

Inquiry into scrap metal theft

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Submitted by: SIMS Metal
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Committee Secretary
Transport and Resources Committee
Parliament House
George Street
Brisbane Qld 4000
trc@parliament.qld.gov.au

Re: Transport & Resources Committee Enquiry into Scrap Metal Theft in Queensland

Dear Secretary,

Thank you for the opportunity to provide a submission in response to the Transport & Resources Committee's enquiry into scrap metal theft in Queensland.

Sims Limited (Sims) is a publicly listed Australian company that has been in operation since 1917 when established by Albert Sims, a sole trader based in Newtown NSW. Sims has proven to be an Australian recycling success story, growing to become the world's largest recycler of metals and electronic wastes.

Sims plays an important role in the Australian circular economy by enabling our customers to decarbonise, including in critical industries like steel, aluminium, and electronics manufacturing. We do this by providing high-quality recycled materials in place of virgin materials, which enables the avoidance of emissions associated with extraction, refining and production.

Sims has over 260 operations in 15 countries across the globe - including Australia, New Zealand, Papua New Guinea, the United States, Canada, the United Kingdom, China, Malaysia and India. We have been operating in Queensland for over 50 years, employing over 190 FTE staff and operating 10 metal recycling facilities across the state – 4 in metropolitan Brisbane and 6 in regional locations.

Sims would like to take this opportunity to formally invite the Committee to visit our Rocklea site to see first-hand how the scrap metal industry operates. This site houses the largest shredding facility in the State and you will also allow you to see the various interfaces between customers / recyclers in all scrap metal commodity types. We feel that this could be most beneficial to your work.

We wish to provide feedback on two of the considerations posed by the Committee:

The Effectiveness of the Existing Queensland Laws and Approach in Preventing, Investigating and Prosecuting Scrap Metal Theft in Queensland

It is Sims' strong recommendation that the Committee seek to meet its objective of reducing metal theft in Queensland by a substantive improvement in the current Second Hand Dealers & Pawnbrokers Act 2003 ('SHD&PA') and accompanying lift in enforcement measures from appropriate authorities.

It is apparent to Sims that current legislation is both ineffectual in its application and entirely unenforced by authorities.

It is our strong belief that it is in everyone's best interest to make existing laws better and to diligently enforce those laws as compared to creating new laws.

Current Situation

Scrap metal dealers operate under the auspices of a number of State based regulatory instruments in Queensland, including:

- Environmental Protection Act (1994);
- The Work Health & Safety Act (2011);
- Heavy Vehicle National Law (2012);
- Second Hand Dealers & Pawnbrokers Act (2003).

Specifically in relation to scrap metal theft in Queensland, Sims will focus in this submission on the Queensland Second Hand Dealers & Pawnbrokers Act 2003 ('SHD&PA') as it pertains to the effectiveness of existing Queensland laws and in preventing, investigating and prosecuting scrap metal theft.

The SHD&PA has ostensibly included scrap metal dealers for many years, although it is not clear as to how many scrap metal dealers are actually registered. Anecdotal evidence suggests that a relatively small proportion of metal recyclers are registered under the SHD&PA.

The main objectives of the SHD&PA are to:

- (a) regulate the activities of second hand dealers and pawnbrokers; and
- (b) deter crime in the second hand property market; and
- (c) help protect consumers from purchasing stolen property.

ALL OF THESE APPROPRIATELY MANAGED AND ENFORCED COULD BE ACCOMPLISHED AND REGS IMPROVED

Sims is a strong supporter of the intent of the Act in its efforts to deter crime in Queensland. However, Sims and its peak industry body (Waste, Recycling Industry Queensland – WRIQ) have long posited that many of the provisions of the Act are not relevant for the scrap metal industry because of the volume, number of transactions and non-descript nature of scrap metal presented for recycling. Sims would argue that the current SHD&PA is in fact ineffectual in achieving the outcomes and is unworkable at a practical level.

