on detailed and accessible performance data enhances public trust and accountability beyond legal obligations.

## Promotion of Innovation and Best Practices

**What the Scheme provides:**

Innovation Support: TSA encourages and supports innovation in tyre recycling technologies and methods. It promotes best practices and continuously updates its standards to reflect new advancements and improvements in the industry.

Training and Resources: TSA provides resources and training for industry participants to adopt best practices and improve their operations.

**Comparison to what law currently provides:**

Focus on Compliance Rather Than Innovation: Legal frameworks may focus more on compliance with existing standards rather than fostering innovation and continuous improvement. TSA's role in promoting innovation helps drive the industry forward.

## Community Engagement and Education

**What the Scheme provides:**

Educational Campaigns: TSA runs awareness campaigns to educate the public, businesses, and local governments about the importance of proper tyre disposal and the risks of illegal dumping.

Community Initiatives: TSA engages in community outreach and provides resources to support responsible tyre management and recycling.

**Comparison to what law currently provides:**

Limited Public Engagement: Legal requirements often do not extend to community education or outreach. TSA's efforts in raising awareness and engaging with the community help foster responsible behaviour and improve overall waste management practices.

## Support for Research and Development

**What the Scheme provides:**

Funding and Collaboration: TSA supports research and development in tyre recycling technologies and sustainable practices through funding and collaboration with industry stakeholders and research institutions.

**Comparison to what law currently provides:**

Lack of research and Development Focus: Legal frameworks do not require research and development. TSA's investment in research and development helps advance recycling technologies and improve the management of used tyres.

## Exploring addition public benefit

**TSA has never been tasked to monitor, evaluate, or report, the relative respective effects on end-of-life recovery rates of the operation of the Scheme in terms of public benefit. This task would require significant new resourcing. The Scheme Guidelines include only aspirational performance indicators.**

However, Table 2 seeks to provide example information, data, documents or other evidence relevant to the ACCC's assessment of the wider net public benefit of TSA, and information about obligations which go beyond existing legislation and related public benefits of participation in the Scheme.

Please NOTE, Table 2:

- Lists problems, laws, TSA's value add, and the extra obligations on participants and related public benefits.
- Is ordered by tyre 'waste hierarchy' life-cycle phases, presented in reverse order (Disposal, Energy Recovery, Resource Recovery).
- Is by no means a complete list of all the roles and responsibilities of TSA.
- Example information is provided only in distinction to where an existing law/s is in place, and a significant problem exists.

*Table 2: Exploring problems, laws, TSA value add, and the extra obligations of participants.*

1. Disposal			
Problem and description.	Current Law/s	TSA/TPSS value add relative to the problem and law/s (public benefit).	Extra obligations on Scheme participants additional to the law and public benefits:
<p><b>Illegal tyre dumping:</b> Dumped tyres can have serious impacts on human health and the environment. They pose a fire risk, can harbour pests, and are an unsightly impacting amenity.</p> <p>Illegal dumping is becoming an increasing issue for local government, and other public land managers in respect to clean up, and disposal costs.</p> <p>This problem is exacerbated by the involvement of rogue operators who, despite strong state laws, continue to</p>	<p>States and territories provide the legislation and supporting regulations to prevent illegal dumping of all wastes, including tyres.</p> <p>Local government and EPAs are typically tasked with enforcing these laws which is often difficult to resource.</p> <p>Illegal dumping penalties vary by jurisdiction, the type of offender, the scale of the offense, and repeat offenses.</p>	<p>TSA provides public benefit additional to the existing laws via market development, participant accreditation, research, data, media, advocacy and branding. This effort is significantly geared towards supporting a robust accreditation system for participants, market development, and supporting local government who bear the brunt of illegal dumping clean-up costs. For example:</p> <p>TSA conducts research in respect to illegal dumping and its impacts. For example, TSA recently <a href="#">commissioned</a> Blue Environment and the Centre for International Economics (CIE) to investigate the cost of illegally dumped and stockpiled end-of-life-tyres</p>	<p><b>Accreditation:</b> Scheme participants are required to deal only with other Scheme participants. For example, through business-to-business agreements or other contractual arrangements.</p> <p>This obligation is additional to the law, and ensures oversight of the value chain, with verification and audits conducted by TSA. A robust accreditation system helps minimise the risk of illegal</p>

