Product Stewardship Centre of Excellence

4 October 2024

Circular Economy Directorate,
National Project on Options for End-of-life Tyres
Department of Water and Environmental Regulation
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By email to: wastereform@dwer.wa.gov.au

Dear Sir/Madam

Submission: National Project on Options for End-of-life Tyres

The Product Stewardship Centre of Excellence (the Centre) appreciates the opportunity to make this submission in response to the discussion paper for the National End-of-Life Tyres Options Project. This submission is in addition to the preliminary comments provided through the online survey.

Based on our extensive experience in, and research on the policy and practice of product stewardship, we wish to highlight the eight core elements to designing a product stewardship scheme as outlined below in Table 1.

Table 1: Eight elements to Product Stewardship Scheme design

EIGHT ELEMENTS TO SCHEME DESIGN	
Problem	Clearly define and quantify the scale and scope of the environmental and human health **problem**/s you are addressing.
Scope	Clearly describe the **scope** of products (i.e. class/type), who places on market (OEM/Brand/Importer), who sells them, who uses them (businesses consumers), how are they repaired/reused, where do they go at end of life, the geographic range (state/territory vs national).
Solutions	Investigate the **solutions** and determine the interventions/actions (including financial and legislative) across all three stages of the product lifecycle - design and production, consumption and post-consumption (See Figure 1 and Table 1 – actions and activities across the lifecycle), applying the waste hierarchy (see Figure 2) and circular economy principles (Figure 3)
Objectives/ Targets/ Outcomes	Clearly define the environmental and human health **objectives**, **outcomes** that will be achieved and over what timeframe including **annual performance targets** to assess and review ongoing performance (see *Data and Reporting Guidelines for Product Stewardship Schemes*[1] for core performance metrics).
Financing	Determine who, and how the scheme will be **financed** including scheme costs, who will pay, how will funds be collected and spent, and what financial incentives and penalties will be used to facilitate the necessary changes to deliver scheme outcomes?
Governance	Clearly define the **responsibilities and obligations** / **governance** (i.e. financial, operational, educational/communications and reporting/auditing) of the organisations creating and placing the products on the markets (i.e. manufacturer/brand/importer), those who are selling/repairing/reselling them

[1] https://stewardshipexcellence.com.au/product/data-and-reporting-guidelines-for-product-stewardship-schemes/

	(i.e. retailers/repairers), those who are collecting and recycling them (local government and commercial operators) and those who are ensuring compliance (stage, territory, federal agencies).
	Determine what **legal structures and their objects** required to implement the scheme (i.e. state/territory regulations, producer responsibility organisations, scheme administrators, operators)
Risks	Identify and allocate responsibility for managing **financial, environmental, social and reputational risks** to the scheme e.g. companies not contributing, unsafe and fraudulent operational practices etc.
Operations	Develop operational principles and procedures and implementation, including - marketing communications, data collection and reporting, environmental health and safety, legal compliance

Questions – Problem Statement

- *Do you think the identified problem categories adequately cover the range of issues with end-of-life tyres in Australia? If not, please specify what is missing.*
- *Do you feel that any of the identified problems is of greater importance/urgency than the others? If so, please specify which and why.*
- *Are there further issues that need inclusion or do any issues need to be adjusted or reframed?*

All three identified problem categories are significant and should be treated and addressed as connected and interdependent to:

- achieve higher levels of environmental performance across the tyre lifecycle.
- reduce risk to human health and communities.
- explicitly acknowledge, address and operationalise the Polluter Pays principle;
- comprehensively identify the range of product stewardship interventions required across the tyre lifecycle.
- break the cycle of privatising profits while socialising the true costs and impacts associated with EOLTs.
- demonstrate how tyre manufacturers, distributors, high volume users of tyres, recyclers and other key actors are genuinely operationalising their ESG objectives and commitments.

One problem not canvassed is the generation of waste tyres in the first place. There is no discussion or consideration of the current rate of consumption of tyres, is it going up or down, are tyres lasting longer or less and what can be done to keep tyres in use for longer, including what can be imported into Australia. There is substantial work overseas on keeping tyres in use and the design of tyres. See recent regulation introduced into Europe. These should apply to all tyres imported into Australia. https://www.drive.com.au/news/new-tyre-law-introduced-in-europe-australian-regulators-watching-report/

Also, the legal onsite burying of OTRS is not just a missed opportunities for recovery and the loss of resources but also seen as a risk and cost to the environment and communities. Do burial sites comply with landfill regulations and best practice? What monitoring is in place to prevent leaching of hazardous materials and substances?