Chiefly amongst the reasons that the SHD&PA as it currently stands is unworkable for the scrap metal recycling industry is:

- The complete lack of recognition of the clear distinction between second hand goods sold for continued use for their intended purpose and scrap metal that is at the end of its useful life and is intended to be destroyed, recycled and remanufactured into useful commodities (such as steel, aluminium etc.);
- The Act requires goods to be held for 7 days separately and in the form that it was received prior to recycling – For example, Sims in Queensland receives over 300,000 tonnes in over 100,000 transactions of scrap metal per annum ranging from a few kilograms to semi-trailer loads of mixed scrap metal. To isolate and hold for 7 days each and every load individually would result in the industry shutting down, the logistics and real estate required for compliance with this provision is simply impossible to achieve in reality;
- The Act requires particulars to be taken including brand name, model number and serial number of goods. As set out above, scrap metal recyclers conduct many hundreds of thousands of transactions of end of life goods and other metals that have by necessity been consolidated, compressed, baled and crushed to facilitate efficient transport from a variety of sources, including Government sources. To require providers of materials to provide this information is simply impossible and if this was enforced, materials would simply end up in landfill in conflict with the Government's own recycling and circular economy policies. For example, a semi-trailer load from a Council collection service, landfill or transfer station may have dozens of end of life consumer products and whitegoods within

the load that have been mingled, crushed or compacted. The practicalities and WHS risk of separating such goods and the economics of doing so render this as completely futile.

WRIQ, with the support of Sims, has lobbied for many years for the Queensland Government to conduct a formal review of the SHD&PA to no avail. It is our view that the SHD&PA does have a role to play in crime deterrence and a formal review must be undertaken to make these existing laws workable – it is in everyone’s best interest to make existing laws better as compared to creating new laws.

We have attached as **Annexure One** advice from Sparke Helmore Lawyers commissioned by WRIQ that drafts a number of simple amendments to the SHD&PA that will make the Act workable for the scrap metal industry and to assist the Queensland Government in meeting the objectives of the Act.

Of course all laws are completely ineffectual unless there is effective compliance oversight and enforcement of those laws. In many Australian jurisdictions, bona fide scrap metal recyclers such as Sims have been materially disadvantaged and suffered significant commercial damage by the application of laws to the recycling industry that have not been enforced to the point that they are endangering the very existence of legal operations and have been for quite some time. To this point, we reiterate that *it is our strong belief that it is in everyone’s best interest to make existing laws better and to diligently enforce those laws as compared to creating new laws.*

How the Scrap Metal Market Operates, Including the Supply Chain and Payment Methods

Scrap metal can broadly be placed into two categories:

- **Ferrous Scrap Metal** – Ferrous scrap is also referred to as iron and steel scrap, and is generally magnetic. Ferrous scrap comes from end of life products or equipment (such as cars, whitegoods, municipal scrap, demolition scrap, mining scrap etc.) as well as scrap generated from the manufacturing process (new or prime scrap). Ferrous scrap makes up ~85% of the proportion by weight of scrap metal recycled.
- **Non-Ferrous Scrap Metal** – Non-ferrous scrap metal is metals or alloys that do not contain iron and includes metals such as aluminium, copper, lead, nickel, tin, and zinc, as well as copper alloys like brass and bronze. Non-ferrous metals make up ~15% of the proportion of scrap metals recycled.

Precious metals are rare metals that have a high economic value, such as gold, silver, and platinum. Precious metals are not considered part of the scrap metal recycling industry and are generally not traded by scrap metal recyclers.

Scrap metal recycling is a very mature market, with metals being one of the most recycled material globally. Sources of scrap metal includes:

- Scrap metal dealers;
- General public;
- Commercial and Industrial sources;
- Mining;
- Demolition;
- Rail;
- Infrastructure projects;
- Defence;
- Motor vehicle wreckers;
- Municipal sources (Councils, landfills and transfer stations);
- Agricultural sources.

Scrap metal commodities sold by recyclers to end users in Australia (such as steel mills) are traded on a global price parity basis. Global parity pricing is based on point-in-time international commodity values converted to Australian dollars less an international freight component. Ferrous scrap buy prices are generally set on a month to month basis by buyers and non-ferrous scrap buy prices are generally set weekly due to the much higher commodity values (e.g. copper, aluminium) and the volatility in non-ferrous trading markets.

In terms of buying of scrap metal, material is purchased by weight and price is determined by market price of the particular commodity less margin and the operational cost to handle and process the material to end user specifications. Purchases are paid for by cash, cheque or EFT and all transactions must be recorded in line with ATO and Queensland Second Hand Dealers & Pawnbrokers Act 2003 requirements. All transaction records must be accurate and kept for statutory periods.