<p>seek profit from collecting and abandoning tyres on private or public property. This practice is enabled through the cooperation of some tyre sales and servicing businesses.</p> <p>Dumping is especially prevalent and problematic in urban fringe, and rural and remote locations where councils and communities do not have the resources to properly monitor such activity and can ill afford the clean-up bill.</p>	<p>For example, <a href="#">NSW EPA</a> has significant dumping penalties:</p> <ul style="list-style-type: none"> <li>• small-scale illegal dumping by a corporation up to \$50,000-\$100,000</li> <li>• larger-scale dumping by a corporation up to \$2,000,000 and a further daily penalty of \$240,000.</li> </ul> <p>Some States have implemented EOLT waste transport tracking systems, for example <a href="#">Waste Tracker</a> in Victoria. These tracking systems aim to ensure EOLTs are transported to a facility permitted to receive them. They are typically not set-up to monitor stockpiling at receival sites.</p>	<p>(EOLTs) on governments and communities. The report found that Australian councils spent an estimated \$6.5m to clean-up approximately 300,000 dumped tyres in 2022-23, with a non-market amenity cost to the community of \$100m. State and territory land managers were estimated to spend a further \$2.4m cleaning up dumped tyres.</p> <p>TSA draws <a href="#">attention</a> to instances of illegal dumping and related events such as toxic fires and provides information including data to media outlets.</p> <p>TSA promotes the Snap Send Solve App that enables authorities and their customers to identify and solve local issues.</p> <p>TSA has provided funding to WEAA (Waste Enforcement Association Australia) specifically for special interest groups (local government and EPA) to work collaboratively to prioritise and problem solve illegal dumping.</p>	<p>dumping and normalise sustainability.</p> <p><b>Levy:</b> TSA imposes a levy on contributors and allocates a portion of its levied funds to support initiatives and projects which aim to divert material to sustainable outcomes and create consumer awareness of their role in averting illegal dumping e.g., the <a href="#">My Tyre My Choice</a> campaign.</p>
<b>Problem</b> and description.	<b>Current Law/s</b>	<b>TSA/TPSS public value add relative to the problem and law/s.</b>	<b>Extra obligations on Scheme participants additional to the law and public benefits:</b>
<p><b>Illegal stockpiling:</b></p> <p>The generation of a used tyre generally involves a new for old exchange. This means that generation points for end-of-life tyres are typically sales and servicing points. This can create onsite challenges at these locations, in terms of storage, which may lead to stockpiles. But this is normally managed by the relevant business.</p> <p>However, as with illegal dumping, it is rogue operators that offer below market rates to dispose of tyres that</p>	<p>State and territory governments permit the sites where EOLTs can be stored in limited amounts, typically at recycling facilities awaiting processing. See discussion under the recycling section for stockpile risk management.</p> <p>Illegal stockpiles operate outside of permitted sites and are often more acute forms of illegal dumping. Illegal stockpiles are often treated as a large illegal dump and the laws/penalties noted above would apply.</p> <p>Stockpiles are especially prevalent and problematic in industrial and rural</p>	<p>TSA provides public benefit additional to the existing laws via market development, participant accreditation, research, data, media, advocacy and branding. Stockpiling is a significant challenge to regulators at both the local and state government and TSA does what it can to assist. For example:</p> <p>TSA recently <a href="#">commissioned</a> research that estimated that there are circa 2 million tyres (equivalent passenger tyres) in known stockpiles across Australia. This implies a total cost of clean-up cost of between <a href="#">\$8.3</a> and <a href="#">\$23.3</a> million.</p> <p>TSA draws attention to instances of <a href="#">stockpiling</a> and related events such as toxic fires and provides information including data to media outlets.</p>	<p><b>Accreditation:</b> Participants are required to maintain proper storage facilities, preventing large, unmanaged stockpiles that could pose fire hazards or attract vermin.</p> <p><b>Levy:</b> On an annual basis, TSA allocates a portion of its levied funds, to support initiatives and projects, including research and communication projects, which aim to reduce the impacts of illegal stockpiles on</p>



