

Comment on the S29 IndWTMP issued 7 December 2022

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Introduction

1. The Section 29 IndWTMP issued on 7 December 2022 (“**the IndWTMP**”) is based largely on the Draft 9 plan issued by the CSIR on 9 March 2022 (“**Draft 9**”).
2. The IndWTMP confirms in its preface that it is subordinate legislation, but it contains multiple issues that render it unenforceable. These include:
 - 2.1. errors of fact,
 - 2.2. internal contradictions,
 - 2.3. ambiguities and lack of precision,
 - 2.4. overlapping responsibilities and authority, and
 - 2.5. drafting and proof-reading errors.
3. Many of these issues were in Draft 9 and were noted in REDISA’s commentary on that Draft. Some instances which were previously noted but have still not been addressed are flagged with references to the section and page number in our earlier commentary, denoted **D9Comm**.

The IndWTMP is not a Plan

4. The IndWTMP does not meet the requirements of a plan:
 - 4.1. A plan needs to have a budget. There is a budget only by implication, which is the amount collected by the existing Tyre Levy, but the IndWTMP offers no analysis of the adequacy or inadequacy of that sum, nor does it advise what that amount is¹.
 - 4.2. A plan must set out actions, timing, and processes.
 - 4.2.1. The actions specified are with few exceptions limited to administrative arrangements and generic instructions with ambiguously defined accountability.
 - 4.2.2. There is almost a complete lack of timing. The few places where timing is specified are:
 - Item 3.4.2: *“An Incentives Evaluation Committee must be established by the WMB within three months of the implementation of the IndWTMP to evaluate applications.”*
 - Item 5.1(a): *“The implementer must develop 5 year implementation plan, business plan within the first 3 months of implementation and costed budget for the remainder of the government financial year and submit that to the WMB for approval and/or interrogation and input. Within four months of appointment the implementer must set up systems for implementation or assess the adequacy of the systems.”*
 - Item 6.2(5) repeats item 5.1(a) with typographic errors: *“The implementer must develop 5 year implementation plan, business plan within the first 3 months of implementation and costed budget for the remainder of the gov. financial year and submit that to the WMB for approval/ and or interrogation and input.”*

¹ D9Comm 2.1, p.9

Within four months of his appointment, he must set up systems for implementation or access the adequacy of the systems Obed to advise)."

The few timings that are specified are paradoxical on the one hand, and impractical on the other hand: timings are provided measured from "implementation", but implementation must happen before the implementer(s) have developed their implementation plans, as those plans are only required within three months of implementation. In other words, implementation must occur three months before an implementation plan is ready.

This is followed by "systems for implementation" having to be set up within four months of appointment, i.e., just one month after completion of the implementation plan.

- 4.2.3. There are targets set in Table 6 for tonnes processed in each year, but they cannot be regarded as setting credible timetables for implementation given the current state of waste tyre management as is noted in more detail below. Not the least of the difficulties with these targets is that they call for reductions of the total estimated national stockpile of 900 000 tonnes, which will be difficult to achieve given that the locations of most of these tyres are not known.
- 4.3. Overheads and administration are multiplied, and accountability is fragmented across operating entities and committees in a confusion of authorities².
5. The IndWTMP tries to create a competitive environment where the various role players can contract with multiple others, but there is no overriding coordination and control. It is a bus full of passengers that is to be set in motion with no driver and a tangled mesh of contracts (see [Annexure D: The Contractual Web](#)).
6. The IndWTMP fails to deal with topics in a structured fashion. Requirements and specifications are repeated under multiple headings, with varying wording, and in different contexts, without ensuring consistency with the rest of the document. This results in overlapping responsibilities and contradictory definitions of roles, responsibilities, and obligations that are noted in detail in [Annexure A: Detailed Commentary](#).
7. The IndWTMP does not address the financial reality that processing waste tyres is not inherently profitable, requires massive investment, and needs incentives and sufficient certainty to encourage industry to make that investment. There is no plan on how to achieve this other than expecting the implementers to do so, but the implementers are not in control. Each is managing only a portion of waste tyre management chain but with key elements (such as incentives, selection of waste processors, and establishing depot sites) controlled by third parties.

Ideology Driven

8. There is a clearly stated determination to appoint multiple implementers "to avoid monopolistic associated risks and to introduce competitive elements to the IndWTMP" (item 4.3). There is no elaboration of this premise, no discussion of what those risks are or whether they are insurmountable, and no examination of its consequences.

² D9Comm 1.1, p.2

9. The IndWTMP refers to implementer(s) or implementers, creating cross-reporting, overlapping authorities and multiplication of administration, until item 6.2. From this point, implementer becomes singular, but if the text is read with implementers in the plural the difficulties become apparent. In *Annexure A: Detailed Commentary*, the text quoted from the IndWTMP has been edited to read implementers_s as plural to make this clear.
10. Item 5.1(d) stipulates “*The Implementer may not appoint a management company or any other company to manage the duties, obligations and responsibilities of the Implementer on its behalf*”. This is explicitly forbidding the model that worked from 2013 to 2016 and which was objectively far more effective than the WMB has been. No rationale is provided for this, and the implications are not followed through. Read literally, as legislation, it precludes implementers from engaging lawyers, specialist training companies, IT support, software developers, and the like, and can even be construed to include transporters, depots and processors.
11. The budget allocation for administration is capped at 10%, despite there being no attempt to quantify what the budget would be and hence what the 10% is a percentage of. No explanation or basis for picking this percentage is supplied. This cannot be viewed as rational³.
12. The internal operations and administrative processes and systems of an implementer’s business should be entirely up to the implementer provided they deliver on requirements at the agreed price. The IndWTMP has no business setting such stipulations *a priori*. There can be interrogation of business plans at the appropriate stage, but to legislate a 10% cap on administration costs is irrational.

Factual Errors

13. The IndWTMP has errors of fact including errors of omission.
14. The watershed date for legacy tyres not covered by the REDISA Plan is given as 30 November 2012, when it should be 1 February 2013⁴.
15. The number and sizes of depots as listed in Table 1, reportedly as at August 2020, are not consistent with data presented to the Parliamentary Portfolio Committee in May 2021. The IndWTMP was published in December 2022 but uses data more than two years old.
16. The reported depot stock levels in Table 1 are not consistent with the stock levels recorded in Table 2 (see *Annexure E: Depot Sizes*)⁵.
17. The graph in *Figure 3: Trend in waste tyre processing since 2013 in South Africa* stops at the year 2018/19. It does not show the more recent history showing a progressive decline in tonnes of waste tyres processed (see the extended graph in *Annexure A: Detailed Commentary*), nor does it agree with data sourced from the Department’s Annual Performance Plans and Annual Reports (which are the sources for the extended graph in the Annexure).
18. The targets set out in Table 6 have not been assessed in line with the WMB’s current diversion rate which for the 2021/22 year was 12.5% or 21 234 tonnes (a figure which the Auditor General has disclaimed as unverifiable). The date of issue of the IndWTMP is 7 December 2022, months after the release of the DFFE’s Annual Report 2021/22, so this data should have been available and used. Table 6 sets a target of 117 499 tonnes (41 873 from annual inflow plus 75 625 from

³ D9Comm 2.1, p.6

⁴ D9Comm 2.4, p.7

⁵ D9Comm 2.4, p.8

stockpiles) in 2023. This would represent a 450% increase over the latest figure of 21 324 tonnes diverted.

The implausibility of this follows from the sequences of events still to be completed before an IndWTMP can begin operating in earnest:

- 18.1. Finalise the IndWTMP following the comment period, possibly with re-publication if significant changes are made;
- 18.2. Issue tenders for implementers;
- 18.3. Appoint implementers;
- 18.4. Complete detailed pre-feasibility study on incentives;
- 18.5. Determine incentives to be paid as necessary input for business plans;
- 18.6. Finalise business plans;
- 18.7. Develop implementer systems;
- 18.8. Begin operations.

Imprecise language

19. There are numerous examples of imprecise language⁶ that do not belong in legislation, many of them using the passive voice, dictating that things ‘must be done’, without specifying by whom. [Annexure A: Detailed Commentary](#) notes numerous instances of imprecise language but some examples are given here:

- 19.1. Item 3.4: *“Other performance indicators including ... must also be applied”*. An open-ended *“including”* is an ill-defined catch-all, and *“must be applied”* is not specific on who must apply which performance indicators to which entities.
- 19.2. Item 3.4.2: *“Incentives must be developed for selected functions of key role-players”*. It does not specify:
 - 19.2.1. who must develop the incentives;
 - 19.2.2. what *“selected”* means in practice; and
 - 19.2.3. who must do the selection.

It may be maintained that the Incentives Evaluation Committee that the IndWTMP defines is the agency that will develop all the incentives as well as evaluate them, but that is contradicted by other references to incentives: for example, items 4.4(11), 4.6(3), 4.6(5), and 5.1(w) variously invoke the Department, the WMB, the implementer(s), and *“other government departments and agencies”* in the development of incentives.

19.3. Committees are specified but referred to with different names throughout the text. The IndWTMP refers to an Incentive (alternatively Incentives) Evaluation Committee, an Evaluation Committee, and an Independent Evaluation Committee, with varying use of capitalisation and plurals, but the text generally implies there are only two committees covered by these names.

⁶ D9Comm 2.2, p.6-7

19.4. Item 4.6(6): “*The Implementers must provide non-financial performance reports on the implementation of this IndWTMP.*” It does not specify:

- 19.4.1. what must be in these reports;
- 19.4.2. when they must be submitted;
- 19.4.3. the minimum requirements per reporting item;
- 19.4.4. the consequences of non-compliance with the minimum requirements;
- 19.4.5. if they are the same reports referred to elsewhere; and
- 19.4.6. if the implementers can determine for themselves what is in these reports.

This is unenforceable.

19.5. Item 5.4(f) mandates unspecified “*progress reports*” to be reviewed by the IAC. It is only by implication that this can be read as the implementers’ reports.

19.6. Item 5.9(c) requires waste tyre transporters to “*record*” all transfers, without defining how, where, or what to do with the records that must be kept.

Overlapping and/or Redundant Definitions

20. The IndWTMP lacks consistency and clarity of thought. For example:

- 20.1. Collection points are clearly defined, and specifically include tyre dealers, yet they are treated elsewhere as separate groups. See 5.6 and 5.7, and the lists in items 2.4 and 4.8.1.⁷
- 20.2. Depots are grouped into pre-processing and non-pre-processing (items 5.8 and 5.11) and 4.7.3 refers to “*depots that pre-process*” which indicates there are depots that do not pre-process. This is despite the IndWTMP specifying that all depots must pre-process (see items 4.4(10), 4.5(3) and 5).
- 20.3. Depots, waste tyre stockpiles, and waste tyre storage sites are listed as distinct (items 2.4 and 4.8.1) but no basis for differentiating between them is provided.

Repetitive and Disjointed

21. There is a great deal of repetition, often with variations. Many instances are noted in the detailed comments in [Annexure A: Detailed Commentary](#).
22. Notable examples of both repetition and disjointedness are where the IndWTMP addresses the implementers’ business plans, and incentives.
23. Business plans and the processes behind them are defined variously in items 3.3, 3.4.2, 4.4, 4.7.1, 4.7.6, 5.1(a), 5.1(r), 5.4 and 6.2. It is difficult to compose a consolidated, consistent view of how business plans must be composed and the process they must go through. The implementers’ business plans are central to an IndWTMP, and their content and processes should be set out in one clear, comprehensive section, not scattered piecemeal throughout the document.

⁷ D9Comm 2.6, p.13

24. Incentives feature prominently in the IndWTMP. However, when all the mentions are assembled (see *Annexure F: Incentives*) there is no consistency or clarity of purpose. There are instead repetitive, overlapping, and contradictory references⁸:

24.1. Incentives must be developed by

- 24.1.1. Various unspecified parties (with the use of the passive voice “*must be developed*”) in item 3.4.2; or
- 24.1.2. The Department & WMB “*with the implementers*” in item 4.4; or
- 24.1.3. The implementers where in item 4.5(2) “*Incentives may be used throughout the waste tyre processing value chain*” and in 4.5(4) “*The Implementers may employ incentives to support the development of waste tyre processing value chains.*” or
- 24.1.4. The Department, WMB and “*other government departments and agencies*” in item 4.6; or
- 24.1.5. The WMB in items 4.6 and 5.3; or
- 24.1.6. The implementers, via their contracts with processors, in item 4.7.5; or
- 24.1.7. The implementers with the dtic in item 5.1; or
- 24.1.8. The implementers in consultation with the WMB, where they “*must prioritise and incentivise*”, again apparently with some discretion, in item 6.2.

24.2. Incentives are dependent on:

- 24.2.1. A detailed pre-feasibility study, to be performed by an unspecified entity, in item 2.7;
- 24.2.2. Approval by the Industry Advisory Committee and Incentive Evaluation Committee in item 3.7.2;
- 24.2.3. Meeting job creation targets, to be defined by the WMB, in items 4.8.7 and 4.8; and
- 24.2.4. Vaguely defined “*inflation*” in items 3.4.2 and 5.3.

No clarity on the quantum of incentives can be obtained until the pre-feasibility study in item 2.7 is completed, the linkage to job creation targets is set, and the basis for escalation for inflation is determined.

24.3. Incentives are disbursed by:

- 24.3.1. The implementers in items 3.7.2 and 5.1 aa); and
- 24.3.2. The implementers by implication in items 4.5 and 4.7.5; but
- 24.3.3. The WMB in item 4.6.

24.4. Incentives apply to:

- 24.4.1. A long list of functions in item 3.4.2; however, it appears from items 3.4.2 and 3.7.2 that individual applications must be approved by the IAC (which includes

⁸ D9Comm 2.6, p.14

- conflicted members who are potential recipients of incentives) as well as the Incentives Evaluation Committee;
- 24.4.2. Pre-processing specifically in item 4.4;
 - 24.4.3. *“Throughout the waste tyre processing value chain”* in item 4.5;
 - 24.4.4. *“key role players in the waste tyre value chain”* in item 4.6; and
 - 24.4.5. *“capital investment, transport, and processing subsidies”* in item 4.7.5.
- 24.5. Incentives are a key component of implementers’ budgets and critical to supporting the waste tyre management process. They must be submitted for WMB, IAC and Treasury approval before the implementers and the recipients can finalise their plans. The contradictions itemised in 24.1, the dependencies in 24.2, and the uncertainties in 24.3 and 24.4 introduce many unanswered questions as to who will pay incentives, who will receive them, and what the incentives will be.
- 24.6. *Annexure F: Incentives* assembles all the references to incentives in one table for ease of reference.

Overlapping Responsibilities

25. The IndWTMP is confused about the roles of the implementer(s) and the WMB. It requires all of them to conduct an audit of existing stockpiles/depots⁹:
- 25.1. Item 3.7.4: *“The Implementers must conduct an audit of existing waste storage sites”*.
 - 25.2. Item 4.5(1): *“The WMB must undertake an audit of stockpiles of waste tyres at Depots”*.
 - 25.3. Item 6.2(b): *“The Implementers must conduct an audit of equipment, and the current stockpiles of waste tyres”* (plural added).
- Item 4.3 states *“Each implementer will be contracted by the WMB for a specific geographical region (Figure 7) with regional specific targets (Table 7), but more than one implementer per region must be allowed.”* There are therefore intended to be at least three implementers, so there will be at least 4 parties independently conducting audits of existing stockpiles. Note that nowhere is the obligation on the implementers qualified as being regionalised: the implementers are simply required to audit existing stockpiles.
26. The confusion around who will audit stockpiles is made worse by the lack of a definition of stockpile, and the intermingling of the terms *depot*, *stockpile*, and *waste storage site*. It is not clear if the mandated audits are to deal with WMB depots per item 4.5(1), or all known and registered stockpiles (e.g., at mines) implied by item 3.7.4, or all identifiable stockpiles, legal and illegal, which item 6.2(b) could be construed to include. This last interpretation is implied by the targets in Table 6 which refer to the reductions in the estimated total waste tyre stockpile (mostly illegal and unknown) of 900 000 tonnes which are to be achieved.
27. The task of the implementers is subject to a degree of interference and external decision-making that will make it impossible to hold them accountable for any targets.
- 27.1. The IAC is a weighty committee comprising at least 13 members, none of whom has special expertise in waste tyre management. Some have expertise in specific functions

⁹ D9Comm 2.4, p.8; 2.6, p.11; 2.10, p.19

that form part of the waste tyre system (namely RASA, and the representatives from the non-existent but proposed associations of waste tyre processing companies and of micro-collectors), but that is not the same as managing the complete system. (The IndWTMP acknowledges this in item 4.3: *“Appointment of the Implementers must be mindful of the complexity of waste tyre management in South Africa”*.) Others have conflicts of interest, namely TIASA, RMI, SATMC, RASA, and the proposed waste tyre processor and micro-collector associations. Inevitably, aspects of the waste tyre management system’s implementation, even if they are optimal from the overall national perspective, will favour or prejudice the interests of some of the parties. This collection of disparate members with no special expertise will:

- 27.1.1. Give technical advice on the *“implementation of a coordination system for waste tyre logistics”* (item 3.6(c)), even though none of them have experience in this.
 - 27.1.2. Approve incentives, despite the manifest conflicts of interest, per item 3.7.2: *“The application process must be clearly outlined and supported by the IAC”* (noting that in legislation, ‘supported by’ means requiring explicit approval). We also note there is confusion here as this suggests that participants must apply for incentives, as opposed to a committee deliberating and devising incentives for functions (e.g., waste tyre processing, transport, etc.) rather than for individual entities.
 - 27.1.3. Approve the implementer(s) business plans, per item 4.7.6(c): *“The business plan and budget must be supported by the IAC”*.
 - 27.1.4. *“Inform”* the WMB on evaluation of the IndWTMP, per Item 4.8.5 *Evaluation* which requires the IndWTMP to be evaluated by the WMB annually *“Informed by the IAC”*. The meaning and force of *“informed by”* is however not made clear.
 - 27.1.5. Serve on all Project Steering Committees (item 4.8.6).
- 27.2. The Incentives Evaluation Committee, comprising members from the WMB, CWM department, and dtic (according to item 3.4.2) will determine incentives to be offered to various participants in the waste tyre industry. There is some ambiguity here as the context suggests an overlap with the Independent Evaluation Committee and suggests that this may be a drafting error.
- 27.2.1. If it is not a drafting error, there is inconsistency because in item 4.4(11) the implementers are included (*“The Department must in collaboration with the Implementers and WMB design suitable incentives for such pre-processing”*), albeit only with respect to pre-processing at depots.
 - 27.2.2. If this is a drafting error and the committee referred to in item 3.4.2 should have been the Independent Evaluation Committee, then this is the committee that will approve applications for waste tyre processing. However, that would leave the composition of the Incentives Evaluation Committee undefined.
- What is clear is that either the selection of waste tyre processors, or the evaluation of incentives, or both, will be under the control of parties other than the implementers.
- 27.3. The Evaluation Committee, loosely defined in 3.4.1(c) as comprising persons unspecified other than *“with representation from the DTIC”*, will decide which waste tyre processors are approved. This is difficult to reconcile with the confusion noted above in 27.2.

28. Clearly multiple critical aspects of the overall waste tyre management system are taken out of the control of implementers. Where they have control, it is difficult to see how that control can be given to the multiple implementers as a group. The result is that an implementer will have the work of various committees and the actions of other implementers to blame for non-achievement of targets.
29. The powers granted to the various committees to determine key aspects of the overall waste management system will also make it difficult to hold the WMB accountable for outcomes.
30. Item 5.1(c) requires the implementer (singular) to “*Assume overarching operational management of waste tyres in South Africa.*” Multiple implementers cannot all exercise “*overarching operational management*”¹⁰, nor is it possible for any one entity to be tasked with this given the interference from, and arrogation of control of critical aspects by, external parties, some of whom have conflicts of interest as discussed in paragraph 27.

