

Inquiry into scrap metal theft

Submission No: 9
Submitted by: Waste, Recycling Industry Association (Qld)
Publication:
Attachments: See attachment
Submitter Comments:

22 September 2023

Committee Secretary
Transport and Resources Committee
Parliament House
George Street
Brisbane Qld 4000
Via email: trc@parliament.qld.gov.au

Dear Mr Russo MP, Mrs Gerber MP, Ms Bolton MP, Ms Bush MP, Mr Hunt MP and Mr Krause MP,

Thank you for the opportunity to submit a response to the Transport and Resources Committee for the Parliamentary Inquiry into Scrap Metal Theft. The Waste Recycling Industry Association of Queensland (WRIQ) represents businesses undertaking waste disposal and recycling in Queensland. Our response should provide information in relation to questions 2, 3, 5, 6, 7 and 8 raised by the Committee.

WRIQ has been a long-term advocate for better utilising current laws in Queensland to undertake enforcement activity against the large number of illegal operators in the scrap metal industry, with correspondence with current Minister Yvette D'Ath as far back as December 2016 (see attached) on the issues being considered by the Committee. I have also enclosed correspondence with other Ministers from as far back as 2010 on this same issue. We were both pleased and concerned when a Roundtable and subsequent Parliamentary Committee were formed in just a couple of weeks, as a rushed attempt at resolving this complex issue with a bandaid solution such as 'no cash for scrap' could have severe effects on the ability of law-abiding scrap metal recyclers to operate financially viable businesses while not actually resolving the issue these laws are trying to address.

A number of other jurisdictions including New South Wales, Victoria and Western Australia have introduced similar laws in recent times, with limited success. These laws have forced illegal operators underground, with money laundering rife and backyard operators putting unprocessed metals into shipping containers and sending them overseas to third world jurisdictions that do not have the same safety standards we do here in Australia.

In 2021 in Muswellbrook, there was a bushfire after thieves cut down a power pole with a chainsaw just two days after new No Cash For Scrap laws were introduced (see attached news article). Unfortunately, the promised enforcement team in New South Wales lasted just seven months before it was disbanded, with resources prioritised elsewhere.

The retention of goods requirements in Western Australia's laws is virtually impossible to manage in these volume based recycling businesses. With thousands of tons being received daily, sites can easily become overwhelmed and unsafe if materials need to be stored in their original form for any length of time prior to processing and recycling.

Following NSW laws introduced requiring VIN collection on cars, one reputable metal recycler's engine and gearbox intake in NSW dropped by 300% between 2017 and 2021. There is no reason for the number

of car parts being disposed of at the end of their life to drop this significantly during this time period, so this is clear evidence of illegal operators taking a larger proportion of the market.

Currently, environmental licences ERA54 and/or ERA62 (previously ERA20) are required to operate as a scrap metal dealer and recycler in Queensland, and a police check is required to obtain that licence. DES compliance activity on illegal operators who do not hold environmental licences is sporadic, with some excellent activity in a joint two day Operation Tensile taskforce earlier this year, and the last major activity almost seven years prior to this. The penalty for operating without a licence is less than the cost of the licence, and unlicensed operators are given countless opportunities to do the right thing before any serious enforcement activity is undertaken.

WRIQ's position is that 'no cash for scrap' schemes will not solve the problem of metal theft, and actually will make it even harder for law enforcement to catch the black market operators who are doing the wrong thing. Instead, our request is that we first focus on enforcement and compliance of illegal backyard scrap metal operators. In 2002, the ATO did a sweep through the scrap metal industry and brought in a code of compliance (available at <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Scrap-metal/GST-and-scrap-metal--code-of-compliance/>). If this code is adhered to and policed alongside existing environmental licence requirements and Second Hand Dealers Act requirements in Queensland, it will solve the issue of metal theft. A commitment to a large-scale, multi-authority, ongoing compliance activity would have a far more positive effect than imposing further requirements on the operators that already do the right thing. Increased penalties under the Second Hand Dealers Act and DES for unlicensed operators could be used to fund activities.

WRIQ's position is that theft of metal is best stopped at the root cause not by penalising the legitimate businesses who are dealing with the end result. WRIQ's licensed operators are aware of the issues you are trying to address and are happy to work with authorities to implement a number of preventative measures to assist, such as:

1. Cameras which store images for up to six months
2. Customers receiving a barcode then collecting cash from a casino-style cash machine in the foyer which is then traceable.

WRIQ would be pleased to provide the Parliamentary Committee and their teams with an opportunity to tour a legal operator's scrap metal recycling facility to better understand how the metal recycling industry works and how any new laws in this space will need to be carefully drafted so they do not prevent successful recycling outcomes by law-abiding Australian businesses.

If you have questions, please contact me on [REDACTED].