<p>cause the big issues. These rogue operators, when working at scale, don't just dump tyres by the roadside, they stockpile them on private property. For example, in rented warehouses or in industrial areas, or on farmland.</p> <p>This poses a <a href="#">huge fire risk</a>, can lead to <a href="#">expensive litigation</a> and clean-up costs, and then to <a href="#">big fines</a> to get stockpiles resolved, and stockpiles can cause significant worry to neighbours.</p> <p>Illegal stockpiles occur because there is a cost to dispose of tyres at their end of life, instead of a cost (levee) imposed at the point of importation. The TSA levy of \$0.25 per EPU covers the costs of the current Scheme but is not commensurate with the cost of recycling.</p>	<p>locations where councils and communities bear the brunt and do not have the resources to properly monitor such activity.</p>	<p>TSA promotes the <a href="#">reporting</a> of small stockpiles through the Snap Send Solve App and larger stockpiles through a direct email to TSA who will then liaise with the responsible authority.</p>	<p>communities and on the public purse.</p>
<p><b>Problem</b> and description.</p>	<p>Current <b>Law/s</b></p>	<p><b>TSA/TPSS public value add relative to the problem and law/s.</b></p>	<p><b>Extra obligations on Scheme participants additional to the law and public benefits:</b></p>
<p><b>Onsite burial of off-the-road tyres at mining sites:</b></p> <p>Most off-the-road (OTR) tyres are generated by mining (80%) with agriculture a distant second at (11%).</p> <p>Currently, almost all OTR tyres and conveyor belts used in mining are buried or stockpiled onsite resulting in long term risks to the local environment and a complete loss of the significant tonnages of valuable embodied materials including a high percentage of natural rubber. This amounts to over 100,000 tonnes of off-the-road tyres each year.</p>	<p>Mining sites typically operate under planning development approvals, and then a licence or similar permission issued by State or Territory government environment departments or EPAs.</p> <p>The site licence allowances for the burial of wastes including EOLT and conveyor belts varies by jurisdiction, and by site.</p> <p>For example, Qld and WA licences specifically allow onsite burial of tyres in permitted areas and set basic stockpiling and minimum burial depths (example licence permission in Qld <a href="#">here</a>).</p>	<p>TSA undertakes significant direct effort with the mining sector to <a href="#">understand</a> their challenges and support them to find solutions from the market. For example:</p> <p>TSA leads 'hub' forums that bring mining companies together with service providers such as recyclers with specific skills with the OTR giant tyres.</p> <p>TSA has undertaken industry leading research into the <a href="#">state</a> of the OTR tyre sector in Australia. The Tipping the Balance report includes significant insights into the current problem of OTR recovery in Australia.</p> <p>TSA works closely with state regulators (e.g., NSW EPA) and has also undertaken important reports on OTR engagement:</p>	<p><b>Accreditation:</b> OTR businesses are joining the Scheme and taking on the related responsibilities.</p> <p>Greater OTR industry participation in the Scheme builds momentum for sustainable outcomes additional to what is required by law.</p> <p><b>Levy:</b> The many OTR manufacturers/importers that have joined the Scheme in recent years and thus are contributing significant resources to assist with OTR</p>