The costs preventing and cleaning up dumped and stockpiled tyres is currently funded by to government, the community and impacting the environment. These costs should be recovered and funded by the tyre industry.

Questions – Objectives and Principles

- *Do the identified policy objectives and guiding principles reflect the types of considerations you would expect should guide policy development?*
- *Are there any key objectives or principles missing from the lists? If so, please specify.*

Policy objectives

In line with the Centre's eight elements to product stewardship design it is critical that the environmental and human health objectives, outcomes and annual performance targets are clearly defined including what will be achieved and over what timeframe to assess and review ongoing performance (see *Data and Reporting Guidelines for Product Stewardship Schemes*[2] for core annual performance metrics).

While the proposed policy objectives and guiding principles may reflect *"….the aims and targets in the 2018 National Waste Policy (and its associated Action Plan), Australia's environmental protection safeguards, Australia's emissions reduction framework and other frameworks for supporting Australian industries and supporting quality and openness with respect to data."* there does not appear to be any acknowledgement of the objects of the Recycling and Waste Reduction Act 2020 https://www.legislation.gov.au/C2020A00119/latest/text (see extract below). This needs to be rectified.

1) The objects of this Act are as follows:

(a) to reduce the impact on human and environmental health of products, waste from products and waste material, including by reducing the amount of greenhouse gases emitted, energy and resources used and water consumed in connection with products, waste from products and waste material;

(b) to realise the community and economic benefits of taking responsibility for products, waste from products and waste material;

(c) 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;

(d) to contribute to Australia meeting its international obligations concerning the impact referred to in paragraph (a).

(2) These objects are to be achieved by:

(a) regulating the export of waste material to promote its management in an environmentally sound way; and

(b) encouraging and regulating the reuse, remanufacture, recycling and recovery of products, waste from products and waste material in an environmentally sound way; and

(c) encouraging and regulating manufacturers, importers, distributors, designers and other persons to take responsibility for products, including by taking action that relates to:

(i) reducing or avoiding generating waste through improvements in product design; and

(ii) improving the durability, reparability and reusability of products; and

(iii) managing products throughout their life cycle.

[2] https://stewardshipexcellence.com.au/product/data-and-reporting-guidelines-for-product-stewardship-schemes/

The Centre supports the first five policy objectives:

- Environmental protection
- Human health protection
- Emissions reduction
- Waste avoidance and
- Resource recovery.

The Centre considers the following three policy objectives should be added:

- *Resource and energy conservation* – reducing energy and resources use in connection with products, waste from products and waste materials (as per the RAWR Act)
- *Circularity* - maximise continued use of products and waste materials (as per the RAWR Act)
- *Preventing/reducing the negative externalities of tyres* – see below for more details.

The Centre considers the two policy objectives *equitable and sustainable markets* and *improved data and information* should be redefined or removed as they are not measurable, open to misinterpretation and have the potential to delay action.

Specifically, the policy objective *equitable and sustainable markets* is not clearly defined. The terms 'equitable' and 'sustainable markets' can be relative depending on where an actor sits on the supply chain or tyre lifecycle nor align. This policy objective should either be removed or more explicitly defined.

What is more important here is *preventing/reducing the negative externalities of tyres*. Where a negative externality is a cost experience by an unrelated third party i.e. the environment, the government, the community. Where the external cost is not reflected in the final cost or benefit of a good or service. Externalities make markets inefficient, leading to market failures. The externalities are the main catalysts that lead to the tragedy of the commons[3]. This should be added as a policy objective.

While *improved data and information* is important this should be in the context of measuring progress in achieving the primary policy objectives *e.g. environmental and human health protection, emissions reduction, waste avoidance and resource recovery.* The quest for ongoing and forensic data collection should not be used to slow-down or avoid policy decision-making that delays timely actions to address the primary policy objectives. This policy objective should be removed.