Meetings and Reports

31. The bureaucratic profusion is considerable. *Annexure B: Meetings* and *Annexure C: Reports* summarise the meetings and reports stipulated in the IndWTMP.
32. Meetings are mandated liberally but not clearly or rationally.
 - 32.1. Item 4.6(7): “*Implementation progress meetings must be held quarterly between the Implementers, the IAC and the WMB.*”
 - 32.2. Item 5.1(p): The implementer must “*Collaborate with the waste tyre sector on an ad-hoc basis but at least on a quarterly basis through scheduled meetings with the IAC*”. Is this the same meeting as in 32.1? That must be held quarterly, but this one is “*ad-hoc but at least on a quarterly basis*”.
 - 32.3. Schedule 1, clause 2.3 specifies that the IAC meetings must be convened by the implementer. The IndWTMP envisages a minimum of 3 implementers, so it appears they will each convene their own meetings. IAC members (13 or more of them) must attend (clause 3.1) all meetings (themselves or delegates). They will meet on average once a month; more if the meetings in 32.1 and 32.2 are distinct, separate meetings.
 - 32.4. The IAC is also expected to attend Project Steering Committee meetings with each of the implementers.
33. Reporting is also liberally dictated.
 - 33.1. The WMB will receive (numbers are approximate):
 - 33.1.1. 180 quarterly tyre production reports. Note that this critical planning information is not sent to the implementer(s).
 - 33.1.2. 1400 to 2000 monthly reports from tyre dealers and other collection points on number and type of tyres mutilated.
 - 33.1.3. 15 monthly reports from processors on “*number or [sic] tonnage and type of waste tyres received*”. Processors can choose whether to report numbers or tonnage. This is presumably a drafting error. Note that the processors are not required to report to the WMB on waste tyres processed, though they must

D9Comm 2.10, p.19¹⁰

report this to the implementer(s) who in turn will report to the WMB. There is no reason given for the different reporting requirements of waste tyres received versus processed.

- 33.1.4. 24 monthly reports from depots on tyre movements.
 - 33.1.5. Transporters are in the list of persons required to report to the WMB. They must ensure that all transfers are “*recorded*” (item 5.9(c)) and all loads are “*signed off*” (item 5.9(d)). How this must happen and where the data must go is not specified. It may or may not have to go to the WMB, in some format to be determined.
 - 33.1.6. The WMB will need to have a team dedicated to compiling, analysing, and cross-checking all the information it receives from the various sources, a task that will require some sophisticated systems that will be a duplication of the implementer(s) work.
 - 33.1.7. 3 or more monthly reports from the implementers via the IAC.
 - 33.1.8. 3 or more reports from the implementers on unspecified “*non-financial performance*” at unspecified intervals.
 - 33.1.9. 3 or more annual reports from the implementers on movements of tyres between “*all role players*”.
 - 33.1.10. 3 or more annual audit reports from the implementers.
- 33.2. The implementer(s) must submit:
- 33.2.1. monthly reports according to item 3.4.3;
 - 33.2.2. “*non-financial performance reports*” of unspecified content and frequency (item 4.6(6));
 - 33.2.3. quarterly progress reports (item 4.7.6(d));
 - 33.2.4. A vaguely defined report on “*Suitable progress and performance indicators*” monthly for the first year and then quarterly (item 4.8.4), where each implementer must report on national aggregated waste tyre data. This requires a level of information-sharing and collusion between the multiple implementers that is possibly illegal and practically difficult;
 - 33.2.5. annual reports on “*movement of tyres between all role players*”. It is not clear if each implementer must report on everything, and if so, how they will get the information needed to compile these reports; and
 - 33.2.6. monthly reports on “*progress of the implementer*” (Schedule 1 clause 1.1.6).
- There is presumably some overlap of these reports, but they are specified in different places, in different contexts, and with different terminology.
- 33.3. The implementer(s) will each receive:
- 33.3.1. 1400 to 2000 monthly reports from tyre dealers and other collection points on number and type of tyres mutilated. These appear to have to be submitted to all implementers, as no thought has been given to regionalisation other than its cursory mention in item 4.3;

- 33.3.2. 15 monthly reports from processors on “*number or [sic] tonnage and type of waste tyres received*”;
 - 33.3.3. 15 monthly reports from processors on tonnage of waste tyres processed (item 5.12(i)); and
 - 33.3.4. 24 monthly reports form depots on tyre movements.
- 33.4. It is not clear why there must be so much duplication of reporting, nor how the reporting mechanisms will be synchronised between the parties, assuming common reporting formats and media are established between the WMB and each implementer. If common reporting formats are to be required, the IndWTMP should determine who is responsible for defining them. Exchange of spreadsheets is archaic, labour-intensive and error-prone. An automated, mobile device-based solution such as REDISA’s Phinda system which captured data in real time with geo-tagging is efficient and accurate but requires custom development that would be very expensive for each implementer to develop and would require someone to determine standards to ensure compatibility for information-sharing and aggregation across the implementers. This supposes that the level of information sharing required would be acceptable in terms of competition law, and acceptable to the competing implementers.

Internal Inconsistencies

34. There are inconsistent definitions of reports, meetings, committees, and responsibilities commented on elsewhere. Some further impossibilities include:
- 34.1. Item 6.2(8) specifies that ownership of all equipment procured must “*revert to the WMB*” on some unspecified trigger. However, item 6.3 specifies that all property procured or obtained, material or immaterial, must form part of the asset register of the State. It therefore cannot revert to the WMB, it must be owned by the State from the start.
 - 34.2. Multiple implementers are mandated, but responsibilities are assigned which can only be applied to a single implementer. See for example our comment on item 5.1(c) in paragraph 30 above.
 - 34.3. Job creation “*may not be considered as a goal in itself*” (item 4.8.7), but there will be:
 - 34.3.1. “*a minimum requirement for job opportunities created per tonne of waste tyres processed*” (from the same item 4.8.7);
 - 34.3.2. a key performance indicator of “*employment positions created per thousand tonnes of waste tyres processed*” (item 3.4.2);
 - 34.3.3. a target of “*Total employment opportunities measured as full-time permanent job equivalents to be achieved in the sector by 2025 is 1 500 jobs and 2000 jobs by 2035.*” (also in item 3.4.2); and
 - 34.3.4. in item 5.3(h) the WMB must “*Establish a benchmark for job opportunities that should be realised per tonne of waste tyres processed to qualify for incentives.*”

These make it clear that job creation is “*a goal in itself*”.
 - 34.4. All depots are required to pre-process (see paragraph 20.2), but item 4.1(d) states that only “*not pre-processed*” waste tyres will be delivered to processors free of charge. These

would not be able to be delivered from depots because they are required to pre-process waste tyres and therefore should not have any stock of “*not pre-processed*” tyres.

- 34.5. Transport tariffs are to be determined by the WMB, per items 4.4(9) and 5.3(k), but by the implementer(s) per item 6.2(9).
35. There are multiple references to “*all role players*”, “*role players*”, “*key role players*” and “*other role players*” which, per item 2.6 and failing any other definition must be read to include tyre producers, importers, dealers, general public, government services, mining, agriculture, transport, OEMs, vehicle dealerships, fitment centres, waste tyre collectors, waste tyre processing companies, users and consumers of waste tyres, second-hand tyre dealers, universities, science councils, and the chemical industry. Interpreting “*role players*” this way wherever it appears results in absurdities.

Poor Presentation

36. Given all the serious and indeed fatal flaws of the IndWTMP it seems trivial to criticise the failings in the document presentation, but these failings are unacceptable in legislation.

Examples of these are:

- 36.1. Item and sub-item numbering are inconsistent. For example:

36.1.1. Executive summary has two sub-lists numbered ‘1., 2., 3.’, and two sub-lists numbered ‘a), b), c)’, or three if the items in the Table on NEM:WA are included. Item 2.6 has four ‘a), b), c)’ sub-lists. Further examples are in items 3.4.2, which has multiple duplications of ‘a), b), c)’ and of ‘i), ii), iii)’; and items 4.8.3, 4.8.4, and many more. Item 6.2 has two sub-lists at the same level, one with ‘1., 2., 3.’ and a sub-sub-list ‘a), b), c)’; followed by a sub-list ‘a), b), c)’.

36.1.2. Sub-items are randomly numbered ‘a), b), c)’; ‘1., 2., 3.’; ‘1), 2), 3)’; ‘1., ii., iii.’; or ‘i), ii), iii)’.

- 36.2. This is not petty detail: this is legislation. How can someone be charged with “*failure to comply with 4.8.3.b) – not the first one, the second one*”?

36.3. In Table 2 no attempt has been made to render it readable, let alone check it for the errors we note later in this commentary.

36.4. Figures 1, 2, 6, 7, and 8 are too small and low resolution to be legible.

36.5. Poor proof reading. Item 6.2.5 is a particularly egregious example: “... or access [sic] the adequacy of the systems Obed to advise.” Clearly,

36.5.1. ‘assess’ was meant, and

36.5.2. Obed had not yet advised at time of going to print.

Conclusion

37. This IndWTMP is proposed legislation that has gone through at least 10 drafts over two and a half years, yet it looks like a first draft still in need of proof-reading, fact-checking, and consistency-checking.

38. It is an embarrassment to the Minister and the Department that such a flawed document should be published under the Minister’s name.

39. This IndWTMP is not fit for purpose.

Annexure A: Detailed Commentary

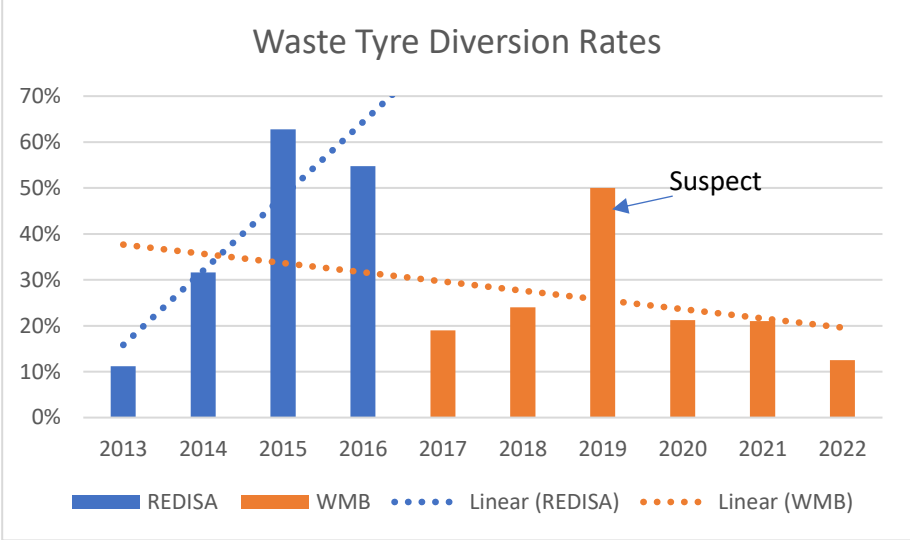
References to REDISA’s commentary on Draft 9, where the same points have been previously noted, are indicated as [D9Comm section no., page number]

Page	Item	Comments
5	PREFACE	<p><i>“The IndWTMP constitutes sub-ordinate legislation”.</i></p> <p>This is a critical point, and a point on which the IndWTMP can be faulted in multiple places. Legislation must be precise and unambiguous. The earlier Draft 9 of 9 March 2022 had the same failings which we noted in our commentary on that Draft. In this commentary we note in the comments that follow where this IndWTMP again falls short as legislation.</p>
5	PREFACE	<p>The IndWTMP refers to <i>“the approved business plans submitted by multiple Implementers”</i> but fails to explain how the business plans and subsequent operations of the multiple implementers are to be coordinated and monitored.</p>
6	Executive Summary	<p><i>“Funding for the implementation of the IndWTMP will be through a budgetary allocation from National Treasury that will be disbursed through the WMB”.</i></p> <p>Any entity in the waste tyre value chain contemplating large capital investment will be given pause by this stipulation. Annual budgetary allocations are subject to the will of Parliament and the changing priorities of the day. Investing in a fleet of trucks, a depot, or a waste tyre processing plant – all multi-million to hundreds of million Rand investments – with an uncertain future availability of funding is not good business.</p>
6	Executive Summary	<p>Requirements <i>“as outlined in section 30(2) of NEM:WA”</i> are discussed.</p> <p>Sub-item (d) refers to <i>“Measures or programmes to minimise the generation of waste and the final disposal of waste”</i>. This is disposed of as not able to be addressed <i>“Due to the primary use of tyres and the nature of the generation of waste tyres”</i>.</p> <p>This is a simplistic view: it is certainly possible for an IndWTMP to create incentives for tyre producers to review materials and construction of tyres with a view to facilitating recycling and recovery, and to promote longevity (which would consequently reduce the volume of waste tyres arising).</p>
7	Executive Summary	<p>Sub-item (f) requires <i>“the phasing out of the use of specified substances”</i>. This is disposed of similarly to sub-item (d) above, and the same comment applies: it is perfectly possible for an IndWTMP to address this.</p>

Page	Item	Comments
7	Executive Summary	<p>Sub-item (i), “<i>The extent of any financial contribution to be made to support consumer-based waste reduction programmes</i>”, refers to “<i>item 4.7.6 (Table 7)</i>”. Item 4.7.6 contains Table 8, not 7.</p> <p>Setting aside the incorrect reference, Table 8 proposes that 2% of the implementers’ budgets should be allocated to the broad grouping of “<i>Training/capacity building/awareness raising mentoring</i>”. This cannot be regarded as an adequate response to this requirement. At best, it merely sets an upper limit on what could be allocated, at a portion of 2% of an undefined budget.</p>
7	Executive Summary	<p>The IndWTMP creates several committees: an Industry Advisory Committee, an Incentives Evaluation Committee, an Evaluation Committee, and multiple Project Steering Committees (one for each project, per items 4.8.6 and 5.1(k)). The IndWTMP is confused about the naming and roles of the committees, as is noted in later comments. This creates contradictions in the subordinate legislation. [D9Comm 2.6, p.10]</p>
7	Definitions	<p>Legacy stockpiles are noted as being “<i>pre-30 November 2012</i>”. This is the date of the gazetting of the first IndWTMP; it is not the effective date, which was 1 February 2013. This error, which is repeated on the following page in the definition of a Legacy Stockpile and again in item 4.1, has been perpetuated through various drafts of the IndWTMP, including Draft 9, and persists despite having been pointed out in earlier detailed commentaries. [D9Comm 2.4, p.7]</p>
7	Definitions	<p>The tyre levy is confusingly recorded as being paid by “<i>the tyre producer, importers or producers of tyres</i>”. This text should simply read “<i>the tyre producers</i>”, as the term is fully defined in the point that follows in the text as well as in the WTR.</p>
15	2.2	<p>Waste tyre backlogs (stockpiles) at Depots</p> <p>The November 2012 date is again cited, where it should be 1 February 2013.</p>
15	2.2	<p>Table 1 lists 4 depots (Belfast, Bloemfontein, Kroonstad and Ngcobo) that exceed the maximum permitted area of 30 000 m² by 50-60%. The fact that the WMB is contravening its own regulations is ignored.</p> <p>There is also an anomaly as the list of depots and their sizes (which has not changed since at least Draft 6 of the CSIR plan, dated March 2021) does not agree with the list presented to Parliament by O Baloyi on 25 May 2021, which lists:</p> <ul style="list-style-type: none"> • Tembisa as 7 671 m² versus 4 000 m² in the IndWTMP. • Thohoyandou at 50 000 m², which is not in the IndWTMP. • Lichtenburg at 30 000 m², which is not in the IndWTMP.

Page	Item	Comments
		<p>The IndWTMP is using data outdated by at least 18 months.</p> <p>If the Parliamentary report is correct, then there are 5 depots larger than the legal limit. See Annexure E, <i>Table E.1: Depot size discrepancies</i>, for further detailed analysis.</p>
17-20	Tables 1 and 2	<p>Storage occupation per depot, August 2020 Tyre Units Per Depot By Type As Of 13 August 2020</p> <p>Tables 1 and 2 are repeated from Draft 9. Our commentary on Draft 9 noted:</p> <p>“The Tables (Table 1 and Table 2) showing the state of storage sites clearly have errors which can be seen without even checking the state on the ground. Glen Austin and Midrand are listed as two depots of almost the same size (9 400 m² and 9 500 m²), and according to Table 1 both are at 100% capacity. However, according to Table 2 Midrand has on average more than 20 times as many tyres as Glen Austin. This is not credible. One site must be 5% full, or the other 2000% full. Or the data is simply unreliable.” [D9Comm 2.4, p.8]</p> <p>This comment still applies as the tables have not been updated.</p> <p>These Tables serve little purpose other than to give an appearance of thorough research, an appearance that cannot be sustained when the data they contain is closely examined.</p> <p>The discrepancy between Table 1 and the reporting to Parliament has been noted above against item 2.2.</p> <p>There is no obvious purpose for including Table 2 as it provides a level of detail that is pointless in the IndWTMP because the numbers can be expected to change constantly. However, it is instructive to examine the data carefully as it shows the poor quality of the information that the IndWTMP is based on, and the lack of analysis of the data on the part of the drafters of the plan.</p> <p>Table 2 is so badly formatted that it is practically illegible. It is reproduced more clearly with some modifications in Annexure E, <i>Table E.2: Depot Stock Levels</i>:</p> <ul style="list-style-type: none"> • In the published table, there is a column showing the total count of tyres of the various sizes per depot and overall. This is not a useful number to record. In Table E.2, there is instead a figure for the approximate total tonnages that the various counts of tyres represent. • A column has been added indicating the storage density implied by the tonnages, i.e., the tonnage per depot divided by the depot area. It may be noted that the maximum theoretical capacity of a depot compliant with the WTR storage rules is 1.25 tonnes/m². One

Page	Item	Comments
		<p>depot, Midrand, according to the data in Table 2, is at 1.4 tonnes/m².</p> <ul style="list-style-type: none"> The cells highlighted in yellow (for Belfast, East London, Markman, Ngcobo, and Uitenhage) were omitted from the summation in Table 2: the tyre counts for those depots, as irrelevant as they may be, are therefore also incorrect. <p><i>Figure E.1: Comparison of Reported Stock and Capacity</i> shows the stock density in tonnes/m² deduced from Table 2, and the reported depot storage levels from Table 1. Whilst all the depots are at or close to capacity, their storage densities vary by approximately 30:1: compare Midrand at 1.48 tonnes/m² to Hammarsdale at 0.05 tonnes/m², both reportedly at 100% capacity. This cannot be correct.</p> <p>Note that Table 1 and Table 2 are both reported to be dated August 2020 so they should be consistent with one another.</p> <p>Clearly the data on which this IndWTMP is based is unreliable and has not been subjected to any critical review.</p>
21 22	Figure 1 Figure 2	<p>Waste tyre management infrastructure network in South Africa, 2020 Geographic distribution of waste tyres by Type</p> <p>These figures are at such a small scale and poor resolution as to be of no value.</p>
22	2.4	<p>Legal framework for managing waste tyres</p> <p><i>“Section 24 of the Constitution of South Africa, 1996, read with sections 2(4)(p), 28(1) and 28 (1A) of NEMA, introduces the polluter pays principle.”</i></p> <p>None of the sections cited mentions “polluter pays”, nor is it in the National Waste Management Strategy 2019 or in NEMA. None of the cited legislation even defines the term polluter. NEMA S28 refers to “Every person who causes, has caused or may cause significant pollution or degradation of the environment” but it is moot in the case of tyres who that person is. Is it the tyre producer, the tyre dealer who sells the tyre, the end-user, the tyre dealer who takes control of the waste tyres when swapping them for new ones, or the person who does the final disposal?</p> <p>It is arguably reasonable for the IndWTMP to define an appropriate version of the polluter pays principle, but not to cite legislation incorrectly.</p>
24	2.5.1	<p>Waste Tyre Management</p> <p>The graph in Figure 3 is incomplete and possibly inaccurate as the data conflicts with data in the Department’s annual reports and Annual Performance Plans. [D9Comm 1.2, p.3]</p> <p>There is no explanation of why the graph ends at 2018/19, and indeed there is value in showing the continuing decline in performance.</p>

Page	Item	Comments
		<p>Below is a graph drawn from REDISA for years up to 2015/16, and from the Department sources for 2016/17 onwards:</p>  <p>The 2018/19 data, which is the only reason for the slight upward tilt of the trendline, is suspect. As was explained in our commentary on Draft 9, the claimed recycling rate is precisely 50% (to the tonne) of estimated waste tyres arising. It is the same as the number that was quoted as a <u>target</u> in the 2018/19 Annual Performance Plan (APP), and was then claimed as an <u>actual</u> in the 2021/22 APP. [D9Comm 1.2, p.3]</p>
25	2.5.3	<p>Waste tyre levy, 2020</p> <p>This item correctly notes that the waste tyre levy is not ring-fenced but then continues to state incorrectly that “<i>this funding</i>” is accessed for waste tyre management. The levy is absorbed into the fiscus; there is no compartmentalisation of these funds. This item indicates that no budgetary allocation can exceed the levied funds. It is inappropriate to assert this in this subordinate legislation because it could lead to a failure of the IndWTMP if the funds collected through the levy prove inadequate for the operation of the IndWTMP. This item would make it illegal to allocate more.</p>
25	2.5.4	<p>Financing of micro-collectors and micro depots, 2020</p> <p>This item goes into detail on the existing payment model for micro-collectors and micro-depots including base rates, performance incentives, and minimum collection rates. There is no explanation of why this detail is provided in this legislation, and it is of no relevance because per item 5.1(h) and 5.3(m) the WMB will be setting new rates. However, it is also noted that item 5.1(j) puts this responsibility on the implementer(s) – we comment on this later.</p> <p>The discussion of rates to be paid to micro-collectors elsewhere in the IndWTMP is confusing and incomplete. There is no onus placed on micro-collectors to contract with any party, they must only deliver waste tyres to</p>