<p>The current regulatory framework for OTR tyre and conveyor belts which permits onsite burial at mines, is out of step with global management practices, see <a href="#">TSA's Tipping the Balance report</a>.</p>		<ul style="list-style-type: none"> <li>- Engaging with Aboriginal and Torres Strait Islander Peoples in OTR Rubber Product Recovery</li> <li>- Collaborating with Indigenous Peoples and Local Communities in OTR Rubber Product Recovery.</li> </ul> <p>TSA is actively advocating for a phased end to onsite burial, noting that this must be conducted in a way that ensures that tyres are directed to sustainable outcomes (e.g., not simply stockpiled or sent to landfill).</p> <p>TSA is undertaking analysis of the alignment between OTR tyre recovery and the ESG reporting of the mining companies, with the view that this may identify action on recovery as a reporting benefit to them.</p>	<p>end-of-life management. This contribution is not required by law and is voluntary.</p> <p>Allocation of these funds has enabled TSA to work on OTR tyres across Australia and reach out internationally to find best practice solutions.</p>
<b>Problem</b> and description.	<b>Current Law/s</b>	<b>TSA/TPSS value add relative to the problem and law/s.</b>	<b>Extra obligations on Scheme participants additional to the law and public benefits:</b>
<p><b>Disposal to licensed landfills:</b> A significant portion of the tyres recovered each year make their way to landfill.</p> <p>TSA acknowledges that landfills continue to have a role in the current operating environment, whilst the law/s allow this, and noting that the Guidelines also allow this where there is no better alternative available.</p> <p>However, an end to landfilling is inevitable and desirable, be this via law or via a stronger stewardship scheme that is bolstered by the law.</p> <p>Ideally it must be made more profitable to process end-of-life tyres (EOLT) for higher order outcomes than to bury them in landfill.</p>	<p>The disposal of tyres to landfill is regulated under state legislation with licensing conditions imposed on landfill operators to control the management of tyres at licensed landfill sites.</p> <p>New landfill sites are generally required to meet stringent construction engineering requirements (example <a href="#">here</a>), but this may not be the case in more regional and remote areas.</p> <p>Further, while many jurisdictions require (by landfilling operating licence conditions) tyres to be shredded before landfilling (e.g., whole tyres are banned) this is not the case everywhere, and in some states, there are different rules depending on the location.</p>	<p>TSA provides public value additional to the law by undertaking market development, collecting and collating national data on the fate of end-of-life tyres, and in helping to publicise the issue of unrecovered tyres. For example:</p> <p>TSA is actively advocating for change, via the introduction of landfill levies as part of a phased in transition towards a ban on landfilling of tyres in Australia e.g., TSA made a submission on the recent review of the NSW landfill levy.</p> <p>TSA collects and curates data on landfilling of tyres and publishes this annually. TSA data is regarded as the best available in Australia, and has been peer reviewed by consultants Blue Environment, who also authored the Australia Standards for Waste and Resource Recovery Data and Reporting.</p> <p>TSA is involved in media communications about the fate of tyres. For example, TSA assisted the ABC story</p>	<p><b>Accreditation:</b> Participants are only allowed to direct end-of-life tyres to landfill where no viable alternative is available and subject to state and territory legislation; for example, in rural and remote areas where appropriate recycling facilities are not available, or transportation costs are prohibitive.</p> <p><b>Levy:</b> TSA uses levy funds to undertake market development to help increase resource recovery, and higher order outcomes such as recycling. Landfilling remains the largest fate for automotive tyres that are not recovered and so is in direct competition with</p>