Guiding Principles

The Centre supports the following guiding principles listed:

- The precautionary principle
- A circular economy
- Outcomes focussed and efficient

[3] https://corporatefinanceinstitute.com/resources/economics/externality/

It is important to be clear as to what is meant be each term in applying the following principles:

- being resilient
- being open and fair
- supporting flexibility and innovation,

'Equitable', 'resilient' and 'open and fair' can be relative depending on where an actor sits on the supply chain or tyre lifecycle. For example, what does 'equitable mean in practical terms and equitable for who mindful of the primary objectives related to environmental and human health impact reduction? Similarly, this lens applies to defining 'resilient'.

The final guiding principle *ensuring producers and consumers of products contribute to the suitable management* is nebulous and perpetuates the flawed view of a 'shared' approach to product stewardship. What does 'suitable management' mean in real, measurable terms?

This should be replaced with:

> *"producer responsibility"* where *responsibility to reduce the environmental and human health impacts of products and materials throughout their entire lifecycle is assigned to the producers, brands, importers and retailers that place products on to the market (i.e. 'extended producer responsibility'), reducing the economic burden on government*[1].

Or more specifically:

> *"ensuring those actors who place tyres on the market taking primary responsibility to eliminate and/or reduce the environmental and human health of their products across the entire tyre lifecycle"*

Questions – Options Analysis

- *Do the assessed option classes sufficiently cover the types of options that might support better recovery and more circular outcomes for EOLTs? If not, what other options should be considered?*
- *Does the option class scoring in Table 4 of the Discussion Paper reflect what you would expect each option class is capable of, and if not why?*

Based on an extensive analysis on the effectiveness[#] and benefits of product stewardship and EPR initiatives in Australia[4], the Centre found that schemes were most effective in achieving their environmental, human health (social) and governance objectives when they demonstrated the following characteristics:

- Regulation to ensure high levels of industry/business investment and participation.
- Objectives and performance indicators that were clearly defined, measurable and assessed continually.

[4] https://stewardshipexcellence.com.au/resources/#toggle-id-23
The benefits and effectiveness project compiled and analysed data on the reported objectives and environmental, social and economic performance indicators of about 100 product stewardship initiatives. This was further informed by the Centre's direct experience with existing and emerging schemes and initiatives. The data is available on the Product Stewardship Gateway.

- Good governance structures in place that clearly defined producer responsibilities, roles of all stakeholders and ensured transparency through public reporting (regulations with well-defined rules and compliance funded through cost recovery, not for profit producer responsibility organisations).
- Financial incentives and penalties being used to drive positive changes in business models (eco-modulated levies, rebates/handling fees/fines for non-participation) and consumer behaviour (refunds, rewards, levies).

- Effective marketing to ensure high levels of awareness and participation by consumers and businesses (multimillion-dollar investments, regular, consistent/continuous, informative, understandable, educational).

[#] ***Effectiveness*** *is defined as how well product stewardship initiatives are meeting their objectives to manage and reduce environmental and human health impacts of products across their whole lifecycle.*

The range of options is comprehensive.

Based on these five characteristics of effectiveness the Centre considers **Option 2 - Regulated product stewardship as the only option** that will address the problems and achieve the policy objectives identified in the discussion paper.

None of the other options could achieve the desired policy objectives in isolation.

Option 3 - government fees and rebates will only partially achieve some of the policy objectives, it will not achieve waste avoidance or resource conservation objectives

Option 1 – voluntary scheme will not ensure high levels of industry/business investment and participation and therefore will not achieve any of the policy objectives to the scale required.

Options 4 to 8 are piecemeal and will continue to see governments and the communities paying for the environmental and human health impacts of end-of-life tyres, will not avoid waste, encourage higher resource recovery, conserve resources or reduce emissions.

Table 2 below provides a summary of how the Centre's eight product stewardship scheme design elements align with the five essential characteristics for scheme effectiveness.