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		<p>any of: collection points; “<i>community collection points</i>” (item 5.10(c)); or depots (items 5.10(d) and 5.3(m)). The question of who must pay them is left undecided.</p> <p><i>“Although the monthly limit imposed on micro-collectors limits the growth potential of micro-collectors, it is applied to enable the WMB to manage payments within their allocated budget.”</i></p> <p>It is not clear why this commentary should be included in the IndWTMP which is meant to be forward-looking and should be targeted at dealing with the problem fully. The implication is that the WMB applies limits to their operations based on available budget, not on the requirements in the field. If this is to be continued under the new IndWTMP then the setting of targets as in Table 6 and the performance measurements applied to the implementer(s) must be qualified in this light. The elegant graph in Figure 4 depicting the growth in processing capacity and elimination of stockpiles becomes pure fiction.</p>
25	2.5.5	<p>Financing of waste tyre depots, 2020</p> <p>The description of the problems being experienced under the current dispensation appears irrelevant. It describes current failures of the WMB management of depots but makes no concrete recommendations or stipulations on how matters should be managed in future.</p>
26	2.6	<p>Prominent role-players include the following stakeholders:</p> <p>‘Depots’ have been omitted from the list of prominent role players in the waste tyre value chain. This is a significant omission.</p>
27	2.7	<p>Overview of waste tyre processing and off-take markets</p> <p>This item contains the assertion “<i>Waste tyres are a valuable resource.</i>” This is patently at odds with the fact that an IndWTMP is required to deal with them. If they were a valuable resource, meaning it was economically attractive to exploit the resource, we would not have a waste tyre problem.</p> <p><i>“The feasibility of each technology in the South African context needs to be assessed by means of a detailed pre-feasibility study prior to incentives being developed.”</i></p> <p>It is pointless to assert that something needs to be done without defining which entity or entities must perform the function.</p> <p>It should be further noted that the “<i>detailed pre-feasibility study</i>” must be commissioned and performed “<i>prior to incentives being developed</i>” (emphasis added), implying a tender process under the PFMA, all of which will take some months.</p>

Page	Item	Comments
		<ul style="list-style-type: none"> Item 3.4.2 requires the Incentives Evaluation Committee to be established within three months of implementation of the IndWTMP. Implementers must incorporate incentives in their business plans (items 3.4.2, 3.5(e)). <p>The timescales involved do not appear compatible, as the pre-feasibility study must be completed before the Incentives Evaluation Committee has anything to do and before the implementers can finish their business plans.</p>
29	3.3	<p>Guiding Principles for the IndWTMP</p> <p>Principles 5 and 7 stipulate that implementers must submit annual business plans and budgets, and that funding will be through budgetary allocations from National Treasury. Implementers therefore cannot make any long-term commitments as Treasury funding is always subject to parliamentary approval and determined in the context of competing budgetary priorities.</p> <p>Principle 11 states <i>“The “polluter pays” principle applies.”</i> Nowhere is it spelt out what this means in effect, nor is either ‘the polluter’ or ‘the polluter pays principle’ defined in the legislation.</p>
30	3.4	<p>Strategic Objectives</p> <p><i>“Measurable targets for selected performance indicators such as waste tyre processing (refer to Table 6) must be implemented to measure progress against the objectives of the IndWTMP. Other performance indicators including, SMME development, job creation, incentives provided to different stakeholder groups, and skills development/training provided must also be applied.”</i></p> <p>This is vague wording that has no place in subordinate legislation:</p> <ul style="list-style-type: none"> <i>“such as”</i> has no legal meaning; <i>“including”</i> is redundant: it implies other indicators, but if they are not spelt out then they do not exist; if the units and means of measure and the required targets are not specified then this has no effect; and the passive voice <i>“must be applied”</i> does not allocate a responsibility to any person, so this has no effect.
30	3.4.1	<p>Objective 1: Establishment of a viable waste tyre processing industry</p> <p>Activities required to establish a viable waste tyre processing industry are listed without identifying which parties are responsible for their performance. Given that elsewhere the IndWTMP is insistent on multiple implementers being responsible yet subservient to multiple committees,</p>

Page	Item	Comments
		and a compartmentalisation of the industry, it will be impossible to give these sentiments any material weight.
30	3.4.2	<p>Objective 2: Expand the waste tyre processing capacity of South Africa</p> <p><i>“An urgent need lies with increasing the 2020 tyre processing rates of approximately 20% per annum as quickly as possible.”</i></p> <p>It must be noted that the DFFE Annual Report for 2021/22 reports a processing rate of 12.5%, although the Auditor-General disclaimed that figure as unverifiable.</p> <p><i>“Incentives must be developed for selected functions of key role-players in the waste tyre value chain”.</i></p> <p>This is a statement of what must be done but the IndWTMP is vague on who must do it, variously assigning the responsibility to the WMB and to the implementers. It is also vague in specifying when the development of incentives must be done: item 2.7 merely places it some time in the future, after the detailed pre-feasibility study it refers to has been completed.</p> <p><i>“b) incentivised pre-processing to allow for profit-seeking at depots;”</i></p> <p>This is unclear phrasing. Is this different from saying depots will be paid to pre-process?</p>
31	3.4.2	<p>Objective 2: Expand the waste tyre processing capacity of South Africa (Continued)</p> <p><i>“h) providing binding supply contracts between the Implementers and waste tyre processors to support investment in the sector; contracts beyond 5-years will be between WMB and the waste tyre processor to support investment in the sector;”</i></p> <p>Budget allocations are always subject to Treasury and Parliament approval, so special arrangements will be required, subject to the PFMA, before binding contracts for longer than one year can be entered. The overlap between shorter- and longer-term contracts, with the latter potentially involving the WMB, multiple implementers, and the processors, will be complex.</p> <p>The time limits set out do not consider that whilst an implementer may have a five-year term, contracts will not be awarded immediately on the implementer’s term commencing. The planning and contracting timeframe open to an implementer shortens by a year every year, so an implementer will not, after the first few days from appointment, be able to enter 5-year contracts. This means that in effect the stipulation should be that <i>“contracts beyond the end of the initial 5 years of the IndWTMP”</i> should be between WMB and the waste tyre processor.</p>

Page	Item	Comments
31	3.4.2	<p>Objective 2: Expand the waste tyre processing capacity of South Africa (Continued)</p> <p><i>“An Incentives Evaluation Committee must be established by the WMB within three months of the implementation of the IndWTMP to evaluate applications.”</i></p> <p>This item and 3.7.2 suggest there will be an application process for incentives, as distinct from applications to become waste tyre processors which must be adjudicated by the (Independent) Evaluation Committee. Waste tyre processors would therefore have to apply to the (Independent) Evaluation Committee to become processors, then to the Incentive Evaluation Committee to receive incentives. This is placing an obstacle course in the processors’ paths.</p> <p>It must also be noted that per item 2.7 a <i>“detailed pre-feasibility study”</i> must be completed before incentives are developed.</p> <p>The Executive Summary distinguishes between the Incentives Evaluation Committee that must <i>“ensure impartial evaluation and awarding of incentives”</i>, and the <i>“Evaluation Committee for expressions of interest by processors to fast track the growth in processing capacity”</i>. Item 3.4.1 refers to <i>“an independent evaluation committee”</i> (no capitalisation) that may or may not be the same as the Evaluation Committee.</p> <p>The precise duties and responsibilities of the Committee are poorly defined, though the IndWTMP lays out details of how to schedule meetings, distribute documents and take minutes. This does not seem appropriate content for a strategy and policy document. If it is, then the same minutiae should be set out for the Evaluation Committee, the Provincial Waste Forum, and the Project Steering Committees.</p> <p>The IAC administrative detail on the other hand is put into a separate Schedule.</p> <p>There is no apparent reason for the different treatment or non-treatment of the administrative details of the different committees.</p> <p><i>The Implementers must budget for incentives as part of their business plans submitted to the WMB. The incentives evaluation committee will comprise of representatives from the following organisations:</i></p> <ul style="list-style-type: none"> <i>a) 2 officials from CWM branch of the Department;</i> <i>b) 1 official from WMB; and</i> <i>c) 1 official from DTIC.</i> <p>The implementers must budget for something out of their control and awaiting completion of the <i>“detailed pre-feasibility study”</i> of item 2.7.</p>

Page	Item	Comments
		<p><i>“The stipulated processing fee must be adjusted annually in line with inflation.”</i></p> <p>This is a repetition: it is stated at the top of the same page, and again in item 5.3, and in neither case is it made clear what measure of inflation is to be used. Repetition detracts from clarity and invites errors.</p> <p><i>“National targets for waste tyre processing and reduction in stockpiles at Depots are set as follows (see Table 6, base year is 2023):</i></p> <ul style="list-style-type: none"> <li data-bbox="518 638 1372 705">i) <i>Processing/recycling of 25% by 2024, 30% by 2025, and 80% by 2035 of the annual inflow of waste tyres, and</i> <li data-bbox="518 728 1372 795">ii) <i>20% reduction in current stockpiles in 2023, 40% reduction in 2028 and 90% reduction in 2038.”</i> <p>There is no rationale provided for these targets, nor do they appear rational. This IndWTMP is open for comment until early February 2023. The comments must be processed, and any amendments re-published. Implementers must be appointed, a <i>“pre-feasibility study”</i> conducted, and contracts awarded, subject to the PFMA. It is not possible that this IndWTMP can result in a 20% reduction in current stockpiles in 2023, and very unlikely that it can lead to a doubling of the latest figure of 12.5% processing/recycling rate (a figure disclaimed by the Auditor General) by 2024.</p>
32	Table 6	<p>Projected national targets for increased processing and reduction of stockpiled waste tyres in South Africa</p> <p>The table has been cut-and-pasted from earlier drafts without updating or editing.</p> <ul style="list-style-type: none"> <li data-bbox="518 1355 1372 1489">• The timing is already outdated: a target of 117 499 tonnes to be processed in 2023, nearly six times the reported 2021/22 figure of 21 324 tonnes (albeit with an audit disclaimer), is so far from realistically achievable as to cast the entire table into doubt. <li data-bbox="518 1512 1372 1545">• Footnote ‘a’ to this table does not have a matching reference. <li data-bbox="518 1568 1372 1601">• Footnote ‘c’ references a non-existent <i>“appendix C”</i>.
33	3.4.2	<p>Objective 2: Expand the waste tyre processing capacity of South Africa (Continued)</p> <p><i>“Total employment opportunities measured as full-time permanent job equivalents to be achieved in the sector by 2025 is 1 500 jobs and 2000 jobs by 2035.”</i></p> <p>It is inexplicable how these targets can be set when no viable implementation plans have been presented. Without knowing how many implementers there will be, nor what their plans are, nor how the tyres will be processed, the IndWTMP nevertheless stipulates targets for jobs</p>

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		<p>created. This is despite item 4.8.7 stating that job creation “<i>may not be considered as a goal in itself</i>”.</p>
33	3.4.2	<p>Objective 2: Expand the waste tyre processing capacity of South Africa (Continued)</p> <p><i>“Performance indicators for waste tyre processing must be specified in terms of:</i></p> <ul style="list-style-type: none"> <i>i) Value generated per tonne of waste tyres processed;</i> <i>ii) Percentage reduction in stockpiles;</i> <i>iii) Percentage of annual inflow of waste tyres processed;</i> <i>iv) Value of the waste tyre processing industry as percentage of GDP; and</i> <i>v) Number of permanent employment positions created per thousand tonnes of waste tyres processed.</i> <p><i>Total employment opportunities measured as full-time permanent job equivalents to be achieved in the sector by 2025 is 1 500 jobs and 2000 jobs by 2035.”</i></p> <p>This section has multiple difficulties.</p> <ul style="list-style-type: none"> • It does not specify whose performance is being measured. The outputs of the IndWTMP will be dependent on multiple implementers, subject to multiple committees, with the WMB making rules and setting incentives, dependent on National Treasury allocations, and with strictures such as the need to take over existing contracts and systems. It will be impossible to hold any one entity accountable for any performance measure, or to allocate shares of accountability. • Indicator (i) is impossible to apply. It does not specify how the “<i>value</i>” is defined and quantified; at what stage in the value chain it is measured; how any value will be apportioned between the various role players; or if it will be before or after accounting for subsidies. • Indicator (iv) is a remarkably complex one to measure. It leaves open who will be tasked to perform this, and the methodology it will be based on. There are multiple ways of assessing this, which economists can argue over at length. • Indicator (v) is at variance with item 4.8.7 which stipulates that “<i>job creation ... may not be considered as a goal in itself</i>”. <p><i>“However, after 2038 surplus processing capacity will exist which must be utilised by augmenting supply through the importation of mutilated and quartered waste tyres. It is therefore important to recognise that the growth and viability of the South African waste tyre industry will be severely limited if the growth of the industry is capped by national supply of waste tyres.”</i></p> <p>It is simplistic to suppose that any processing capacity created must continue forever. A possible and realistic alternative is to enter long-term</p>

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		<p>contracts (for example, 10 years) for co-processing of tyres as TDF whilst other processes that are higher up the waste hierarchy are established. Then, as alternative plants such as crumbing and downstream manufacturing come on stream, or as pyrolysis resolves its issues, the TDF contracts can be gracefully terminated.</p>
33-34	3.4.3	<p>Objective 3: Develop systems to monitor progress and performance</p> <p><i>“Apart from standard financial auditing, the following indicators must be monitored by the Implementers on a monthly basis and reported to the WMB and IAC (refer to item 4.2) at least quarterly:</i></p> <p><i>a) Tonnage of waste tyres leaving stockpiles at Depots;</i> <i>b) Tonnage of waste tyres processed by waste tyre processing companies;</i> <i>c) Number of new enterprises active in waste tyre processing (SMEs [sic] registered with the DTIC);</i> <i>d) Environmental performance in terms of pollution prevention measures; and</i> <i>e) Employment.”</i></p> <p>This is subordinate legislation: precision is required. Terms like <i>“at least quarterly”</i> should not appear.</p> <p>More important is that there is no discussion of how multiple implementers can share these responsibilities. A depot may work with more than one implementer. It is not clear then:</p> <ul style="list-style-type: none"> • If depots must all report on all the tonnage leaving; and • Who will correlate the reports and how double-counting, or omissions, will be avoided. <p>And similarly for waste tyre processing operations it is not clear:</p> <ul style="list-style-type: none"> • Whether each implementer keeps track of all “SMEs”, whether or not they transact with them; • Whether implementers must collectively act as environmental watchdogs over processors; • If processors are <u>required</u> to report to implementers, by force of regulation; and • Whether implementers will be given authority to demand information. <p>There is a clear risk of massive duplication of effort and administration at great cost to the industry and the fiscus.</p> <p>These are serious concerns because there are severe penalties for non-compliance: <i>“Failing to meet the reporting requirements in terms of this item constitutes an offence and may attract a penalty and remedial intervention in terms of NEM: WA by the WMB. Furthermore, any deficiencies or inaccuracies identified with the reporting and monitoring</i></p>

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		<p><i>must be addressed by the implicated Implementers within 7 business days upon receipt of feedback from the WMB and the IAC.”</i></p>
34	3.5	<p>Measures to prevent pollution and ecological degradation</p> <p>This item sets out broad responsibilities for the implementers:</p> <p><i>“The Implementers must budget for and implement the following measures to prevent environmental pollution and ecological degradation associated with waste tyre management:</i></p> <p><i>a) Improved waste tyre collections to capture and retain all waste tyres in the formal waste tyre management system;”</i></p> <p>There is no standard of measurement provided for “improved” .</p> <p>There is no explanation of how accountability will be apportioned across multiple implementers. If some waste tyres are <u>not</u> retained in the system, possibly due to rogue tyre dealers selling unfit tyres as second-hand, for example, who will be held accountable?</p> <p><i>“b) Public awareness campaigns on the impact of tyres on the environment through:</i></p> <ul style="list-style-type: none"> <i>i. Webinars;</i> <i>ii. information sessions; and</i> <i>iii. advertisements on official and social media.</i> <p><i>c) Industry awareness campaigns on negative environmental impacts associated with waste tyre management and training on appropriate pollution abatement strategies and technology options;</i></p> <p><i>d) Evaluation of the environmental performance of tyre processing and pollution abatement technologies;”</i></p> <p>The IndWTMP does not specify if all the implementers must individually do these tasks. If so, there will be large duplication of effort. If not, someone must be designated to co-ordinate and assign work packages. The sharing of costs between the implementers must also be determined.</p> <p>Note too that the reference to “official” media needs clarification. The obvious interpretation is media such as the DFFE web site, but such media cannot be controlled by the implementers. It may mean other news media, but that is not a usual interpretation.</p> <p><i>“e) Incentives referred to in item 3.4.2 to support the upgrading of pollution abatement equipment of waste tyre processors;”</i></p> <p>The implementers are being required to budget for and implement the incentives which will be determined by the Department’s CWM branch, the WMB, and the dtic. In other words, they will be held accountable for something they cannot control, and which may change at any time.</p>

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		<p><i>“f) Monitoring and reporting of non-compliances by the different role players with the IndWTMP, which is a criminal offence in terms of section 67(1)(d) of NEM: WA to the WMB.”</i></p> <p>Since this IndWTMP is subordinate legislation, this point needs clarification. This can be assumed to be intended to read “... <i>which are criminal offences</i> ...”. As it stands, it indicates that it is a criminal offence to implement monitoring and control of non-compliances.</p> <p>What is far more important, given that the IndWTMP is legislation, is that related clauses must be read together. When this requirement is read together with item 2.6 which defines “<i>Prominent role players</i>” it makes the implementers jointly responsible for monitoring and reporting non-compliances on the part of tyre producers, importers, dealers, general public, government services, mining, agriculture, transport, OEMs, vehicle dealerships, fitment centres, waste tyre collectors, waste tyre processing companies, users and consumers of waste tyres, second-hand tyre dealers, universities, science councils, and the chemical industry.</p> <p>This reading is nonsensical, but then it leaves undefined what exactly constitutes the criminal offence.</p> <p>The IndWTMP must be explicit on:</p> <ul style="list-style-type: none"> • which role players the implementers must monitor, • whether the responsibility is assigned to the implementers jointly and severally, and if so, how coordinated, or if not, how apportioned, • what powers they will have to enable them to monitor the role players, • what level and frequency of reporting is required, • whether and how they must notify the affected role players and what opportunity to rectify should be provided, • how the responsibility is to be shared amongst the implementers, and • who they must report to.
35	3.7.2	<p>Incentives for establishing a waste tyre processing industry</p> <p><i>“Industry participants must apply for incentives. The application process must be clearly outlined and supported by the IAC and applications evaluated by an incentive evaluation committee as established by the WMB. Financial incentives must be funded by the Implementers from the budgetary allocation received from the WMB (section 34D(c) of NEM: WA).”</i></p> <p>The incentives will require the approval of the IAC, which contains representation from conflicted parties.</p>