<p>To this end landfill levies, applied broadly, may play a transition role in creating a level playing field that will enable more sustainable outcomes to compete.</p>		<p>in 2024. <a href="#">‘Australia produces millions of used tyres a year, but many still go to landfill.’</a></p>	<p>sustainable outcomes. There is a public benefit in conserving landfill airspace and funding resource recovery alternatives to landfill.</p>
<p><b>Problem</b> and description.</p>	<p>Current <b>Law/s</b></p>	<p><b>TSA/TPSS public value add relative to the problem and law/s.</b></p>	<p><b>Extra obligations on Scheme participants additional to the law and public benefits:</b></p>
<p><b>Export of bales of whole tyres:</b></p> <p>Bales of tyres were being exported to be burnt in the open or used/disposed of in other unsustainable manners. This was perceived as unacceptable ‘waste dumping’ on countries with more lenient environmental and workplace laws or enforcement programs and so a ban was put in place.</p>	<p>The Commonwealth Government developed specific legislation (<a href="#">Recycling and Waste Reduction Act 2020</a>) to regulate the export of wastes including whole and baled whole tyres. The legislation allows for the issue of export permits.</p> <p>Compliance and enforcement of the ban on bales is still an issue as bales continue to be <a href="#">intercepted</a>.</p>	<p>The export ban on baled tyres has been one of the biggest changes to occur to end-of-life tyre management.</p> <p>TSA provided public benefits additional to the law by engaging with stakeholders and providing much needed guidance and coordination of public value, and of private benefit, especially to small and medium enterprises. This helped to ensure a smooth transition for businesses, and potentially a reduced compliance burden for government.</p> <p>For example: TSA reached out to all organisations exporting baled tyres to register to participate in TSA’s <a href="#">Balers Transition Program</a>. The Program provided coordination support, including liaison with relevant local and state Government departments on licences, applications and approvals requirements. TSA also put the word out to be alert to the <a href="#">perverse outcomes</a> that may arise from the ban.</p> <p>Further, due to TSA’s ongoing open communication with stakeholders, TSA is made aware of ‘balers’ often before the regulator. As such TSA assists in the gathering and provision of evidence to the applicable law enforcement agency for further investigation.</p>	<p><b>Accreditation:</b> TSA accreditation and compliance audits verify that participants have the applicable export licence and follow those licences.</p> <p><b>Levy:</b> Levy funds were expended to support the transition to the export ban. This work has now mostly ended, and the focus of attention is now providing oversight on the export of tyre derived fuel (see below).</p>
<p><b>2. Energy recovery</b></p>			
<p><b>Problem</b> and description.</p>	<p>Current <b>Law/s</b></p>	<p><b>TSA/TPSS public value add relative to the problem and law/s.</b></p>	<p><b>Extra obligations on Scheme participants additional to the law and public benefits:</b></p>

<p><b>Tyre derived fuel export as the main market for end-of-life tyres:</b></p> <p>Management options that direct end-of-life tyres to shredding and then to Tyre Derived Fuel (TDF) energy recovery play an important role in end-of-life tyre management globally and are preferable to disposal. In the Australian setting, post the ban on bale exports, TDF is by far the biggest fate for recovered end-of-life tyres, accounting for over 70% of tyres processed for recovery.</p> <p>Importantly, the large market for TDFs, has the potential to build an over-reliance on TDF applications, which can deter investment in the range of recycling options that are required to establish a circular economy for tyres.</p> <p>Over dependence on any one product application can lead to stockpiles if that market application is disrupted or the market collapses.</p> <p>There is a need for a diverse range of recovery options for Australian EOLTs. There is also a need to understand where the TDF is being burned.</p>	<p>As noted above shredded tyres are allowed to be exported under the 2021 waste tyre export ban.</p> <p>The waste hierarchy (avoid, reuse, recycle, recovery energy, treat, and dispose) has long been a part of policy and legislation <a href="#">nationally</a> and in the States and Territories (<a href="#">example</a>). It is a long standing globally legislated principle that aims to keep materials in use by preferencing recycling of waste over the recovery of the embodied energy value.</p> <p>Most recently the principle of the circular economy has been legislated in Australia <a href="#">nationally</a> and at a state level, in <a href="#">Victoria</a> for example.</p> <p>Object 1 (c) of Australia's <a href="#">Recycling and Waste Reduction Act 2020</a> is to 'develop a circular economy that maximises the continued use of products and waste material over their life cycle and accounts for their environmental impacts'.</p>	<p>TSA provides the best data on this fate. As the vast majority of passenger tyres are recovered and processed for TDF, TSA plays an important complimentary role to industry and government by leading the push to increase the overall recovery rate, and to diversify the market as part of its efforts to increase the material percentage that is used onshore in Australia. This includes the use of TDF within Australia.</p> <p>TSA provides additional public benefit in respect to TDF by helping to ensure that the foreign end markets are verified to be free of aspects such as modern slavery and poor environment outcomes.</p> <p>This work helps to secure this export stream so that it is not as vulnerable to a ban - as per the experience with bales where issues with the end markets existed and the government was willing to act to end the entire export practice.</p> <p>This complements the work done by TSA and by EPA organisations within Australia to verify sustainable outcomes onshore.</p>	<p><b>Accreditation:</b> TSA accredits recyclers, and even the largest producer of TDF in Australia is accredited by TSA at no charge.</p> <p>Taken together, as a chain of custody - TSA accreditation of supply chains and verification of offshore end markets -plays an important oversight role to enhance the environmental credibility and social licence of the TDF sector.</p> <p><b>Levy:</b> Levy funds are directed towards increasing the rate of resource recovery which includes diverting material away from onsite burial and landfills. Some of this diverted material is expected to go to TDF for export as this is the biggest current end market.</p> <p>The end goal is to create a diversified, profitable resource recovery sector with significant procurement for onshore use applications.</p>
<p><b>Problem</b> and description.</p>	<p>Current <b>Law/s</b></p>	<p><b>TSA/TPSS public value add relative to the problem and law/s.</b></p>	<p><b>Extra obligations on Scheme participants additional to the law and public benefits:</b></p>
<p><b>Risks associated with emerging energy from waste technologies:</b></p> <p>Waste to energy involves generating energy from waste materials. After</p>	<p>State and territory government environment departments and EPAs approve and regulate the operation of energy from waste technologies.</p>	<p>TSA provides additional public benefit by commissioning objective applied analysis (e.g., <a href="#">pyrolysis report</a>) to guide decision makers, including those in the mining sector, in respect to the strengths, weaknesses, and threats and opportunities of the</p>	<p><b>Accreditation:</b> TSA's work in this area is principally research unrelated to accreditation. However, as waste to energy becomes more</p>