Table 2: Eight elements to scheme design AND five essential characteristics for scheme effectiveness[5]

EIGHT ELEMENTS TO SCHEME DESIGN		FIVE ESSENTIAL CHARACTERISTICS FOR SCHEME EFFECTIVENESS
Problem	What are the environmental and human health impacts and issues that are being solved or addressed?	**Clearly defined objectives** *Measurable environmental, social, and economic performance indicators demonstrate benefits and allow for continual assessment of effectiveness.*
Scope	What product class, type, geographic coverage, type of consumer eg. B2C, B2B?	
Solutions	What actions and interventions are required to solve the problem and at what stage of the product lifecycle should they occur? Includes testing possible solutions through pilots and trials.	
Objectives/ Targets/ Outcomes	What are the environmental and human health outcomes that will be achieved and over what timeframe?	
Financing	How will the scheme be funded? How much will it cost? Who will pay? How will funds be collected and spent? What financial incentives and penalties will be used to facilitate the necessary changes to deliver scheme outcomes?	**High levels of industry or business investment and participation ensuring fair sharing of costs by industry.** *For collective schemes, government regulation is necessary*. **Use of financial incentives/penalties** *To drive behaviour change of businesses, consumers, repairers, collectors, sorters, and recyclers.*
Governance	How will the scheme be managed (i.e. legal framework etc.)? Who is responsible (i.e. producers)? What are roles and contributions of organisations/agencies across the entire product lifecycle? How will information be reported, service provider contracts etc.?	**Good governance** *Includes defined roles and responsibilities and ensures transparency through public reporting.*
Risks	What are the financial, environmental, social and reputational risks to the scheme e.g. companies not contributing, unsafe, non-compliant and fraudulent operational practices etc.?	
Operations	What are operational principles and procedures for marketing communications data collection and reporting environmental health and safety legal compliance	**Effective marketing** *Leads to high awareness and increased user (i.e. public, businesses) participation.*

[5] https://stewardshipexcellence.com.au/product/global-scan-of-packaging-stewardship-schemes-lessons-for-australia-april-2024/

Questions – Findings

- *Do you agree that Option classes 2 and 3 are best able to manage the identified problems? If not, what other option would you prefer?*
- *Do you agree with the findings regarding targeted options, and if not, please specify other ways targeted options might be considered?*
- *What candidate features in Table 5 of the Discussion Paper seem more promising or less promising to improve end-of-life tyre outcomes, and why?*
- *Are there other candidate features that should be considered, and if so, what are they?*

The Centre considers *Option 2 - Regulated product stewardship* **as the only option** that will address the problems and achieve the policy objectives identified in the discussion paper. None of the other options could achieve the desired policy objectives in isolation.

Option 3 - government fees and rebates will only partially achieve some of the policy objectives, it will note achieve waste avoidance or resource conservation objectives

Candidate features

A comprehensive approach to designing Option 2 should address all relevant candidate features mindful of maintaining a clear line of sight between the identified problem categories and achieving the policy objectives:

- *Environmental protection*
- *Human health protection*
- *Emissions reduction*
- *Waste avoidance and*
- *Resource recovery.*
- *Resource and energy conservation* – reducing energy and resources use in connection with products, waste from products and waste materials
- *Circularity* - maximise continued use of products and waste materials

The Centre strongly recommends that its **Eight Scheme Design Elements** be used as a framework to design the scheme and supporting regulation. Table 3 below maps how the candidate features align with the eight design elements for a product stewardship scheme.

Table 3: Candidate features to support improved end-of-life tyres outcomes.