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		<p>The implementers must budget for, fund, and monitor incentives which are to be determined by someone else (the incentive evaluation committee). This is irrational.</p> <p><i>“It should be noted the financial viability of businesses must not depend solely on incentives, as incentives are of a temporary nature.”</i></p> <p>It is not clear what effect or force this statement is meant to have in this legislation. It gives no information to potential recipients of incentives other than warning them not to plan on receiving the incentives as they might be terminated at any time. The corollary to this is that potential investors must discount any incentives, therefore they will play no part in encouraging investment. This would vitiate the incentives.</p>
35	3.7.3	<p>Improved data and information</p> <p><i>“Appropriate mechanisms and indicators must be established by all role players in the industry throughout the value chain to monitor implementation and support the reporting of accurate data from the tyre industry on waste tyres recovered, recycled, treated, or disposed into the waste tyre Information Management System (IMS).”</i></p> <p>The passive voice detaches the requirement from any specific actors. This is thus a vague and unenforceable stipulation, especially when this is read, as it must be since it is qualified by <i>“throughout the value chain”</i>, with the definition of role players in item 2.6. It lays the establishment of undefined <i>“appropriate mechanisms and indicators”</i> on a vast and ill-defined group of people without specifying:</p> <ul style="list-style-type: none"> • who must perform which functions, • who must fund it, • who must co-ordinate and collate the reporting, if anyone, • what authority any of the actors will have over any others, or • whether everyone must act independently.
35	3.7.4	<p>Waste tyre storage site locations</p> <p><i>“The Implementers must conduct an audit of existing waste storage sites to inform their decision on which storage sites must be retained and where new waste tyre storage sites must be sourced.”</i></p> <p>This requires all the implementers separately to conduct audits and decide on sites to be retained. If the task is to be partitioned, then the method of partitioning must be supplied. The performance of all the implementers will be affected by the decisions made: a decision that favours one implementer might prejudice another. Therefore, a means of conflict resolution must be specified. [D9Comm 2.10, p.19]</p>

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		<p><i>“a) Current contracts of storage sites must be honoured and allowed to run their full contract period;”</i></p> <p>This is passing on to implementers the consequences of bad decisions by the WMB, as noted in item 2.5.5 (<i>“the level of detail contained in these contracts is problematic”</i>), and potential implementers must exercise great caution in taking this on unless there are suitable guarantees from the WMB. Will the WMB be permitted in terms of the PFMA to provide those guarantees? It also fails to specify which implementer must take on which contracts. Multiple implementers could contract with the same depot. [D9Comm 2.10, p.19]</p> <p><i>“b) The current general waste infrastructure network with a view to utilise services of integrated waste facilities;</i> <i>“c) Pre-processing efficiency and consolidation of land access with the waste storage site;</i> <i>“d) Distance between waste tyre generators, depots/storage sites, and waste tyre processors;</i> <i>“e) The need for rural economic development and job creation;</i> <i>“f) Appropriate zoning of land for these activities;</i> <i>“g) Associated road infrastructure for access to the sites; and</i> <i>“h) Licencing requirements in terms of the NEM: WA and other relevant legislation.”</i></p> <p>These considerations that must inform the decisions, many of which require a high-level view of interacting and competing factors that need to be globally optimised, are set out with no explanation of how they can be considered and coordinated between the multiple implementers.</p> <p><i>“Each waste tyre storage site must be secured by means of a contract or lease agreement with the WMB”.</i></p> <p>This appears to stipulate that the WMB must secure the sites once they are identified by the implementers. It does not specify if the WMB will passively accept the terms negotiated by the implementers with the landowners or if they will be active partners. If the former, that would need to be permitted under the PFMA. If the latter, then the implementers may have to accept terms that are not of their choosing. This would make it difficult or impossible to enforce accountability for performance.</p>
36	3.7.5	<p>Capacity building</p> <p><i>“Each Implementer, within one year of appointment, must develop a human capacity building programme with targets covering aspects of training, mentoring, and practical experience at all stages of the waste tyre value chain to facilitate career development and business growth.”</i></p> <p>This is vague and ill-defined.</p> <p>Will each implementer work independently, setting its own targets?</p>

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		<p>It does not specify where the waste tyre value chain begins (at the tyre dealer, or the producer), or where it ends, which could be at primary processors or secondary manufacturers, or whether it includes R&D and the Universities.</p> <p>Note that item 4.7.3 states that the waste tyre stream ends at the depots.</p>
37	4 4.1	<p>Waste tyre management model adopted by this IndWTMP Introduction</p> <p><i>“d) Waste tyres (<u>not pre-processed</u>) will initially be free of charge to waste tyre processing companies” (emphasis added)</i></p> <p>This raises a red flag for potential investors in waste tyre processing as the future cost of waste tyres is unknown. [D9Comm 2.7.1, p.14]</p> <p>It also creates a logistical problem: all depots are required to pre-process, per items 4.4(10), 4.5(3) and 5. Therefore, they will have no stock of “<i>not pre-processed</i>” waste tyres to supply to processors.</p> <p><i>“e) The Implementers of the IndWTMP must be appointed on contract following a tender based approach by the WMB; the procedures must be governed by the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and the Public Finance Management Act, 1999 (Act No. 1 of 1999)”</i></p> <p>This makes the possibility of achieving the 2023 and 2024 targets in Table 6 very remote if not impossible.</p>
38	Figure 6	<p>The text in the figure is mostly illegible. It is however possible to see that the “<i>Contracting</i>” portion of the figure does not show all the contracts contemplated by the IndWTMP. A fuller diagram is in <i>Annexure D: The Contractual Web</i>.</p>
38	4.2	<p>The need for an Industry Advisory Committee</p> <p><i>“An Industry Advisory Committee (IAC) must be established by the WMB soon after the approval of IndWTMP to support the implementation of the IndWTMP.”</i></p> <p>The term “<i>soon after</i>” does not belong in legislation: there must be a specific timeframe.</p> <p><i>“The role of the IAC is to advise the Implementers to ensure the effective management of waste tyres in line with the objectives of the IndWTMP and the achievement of the targets.”</i></p> <p>The content of this item lends little support to its heading. It’s not clear that the IAC will bring any special expertise to the waste tyre industry, and it will certainly be a ponderous body: the composition specified indicates a minimum of 13 members. To this number must be added one or more</p>

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		<p>implementers, the WMB, and arguably (see below) members representing the depot operators and transporters.</p> <p>Two of the members are stipulated to come from as-yet-undefined “associations” of waste tyre processing companies and micro-collectors respectively. No-one is responsible for creating these associations, and they may never be created. Alternatively, there may be multiple competing associations claiming to represent those bodies. No mechanism for resolving disputes is proposed.</p> <p>If waste tyre processing companies, tyre dealers and micro-collectors (entities directly involved in the waste tyre chain) are to have representation on the IAC then by the same reasoning depot operators and transporters must also have a claim to representation. This would, however, multiply the conflicts of interest in the IAC.</p>
38	4.3	<p>The need for multiple Implementers</p> <p><i>“Multiple implementers are introduced to avoid monopolistic associated risks and to introduce competitive elements to the IndWTMP.”</i></p> <p>This is a threadbare argument for introducing multiple implementers. It fails to set out what the “monopolistic associated risks” are; it overlooks the manifold complications and inefficiencies that are introduced; and the supposed “competitive elements” that are introduced are not explained. Indeed, as we note in this commentary, many of the requirements of the IndWTMP can only be effected if the implementers collude to a great degree. This collusion could be problematic.</p> <p>There are certain functions that are natural monopolies, such as water reticulation and waste collection, where the costs of infrastructure, both physical and management, are high, and there is a need for centralised coordination. Waste tyres are clearly a case in point.</p> <p><i>“Those Implementers exceeding their contracted targets become eligible for a bonus from the WMB which is funded through a budgetary allocation. The bonus scheme will take the form of a rolling incentive pool with one third of the bonus accessible in the performance year and the remaining two thirds being carried forward to the next year. Under-performance may attract a negative bonus which will be subtracted from the bonus pool.”</i></p> <p>It is not clear if this bonus scheme is intended to be a “competitive element”. The scheme appears to have been thrown in without any detail or thinking it through, and, on the information provided, it is incomprehensible.</p> <ul style="list-style-type: none"> • The quantum of the bonus is not defined. • It does not specify how the shared incentive pool is to be split between the implementers.

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		<ul style="list-style-type: none"> • It does not explain how, if it is to be shared, it will be apportioned (and the impossibility of a rational apportionment is discussed below against item 4.3). • There is no explanation of what happens to the two-thirds carry-forward. Is that added to a fresh incentive in the following year, or does it become next year's pool? • There is no explanation of how one implementer's under-performance would affect the pool. Given the interconnectedness of the waste tyre system, it will be difficult to disentangle individual implementer's performance from the overall results. No mechanism is set out for how this will be managed.
39	4.3	<p>The need for multiple Implementers (Continued)</p> <p><i>“Processors have the option to enter into contracts with more than one implementer to ensure surety of supply and implementers may contract with as many depots as they want to secure supply to processors.”</i></p> <p>This invites a tangled web of overlapping contracts and responsibilities in a free-for-all between the parties involved. Instead of ensuring security of supply, it will create bidding wars, wheeling and dealing, and various forms of persuasion and enticement. Processors will oversubscribe for supply in an environment where, unless the implementers collude, the implementers will be in the dark. A few examples of challenges that will arise are:</p> <ul style="list-style-type: none"> • If a processor contracts with multiple implementers but fails to take the expected volume of tyres, how will the under-performance be shared amongst implementers? • If the processor is non-compliant with, for example, environmental standards, which implementer is responsible for reporting the non-compliance? • Are depots to be independent free agents, choosing with whom to contract to release their stock? If so, they will also have to compete to secure supply. An implementer may choose not to supply a depot if the depot refuses to release stock for a processor. A depot may in turn refuse to accept tyres from an implementer. Who in this tangled web will be held accountable if targets (regional or national) are not met? <p><i>Annexure D: The Contractual Web</i> goes into this contractual tangle in more detail.</p> <p><i>“Each implementer will be contracted by the WMB for a specific geographical region (Figure 7) with regional specific targets (Table 7), but more than one implementer per region must be allowed.”</i></p>

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		<p>The irrationality of Table 7 is discussed further in the next point with specific examples, but there are obvious general problems that have not been considered which are listed below:</p> <ul style="list-style-type: none"> • What exactly is meant by the targets? What does achieving a target mean? Is it tyres collected, stockpiled, or processed? If it is tyres processed, but the appointment of processors and the incentives they receive are out of the control of the implementers, how can they be held accountable or rewarded? What is the percentage a percentage of? How will that figure be determined? Given that there are bonuses (based on some incomprehensible system) and performance penalties, these details become very important. • How will the need for cross-regional movements be managed? Waste tyres do not arise conveniently close to the optimum locations for depots or processing plants. Tyres may need to be collected in one region, stored in another; they may need to be taken from stockpiles in one region for processing in another; or they may need to be relocated from one depot to another. • It will happen that the movements of tyres between depots and from depots to processors that are optimum from a national perspective will not be optimum from a regional perspective (in terms of meeting regional performance targets). How will this be resolved? • If there are multiple implementers in a region, how will regional targets be measured? Will all the implementers in a region be measured as a group, comparable to giving all the students in a class the average mark? How will this affect the incentive bonus pool? 								
39	Table 7	<p>Geographical region demarcation</p> <table border="1"> <thead> <tr> <th><i>Geographical area per region</i></th> <th><i>% of total national target to be achieved</i></th> </tr> </thead> <tbody> <tr> <td><i>Region 1: Western Cape and Eastern Cape</i></td> <td><i>13.62</i></td> </tr> <tr> <td><i>Region 2: Free State, Kwa-Zulu Natal, Mpumalanga</i></td> <td><i>36.68</i></td> </tr> <tr> <td><i>Region 3: North West, Northern Cape, Gauteng, Limpopo</i></td> <td><i>49.70</i></td> </tr> </tbody> </table> <p>This table is remarkable both for its precision and for its total lack of supporting data or rationale.</p> <p>The precision is spurious. It is common cause that neither the WMB nor the CSIR have accurate data on waste tyres arising, as is acknowledged in item 2.1. Even the number of tyre dealerships is estimated as “between 1400 and 2000”. SARS ought to have accurate data on new tyre production, but that does not correlate with waste tyres arising, across either time or space.</p>	<i>Geographical area per region</i>	<i>% of total national target to be achieved</i>	<i>Region 1: Western Cape and Eastern Cape</i>	<i>13.62</i>	<i>Region 2: Free State, Kwa-Zulu Natal, Mpumalanga</i>	<i>36.68</i>	<i>Region 3: North West, Northern Cape, Gauteng, Limpopo</i>	<i>49.70</i>
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		<p>Even if there were comprehensive and accurate records of waste tyres arising, there is no discussion or consideration of how ‘achievement’ is to be measured against these targets. Some simple examples suffice to indicate the problem:</p> <ul style="list-style-type: none"> • If tyres are collected in Fochville (GP) and stored 50 km away in Potchefstroom (NW), which region gets the credit? • If tyres are stockpiled in Vanderbijlpark (GP) then sent for processing 12 km away in Sasolburg (FS), do they count for Region 3’s or Region 2’s target?
39	4.3	<p>The need for multiple Implementers (Continued)</p> <p><i>“Appointment of the Implementers must be mindful of the complexity of waste tyre management in South Africa and must aim to simplify logistics while limiting duplication of functions and costs.”</i></p> <p>The IndWTMP here acknowledges the complexity, without arriving at the unavoidable conclusion that multiplying implementers and creating artificial boundaries will greatly increase the logistics, management, and control challenges, and force duplication of systems, functions, and costs.</p> <p><i>“As a minimum, the Implementer must present evidence for the following competencies:</i></p> <p style="padding-left: 40px;">a) <i>A clear understanding of waste tyre management and the waste tyre management process flows and logistics;”</i></p> <p>The only entity in South Africa that can demonstrate real practical understanding, experience and achievements in waste tyre management is REDISA NPC.</p>
40	4.4	<p>Approach for dealing with the annual waste tyre-stream</p> <p><i>“2. The Environmental levy is paid to SARS. The Implementers access these funds based on annual costed business plan [sic] submitted to the WMB. The approved funds will be dependent on the budget allocated by National Treasury.”</i></p> <p>This implies that there is a linkage between the environmental levy which SARS levies on tyre producers and the funds allocated to the WMB. The tyre levy is a tax that is not ring-fenced or pre-allocated, it simply gets paid into the general fiscus. Implementers will be allocated funds from National Treasury, which may be less than the total levies collected, or it may need to be more if achieving the specified objectives requires it. There is no reason even to mention the Environmental Levy.</p> <p><i>“4. Tyre transporters collect waste tyres from dealers and micro-depots and transport the waste tyres to waste tyre storage sites or processors as the case may be.”</i></p>

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		<p>How is this to be co-ordinated if there are multiple implementers contracting independently with transporters, depot operators and waste tyre processors, each of whom may be contracting with multiple implementers? For example, a transporter may collect from multiple dealers, who may be linked to different implementers, and deliver a consolidated load to a depot. (See also <i>Annexure D: The Contractual Web</i>).</p> <p><i>“5. Tyre Transporters are paid by the implementers as determined by the transport contract.”</i></p> <p>This is unclear wording which implies a singular, specific contract. If it means simply that tyre transporters contract with implementers and get paid according to their individual contracts, then it is redundant and serves no purpose in this legislation.</p> <p><i>“6. Some tyre dealers, mines, transport companies and farms who buy directly from manufacturers/importers or who import directly) [sic], must register as collection points with the WMB.”</i></p> <p>This is both unacceptably vague for legislation (“some” does not specify who is included and who is not) and redundant. Item 4.8.1 lists the entities that must register with the WMB. Sub-item (c) of the list is “person in control [of a] collection point where waste tyres maybe [sic] collected”. In legislation, duplications and redundancies with variations in wording potentially create ambiguities; open up avenues for interpretation, litigation and disputes; and make future amendments more difficult and error-prone.</p> <p><i>“7. Only mutilated tyres may be transported by waste tyre transporters.”</i></p> <p>This puts the burden of policing waste tyre mutilation by collection point owners onto tyre transporters. This is additionally problematic because the Waste Tyre Regulations 2017 (“WTR”) only require <u>tyre dealers</u> to mutilate waste tyres. This IndWTMP is apparently creating a similar requirement for all collection points but fails to do so clearly.</p> <p>It adds a further interpretation problem: a waste tyre transporter may also provide a service to dealers or producers wishing to transport new tyres. The lack of careful wording here makes it illegal for a waste tyre transporter to transport an un-mutilated new tyre.</p> <p><i>“8. Monthly limitations or cap on the volume of waste tyres collected and transported may only be applied in line with the projected processing targets so as not to unduly limit the income potential of micro-collectors. The current limitation of 1000 tyres per month per micro-collector falls away.”</i></p> <p>This is confusing and probably redundant.</p> <p>Firstly, it is not clear who is being contemplated as the entity that might apply a limitation or cap.</p> <p>If the limitations are applied by the WMB, then this is clearly incorrectly worded and should be written as “... <u>will</u> be applied ...”. This, however,</p>

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		<p>creates direct interference in the operations of the implementers who are being held accountable for targets.</p> <p>If it is an implementer, then the implementer will contract with transporters and collectors to provide a service. It cannot be that external parties can simply transport tyres as they wish and charge the implementer, so the transporters will only collect what they are contracted to collect. Item 4.8.4 (c) adds confusion as it refers to <i>“Adherence to mandatory collection of mutilated Waste Tyres by waste tyre transporter”</i> without explaining who dictates what is mandatory and how that obligation can be placed on a transporter. It may simply mean meeting contractual obligations, but that is not clear.</p> <p>Secondly, there is no way to apply this point (8) to multiple implementers unless they act in concert, in which case it is even less clear why there should be multiple implementers.</p> <p><i>“9. The WMB must devise a waste tyre payment structure to replace the current flat-rate transport rate per tonne. Payment of transporters must consider both tonnage and distance travelled.”</i></p> <p>And in item 5.3(k) it is the WMB’s responsibility to:</p> <p><i>“Review fuel prices and the associated transport tariffs on a monthly basis”.</i></p> <p>The WMB is therefore going to be setting the contractual terms between the implementer(s) and the transporters. If the transporters, who contract with the implementer(s), are dissatisfied with the payment structure, they will have to negotiate with the WMB. This is an untenable arrangement.</p> <p>Transport is a major expense in waste tyre management. There is no explanation of how the budgets allocated to implementers will be adjusted monthly given the long budget approval cycles.</p> <p>But in item 6.2(9) there is a contradictory statement:</p> <p><i>“The implementer must review the current fee and payment structure associated with Waste Tyre collections and transport.”</i></p> <p>This responsibility is being assigned to both the WMB and the implementer.</p> <p><i>“10. On-site pre-processing specifically aimed at decreasing transport costs is compulsory for all waste tyre storage sites.”</i></p> <p>This imposes a compulsory requirement that is poorly defined and irrational.</p> <p>It is poorly defined because it is not clear what processing is being mandated (e.g., baling, cutting, shredding, or some other process) or by how much must the transport costs must be reduced.</p> <p>It is irrational because the reduction in transport costs achieved is a function of where the tyres must be moved to, and the vehicles to be used. It is not necessarily cheaper to use a 30-tonne multilink for a short-haul delivery. It does not make sense to make this compulsory for all waste tyre</p>

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		<p>storage sites. There are for example sites immediately adjacent to waste tyre processors: they would have to do “<i>on-site pre-processing</i>” even though the destination for some or all their tyres was on an adjacent plot.</p> <p><i>“11. The Department must in collaboration with the Implementers and WMB design suitable incentives for such pre-processing.”</i></p> <p>This overlaps with the remit of the Incentives Evaluation Committee, which in item 3.4.2 is defined to comprise 2 officials from CWM, 1 official from WMB, and 1 official from dtic.</p>
40	4.5	<p>Approach for dealing with waste tyre stockpiles at Depots</p> <p><i>“1. The WMB must undertake an audit of stockpiles of waste tyres at Depots”.</i></p> <p>According to item 3.7.4 the implementer(s) “<i>must conduct an audit of existing waste storage sites</i>”. As noted earlier, this is problematic as it is not clear whether every implementer must perform its own audit, or if not, who must do it, and here the WMB is tasked with the same responsibility.</p>
41	4.5	<p>Approach for dealing with waste tyre stockpiles at Depots (Continued)</p> <p><i>“3. On-site pre-processing aimed at decreasing transport costs is compulsory for all waste tyre storage sites.”</i></p> <p>This is repetitive (see item 4.4 point 10) and, as noted above, irrational.</p> <p><i>“4. The Implementers may employ incentives to support the development of waste tyre processing value chains.”</i></p> <p>There is no discussion of how this meshes with the Incentives Evaluation Committee and WMB who are variously stated as the bodies who must design incentives. See Executive Summary, items 3.4.2, 3.7.2, 4.4 (11), 4.6 (3), 4.6 (5), 5.3(f)</p> <p><i>“5. Processors are allowed to temporarily store pre-processed waste tyres on their premises in accordance with their workflow requirements.”</i></p> <p>This is redundant unless it is meant to override the existing WTR. If that is the intent then far more detail is required, including permitted storage volume, how long “<i>temporarily</i>” is, and what constitutes acceptable pre-processing.</p>
41	4.6	<p>Governance of the Industry Waste Tyre Management Plan</p> <p><i>“3) The Department and the WMB, through strategic engagements with other government departments and agencies must develop incentives for key role players in the waste tyre value chain.”</i></p> <p>This is another of many mutually inconsistent references (another appears in the same item, point (5)(b)) determining who will develop incentives, and the parties involved are often not well-defined. This IndWTMP is legislation</p>