<p>waste avoidance, reuse, and recycling, waste to energy is the final opportunity to get value from material that would otherwise go to landfill.</p> <p>There is lack of market understanding regarding the risks (and opportunities) associated with emerging energy from waste technologies and the processing outputs and applications.</p> <p>The laws for waste to energy in Australia are only just getting established, and technology companies are promoting their solutions to industries and government.</p>	<p>They approve the siting, feedstocks and emission controls. Approvals typically do not assess the 'circularity' or end market viability for the outputs and products derived. This is not the environmental regulators core role.</p> <p>There are examples of State governments limiting the <u>total</u> amount of energy recovery allowed – for example, the <b>Victorian Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023</b> includes a one million tonne cap, and so it is important to understand the optimal pathway taking into account risks.</p>	<p>different waste to energy technology solutions available.</p> <p>In addition, by engaging with industry and government, and advocating for 'higher order' outcomes, TSA is leading the discussion on creating a circular economy on tyres in Australia so that 'waste to energy' does not displace the drive to maintain materials at their most valuable level.</p>	<p>established in Australia it is important that it derives its feedstock from verified supply chains.</p> <p><b>Levy:</b> Levy funds have provided the resources to undertake research, analysis and industry engagement (with an emphasis on the mining sector) to help stakeholders understand the relative risks of different technologies. This work has been highly valued and helps mitigate environmental risks.</p>
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### 3. Recycling

Problem and description.	Current Law/s	TSA/TPSS public value add relative to the problem and law/s.	Extra obligations on Scheme participants additional to the law and public benefits:
<p><b>Australia's lack of tyre recycling capabilities for a circular economy:</b></p> <p>Australia has relied heavily on landfills/onsite burial and export of waste material to manage end-of-life tyres.</p> <p>This has meant that it is only now that recycling technologies, well established overseas, are being considered for introduction to the Australian market in a commercial way.</p> <p>However, Australia still lacks recycling technology capabilities that can produce outputs that are highly circular (i.e. recycled rubber product to manufacture new tyres) to build a</p>	<p>Australia has made legal commitments to the creation of a circular economy such as:</p> <p>Object 1 (c) of Australia's <a href="#">Recycling and Waste Reduction Act 2020</a> is to 'develop a circular economy that maximises the continued use of products and waste material over their life cycle and accounts for their environmental impacts'.</p> <p>And</p> <p><a href="#">Victorian Circular Economy (Waste Reduction and Recycling) Act 2021</a></p> <p>However there remains a big gap in respect to what is being done to achieve</p>	<p>TSA provides additional public benefit by proactively working to introduce advanced recycling and manufacturing technologies to the Australian market, including by undertaking research and providing education directly to the investors, such as multi-national mining companies, that are likely to partner to establish this strategic capability in Australia.</p> <p>This not only supports local economies but also drives progress towards a more circular economy and Australia's policy commitments.</p> <p>Without TSA's coordination, the lead time for this advanced technology coming into the country would be much greater, leading to lost economic opportunities.</p> <p>TSA collaborates and shares information freely with various stakeholders, including government bodies,</p>	<p><b>Accreditation:</b> There is no extra obligation on participants in relation to this problem. Tyres underpin our two biggest economic sectors – Mining and Transport – and both are represented in the Scheme.</p> <p><b>Levy:</b> The TSA levy promotes and funds projects and programs that focus on the recovery of end-of-life tyres to make the most of the major economic and industrial opportunities of the transition to a circular economy.</p>