In terms of ferrous scrap metal, there are two sub types – light gauge and heavy gauge. Light gauge materials make up ~75% of the ferrous stream. Processing methodologies include:

- **Light gauge materials** are generally shredded in a large industrial shredder. There are ~4 large scale shredders in Queensland. The shredding process liberates contaminants from ferrous metals during the first stage, extracting clean and size reduced ferrous metals by magnetic separation after the primary shredding. This material is free of contaminants and ready to be sent to end user steel mills. What is known as heavy shredder residue material (including waste) is then processed via large off line non-ferrous recovery plants. In these plants, a series of air and eddy currents and metal sorters are used to sort various non-ferrous metals from non-metallic wastes. Waste is dispatched to landfill and recovered metals are aggregate and exported to markets for further refining and re-manufacture. The shredding and non-ferrous metal recovery process is extremely efficient, with a metals recovery rate of >95%, that is, less than 5% of metal remains in waste. This remaining metal is generally too small to extract from the waste or is in the form of very fine insulated materials such as fine copper wire. A large scale shredder as deployed by Sims in Queensland has capacity to process >150 tonnes of material per hour. Replacement costs for a full shredding and non-ferrous recovery facility would be in excess of \$100 million.
- **Heavy gauge materials** are those ferrous metals with a gauge of >6mm. These metals are too heavy to be shredded and are size reduced to steel mill specifications using either large industrial guillotine type shears or by manually cutting the material (such as rail line) with oxy acetylene torches.

There are a large number of non-ferrous scrap metal commodities, including base grades (metals with no contaminants) and mixed grades (predominant base metals with other metals attached or with non-metallic contaminants (such as copper wiring, iron aluminium, radiators, water meters etc.).

Base grades of non-ferrous scrap metals include:

- Copper;
- Aluminium;
- Nickel (inc. stainless steel);
- Brass;
- Lead;
- Bronze.

The scrap metal market in Queensland is a multi-tiered supply chain. Some players recycle both ferrous and non-ferrous scrap while others specialise in one or the other or specialise in certain product types such as end of life vehicles (ELVs) or copper.

Tier One participants are generally those who have processing equipment and capacity to process collected metals to meet the quality requirements of end users (such as steel mills) and generally have direct supply

contracts with end users based on ability to supply in significant quantity. Tier One processors generally operate large scale shredders.

Second and third tiered participants are generally known as scrap metal dealers who aggregate material and on sell to a processor or may bale and export unprocessed or partly processed material. Second and third tier dealers generally do not have capacity to shred material but may bale or cut heavy grade scrap metal themselves in smaller quantities.

There are a number of types of scrap metal recycling interfaces, including:

- Processing facilities – large sites that operate large shredders or balers;
- Feeder yards – smaller operations that accept material from customers and who operate collection services. Metals are aggregated and then sent to processing facilities or are baled and exported;
- Mobile operations – scrap metal dealers that provide collection services but do not have a physical site. Collected material is then on sold to feeder yards or processors.

Material that is aggregated at feeder yards prior to receipt at a processing facility must often be size reduced or compacted to facilitate safe and cost efficient transport. For example, Sims must compress light gauge materials collected from regional locations into tight bales to be able to road freight this material with any semblance of cost efficiency. In some cases, scrap metal is transport over 1,800 kilometres in Queensland for processing.

Queensland ferrous metal recyclers are now increasingly competing with low cost operators who bale and export unprocessed scrap metal to lower cost and lower environmental compliance processors, thereby avoiding the cost of local waste levies. It is estimated that ~15% of cars and general light gauge materials from the Queensland market is now being exported unprocessed to overseas shredder operators, often in third world jurisdictions with poor environmental standards and controls that would almost exclusively fall short of the expectation of the Australian community.

With an increase in waste levies, this market share has significantly increased from virtually zero prior to the advent of waste levies in Queensland. The simple consequence of trading at global price parity means that artificial cost increases (such as State based waste levies) unrelated to global demand and supply determinants occurring in the domestic market affect the ability for that party to operate commercially. In other words, State based levies create horizontal inequity by increasing operational costs that exporting competitors simply do not incur.