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		<p>which needs to be precise and may become the subject of litigation or prosecutions.</p> <p>The term “<i>key role players</i>” is undefined unless item 2.6 is taken to be the definition, in which case nearly everyone (including “<i>general public</i>”) is covered.</p> <p><i>“6) The Implementers must provide non-financial performance reports on the implementation of this IndWTMP.”</i></p> <p>This is so vague as to be useless. It does not specify what must be in these reports or how often they must be prepared.</p> <p><i>“7) Implementation progress meetings must be held quarterly between the Implementers, the IAC and the WMB.”</i></p> <p>The IAC comprises at least 13 members (who per Schedule 1, clause 3.1 <u>must</u> attend), to which must be added the WMB and the implementers, giving a total of at least 17 attendees. Co-ordinating diaries between this many attendees to schedule these meetings will be logistically challenging, and if everyone present has something to say or add, the meetings will be very long.</p>
42	4.7 4.7.1	<p>4.7 Financial Arrangements 4.7.1 Tyre levy</p> <p><i>“The Tyre Levy is the only income stream from the Tyre Industry and the Department has to apply to National Treasury for a budgetary allocation from that income stream, for the implementation of the IndWTMP, but the Tyre Levy is not ring-fenced for this purpose. The budgetary allocation from National Treasury to the Department therefore limits the budgetary allocation to be made to the Implementers through the WMB.”</i></p> <p>This is mostly repetitive of item 2.5.3, and an interpretation of the workings of National Treasury that is wrong. It contradicts itself by (correctly) asserting that the Tyre Levy is not ring-fenced but then also stating that the Department must apply for funds “<i>from that income stream</i>”. There is nothing in law that limits the budgetary allocation from National Treasury to the amount collected by the tyre levy: there is no ring-fencing. If it were so, and indeed this IndWTMP would make it so, then setting targets for waste tyre processing is meaningless unless they are qualified by “budget permitting”. The IndWTMP ought to provide a realistic estimate of what the task will cost, and so determine what funding is required. If that funding is more than the Tyre Levy, and the policy is that National Treasury will not allocate more funds than the amount of the tyre levy (even though there is no ring-fencing), then the options are:</p> <ol style="list-style-type: none"> 1. Increase the Tyre Levy, or 2. Allow for alternative funding, such as a Waste Management Fee imposed on the producers (which will be passed on to consumers), and paid directly to an implementation fund; or

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		<p>3. Accept that not all waste tyres will be managed, that the stockpiles – legal and illegal – will continue to grow, and that the targets set will not be met.</p> <p>It is not possible to solve the problem by <i>fiat</i>: i.e., by flatly determining what must be done and at what cost, heedless of the economic realities.</p> <p><i>“The business plan and budget submitted by the Implementers to the WMB to apply for its budgetary allocation from the Department, must provide for all financial mechanisms.”</i></p> <p>This hints that the drafters of the IndWTMP might have anticipated some difficulty with funding the plan and hope that the implementers will come up with some inventive additional <i>“financial mechanisms”</i>. However, the rest of the IndWTMP is clear that the implementer(s) must get their funding from the Department.</p>
42	4.7.2	<p>4.7.2 Micro-collectors of waste tyres and micro depots</p> <p><i>“Micro collectors and micro-depots must be reimbursed on a weight-based rate (R/kg) per load of waste tyres delivered to depots. The depot will issue a weigh bridge slip for each load delivered at their premises. Implementers must devise a payment system which facilitate payment to micro-depots and micro-collectors within a week of delivery of waste tyres to depots.”</i></p> <p>The IndWTMP, whilst making almost no attempt to deal with practical operational issues, sees fit to determine the basis for payment of micro-collectors and micro-depots. The basis proposed may or may not be in the best interests of any of the parties, but it is certainly not possible to determine that this is the only appropriate basis without considering the acknowledged complexity of the total waste tyre system.</p> <p>Both micro-collectors and micro-depots must be reimbursed for tyres delivered to depots. If a micro-collector delivers tyres to a micro-depot, which then delivers tyres to a full depot, are there two payments to be made? If payment is made only for the delivery to a depot, micro-collectors will have the option of delivering directly to a depot, or to a micro-depot. In the latter case they will have to share income with the micro-depot. How will this all be coordinated and managed between all the parties, including the multiple implementers?</p> <p>The compulsory supply of a weighbridge slip is casually introduced here and referenced nowhere else, apparently also without considering the costs of installing, maintaining and operating weighbridges at every depot, all of which must be managed within the limits of the tyre levy collections.</p> <p>The implementers are jointly tasked with devising a payment system that is presumably binding on all implementers, all micro-collectors, and all micro-depots. There is no explanation of how the implementers are going to agree without colluding, or specification of how any disagreements will be resolved.</p>

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42	4.7.3	<p>4.7.3 Pre-processing at depots</p> <p><i>“The structured approach to depot management applied by the WMB derived from the need to maintain fiscal discipline with a budgetary regime under National Treasury. The WMB therefore must maintain control over expenses. “</i></p> <p>The opening sentences are a circuitous admission that it is funding limits, rather than what the task requires, that determines how much money depots receive. This makes it unreasonable to set binding targets for the implementers.</p> <p>It is also difficult to reconcile the phrase <i>“structured approach to depot management”</i> with the difficulties with depot management described in item 2.5.5, or the admission by the DG of the DFFE that <i>“that there was no rationale behind the distribution and size of the depots”</i> (Parliamentary Portfolio Committee meeting, 25 May 2021).</p> <p><i>“However, a depot is the point where waste tyres changes from being a waste stream to being an input stream for processors.”</i></p> <p>The IndWTMP and its supporting legislation make clear that the waste tyre stream includes processors and energy recovery. It cannot here state that waste tyres are no longer part of the waste stream once they reach depots.</p> <p><i>“As such <u>depots that pre-process</u> waste tyres must be allowed to operate a profit-seeking basis.”</i> [emphasis added]</p> <p>Item 4.4 makes pre-processing at depots compulsory; therefore, this applies to <u>all</u> depots.</p> <p><i>“Requirements for operating depots on a profit-seeking basis are:</i></p> <p><i>a) Depots must do some form of value adding to the waste tyres to create a competitive base for profit seeking;”</i></p> <p>It is not clear if this is narrative, or a legal requirement being established in this legislation. As a legal requirement, <i>“some form of value adding”</i> is not precise (even the list in the following paragraphs merely indicates <i>“may include...”</i>), nor is the meaning of <i>“create a competitive base for profit-seeking”</i>. It does not explain who the depots are competing with, how they will be able to compete, whether they will bid for supply of tyres from different implementers, or if they will be allowed to get tyres from a different region.</p> <p><i>“b) depots must have management autonomy and be operated as independent businesses.”</i></p> <p>The depots must be independent businesses with management autonomy, but in the following paragraphs we have a discussion of how their pre-processing methods and prices will be determined:</p> <p><i>“Pre-processing may include sorting, baling, cutting, shredding or debanding but excludes mutilation. The exact form of pre-processing done at any particular depot must be determined by the type of client (mainstream</i></p>

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		<p><i>technology group) the depot is supplying. The requirements for accepting waste tyres could differ across the four mainstream waste tyre processing technology groups. Such differences allow for commodity differentiation (and consequent price differentiation) for each mainstream technology. <u>The Implementers must consult with representatives of each mainstream technology and determine the commodity requirements for uptake in each technology option. The WMB must formulate the requirements into a pre-processed waste tyre commodity specification for each mainstream processing technology. The commodity specification must inform the costing of the pre-processed commodity which then creates the basis for commodity pricing. It should be noted that the price for the waste tyre itself will remain nil, but the pre-processing (i.e., value added services) will require cost recovery, including a fair markup. Reasonability, affordability based on the budgetary allocation from Treasury, and good judgement by the WMB must be applied when developing the commodity specification and costing to create enough scope for depots to realise fair profits. This information must be used to define a standardized pre-processed waste tyre commodity for each mainstream processing technology in terms of format (quarter cut, shredded, baled etc), size and weight, and associated processing fee that the depot will receive from the Implementers. The depot must claim the value of pre-processed waste tyre commodity supplied to processors on a weight basis from the processor. Depots must be allowed to apply entrepreneurial innovation to do pre-processing at a lower cost than the commodity rate set by the WMB.</u>" (emphasis added)</i></p> <p>This paragraph puts the determination of what the depots must do and the price they can charge in the hands of the WMB, with some input from the implementers. The final sentence, as a nod to competition, sets the environment for a 'race to the bottom'. Depot operators cannot be independent profit-seekers in a competitive environment under these conditions.</p> <p>Depots are being required to pre-process and are being told they <u>must</u> claim the costs from the processors, who are also supposed to receive "not pre-processed" waste tyres free of charge (item 4.1(d)). This is all contradictory.</p> <p>Mutilation is expressly excluded from depot pre-processing. This is redundant since it is illegal to transport unmutilated waste tyres to depots.</p>
43	4.7.4	<p>4.7.4 Transporters of pre-processed waste tyres to processors</p> <p>This section is specifically limited (according to its heading) to transporters of pre-processed tyres to processors. There is no discussion of financial arrangements for transporters of "not pre-processed" waste tyres to processors (item 4.1(d)), nor is there any discussion of financial</p>

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		<p>arrangements for any other transporters of waste tyres, e.g., from dealers to depots, or from depot to depot.</p> <p><i>“Transporters must be paid based on predetermined rates per kilometer [sic] per tonne of waste tyres delivered.”</i></p> <p>Normal contracting for service provision would require that transporters be paid a rate agreed in advance with whoever was going to pay them. This sentence is either redundant or is meant to stipulate that the rate will be determined by someone, possibly the WMB, and apply to all transporters. It should either be removed or clarified.</p> <p><i>“Transporters claim directly from the depot, dealer, processor or Implementer based on the contract. Claims must be supported by the delivery notes issued by the processor.”</i></p> <p>This creates further confusion. Nowhere is it made clear who should pay the transporters although mostly it is implied that the implementers will do so. Here, however, it appears that transporters will claim, based on <i>“the contract”</i> (with no clarity on which contract is being referenced), from any and all parties. The is left unresolved and a tangle of questions arises:</p> <ul style="list-style-type: none"> • When a transporter collects tyres from a dealer and delivers to a depot do they charge the dealer, the depot, or the implementer? • Processors are supposed to receive tyres free of charge (item 4.1 (d)), but there are these reference to a transporter claiming from a processor. If the processor does not pay, is it the depot or the implementer that the transporter claims from? • Payments cannot always be supported by delivery notes issued by <i>“the processor”</i> because most tyre movements will not involve a processor. <p>Instead of providing guidance and clarity this item creates more confusion and uncertainties.</p>
43	4.7.5	<p>4.7.5 Processors</p> <p><i>“Processors will be paid according to the tonnes of waste tyres processed, which should be verified by delivery notes issued to transporters. “</i></p> <p>This requires consolidation of delivery notes (more logically, receipts) across potentially multiple transporters serving multiple implementers. It also wrongly supposes that waste tyres delivered by transporters equal tonnes processed. They could be just stockpiled. It is cheaper to store tyres than to process them, creating an incentive for processors to accept tyres and store them to improve their cash flow. The tyres could then also be illegally dumped instead of processed.</p>

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		<p><i>“Processing rates must be as per contract stipulations with the Implementers. Contracts will specify the relevant incentives which may take the form of capital investment, transport, and processing subsidies. “</i></p> <p>It is not clear if “processing rates” are operational or financial: do they refer to tonnes/month or Rand per tonne? If it is Rand/tonne, they can’t be as per contract stipulations with the (several) implementers as the subsidy rates will be set by the WMB and Incentive Evaluation Committee.</p>
43	4.7.6	<p>4.7.6 Implementers</p> <p><i>“The Implementers must submit their budget together with an updated business plan, to the WMB for the approval thereof. Submission must be in line with the Department’s budgetary cycle. The minimum requirements and format of the business plan and budget must be prescribed by the Department in consultation with the Auditor General and National Treasury and communicated at a compulsory briefing session.”</i></p> <p><i>“Furthermore:</i></p> <p><i>“a) The business plan and budget including quarterly estimate on expenditure must be submitted to the WMB on an annual basis for approval;”</i></p> <p>The processes described imply a lengthy process with sequential steps which mean no implementer will be appointed, have an approved budget, receive funds, and commence physical operations in the 2023/24 financial year, which renders the targets in Table 6 impossible to achieve. Note too that the pre-feasibility study referenced in item 2.7 must be completed before incentives – which must be included in the implementers’ business plans and budgets – are determined.</p> <p>The annual budget approval process will mean implementers cannot give any long-term commitments to processors, depots or transporters who are contemplating large capital expenditures as allocations from Treasury are always subject to Parliamentary approval and can be affected by other priorities.</p> <p><i>“c) The business plan and budget must be supported by the IAC;”</i></p> <p>In legislation, which this IndWTMP is, “supported by” does not mean providing input and advice, it means giving approval. The IAC is a ponderous committee with at least 13 members, many of whom have vested interests (TIASA, RMI, SATMC, TEPA, RASA and yet-to-be-formed associations of waste tyre processors and micro-collectors), and none of whom have a track record in running a waste tyre management system. The expected outcome of this stipulation is that the approval process will be a long process of resolving competing desires to promote or protect specific groups.</p>

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44	Table 8	<p>Proposed percentage budget allocation</p> <p>The proposed budget allocation is put forward with no rationale. It may be acceptable to stipulate, as a policy decision, a minimum allocation to training and R&D, but the rest is solely the task of an implementer to determine after carefully assessing the costs of performing each function. It is doubtful the drafters of the IndWTMP have comprehensive workings to support the proposed allocation. If they do exist, then they should be made available for inspection and comment.</p> <p>The cap on administration allocation is arbitrary and unexplained. Without a detailed budget and plan it is not possible to determine what the administration cost should be. This is simply an ideological wish put into the legislation with no rationale.</p> <p>It is further questionable what the purpose of putting this in the IndWTMP is. As it is labelled “<i>proposed</i>” it has no legal force, and as it is provided with no rationale it does not serve to give meaningful input to potential implementers. [D9Comm 2.1, p.6]</p>
44	4.8	<p>4.8 Monitoring and reporting</p> <p><i>“The Implementers must submit monitoring reports on the management of waste tyres to the WMB who may at any time, require information into the monitoring and reporting data used or generated whether that data was generated by the Implementer or by any of the role-players in the management of waste tyres or received from any other role player or service provider.”</i> (emphasis added)</p> <p>This is not clear. It appears to require implementers to supply information from other role-players (a term with an extremely broad definition). Given that there are multiple independent contracting entities providing overlapping services, and that the implementers will have no special authority to demand reports from them all, this will be difficult to impossible. Depots can contract with multiple transporters, who can contract with dealers, depots, and processors. Processors can contract with implementers and transporters. Implementers must contract with all the entities. And someone will have to consolidate all the data, de-duplicate it, and be on the look-out for fraudulent duplicate invoicing and invoicing for phantom services and deliveries, for which the entangled contractual web proposed will provide fertile ground (see Annexure D: The Contractual Web).</p> <p><i>“Poor performance or non-compliance by the implementers will be enforced through the contract between the WMB and the implementer or the enforcement mechanism in terms of NEM: WA.”</i></p> <p>As already noted, the overriding authority of committees, the interference in determining incentives and approvals for processing, and the setting of group targets for multiple players are some of the factors that will make</p>

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		<p>enforcement of performance and non-compliance penalties impossible in practice.</p> <p>The list of persons who must register and report to the “<i>WMB Information Management Systems</i>” (presumably the same as the “<i>computerised monitoring and data-capturing programme</i>” referenced in item 2.4) is a duplication (with minor variations) of the list in item 2.4, which is already a duplication of regulation 5(1) of the WTR. Such duplication is bad practice in legislation as it is error-prone and invites interpretation disputes.</p>
45	4.8.3	<p>4.8.3 Reporting progress on implementation of the IndWTMP</p> <p><i>“All role players with reporting duties indicated in item 5, except the implementer, must report to the WMB and the Implementer on a monthly basis.”</i></p> <p>The WMB and implementer will receive monthly reports from:</p> <ul style="list-style-type: none"> • Tyre dealers • Collection points [which includes tyre dealers] • Depot operators with pre-processing • Operators of a depot [the distinction between this and the other kind of depot] • Waste tyre processors <p>This item refers to the implementer in the singular, but the IndWTMP is insistent on multiple implementers. It does not clarify whether all the implementers will receive all the reports; if all parties report to all implementers, or just to those they contract with; and if an entity contracted to more than one implementer must partition its reports, and if so, how. For example, if a truck delivers a load of tyres collected from different dealers on behalf of different implementers to a depot, must they then disaggregate the numbers delivered, and must the depot separately report the partial loads?</p> <p>Will the WMB compile and consolidate the data from multiple implementers?</p> <p>The reports must:</p> <p><i>“b) Cover the data for the full calendar month preceding the submission date; and</i></p> <p><i>c) Be submitted by the 7th of each month.”</i></p> <p>This is impractical given the complexity for the larger entities of compiling the data, in a time frame that could be as little as 3 or 4 working days if the</p>

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		<p>month end falls in one of the months rich in public holidays. 10 working days would be reasonable.</p> <p><i>“Performance indicators must as a minimum include:</i></p> <ul style="list-style-type: none"> <i>a) Frequency of collections this may be dependent on the location of the collection points and take into consideration urban, suburban and outlying areas;</i> <i>b) Adherence to waste tyre mutilation guidelines by tyre dealers;</i> <i>c) Adherence to mandatory collection of mutilated Waste Tyres by waste tyre transporter; and</i> <i>d) Order fill rate from waste tyre storage sites to waste tyre processors.”</i> <p>This is unacceptably imprecise. It is in an item that covers <i>“All role players with reporting duties indicated in item 5, except the implementer”</i> who cannot all share the performance indicators listed. Clearly not all of them can be expected to report on the same indicators, but who must? Who specifically must report on adherence to waste tyre mutilation? Note that this item 4.8.3 specifically states it does not apply to the implementer(s).</p> <p>It also introduces <i>“mandatory collection of mutilated waste tyres by waste tyre transporter”</i>. Which waste tyre transporter <u>must</u> collect which waste tyres? This may be a garbled attempt to say that someone (undefined, but not the implementer) must monitor transporters to ensure they only transport mutilated tyres as specified in item 4.4 (7) (noting our comment on that point above).</p>
45	4.8.4	<p>4.8.4 Reporting by the Implementer</p> <p><i>“Suitable progress and performance indicators that will be monitored and reported on relate to finances, state of the environment reporting, and waste tyre management reporting.</i></p> <p><i>The Implementer must:</i></p> <ul style="list-style-type: none"> <i>a) Report progress with implementation of the IndWTMP to the WMB in the format as determined by the WMB;”</i> <p>The reporting required under this item only appears rational because the implementer is now singular, but we must comment on the basis that there are multiple implementers. An implementer contracted to manage waste tyres in one of the 3 regions, who may be contracting with multiple depots, processors and transporters who are in turn contracting with other implementers, some of whom may be in the same or different regions, is not able to report progress on the implementation of the IndWTMP as a whole.</p> <p><i>“Reporting must as a minimum include:</i></p> <ul style="list-style-type: none"> <i>a) National aggregated number and tonnes of tyres put into the market in a year.</i> <i>b) National aggregated number and tonnes of waste tyres collected monthly.</i>