Candidate Feature	Possible Measure	Comments	PSCoE Eight Design Elements
Improved regional and remote collection	Differential incentive	Similar approaches have been used in other situations to overcome geographic barriers	• *Solutions*– increase access and availability for collections • Objective, Outcome, Targets – need to set service levels
Improved higher-order recovery	Differential incentive	Similar approaches used in Australia's used oil scheme and tyre product stewardship schemes elsewhere	• *Objectives, Targets, Outcomes* – need to be more specific i.e. increased crumb production and use
Incentives matched to real costs	Suitable fee scale	To help ensure fees are more commensurate with actual costs	• *Financial* – need to define who is being incentivised for what and who is payment
Improved tyre quality for beneficial characteristics	Eco-modulated fees	Specific tyre characteristics for different tyre classes can convey key benefits. Modulated fees could support tyres meeting design standards for preferred tyre characteristics.	• *Financial* – incentive to producers to improve quality, could also be drive by import bans and standards
Increase recycled content	Eco-modulated fee	Emerging focus needing traceability for verification	• *Objectives Targets, Outcomes* – feature needs to be more clearly defined – recycled content in what tyres, roads, rubber products??
Support tyre recyclability	Eco-modulated fee	Emerging focus with research and innovation being key	• *Solutions* – needs more definition, what is problem it is trying to solve, • *Objectives, Targets, Outcomes* – need to define outcomes and set targets • *Financial* – incentive to producers to improve quality, could also be drive by import bans and standards
Reduced toxicity of tyre constituents	Eco-modulated fee	Recognised issue, with research and innovation being key	• *Solutions* – needs more definition, what is problem it is trying to solve, • *Objectives, Targets, Outcomes* – need to define outcomes and set targets • *Financial* – incentive to producers to improve quality, could also be drive by import bans and standards
New standards, market development, and R&D	Incentives, other mechanisms and standards	The overall framework could support local market development, new standards and practical research.	• *Solutions* – needs more definition, what is problem it is trying to solve, • *Objectives, Targets, Outcomes* – need to define outcomes and set targets • *Financial* – incentive to producers to improve quality, could also be drive by import bans and standards

Candidate Feature	Possible Measure	Comments	PSCoE Eight Design Elements
Framework flexibility and governance	Governance & review systems	Adjustable settings informed by multi-stakeholder review process	• *Governance* – Clearly define the **responsibilities and obligations** / **governance** (i.e. financial, operational, educational/communications and reporting/auditing) of the organisations creating and placing the products on the markets (i.e. manufacturer/brand/importer), those who are selling/repairing/reselling them (i.e. retailers/repairers), those who are collecting and recycling them (local government and commercial operators) and those who are ensuring compliance (stage, territory, federal agencies). • *Governance* - Determine what **legal structures and their objects** required to implement the scheme (i.e. state/territory regulations, producer responsibility organisations, scheme administrators, operators)
Clear and measurable outcomes-based targets	Option design approach	Allowing industry to determine the most cost-effective approaches	*Objectives, Targets, Outcomes* - clearly define the environmental and human health **objectives**, **outcomes** that will be achieved and over what timeframe including **annual performance targets** to assess and review ongoing performance (see *Data and Reporting Guidelines for Product Stewardship Schemes*[6]).
Compatibility with functioning markets and systems	Option design approach	Options should integrate with functional aspects of existing approaches and markets and build on those successes.	Alignment of schemes
Mechanisms to manage illegally dumped and/or legacy tyres	Option design approach	Options under the framework should include provisions to support recovery of legacy dumped and stockpiled tyres to prevent these costs falling on local communities.	• *Solutions* – needs more definition, what is problem it is trying to solve, • *Objectives, Targets, Outcomes* – need to define outcomes and set targets • *Financial* – government compliance, surveillance and clean-up costs 100% funded by scheme

[6] https://stewardshipexcellence.com.au/product/data-and-reporting-guidelines-for-product-stewardship-schemes/

Closing remarks

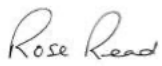
Achieving positive impact at scale in a timely manner to address the range of problems caused by EOLT requires a regulated product stewardship scheme as per Option 2 in the discussion paper. The other regulated options 3, 4, 5 and 6 outlined are not comprehensive, will not adequately address the current problems nor will achieve the proposed policy objectives.

Based on our extensive experience and research on the policy and practice of product stewardship in Australia, we conclude that voluntary initiatives typically have limits in terms of benefits and effectiveness. This underscores the need for stringent government intervention through proportionate regulation that address the identified problems and delivers measurable reduction in environmental and human health impacts.

As mentioned previously, we strongly recommend that the WA Department of Water and Environmental Regulation applies the Centre's eight elements to further inform Option 2 Regulated Product Stewardship to fulfil the five essential characteristics for scheme effectiveness[7].

The Centre would welcome the opportunity to further discuss any questions the department may have in relation to our submission or the ongoing the development of options for future regulatory impact analysis for managing EOLT.

Yours sincerely



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[7] https://stewardshipexcellence.com.au/product/global-scan-of-packaging-stewardship-schemes-lessons-for-australia-april-2024/