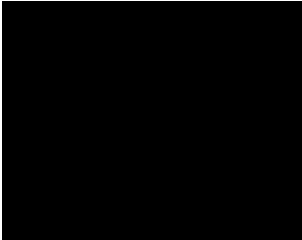
We trust that this submission has provided some insight for the Committee. In summary:

- It Sims' strong recommendation that the Committee seek to meet the objectives of reducing metal theft in Queensland by a substantive improvement in the current Second Hand Dealers & Pawnbrokers Act 2003 ('SHD&PA') and accompanying lift in enforcement measures from appropriate authorities;
- It is apparent to Sims that current legislation is both ineffectual in its application and unenforced by authorities;
- WRIQ, with the support of Sims, has lobbied for many years for the Queensland Government to conduct a formal review of the SHD&PA to no avail. It is our view that the SHD&PA does have a role to play in crime deterrence and a formal review must be undertaken to make these existing laws workable;
- Sims believes that It is in everyone's best interest to make existing laws better and to diligently enforce those laws as compared to creating new laws;
- We have attached as **Annexure One** advice from Sparke Helmore Lawyers commissioned by WRIQ that drafts a number of simple amendments to the SHD&PA that will make the Act workable for the scrap metal industry and to assist the Queensland Government in meeting the objectives of the Act;

- Laws are completely ineffectual unless there is effective compliance oversight and enforcement of those laws. In many Australian jurisdictions, bona fide scrap metal recyclers such as Sims have been materially disadvantaged and commercially damaged by the application of laws to the recycling industry that have not been enforced;
- Sims formally invites the Committee to a site tour of our Rocklea site to see first-hand as to how the scrap metal industry operates to assist the Committee in its work;

Again, thank you for the opportunity to provide this submission. Please feel free to contact me at your convenience if I can assist with any additional information or clarification on any aspect of our submission.

Kind Regards



Mark Jefferson

Trading Manager Qld/PNG

Sims Metal

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QUEENSLAND 4106

(p) [REDACTED]

(e) [REDACTED]

Monday, 18 September 2023

Proposed amendments to the Second-hand Dealers and Pawnbrokers Act 2003 (Qld) and the Second-hand Dealers and Pawnbrokers Regulation 2004 (Qld)

1 Proposed amendment of Schedule 3 Dictionary of the Second-hand Dealers and Pawnbrokers Act 2003 (Qld)

1.1 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

'scrap metal dealer means a person who carries on the business of dealing in scrap or recyclable metals and—

(a) who holds a second-hand dealers licence; and

(b) who holds a registration certificate under the Environmental Protection Regulation 2008 (Qld) for carrying out metal recovery as defined in Schedule 2, Part 5 of the Environmental Protection Regulation 2008 (Qld) for the principal place of business where the person carries the business of dealing scrap or recyclable metals.'

2 Proposed amendment of Section 37 of the Second-hand Dealers and Pawnbrokers Act 2003 (Qld)

2.1

37 Second-hand dealer must keep a transactions register

(1) A Second-hand dealer must keep a printed or an electronic register of transactions (transactions register), in a way prescribed under a regulation, for each authorised place for the second-hand dealers licence.

Maximum penalty = 200 penalty points

(2) The second-hand dealer must, before or immediately after each second-hand property transaction at an authorised place, enter in the transactions register for the place the particulars prescribed under a regulation for the transaction.

Maximum penalty—200 penalty units.

(3) A second-hand dealer must not separate Second-hand property into parts to avoid entering the particulars for a second-hand property transaction.

Maximum penalty=200 penalty units,

(4) If the second-hand property transaction happens at a place other than an authorised place, the second-hand dealer must, as soon as practicable after the transaction, enter in the transactions register for the second-hand dealer's principal place of business the particulars prescribed under a regulation for the transaction.

Maximum penalty—200 penalty units.

(5) In this section—

second-hand property transaction means a transaction for the acquisition, sale or disposal of—

- (a) second-hand property with a resale value of at least \$55; or
- (b) Second-hand property that is jewellery, contains precious metals or is property that may be identified by—
 - (i) a make, model or serial number on the property; or
 - (ii) an inscription.

2.2 Amendment of s 37 (Second-hand dealer must keep a transactions register)

- (a) After Section 37(1)

insert—

'(1A) A scrap metal dealer must make electronic copies of the transactions register available to the Queensland Police Service regularly but no less than once per month.'