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		<p>c) <i>National aggregated number and tonnes of Waste Tyres used for recycling (also expressed as a percentage of the total).</i></p> <p>d) <i>National aggregated number of tonnes of Waste Tyres used for energy.</i></p> <p>e) <i>New jobs created in the transport sector due to the implementation of the IndWTMP (indicate gender and race).</i></p> <p>f) <i>New jobs created in the processing sector due to the implementation of the IndWTMP.</i></p> <p>g) <i>Number of businesses established in the year including BBEEE status.</i></p> <p>h) <i>Expenditure on research and development."</i></p> <p>This reporting requirement is a cut-and-paste from the approval letter for the 2012 REDISA plan, without any consideration of the insistence on multiple implementers. All items, except possibly (h), do not make sense in this context. No implementer can independently compile the data required. All the implementers would have to collude and combine their information. Must each implementer report independently on the same aggregated data?</p>
46	4.8.5	<p>4.8.5 Evaluation</p> <p><i>"The IndWTMP must be evaluated by the WMB on an annual basis in terms of the following:</i></p> <p>a) <i>Informed by the IAC, an evaluation of the practicality and efficiency of administrative processes, logistics, and operations associated with the implementation of the IndWTMP;"</i></p> <p>The IAC, a committee of at least 13 members, will need to become conversant in detail with all the processes and systems (all different) of the multiple implementers and, from a perspective of persons with no experience of operating such a complex system, provide informed input to the WMB.</p>
46	4.8.7	<p>4.8.7 Enterprise development and job creation</p> <p><i>"Job creation must result from this initiative and <u>may not be considered as a goal in itself</u>. A balanced approach is however required between job creation and throughput efficiency in waste tyre processing. The WMB must therefore establish <u>a minimum requirement for job opportunities created</u></i></p>

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		<p><u>per tonne of waste tyres processed. This requirement must inform qualifying criteria for incentives to be developed.</u>" (emphasis added)</p> <p>This is a contradictory and ill-formulated attempt to please two masters: job creation and efficiency.</p> <p>On the one hand job creation may not be considered a "goal in itself", but:</p> <ul style="list-style-type: none"> • incentives will be based on meeting a minimum requirement of jobs created per tonne of waste tyres processed; • "employment positions created per thousand tonnes of waste tyres processed" will be a key performance indicator (item 3.4.2); and • the WMB will "Establish a benchmark for job opportunities that should be realised per tonne of waste tyres processed to qualify for incentives" (item 5.3(h)). <p>Which sectors will be held responsible for meeting the criteria? Will there be separate jobs/tonne requirements for transport, depots, and processors, further subdivided by type of tyre, type of pre-processing and type of final processing?</p>
47	5	<p>Duties, roles, and responsibilities of each actor in the implementation of IndWTMP</p> <p><i>"The management process flow clarifies the roles of the different actors along the waste tyre value chain (see Figure 8). It should be noted that although <u>pre-processing of waste tyres is mandatory for waste tyre storage sites</u>, further pre-processing may also be done at waste tyre processors."</i></p> <p>Mandatory pre-processing at depots is again asserted, although the IndWTMP elsewhere implies there are non-pre-processing depots, as in item 5.</p> <p>The distinction between waste tyre processing and pre-processing is not clear. The IndWTMP does not define where "further pre-processing" ends and processing begins, and it may in any event serve little purpose to make this distinction.</p>
47	Figure 8	<p>Waste Tyre management process flow</p> <p>The quality of the image is poor and barely legible. More significant is that it is incomplete as it omits secondary manufacture such as making products from crumb rubber.</p>

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47	5.1	<p>The Implementer</p> <p><i>“As the administrator of the implementation of the IndWTMP, the Implementer must fulfil the duties and responsibilities as such, inclusive of the following duties and obligations:”</i></p> <p>This item is headed <i>“The Implementer”</i>: singular. This is appropriate since the rest of the item makes little sense if the implementer becomes plural. The opening sentence becomes:</p> <p><i>As the joint administrators of the implementation of the IndWTMP the implementers must between them fulfil the duties and responsibilities as such ...</i> and the difficulties of assigning responsibilities and accountability become obvious.</p> <p><i>“a) The implementer must develop 5 year implementation plan, business plan within the first 3 months of implementation and costed budget for the remainder of the government financial year and submit that to the WMB for approval and/or interrogation and input. Within four months of appointment the implementer must set up systems for implementation or assess the adequacy of the systems.”</i></p> <p>Each implementer must set up its own systems, though the alternative <i>“assess the adequacy of the systems”</i> may be a reference to the WMB systems, in which case each implementer must make its own assessment. Some may choose to use the WMB systems, some may not.</p> <p><i>“b) Implementers in consultation with the WMB will develop a depot operator model.”</i></p> <p>Will each implementer have a say in the model? If not, those who are left out will have excuses for non-performance.</p> <p><i>“c) Assume <u>overarching</u> operational management of waste tyres in South Africa.”</i> (emphasis added)</p> <p>Multiple implementers cannot all have <i>“overarching”</i> operational management of waste tyres in South Africa. [D9Comm 2.10, p.19]</p> <p><i>“d) The Implementer may not appoint a management company or any other company to manage the duties, obligations and responsibilities of the Implementer on its behalf.”</i></p> <p>There is no explanation or rationale given, nor is it practical. Can no service providers at all be contracted? As written, it even precludes hiring transporters.</p> <p><i>“e) Take over the waste tyre management from the WMB and ensure that there is a smooth transition from the waste tyre management model implemented by the WMB and the implementation of this IndWTMP.”</i></p> <p>Which implementer must take over from the WMB? All of them? How would that work? Why would they want to take over a model that has</p>

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		<p>shown a steady decline in effectiveness and is evidently not working? [D9Comm 2.10, p.19]</p> <p><i>“f) implement the IndWTMP and adhere to the targets for waste tyre processing and reduction in stockpiles at Depots as set out in item 3.4.2.”</i></p> <p>As noted above, it is already impossible to achieve the targets in item 3.4.2. How would the multiple implementers be held jointly responsible for any targets, let alone impossible ones?</p> <p><i>“g) Maintain an electronic and transparent monitoring system to ensure accurate reporting in accordance to items 3.4.3 and 4.8, and to support legitimate claims for waste tyres collected and/or processed in terms of progress against targets.”</i></p> <p>Each implementer must maintain its own system and the reporting and data sharing required will have to be coordinated by someone. Will the WMB do this?</p>
48	5.1	<p>The Implementer (Continued)</p> <p><i>“h) Incentivise the establishment of a waste tyre processing industry in South Africa via suitable subsidies to key stakeholders in the waste tyre processing value chain including, Micro-collectors, Micro Depots operators, Depot Operator, Transporters, and Processors from the budgetary allocation received from the WMB as per item 3.7.2.”</i></p> <p>This is (a) difficult to assign to a group of multiple implementers, and (b) elsewhere declared to be the purview of various combinations of the WMB, the Department, the IAC and the Incentive Evaluation Committee. See items 3.4.2, 3.7.2, 4.4, 4.6 and 5.3. The implementers cannot be held responsible for this.</p> <p><i>“i) Devise a payment system for micro-collectors and micro-depots as envisaged in section 4.7.2.”</i></p> <p>Must each implementer devise its own system? If not, who will do it, or coordinate efforts? Will each implementer be held jointly accountable if a system they neither devised nor supported does not work? But then again, in 5.3(m) it is the WMB who will set the <i>“weight-based rate”</i>, and in 5.10 micro-collectors can deliver directly to depots. It is then open whether they must be paid by the depot or one of the implementers in the depot’s region, and how their deliveries to depots will be regulated, unless depots are to be obliged to accept all waste tyres brought to them. The last option invites illegal round-tripping of tyres thrown over the fence of a depot to be brought in again.</p>

		<p><i>“j) Support and facilitate the creation of markets for pre-processed waste tyres and waste tyre commodities and products.</i></p> <p>How will this vaguely defined responsibility be shared amongst the implementers?</p> <p><i>“k) Support research in new viable and environmentally sustainable technologies in respect of the processing of or the utilisation of waste tyres and secure investment for the implementation thereof, if financially viable; Convene a Project Steering Committee for each research project funded by the IndWTMP.”</i></p> <p>Is this to be a joint responsibility or must each implementer have its own R&D support programme and convene its own Project Steering Committees?</p> <p><i>“l) Provide surety of supply contracts to waste tyre processors in accordance with item 3.4.1.”</i></p> <p>This can only be done by an implementer if there is a back-to-back contract with the WMB supported by Treasury to guarantee funding and corresponding contracts with depots. It will also be necessary for an implementer to contract with dealers and transporters to ensure the supply of tyres from dealers is not diverted by another implementer to other processors. Given that, according to the IndWTMP, dealers, transporters, depots, and implementers can all enter multiple concurrent contracts with multiple parties, this will be extremely difficult to ensure.</p> <p><i>“m) Ensure the increasing of management autonomy of Depots Operator to full independency.”</i></p> <p>implementers, who are competing with one another, cannot all be responsible for depot operators’ development. It is not clear which implementer is to be responsible for which depots, as all the depots are allowed to contract with multiple implementers and transporters.</p> <p><i>“n) Keep record and report annually on the movement of waste tyres between all role players to the WMB.”</i></p> <p>Each implementer is being required to record and report on movements between <u>all</u> role players. Note again the extraordinary breadth of the definition of “all role players”.</p> <p><i>“p) Collaborate with the waste tyre sector on an ad-hoc basis but at least on a quarterly basis through scheduled meetings with the IAC (refer to items 4.2, 5.4 and Schedule 1).”</i></p> <p>It is not clear if these are to be joint meeting of all implementers and the IAC. See the comment above on item 4.6 (7).</p> <p><i>“q) Secure annual budget from the Department for the implementation of the IndWTMP through disbursements, including subsidies. All payments must be supported by a paper trail of invoices and other supporting documentation; The approved funds will be dependent on a budget allocated by National Treasury.”</i></p>
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		<p>The element of uncertainty regarding availability of funds is re-emphasised: the approved funds will be dependent on Treasury allocation, not the cost of doing the job. This makes accountability for meeting targets difficult or impossible to allocate to the implementers.</p> <p><i>“r) Submit a business plan and budget in line with government budget cycles as set out in item 4.7.6. The budget and business plan must be reviewed and updated on an annual basis.”</i></p> <p>As above.</p> <p><i>“s) Report to the WMB in accordance with item 4.8.4 of the IndWTMP.”</i></p> <p>The irrationality that emerges in 4.8.4 when there are multiple implementers has already been noted above.</p> <p><i>“t) Submit monthly report on functioning and operation of the plan one week prior to any sitting.”</i></p> <p>The term <i>“the plan”</i> is not clear. As there are multiple implementers none will be able to report on the overall IndWTMP. Some may deal with only a portion of the IndWTMP and be in a region where they are competing with other implementers.</p> <p><i>u) Meet on a quarterly basis with the Provincial Waste Management Forums on the implementation of the IndWTMP.”</i></p> <p>Will all the implementers in a region meet simultaneously with the Provincial Waste Management Forums? A regional implementer will have to meet with 2 to 4 Provincial forums.</p> <p><i>“v) Consult the DTIC on the extent of their current incentive schemes applying to the development of the waste tyre processing industry.”</i></p> <p>An implementer who is dealing with a subset of the entire waste tyre system – possibly only a share of a region – cannot realistically assess ‘their’ incentives schemes (which have been designed and dictated by the WMB, IAC and Department) in the context of the entire industry.</p> <p><i>“w) Investigate and make recommendations to the WMB and the Department on the design, development and implementation of incentives, policies, regulations, norms and standards, good practice as appropriate to reduce waste tyre generation and to enhance the implementation of the IndWTMP.”</i></p> <p>There is a great deal of duplication of effort if this applies to all implementers. Any proposals by one implementer may well attract opposition from another due to differences of opinion, regional circumstances, support systems and local conditions.</p> <p><i>“x) Support the incorporation, establishment and development of SMME's in waste tyre value chains.”</i></p> <p>The extent of the support and responsibility for outcomes will need to be shared amongst the implementers in some way, which must be specified.</p>

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		<p><i>“y) Design and implement capacity building, training, and mentoring programmes to support sustainable business development and growth in the waste tyre industry.”</i></p> <p>It is not clear if each implementer must act alone, or whether they will they be required and permitted to collude.</p> <p><i>“z) Effect payment as per contractual obligation with service providers for services rendered.”</i></p> <p>It is redundant to require implementers to act legally in just this one respect.</p>
49	5.3	<p>The WMB</p> <p><i>“The WMB must:</i></p> <p>...</p> <p><i>b) Appoint multiple Implementers through contracts that include the imposition of penalties for failure to meet set targets (refer to item 4.3)”</i></p> <p>This item contains multiple points that have been commented on already, but we highlight again the impossibility of holding multiple implementers accountable when responsibility and authority are so splintered and overlapping.</p>
50	5.4	<p>Industry Advisory Committee</p> <p><i>“The IAC is established to replace the Interim Industry Advisory Committee established in terms of the Waste tyre Regulations, 2017. The role of the IAC is to:</i></p> <p><i>a) serve as communication platform between members organisations and the Implementer;</i></p> <p><i>b) provide advice and guidance to the Implementer on the functioning and operations of the waste tyre and waste tyre processing industry;</i></p> <p><i>c) provide input into the business plan of the Implementer to WMB to secure budgetary allocation for the implementation of the IndWTMP;</i></p> <p><i>d) contribute to solutions to overcome challenges experienced during the implementation of the IndWTMP;</i></p> <p><i>e) share knowledge and information with the Implementer(s) as and when required;</i></p> <p><i>f) review of progress reports before submittal thereof to the WMB”</i></p> <p>The desirability of providing a forum for parties affected by the IndWTMP is not in dispute, and the role as set out in sub-items (a) to (e) is not controversial. However, the IAC is accorded a dominant role that is not stated here but is established in various places elsewhere in the IndWTMP (see items 3.7.2, 4.6.7, 4.7.6, 4.8.5, 4.8.6).</p> <p>The members of the IAC (as set out in item 4.2) do not bring any special experience or expertise to the operation of an IndWTMP. Some, specifically</p>

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		<p>RASA, waste tyre processing companies and micro-collectors as identified in item 4.2 (j), (k) and (l), have expertise in specific components of the waste tyre value chain, but not in overall system management. It is therefore inexplicable why the operation of the IndWTMP and the operational authority of the implementer(s) is subordinated to the authority and preferences of the IAC. It is also undesirable to have parties with conflicts of interest in the IAC given its dominant role (see paragraph 27.1 of our comments).</p> <p>However, if conflicted parties are to be represented on the IAC, why are depot operators and transporters not included?</p> <p>Sub-item (f) requires “<i>progress reports</i>” to be reviewed before submittal to the WMB. Again, the wording is imprecise: it does not specify which progress reports. Presumably they are the implementers’, but legislation cannot rely on presumptions. If the implementers’ progress reports are to be reviewed by the IAC before submission to the WMB, then strict deadlines must be specified for this unwieldy committee of at least 13 persons to receive and review the reports, given that item 4.8.4 (c) requires the implementers’ reports to be submitted to the WMB by the 15th of each month.</p> <p>It appears doubtful that the drafters of this IndWTMP juxtaposed the requirements of 4.8.4 and this item 5.4 (f).</p> <p><i>“g) Schedule 1 applies to the functioning and operations of the IAC.”</i></p> <p>It is not clear why this committee, and one other (see item 3.4.2) have details on their secretarial functions embedded in the legislation, but other committees specified in the IndWTMP do not. Secretarial functions are not generally imbedded in legislation. When they are, it should be consistently applied to all similar committees.</p>
50	5.6	<p>Tyre dealers</p> <p><i>“The duties of tyre dealers are outlined in regulation 6 of the Waste Tyre Regulations, 2017. Tyre dealers must:”</i></p> <p>This does not make clear what is in the WTR 2017 already and what is new. Items (d) and (g) correspond to Regulations 6(1)/6(2) and 6(3) respectively. It would be better drafting to set out in the IndWTMP only what is new, not to repeat, with variations in wording, what is already legislated.</p> <p><i>“b) Inform consumers of the proper care and efficient use of tyres to extend their useful life in collaboration with road safety campaigns;”</i></p> <p>The IndWTMP does not specify who will arrange and pay for the road safety campaigns with which they must collaborate, nor does it explain what “<i>collaborate</i>” means in practice. This renders this duty meaningless.</p>

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		<p><i>“d) Classify any used tyre in his or her possession or control and mutilate waste tyres or cause waste tyres to be mutilated as prescribed in the regulations;”</i></p> <p>It is not clear why something already covered in regulations should be repeated here, nor why this specific duty from the WTR is singled out.</p> <p><i>“f) Report the number and types of mutilated waste tyres to the WMB and the Implementer;”</i></p> <p>This does not reflect that there will be multiple implementers. It is left open to decide which implementer(s) a tyre dealer must report to.</p> <p>No obvious purpose is served by having between 1400 and 2000 tyre dealers’ reports being sent to the WMB <u>and</u> to one or more implementers, for independent collation. What is the justification for the multiplication of administrative overhead? Who will define the format and method of submission of the reports?</p> <p><i>“h) Tyre dealers, who are also importers of tyres, are also compelled to pay the levy as referred to in item 5.5.”</i></p> <p>This is redundant and covered clearly in other legislation. This kind of repetition from other legislation invites complications when there are changes, and when disputes arise, over which legislation prevails.</p>
51	5.7	<p>Person nominated in control of a collection point where waste tyres may be collected</p> <p>There is no obvious reason why the duties of a collection point controller should be different from the duties of a tyre dealer who is also a collection point.</p> <p>In the Definitions (p.8) we have:</p> <p><i>“Collection points means areas of business from which waste tyres are collected, or a commercial area where waste tyres may be collected including but not limited to, mines, farms, <u>and tyre dealers.</u>”</i> (emphasis added)</p> <p>Here collection points are differentiated in an unspecified way from tyre dealers, and they have additional duties:</p> <p><i>“e) Ensure environmental protection through efficient and practical pollution prevention measures and mitigating all negative environmental impacts as soon as it is detected; and</i> <i>f) Comply with health and safety standards and compliance.”</i></p>

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51	5.8	<p>Depot Operator with pre-processing</p> <p>Per items 4.4(10), 4.5(3) and 5, pre-processing is mandatory for all depots, which makes the qualification “<i>with pre-processing</i>” unnecessary.</p> <p>The IndWTMP is silent on the reporting requirements for depots. In items 2.4, 4.8.1 and 4.8.2 it stipulates that they must report, but it does not say how or when. It does require (item 3.4.3) implementers to report on tonnages leaving depots (but not arriving).</p>
51	5.9	<p>Waste tyre transporters</p> <p><i>“Waste tyre transporters must:</i></p> <p><i>“b) May [sic] only transport mutilated waste tyres or pre-processed waste tyres;”</i></p> <p>This is an example of why legislation should not be repetitive as it invites errors and contradictions. Item 4.4 (7) forbids waste tyre transporters from transporting any tyres other than mutilated tyres. This item contains the qualification “<i>or pre-processed tyres</i>”. Which version prevails?</p> <p>It was noted above that this stricture prevents anyone who transports waste tyres from transporting new tyres.</p> <p><i>“c) Ensure that all transfers are recorded in respect of weight and type of waste tyres transported;”</i></p> <p>This is imprecise: “<i>are recorded</i>” has a wide range of interpretations. The numbers could be written in an exercise book, for example. Further, how will the weight be recorded? Tyre dealers do not generally have weigh bridges or scales suitable for this task; transporters will not have portable weighing equipment. The only point where weighing could be feasible is at the depot (albeit it is an expensive solution), but then the tyre dealers cannot be held accountable for weights recorded.</p> <p><i>“d) Ensure that all loads are signed off by both the Transporter and recorded as received by the said Depot Operator pre-processor, and waste tyre processor;”</i></p> <p>This is imprecise: it does not specify:</p> <ul style="list-style-type: none"> • How are they to be “<i>signed off</i>”; • Who manages the records; and • How mixed loads (tyres collected from multiple dealers, on behalf of multiple implementers) are to be recorded, signed off and reported. <p>The IndWTMP is silent on the reporting requirements for waste tyre transports other than stipulating in items 2.4, 4.8.1 and 4.8.2 that they must report, and in item 5.9(c) that all transfers are recorded (but is silent on the disposition of the records).</p>