circular economy and this gap is of concern.	outcomes. It cannot be just left to the market or achieved just by legislation.	industry partners, and community organisations, to drive collective action towards sustainability and environmental benefit.	Recent work includes a 'material circularity' report that provides information on the attributes of different technologies.
<b>Problem</b> and description.	Current <b>Law/s</b>	<b>TSA/TPSS public value add relative to the problem and law/s.</b>	<b>Extra obligations on Scheme participants additional to the law and public benefits:</b>
<p><b>Poor uptake of proven recycled EOLT product applications e.g., crumb rubber in road surfacing:</b></p> <p>Australia has the capability and capacity to produce some recycled EOLT products, like crumb rubber, however, the onshore market demand is often lacking or unstable. A lack of market penetration is often the issue (rather than a lack of market potential).</p> <p>A lack of requirements to use recycled product in place of virgin materials has historically been an issue, although this is beginning to change. Promotion and enforcement of procurement requirements remains an issue.</p>	<p>There are examples, at all levels of government in Australia, for the requirement for the preference of recycled material in procurement contracts.</p> <p>Nationally, from 1 July 2024, <a href="#">the Environmentally Sustainable Procurement Policy (ESP Policy)</a> requires high value procurements in specific categories to address environmental impacts.</p> <p>But the current actual legal commitment to the procurement of recycled content for onshore applications is missing.</p>	<p>TSA works to identify the best markets to focus on (i.e. A recent TSA report suggests that 150,000 tonnes of crumb rubber could have been used in roads in Australia in 2023 if mandated at 15% loading).</p> <p>TSA actively advocates for government to take the lead and specify mandatory commitments to use recycled tyre derived material, especially in transport road infrastructure. For example, TSA recently gave evidence to an NSW procurement inquiry.</p> <p>TSA provides case studies and bespoke assistance to aid government. A recent project being to assist local government to specify recycled content.</p> <p>TSA investment in the development of recycled rubber products used in roads has shown the following benefits outlined in a <a href="#">fact sheet</a> produced by TSA:</p> <ul style="list-style-type: none"> <li>• the use of recycled rubber in sprayed sealing leads to: <ul style="list-style-type: none"> <li>○ Service life is significantly increased.</li> <li>○ Durability of skid resistance is improved.</li> <li>○ Resistance against reflective cracking.</li> <li>○ Improvement in waterproofing.</li> </ul> </li> <li>• The use of recycled rubber in Asphalt leads to:</li> </ul>	<p><b>Accreditation:</b> There is no extra obligation on participants in relation to this problem other than the commitment to sustainable outcomes.</p> <p><b>Levy:</b> The levy has enabled over \$10m to be disbursed to support market development activities and projects.</p> <p>Many of these projects are developed to build momentum in respect to the use of products like crumb rubber e.g., TSA has invested almost \$5 million on over 30 projects supporting the development of products to use in the construction and maintenance of roads.</p>

		<ul style="list-style-type: none"><li>○ Cost-effectiveness due to increased pavement life.</li><li>○ Increased shear resistance including resistance to permanent deformation (rutting and shoving).</li><li>○ Increase resistance to fatigue and reflective cracking.</li><li>○ The use of an otherwise waste material.</li></ul>	
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