- (b) Section 37(5)(a)—

omit, insert—

'(a) second-hand property with a resale value of at least \$75; or'

- (c) After Section 37(5)—

insert—

'(6) This section does not apply if the second-hand property transaction takes place between a scrap metal dealer and any of the following:

- (a) a government department;
- (b) a government owned corporation;
- (c) another scrap metal dealer;
- (d) a licensed second-hand dealer
- (e) a licensed motor dealer under the *Property Agents and Motor Dealers Act 2000* (Qld);
- (f) a constitutional corporation (organisation holding an ACN); or
- (g) a licensed tow truck operator under the *Tow Truck Act 1973* (Qld).

(7) This section does not apply to transactions for the sale or disposal of second-hand property if:

- (a) the transaction takes place between a scrap metal dealer and another scrap metal dealer; or
- (b) the second-hand property originally acquired is processed for further processing by a scrap metal dealer, steel mill or foundry and is not resold for its original intended use but rather is resold or disposed of as a recyclable commodity.'

3 Proposed Amendment of Section 44 of the Second-hand Dealers and Pawnbrokers Act 2003 (Qld)

3.1 Existing s 44 (Second-hand dealer to keep property for 7 days)

44 Second-hand dealer to keep property for 7 days

If a second-hand dealer acquires nominated property, the second-hand dealer must keep the nominated property in the second-hand dealer's possession for 7 clear working days after acquiring it.

Maximum penalty—200 penalty units.

3.2 Replacement of s 44 (Second-hand dealer to keep property for 7 days)

Section 44—

omit, insert—

'44 Second-hand dealer to keep property for 7 days

(1) If a second-hand dealer acquires nominated property, the second-hand dealer must keep the nominated property in the second-hand dealer's possession for 7 clear working days after acquiring it.

Maximum penalty—200 penalty units.

(2) This section does not apply to nominated property that is acquired by a scrap metal dealer unless the second-hand property originally acquired is resold for its original intended use and is not processed for further processing by scrap metal dealer, steel mill or foundry or resold or disposed of as a recyclable commodity.

4 Proposed amendment of Regulation 6 of the Second-hand Dealers and Pawnbrokers Regulation 2004 (Qld)

4.1 Existing r 6 (Prescribed particulars—Act, s 37(2))

6 Prescribed particulars—Act, s 37(2)

(1) For an entry made in a transactions register under section 37(2) of the Act, in relation to a second-hand property transaction acquiring property, the following particulars are prescribed— (a) entry number;

(b) time and date of the transaction;

(c) description of the property;

(d) brand name, model number and serial number of the property;

(e) any engraving, inscription or other unique mark on the property;

(f) name and address of the person from whom the property was acquired;

(g) the type of verification of the person's name and address obtained from the person under section 47(b) of the Act;

(h) whether the person is the owner of the property,

(i) if the person is not the owner of the property—

(i) the name and address of the owner; and (ii) how the person acquired the property;

(j) the name of the person who made the entry.

(2) For an entry made in a transactions register under section 37(2) of the Act, in relation to a second-hand property transaction selling, exchanging or disposing of property, the following particulars are prescribed—

(a) if the entry is not located immediately after the entry mentioned in subsection (1) the entry number entered in the transactions register when the property was acquired;

(b) if the property is sold by the second-hand dealer to another person—

(i) the name and address of the person; and

(ii) the date the property was sold; and

(iii) the amount paid for the property;

(c) if the property (registered property) is exchanged by the second-hand dealer for other property—

(i) the date the registered property was exchanged; and

(ii) the entry number entered in the transactions register in relation to the acquisition Of the Other property;

(d) if the property is disposed of by the second-hand dealer, Other than by being sold or exchanged—

(i) how the property was disposed of; and (ii) the date the property was disposed of;

(e) the name of the person who made the entry.

4.2 Amendment of r 6 (Prescribed particulars—Act, s 37(2))

After r 5(2)—

insert—

'(2A) The particulars prescribed in subsection (2) do not apply to a second-hand property transaction selling, exchanging or disposing of property if:

(a) the transaction takes place between a scrap metal dealer and another scrap metal dealer; or

(b) the second-hand property originally acquired is processed for further processing by a scrap metal dealer, steel mill or foundry and is not resold for its original intended use but rather is resold or disposed of as a recyclable commodity.'

Matt Smith
Partner

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