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52	5.10	<p>Micro-collectors of waste tyres</p> <p><i>“Micro-collectors must:</i></p> <p>...</p> <p><i>c) Deliver collected waste tyres to collection points positioned within the community in areas clearly demarcated for the purpose of storage;”</i></p> <p>It is unspecified who will create and manage these collection points and who is responsible for the clear demarcation referred to.</p> <p><i>“d) Deliver their waste tyres directly to depots;”</i></p> <p>There are none of the requirements for recording of weights and types that are applied to transporters, and no mention of when or how they will be paid, and by whom. If the implementers must pay the micro-collectors and there are multiple implementers in a region, which one must carry the cost? Depot operators may refuse to accept tyres if there is no clarity on who will pay them for their trouble.</p> <p>Given the lack of control and recording, micro-collections will be ripe for fraud.</p>
52	5.11	<p>Operators of a depot</p> <p>The distinction between this item and item 5.8 is unknown and a source of confusion. All depots must pre-process, so this should be a repetition of 5.8, but there are differences. These depots:</p> <ul style="list-style-type: none"> • Are not required to enter contracts with implementers; and • Do not have to institute labour intensive practices; <p>but on the other hand</p> <ul style="list-style-type: none"> • Must, in addition to complying with regulation 10 of the WTR, also comply with <i>“National Norms and Standards for the Storage of Waste, 2013 and any other applicable legislation”</i>; and • Must <i>“Report on the number, weight and type of waste tyres entering and leaving the site on a monthly basis to the WMB and the Implementer”</i>. <p>There is no clear reason for the differences, nor clarity on which depots are covered by which item.</p>

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52	5.12	<p>Waste tyre processors</p> <p>Waste tyre processors must:</p> <p><i>“h) Report on the number or [sic] tonnage, and type of waste tyres entering their site to the WMB and to the Implementer;</i></p> <p><i>i) Report the tonnage of waste tyres processed on a monthly basis to the Implementer;”</i></p> <p>Sub-item (h) gives the processor the option of reporting number <u>or</u> tonnage. This is presumably careless drafting. There is also considerable duplication of effort implied: the implementer(s) should already know which tyres are delivered to the processor.</p> <p>If a processor has contracts with multiple implementers, must the processor report to all of them? If so, how will the reporting distinguish by implementer on tyres processed? Must the tyres received from each implementer be tracked separately? If not, how will each implementer know how many of ‘their’ tyres have been processed?</p> <p>Per sub-item (i), only the implementer(s) receive reports on waste tyres processed. This latter is a very pertinent metric but is not a required submission to the WMB except indirectly through the implementer(s) quarterly reporting per item 3.4.3, but the processors must report monthly to the WMB on waste tyres being <u>received</u>.</p>
53	6 6.1	<p>Implementation timeframe and migration pathways</p> <p>6.1 Timeframe</p> <p><i>“The appointment of the Implementer [sic] be limited to 5 years in the contract with the WMB, with the option of renewal or extension thereof, provided that National Treasury agrees to such renewal or extension.”</i></p> <p>Notwithstanding the heading, this item does not address the implementation timeframe, which a reasonable person would take to mean the timeframe within which implementation will happen. It does, however, put a limit on the planning horizon of an implementer and underscores the uncertainty of the environment in which the implementer(s) must operate. It sets a very limited tenor of any contracts that can be concluded: as time goes by, that tenor shortens. After 2 years, the planning horizon stops in 3 years; after 3 years, it stops in 2, etc.</p> <p>A discussion of the timeframe for implementation needs to note the following which must be completed before any implementation commences:</p> <ul style="list-style-type: none"> • Receipt of public comments on this IndWTMP, consideration of such comments, and a possible re-publishing for comment if there are significant amendments;

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		<ul style="list-style-type: none"> • On finalisation of the IndWTMP, issuing of tenders under the terms of the PFMA, consideration of tenders, and then contracting with successful bidders; <p>(Given the many issues with the IndWTMP, it would be wise to consider the possibility of legal challenges to the process and to any award of tenders.)</p> <ul style="list-style-type: none"> • The time needed to complete the “<i>detailed pre-feasibility study</i>” mandated in item 2.7, which must be performed by an unspecified party, before incentives can be developed. (Incentives must be included in the implementers’ budgets which can therefore only be completed after this study has been completed.) • The timeframe for the successful bidders and the WMB to conduct the audits of all stockpiles, depots, and equipment; • The timeframe for successful bidders to develop their own systems or assimilate existing WMB systems; and • The time needed to plan and coordinate the handover of the WMB contracts, databases and systems to the various implementers.
53	6.2	<p>Migration pathway from WMB to Implementer [sic]</p> <p>This item is riddled with impracticalities that become apparent when every instance of implementer (singular) is replaced with implementers (plural). That replacement is made in the emended quotations that follow.</p> <p><i>“The new <u>Implementers</u>, must take note that there are current contracts concluded with the WMB and that the current contracts should be adhered to. Further to that the new <u>Implementers</u> must negotiate with the current contracting party to have the contract ceded.”</i> (plurals inserted)</p> <p>The contracts presumably refer to transporters, depots, and processors, all of whom are proposed to be free to contract with multiple implementers. Which existing contracts must be adhered to by, or ceded to, which implementer? If there are existing contracts that are unfavourable to an implementer, which of them will be required to take it on?</p> <p><i>“4. The <u>Implementers</u>, once so appointed, must prioritise and incentivise those options that can be implemented quickly in consultation with:</i></p> <ol style="list-style-type: none"> <i>a. the Technology Innovation Agency of South Africa regarding technology readiness of processing options;</i> <i>b. the cement and brick-making industry for the processing of waste tyres;</i> <i>c. mines to increase pre-processing of OTRs; and</i> <i>d. WMB for implementing the incentives developed by the WMB to upscale pilot plants where feasible.”</i> (plurals inserted)

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		<p>The implementers, who are potentially competing with one another, must as a body prioritise and incentivise options in consultation with the parties listed. This is not practical.</p> <p>The implementers are being given a predetermined strategy they must jointly follow. This excuses them from meeting targets if the predetermined strategy does not work.</p> <p>This strategy will require co-ordination across regions and implementers. Mines and cement kilns are not necessarily located in the same regions where waste tyres arise, or where processing is most feasible.</p>
p.54	6.2	<p>Migration pathway from WMB to Implementer [sic] (Continued)</p> <p><i>“5. The Implementers must develop a 5 year implementation plan, business plan within the first 3 months of implementation and costed budget for the remainder of the gov. financial year and submit that to the WMB for approval/ and or interrogation and input. Within four months of <u>their</u> appointment, <u>they</u> must set up systems for implementation or access [sic] the adequacy of the systems Obed to advise) [sic].”</i> (plurals added)</p> <p>This has all the hallmarks of hasty, careless drafting (“Obed to advise”) and is moreover lacking in important detail. Must each implementer develop its own systems? Can some choose to continue with the (proven ineffective) WMB systems, and others not? Who will supervise and coordinate the systems development of the various implementers to ensure compatibility, common standards for information recording, and compatible metrics? Will all the implementers have the same start date? If not, how will the WMB manage a staggered implementation with all the complications of handovers, contract cessions, and budgeting that are implied?</p> <p><i>“6. The Implementers must develop training, awareness, and capacity building programmes to support SMME development and engagement in the Waste Tyre processing sector.”</i> (plurals added)</p> <p>If each implementer is required to develop its own programmes, how broad must they be? Are they permitted, or even required, to collude?</p> <p><i>“7. The Implementers must review the current fee and payment structure associated with Waste Tyre collections and transport.”</i> (plurals added)</p> <p>Is this a shared responsibility amongst the implementers? How will they agree on a structure? Can different implementers have different structures? If not, then will there be a common contract for transporters that will be imposed on all implementers? If there is, implementers will have a basis for denying responsibility for proper execution and meeting targets if they are forced to accept contract terms that do not suit them or their operations.</p> <p><i>“8. The Implementers may, with written consent by the WMB, procure equipment to support the implementation of the IndWTMP. Ownership</i></p>

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		<p><i>of such equipment will revert to the WMB to remain available for waste tyre management in South Africa.” (plurals added)</i></p> <p>The impracticalities of this have been pointed out in our commentary to Draft 9 of the S29 plan but we repeat them here. If the equipment so purchased must revert to the WMB (the trigger for which is not specified), then it must be paid for by the WMB – no private entity can simply donate capital equipment. It must be purchased subject to the PFMA and appear on the WMB’s asset register. This is indeed explicitly confirmed in item 6.3:</p> <p><i>“The systems developed, the moveable property procured, material developed, intellectual property obtained by the implementer, and the equipment procured as part of the implementation of the IndWTMP, must form part of the asset register and must form part of the property of the state.”</i> This is inconsistent with <i>“revert to the WMB”</i> as it will always have been owned by the state.</p> <p>As noted in our previous commentary:</p> <ul style="list-style-type: none"> • <i>PFMA processes are notoriously lengthy and subject to challenge, which will slow down implementation of the IndWTMP considerably. Even ancillary issues like arranging insurance and maintenance are the State’s responsibility which, even if delegated, must be carried out within the PFMA framework.</i> • <i>The accounting complications of managing a complex implementation without ownership or control of any assets are immense.</i> • <i>The ability to create models to support transformation involving eventual transfer of assets to Black entrepreneurs becomes difficult, if not impossible.</i> <p><i>“9. The Implementers together with the Department and the WMB must initiate research to evaluate the technology readiness, financial and economic viability assessments for various waste tyre processing options in South Africa.” (plurals added)</i></p> <p>The basis for sharing the costs and management responsibilities has not been addressed. As it stands, it is vague and imprecise and will be difficult to police.</p> <p><i>“The migration process must include, but not be limited to the following:”</i></p> <p>It is patent that the migration process has been drafted with no consideration of how it would work with multiple implementers.</p> <p><i>“b) The Implementers must conduct an audit of equipment, and the current stockpiles of waste tyres, to confirm current locations, owners, and the volumes of stockpiled waste tyres before the IndWTMP is implemented. This must ensure that there <u>are</u> proper hand-overs and no disputes that can surface at a later stage. The audits done by the Implementers on all waste tyre storage sites must inform the decisions on which sites to keep and which sites to close and then work towards</i></p>

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		<p><i>closure of identified sites coinciding with the end of those contracts. The time left on these contracts should help them plan properly and migrate without causing operational gaps.” (plurals added)</i></p> <p>The confusion of overlapping responsibilities and duplications of effort become apparent when the implementers are written as plural.</p> <p><i>“c) The WMB must, subject to the provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), hand-over or allow access to all systems, databases, equipment, and other relevant information as may be required, and that was developed, procured, and used for the purposes of the management of waste tyres to the Implementers.”</i></p> <p>The complications of handing over personal data under POPI are considerable. Amongst other requirements, everyone affected must be notified by the WMB and give their permission.</p> <p><i>“d) Databases and equipment handed-over to the Implementers must be maintained, upgraded, and/or updated, as the case may be, to remain operational, current, and efficient for the management of waste tyres and must be returned to the WMB to safe-guard continuity of operations when the Implementers’ contracts come to an end.” (plurals added)</i></p> <p>The complexities of managing the handing-over to multiple implementers are clearly not considered. If all the implementers must maintain, upgrade and/or update the databases how will this be coordinated? They could work off a common database and have a shared IT services company managing it if such sub-contracting were not explicitly forbidden by item 5.1 (d). This becomes even more complicated if the implementers are not all appointed and ready to commence operations at the same time.</p> <p><i>“e) The WMB must train and support the Implementers on the running of the systems to ensure continuity in the management of Waste Tyres, collection of data, and contracts. This could take the form of on-the-job training over a specified period to ensure a smooth transitional period as agreed at the time of appointment of the Implementers.” (plurals added)</i></p> <p>This would also need to consider multiple implementers who may not be ready at the same time. The smooth transition would be difficult to achieve with different implementers responsible for, or trying to share responsibility for, different depots, transporters, and micro-collectors, and is further complicated by the potentially overlapping responsibilities, such as a transporter or depot contracting with more than one implementer.</p>
54 55	6.3	<p>6.3 Transition between implementers</p> <p>This item appears to be dealing with the case of a single implementer being replaced by a new one.</p>

Page	Item	Comments
		<p><i>“The systems developed, ... must form part of the asset register and must form part of the property of the state.”</i></p> <p>It is to be expected that the multiple implementers will all have their own systems that are unlikely to be mutually compatible as nowhere is it stated that the implementers may or must collude to develop an overarching management system with a common database. This complication is not addressed.</p>
56	Schedule 1	<p>(Item 4.2) Industry Advisory Committee (IAC)</p> <p>The IndWTMP needs to resolve the inconsistencies created by the definition of the IAC and its operations as set out in this Schedule.</p> <p>The IndWTMP refers throughout to a single implementer, and Schedule 1 uses <i>“the implementer”</i> (singular) throughout. When we examine Schedule 1 and amend the implementer to reflect multiple implementers it creates practical challenges that have clearly not been considered:</p> <p><i>“1.1 The committee members must;</i></p> <p><i>1.1.1 Receive monthly reporting on functions and operations of the implementers from the implementers for review at the meeting (1 week prior to any sitting); (note that ‘meeting’ is singular)</i></p> <p><i>1.1.2 Provide guidance as to the management of the Implementers on the functioning and operations of the tyre and waste tyre management industry;” (plurals added)</i></p> <p>A minimum of 3 implementers is contemplated (item 4.3). If the IAC is to meet and deliberate on the reports of all the implementers, and provide the management guidance contemplated in 1.1.2, this will:</p> <ul style="list-style-type: none"> a) make for excessively extended meetings; and b) either require the implementers to take turns recusing themselves from the meeting (item 4.3 states that the IndWTMP should <i>“introduce competitive elements”</i>, which surely cannot mean that every meeting of the IAC will go into detail on each implementers’ operations in the presence of all the others); or c) raise competition issues that may be illegal.

Page	Item	Comments
		<p><i>“2.3 Convener</i></p> <p><i>2.3.1 The Committee will be convened by the Implementers.</i></p> <p><i>2.4 Secretariat</i></p> <p><i>The Implementers will provide the Secretariat function ...”</i></p> <p>This now implies a separate meeting for each implementer, whereas 1.1.1 refers to a single meeting. If it is a single meeting, how are the implementers to take on these responsibilities as a group?</p> <p><i>“3. Attendance</i></p> <p><i>3.1 ... Members must attend all meetings.”</i></p> <p>This must be noted if each implementer is to have its own IAC meeting. It will create busy diaries for the members – numbering at least 13 – of the committee.</p>

Annexure B: Meetings

Name	Frequency	Members	Size	Comment
Industry Advisory Committee 4.6(7), 5.1(p)	At least quarterly, possibly one per implementer	Implementers, IAC, [WMB]	15+ 17+	Depends on whether the different implementers all attend the one meeting. WMB may or may not be included – it is not clear if the two references are to the same meeting.
Project Steering Committees		IAC, others (?), Implementers (?)	3+	
[Independent] Evaluation Committee		WMB, dtic	?	Naming is variable
Incentive[s] Evaluation Committee		Department CWM (2), WMB (1), dtic (1); Implementers (?)	4-7+	Naming is variable
Provincial Waste Forums x 2-4 5.1 (u)	Quarterly, possibly one per implementer	Implementers, Forum	?	
Implementation Progress 4.6 (7)	Quarterly, possibly one per implementer	IAC, Implementers, WMB	15+ 17+	Depends on whether the different implementers all attend the one meeting.

Annexure C: Reports

To	From	Frequency	Content	Qty
IAC	Implementers	At least quarterly	3.4.3	3
IAC	Implementers	Monthly	5.4: progress reports	3
Implementers	Tyre dealers	Monthly	5.6: Number and type of tyres mutilated	1400-2000
Implementers	Collection points	Monthly	5.7: Number and type of tyres mutilated	?
Implementers	Processors	Monthly	5.12 (h): number or tonnage and type of waste tyres received.	15
Implementers	Processors	Monthly	5.12(i): tonnage of waste tyres processed	15
Implementers	Depots	Monthly	5.11 (d): number, weight and type of waste tyres entering and leaving.	24
WMB	Tyre producers	Quarterly	2.4, 4.8.1, 4.8.2: Tyre production	180
WMB	Tyre dealers	Monthly	5.6: Number and type of tyres mutilated	1400-2000
WMB	Collection points	Monthly	5.7: Number and type of tyres mutilated	?
WMB	Stockpile operators	?	4.8.1: frequency and content undefined	?
WMB	Processors	Monthly	5.12 (h): number or tonnage and type of waste tyres received.	15
WMB	Pre-processors	?	4.8.1: frequency and content undefined	?
WMB	Depots	Monthly	5.11 (d): number, weight and type of waste tyres entering and leaving.	24
WMB	Transporters	Undefined	Must "record" tyre movements.	80
WMB	Waste tyre storage sites	Undefined	Specified, but how do they differ from depots?	?

To	From	Frequency	Content	Qty
WMB	Implementers	Monthly	3.4.3, via the IAC	3
WMB	Implementers	Undefined	4.6 (6): unspecified “non-financial performance”	3
WMB	Implementers	Quarterly	4.7.6 (d): progress reports	3
WMB	Implementers	Monthly, then quarterly	4.8.4: “Suitable” progress and performance indicators	3+
WMB	Implementers	Annual	5.1 (n): movement of tyres between <u>all</u> role players	3+
WMB	Implementers	Annual	4.8.4(b) [third sub-item (b)], 5.1 (bb): audit reports	3+
WMB, Minister	IAC	Monthly	Sch.1, 1.1.6: Progress of the implementers	3+

Annexure D: The Contractual Web

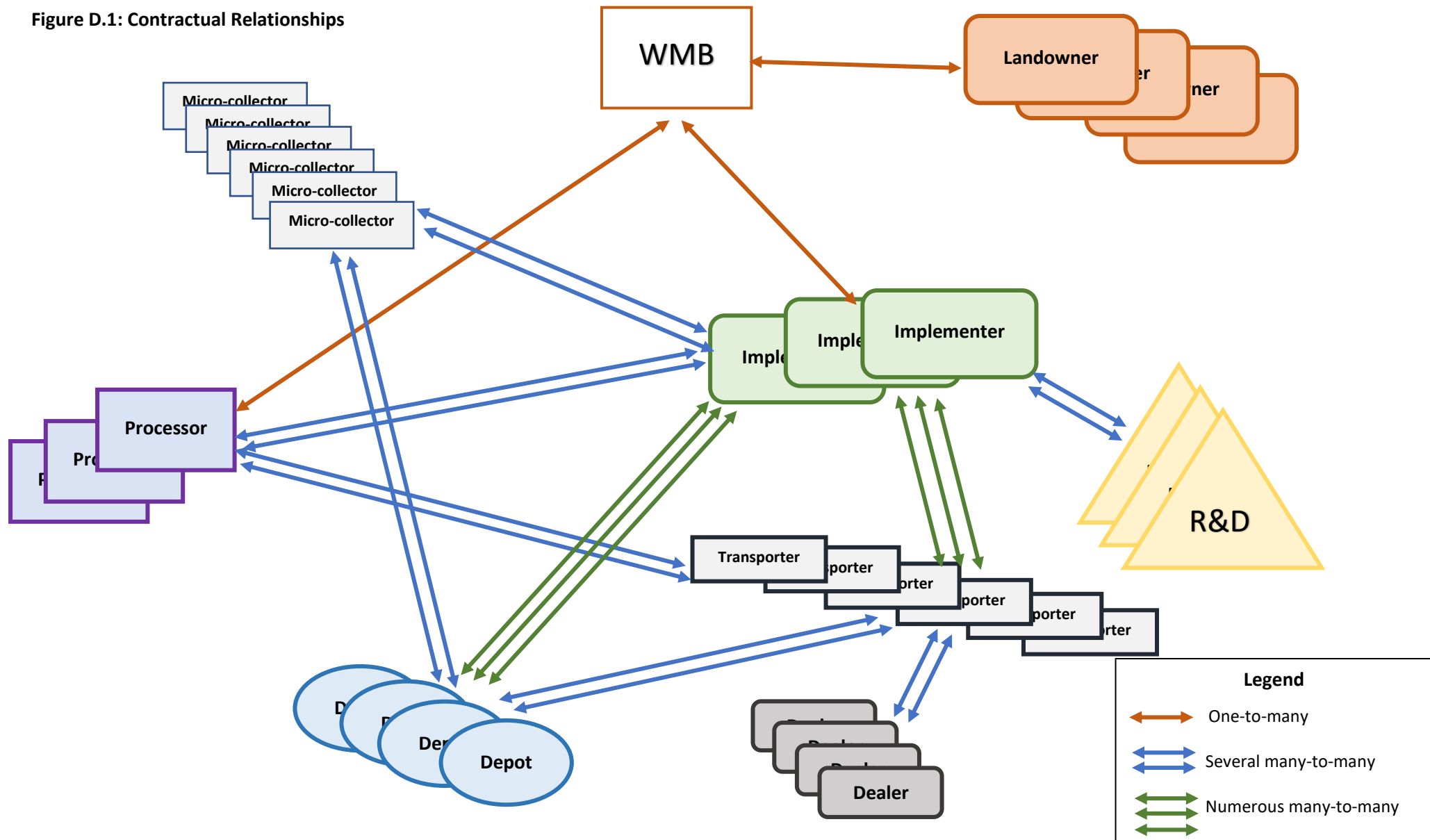
- D1. In the Table D.1 below, the contracts envisaged by the IndWTMP are tabulated from the perspectives of the different role players.
- D1.1. **Qty** is an indication of the estimated number of contracts where “A Few” is likely to be of the order of 10, “Many” would be of the order of tens to hundred plus.
- D1.2. **Type** is an indication of the degree of interaction.
- N:N indicates overlapping contracts between both parties. E.g., a depot can contract with more than one implementer, an implementer can contract with more than one depot, and no contracts are mutually exclusive.
 - 1:N or N:1 indicates a contract between one party on one side and multiple on the other. E.g., there is only one WMB, contracting with multiple implementers.
- D1.3. **Oversight/influence** notes parties external to the contract who nevertheless have significant oversight or influence that takes away autonomy to various degrees from one party or the other, usually at the cost of the Implementer(s).
- D2. Figure D.1 below illustrates the contractual web.
- D2.1. A single line indicates 1: N contracts
- D2.2. Double lines indicate N:N contracts in relatively small numbers
- D2.3. Triple lines indicate N:N contracts in relatively large numbers
- D3. The complexity this invites should be apparent: the combinations of, for example, transporters serving various dealers on behalf of various implementers, delivering to various depots, and from various depots to various processors, all of which can be overlapping in different ways with one another, will be legion. Management and control, efficiency, and fraud prevention become all but impossible.

Table D.1: Contracting parties

Party 1	Party 2	Qty	Type	IndWTMP Reference	Oversight/Influence
Depots	Implementers	3+	N:N	3.4.3, 3.7.4(a), 5.8(b)	Incentives Evaluation Committee WMB 5.1(b)
Depots	Micro-collectors	Many	N:N	5.10(d)	WMB
Depots	Transporters	Many	N:N	4.7.4	
Implementers	Depots	12+	N:N	3.4.3, 3.7.4(a), 5.8(b)	Incentives Evaluation Committee WMB 5.1(b)
Implementers	Micro-collectors	Many	N:N	5.1(i)	WMB 4.4(9), 5.3(m), Department 4.4(10)
Implementers	Processors	12+	N:N	3.4.2(h), 4.3, 5.1(l), 5.3(p), 5.12	Independent Evaluation Committee Incentives Evaluation Committee Industry Advisory Committee 3.7.2 Dept+WMB 4.6(3), 4.6(5)(b)
Implementers	R&D institutions	?	N:N	4.8.6, 5.1(k), 6.2(9)	Industry Advisory Committee Project Steering Committees WMB
Implementers	Transporters	Many	N:N	4.4.5, 4.7.4	
Implementers	WMB	1	N:1	p.8 Exec Summary, 3.3, 4.1(e), 4.3, 5.3(b)	Industry Advisory Committee
Landowners	WMB	1	1:1	2.5.5, 3.7.4, 5.3(e)	
Micro-collectors	Depots	A Few	N:N	5.10(d)	WMB
Micro-collectors	Implementers	3+	N:N	5.1(i)	WMB 4.4(9), 5.3(m), Department 4.4(10)

Party 1	Party 2	Qty	Type	IndWTMP Reference	Oversight/Influence
Processors	Implementers	3+	N:N	3.4.2(h), 4.3, 5.1(l), 5.3(p), 5.12	Independent Evaluation Committee Incentives Evaluation Committee Industry Advisory Committee 3.7.2 Dept+WMB 4.6(3), 4.6(5)(b)
Processors	Transporters	Many	N:N	4.7.4	
Processors (>5 yr)	WMB	1	N:1	3.4.2(h)	Independent Evaluation Committee Incentives Evaluation Committee Industry Advisory Committee 3.7.2
R&D institutions	Implementers	3+	N:N	4.8.6, 5.1(k), 6.2(9)	Industry Advisory Committee Project Steering Committees WMB
Transporters	Dealers	A Few	N:N	4.7.4	
Transporters	Depots	A Few	N:N	4.7.4	
Transporters	Implementers	3+	N:N	4.4.5, 4.7.4	
Transporters	Processors	A Few	N:N	4.7.4	
WMB	Implementers	3+	1:N	p.8 Exec Summary, 3.3, 4.1(e), 4.3, 5.3(b)	Industry Advisory Committee
WMB	Landowners	24+	1:N	2.5.5, 3.7.4, 5.3(e)	
WMB	Processors (>5 yr)	12+	1:N	3.4.2(h)	Independent Evaluation Committee Incentives Evaluation Committee Industry Advisory Committee 3.7.2

Figure D.1: Contractual Relationships



Annexure E: Depot Sizes

Table below shows the depots and their sizes:

- As reported to Parliament on 25/05/2021 by O Baloyi and confirmed by Department's tender awards.
- As recorded in the CSIR Draft S29 Plan and as gazetted in the IndWTMP, GG 47060 as the August 2020 status.

Yellow highlights: discrepancies with PPC Report

Orange highlights: illegal depot sizes.

		PPC Report 25/5/2021	CSIR/S29	
GP	Glen Austin	9400	9400	
	Waltloo	1000	1000	
	Midrand	9500	9500	
	Tembisa	7671	4000	
	Randfontein	26320	26320	
	Westonaria	26961	26961	
	Springs	28000	28000	
	Klerksoord	18565	18565	127417
NC	Upington	4170	4170	4170
NW	Rustenburg	8500	8500	8500
	Lichtenburg	30000		
KZB	Cato Ridge	15000	15000	
	Hammarsdale	4678	4678	
	Ladysmith	4500	4500	
	Richards Bay	1000	1000	25178
WC	Atlantis	22920	22920	
	Mosselbay	1300	1300	24220
LP	Polokwane	30000	30000	30000
	Thohoyandou	50000		
MP	Ferrobank	7467	7467	
	elspruit	11265	11265	
	Belfast	50000	50000	68732
FS	Bloemfontein	42000	42000	
	Kroonstad	50000	50000	92000
EC	East London	4612	4612	
	Markman	7495	7495	
	Ngcobo	42827	42827	
	Uitenhage	18800	18800	73734
	Total	533,951	450,280	

Table E.1: Depot size discrepancies

Table E.2: Depot Stock Levels below reproduces the data from the IndWTMP Table 2 in a more legible form.

- The summation of counts of tyres has been replaced by the corresponding approximate tonnage derived from the count of tyres (or bales) multiplied by the average weight in kg for each size (top line).
- A column has also been added showing the calculated storage density that follows from the tonnage stored divided by the depot area. The ‘pap scrap’ and cut tyres have not been included.

The cells highlighted in yellow (for Belfast, East London, Markman, Ngcobo, and Uitenhage) were omitted from the summation in Table 2, so the figures it gave for total number of tyres stored were in any event incorrect.

Depot Sizes and Holdings																								
				Passenger	4x4	Light commercial	Heavy commercial	Buffed	Agricultural	Motorcycle	Solids & Industrial	Aircraft	OTR	Tonnes	Passenger	4x4	Motorcycle	Truck	Light commercial	Tonnes	Tonnes/m2	Pap scrap	Pap scrap	Cut
		Weight (kg)		8.5	13.5	13.5	65	65	110	2	85	50	520		750	750	500	800	800					
GP	Glen Austin	9400		6,033	1,547	1,768	6,050	-	2,513	605	2,562	605	662	1,359	620	-	-	-	-	465	0.19	-	-	-
	Waltloo	1000		25,676	17,864	-	-	-	-	-	-	-	-	459	135	100	-	-	-	176	0.64	-	-	-
	Midrand	9500		161,990	67,257	24,649	130,503	-	6,673	16,260	7,206	7,126	1,764	13,753	191	194	-	-	-	289	1.48	1	-	-
	Tembisa	4000		11,363	4,301	3,274	2,206	-	549	1,402	284	726	1,044	1,009	489	160	48	-	-	511	0.38	-	-	-
	Randfontein	26320		493,108	399,384	4,591	178,462	-	2,153	4,713	204	68	618	21,833	222	-	-	-	-	167	0.84	-	-	-
	Westonaria	26961		365,172	293,906	6,383	9,282	-	5,655	4,245	154	-	401	8,613	622	20	-	-	-	482	0.34	1	-	-
	Springs	28000		44,652	768	3,237	18,575	-	1,022	-	3,421	200	528	2,329	277	-	-	-	-	208	0.09	-	-	-
	Klerksoord	18565	123746	-	50	790	19,163	-	-	-	-	-	779	1,662	2,662	-	-	-	-	1,997	0.20	-	-	-
NC	Upington	4170	4170	985	1,047	4,932	18,015	-	4,516	3,698	3,786	-	306	2,245	7	442	-	-	-	337	0.62	1	-	-
NW	Rustenburg	8500	8500	3,101	6,522	3,221	12,416	-	484	33	249	-	1,602	1,872	382	492	-	-	-	656	0.30	1	-	-
KZB	Cato Ridge	15000		4,000	3,718	3,996	2,665	-	3,190	600	500	-	2,543	2,028	24	119	-	143	5	226	0.15	4	-	-
	Hammarsdale	4678		-	-	-	2,853	-	-	-	-	-	-	185	56	-	-	-	-	42	0.05	36	-	-
	Ladysmith	4500		1,256	430	708	1,063	-	1,632	84	210	-	563	585	77	77	-	-	6	120	0.16	1	2,860	84
	Richards Bay	1000	25178	62	24	882	-	-	45	720	-	-	5	22	44	87	-	-	-	98	0.12	-	5,600	-
WC	Atlantis	22920		118,666	159,850	10,900	30,262	-	9,400	5,242	16,549	-	804	8,150	54	301	1	-	-	267	0.37	5	-	99
	Mosselbay	1300	24220	57	38	1,376	902	-	614	475	471	-	16	195	67	100	-	-	-	125	0.25	2	6	15
LP	Polokwane	30000		243	1,303	53,482	18,071	-	7,413	1,090	5,759	1,172	15,064	11,115	128	787	-	-	896	1,403	0.42	3	-	16
MP	Ferrobank	7467		470	1,029	6,595	10,688	1,028	3,807	131	377	57	716	1,695	103	145	-	-	-	186	0.25	-	857	-
	Nelspruit	11265		5,917	4,824	8,917	20,096	-	9,480	4,944	2,100	169	6,752	6,293	32	173	-	-	-	154	0.57	-	-	-
	Belfast	50000	68732	10,116	7,731	44,352	157,984	-	27,143	-	3,515	811	3,808	16,363	1,712	695	-	2,527	2	3,828	0.40	313	-	313
FS	Bloemfontein	42000		27,502	93,408	83,187	103,559	-	14,294	390	8,857	24	2,119	12,778	3,432	-	-	-	-	2,574	0.37	1	-	-
	Kroonstad	50000	92000	33,678	8,217	8,521	49,281	-	3,438	-	2,807	-	1,524	5,125	3,432	-	-	-	-	2,574	0.15	1	-	-
EC	East London	4612		8	106	4,001	5,667	-	551	833	186	-	97	552	220	586	-	-	-	605	0.25	-	-	-
	Markman	7495		57,224	23,129	1,264	21,802	-	1,531	183	728	-	1,206	3,091	369	165	-	-	-	401	0.47	4	-	1
	Ngcobo	42827		40,089	34,495	9,493	24,373	-	2,310	1	2,902	-	499	3,279	1,015	1,542	-	-	-	1,918	0.12	-	-	218
	Uitenhage	18800	73734	25,708	25,212	741	3,534	-	257	34	904	-	8	908	-	-	-	-	-	-	0.05	-	-	-
	Area:	450,280												Tonnes:	127,500					19,805				

Table E.2: Depot Stock Levels

The figure below overlays the reported storage capacity usage, according to Table 1 of the IndWTMP, on the calculated storage density derived from Table 2. Most of the depots are reportedly at or close to capacity, but this is not reconcilable with the stock counts in Table 2.

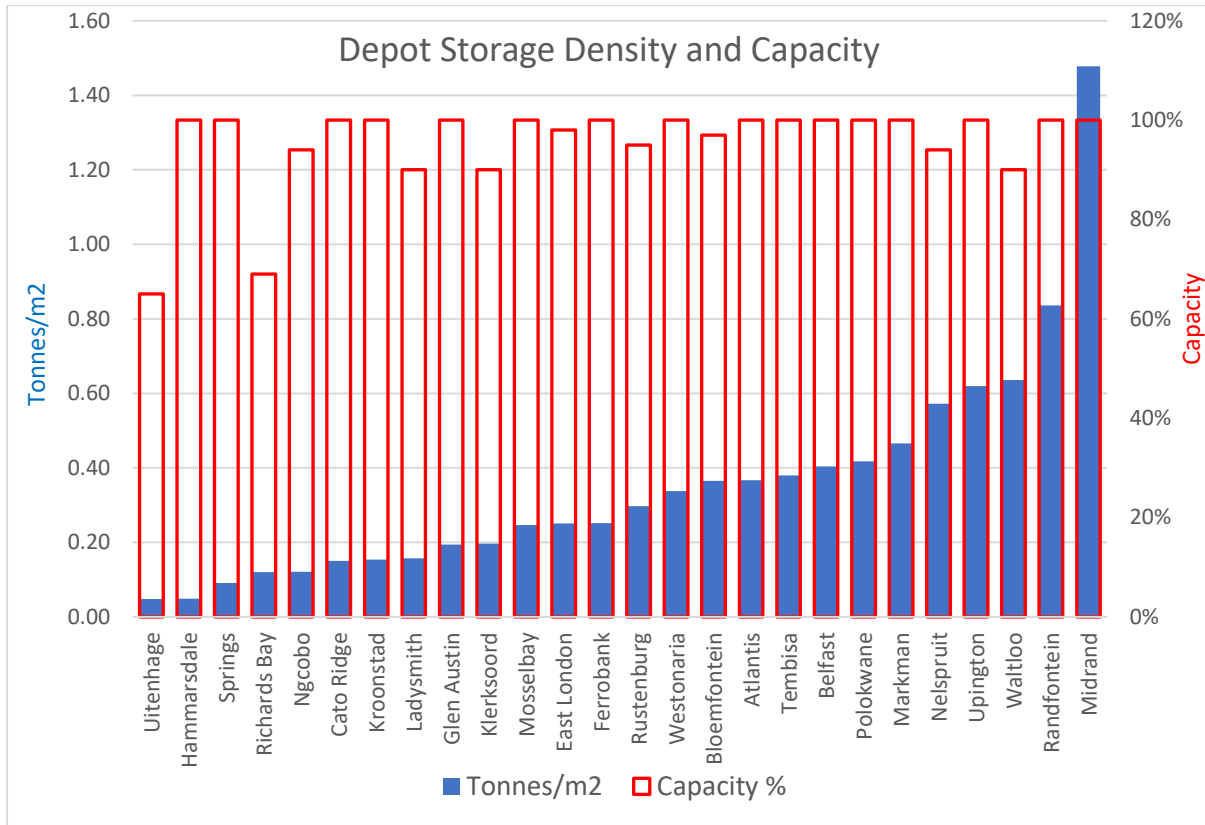


Figure E.1: Comparison of Reported Stock and Capacity

It is difficult to reach any conclusion other than that the data supplied is so unreliable as to be meaningless.

Annexure F: Incentives

Who	Purpose/Responsibility	Reference	Comment
Incentives Evaluation Committee	<i>to ensure impartial evaluation and awarding of incentives</i>	Executive Summary	'Evaluation' may mean approval of what the incentives are, but it is not clear.
Undefined	<i>The feasibility of each technology in the South African context needs to be assessed by means of a detailed pre-feasibility study prior to incentives being developed.</i>	2.7	Must happen before implementers' budgets can be completed.
The WMB?	<i>Other <u>performance indicators</u> including, SMME development, job creation, incentives provided to different stakeholder groups, and skills development/training provided must also be applied (emphasis added)</i>	3.4	Incentives, defined by the WMB, are a performance indicator, but for whom?
Undefined	<i>Incentives must be developed for selected functions of key roleplayers in the waste tyre value chain including: a) subsidised transport b) incentivised pre-processing to allow for profit-seeking at depots; c) subsidised pre-processing equipment on a cost sharing basis; d) subsidised investment in pollution abatement technologies and equipment on a cost sharing basis; e) subsidised delivery of pre-processed waste tyres to waste tyre processors; f) a processing fee (annually adjusted for inflation) paid to waste tyre processors; g) establishing a forum to support accessing international investment opportunities; h) providing binding supply contracts between the Implementers and waste tyre processors to support investment in the sector; contracts beyond 5-years will be between WMB and the waste tyre processor to support investment in the sector;</i>	3.4.2	An extensive list that repeats and overlaps other lists of incentives. Here incentives are function-oriented. Reference to ill-defined inflation is repeated later in 5.3.

Who	Purpose/Responsibility	Reference	Comment
	<i>i) capacity building, mentoring, and training programmes aimed at new business development in waste tyre processing targeting SMMEs and designated groups; and j) investment in research, development, and innovation in waste tyre processing and management.</i>		
WMB	<i>An Incentives Evaluation Committee must be established by the WMB within three months of the implementation of the IndWTMP to evaluate applications</i>	3.4.2	Entities apparently must apply for incentives, so they are not allocated by function.
Incentives Evaluation Committee Implementers	<i>Industry participants must apply for incentives. The application process must be clearly outlined and supported by the IAC and applications evaluated by an incentive evaluation committee as established by the WMB. Financial incentives must be funded by the Implementers from the budgetary allocation received from the WMB (section 34D(c) of NEM: WA).</i>	3.7.2	Implementers must fund.
Department & WMB, with implementers	<i>11. The Department must in collaboration with the Implementers and WMB design suitable incentives for such pre-processing</i>	4.4	How does this combine with the Incentive Evaluation Committee's 'evaluation'?
Implementers	<i>2. Incentives may be used throughout the waste tyre processing value chain. 4. The Implementers may employ incentives to support the development of waste tyre processing value chains.</i>	4.5	Incentives apply throughout the value chain, so the list in 3.4.2 is unnecessary. Here, implementers do have some say in incentives.
Department, WMB, other government departments and agencies	<i>must develop incentives for key role players in the waste tyre value chain. Incentives are of temporary nature and must aim to remove market entry barriers and promote active participation in the waste tyre management industry.</i>	4.6	Here, implementers have no say.
WMB	<i>5) The WMB will oversee the implementation of the IndWTMP, through: b) Development of incentives and management of incentive schemes; c) Disbursement of incentives and funds for the implementation of the waste hierarchy throughout the waste tyre value chain;"</i>	4.6	The WMB develops incentives. The WMB disburses incentives

Who	Purpose/Responsibility	Reference	Comment
Implementer(s)	<i>Processing rates must be as per contract stipulations with the Implementers. Contracts will specify the relevant incentives which may take the form of capital investment, transport, and processing subsidies</i>	4.7.5	The implementers' contracts specify the incentives, and presumably the implementers disburse them.
WMB	<i>The WMB must therefore establish a minimum requirement for job opportunities created per tonne of waste tyres processed. This requirement must inform qualifying criteria for incentives to be developed.</i>	4.8.7	Job creation targets must be set before incentives can be finalised.
Implementer(s)	<i>v) Consult the DTIC on the extent of their current incentive schemes applying to the development of the waste tyre processing industry. w) Investigate and make recommendations to the WMB and the Department on the design, development and implementation of incentives, policies, regulations, norms and standards, good practice as appropriate to reduce waste tyre generation and to enhance the implementation of the IndWTMP. aa) Disburse incentives to qualifying recipients from the budgetary allocation received from the WMB</i>	5.1	Implementers have incentive schemes which they must run past the dtic. Implementers must provide input to incentives. Implementers must disburse incentives.
WMB	<i>f) Develop incentives and qualifying criteria for incentives referred to in item 3.4.2 h) Establish a benchmark for job opportunities that should be realised per tonne of waste tyres processed to qualify for incentives n) Review appropriateness and efficiency of other incentives and adjust according to inflation on an annual basis; o) Establish an incentives evaluation committee;</i>	5.3	WMB develops incentives and qualifying criteria, establishes job opportunities criteria. Inflation, a repetition of 3.4.2, still not clearly defined.
Implementer, WMB	<i>4. The Implementer, once so appointed, must prioritise and incentivise those options that can be implemented quickly in consultation with: d. WMB for implementing the incentives developed by the WMB to upscale pilot plants where feasible</i>	6.2	Implementer must prioritise incentives and consult with WMB on pilot plants.