Yours Sincerely,

[REDACTED]

Alison Price
Chief Executive Officer

12 December 2016

Attorney General, Minister for Justice, Training and Skills
GPO Box 149
Brisbane
QLD 4001

Attention the Honourable Ms Yvette D'Ath MP

Dear Minister, *Yvette,*

Second Hand Dealers Pawn Brokers Act – Industry Non-Compliance

Thank you for meeting with me at the recent Corporate Observers program on the Gold Coast.

As we discussed, our Association over many years has made repeated requests to Government seeking a formal review of the Second-Hand Dealers and Pawnbrokers Act, specifically in relation to licencing dealers trading in second hand goods respect to scrap metal and car wreckers.

The legislation is totally out of sync with how the industry is operating and levels of noncompliance by hundreds of dealers is now seriously impacting lawful and licenced companies operating in Queensland. The Association provided more than 1000 pages of evidence to the Crime Commission inquiry but regrettably the brief by Michael Byrne SC at that time did not capture our issues.

WRIQ then made representation to the Police Commissioner about our concerns and again this was referred to other levels of Queensland Police and yet another hand pass of the industry concerns occurred. Waste management and recycling seems to be totally off the Government radar at all levels apart from Minister Miles who committed a small taskforce to look at Environmental unlawfulness.

Result this continued frustration to get any level of the Government to take industry concerns seriously, WRIQ completed its own forensic assessment of the scrap metal and car wrecker operators across Queensland respect to their lawfulness and compliance with State Legislation.

We have confirmed.

- **Queensland has more than 300 currently operating scrap metal and car wrecker operators of which less than 20 % are registered as second hand dealers.**
- **Less than half of the Queensland businesses are holders of ERA's with respect to compliance with state environmental laws.**
- **Local Government planning approvals to operate are also unknown.**

Further as demonstration to the problem facing the industry in Queensland, late 2014 Task Force Discover an Inter-Agency Task Force (ITF) funded by the National Motor Vehicle Theft Reduction Council and led by Victoria Police Crime Command published its final report into the motor wrecking and scrap metal business operations for that state.

The Taskforce audited more than 400 Victorian motor wrecking and scrap metal businesses, the most comprehensive compliance checking exercise ever undertaken in respect of this sector in Australia.

To quote report findings:

- **7 in 10 businesses either not holding the required authorisation to trade (ie the correct licence or registration) or being non-compliant to some degree with the conditions of their business licence or registration;**
- **9 in 10 businesses not complying with written-off vehicle reporting obligations;**

Waste, Recycling Industry Association (Qld) ABN 50 986 260 101

• **9 in 10 businesses assessed to be non-compliant to some extent with OHS and environmental protection regulations,**

1 in 5 referred for extreme safety breaches deemed likely to cause imminent injury; and

1 in 10 referred for extreme environmental breaches causing obvious and ongoing serious pollution to soil and waterways.

It also found many businesses operating almost exclusively on a cash only basis transactions are untraceable, which has implications for investigating the chain of vehicle acquisition and disposal, and also raised questions about compliance with taxation; and such widespread non-compliance enables vehicle thieves to launder stolen vehicles through motor wreckers or scrap metal dealers with little or no risk their personal details will be retained.

Result this investigation both New South Wales and the Victorian Government since September this year have introduced legislation banning cash purchases for scrap metal and of motor vehicles with an absolute focus to enforcing compliance across the industry.

Minister, WRIQ has profound concerns and absolute knowledge that a similar level of non-compliance exists in Queensland across multiple levels of the industry and this is expanding. Regrettably however, despite many previous attempts to get traction to our concerns by representations to the Department of Fair Trading, Attorney Generals Department, Department of Transport, the Environment Agency as well Queensland Police to address these concerns our endeavours have been very limited and the problems are exploding in noncompliance.


With Victoria and New South Wales closing loopholes and as Queensland is about to introduce a 'Cash for Containers' scheme the levels of noncompliance and money laundering are certain to be greatly increased without Government intervention. Organised criminal networks in Southern States now have open access to Queensland's business environment.

The Association would welcome the opportunity to meet with you to outline our position and of providing greater understanding and context to this complex industry issue. We are also prepared to provide to your office the evidence submitted to Michael Bourke SC that regrettably was out of scope.

With Kind Regards

Yours Sincerely

Waste Recycling Industry Association (QLD) inc


Rick Ralph
Chief Executive Officer



P.O. Box 1335
Oxley
Qld 4075



15 March 2010

The Honourable Peter Lawlor MP

Minister for Tourism and Fair Trading
Department of Employment, Economic Development and Innovation
GPO Box 3111
Brisbane QLD 4001

Dear Minister;

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

Thank you for talking with me at the PSF – Wet n Wild Recycling launch, where you represented the Premier. At that function you will recall I briefly explained our association's metals sector member's legal dilemma of the industry remaining compliant with the current legislation.

We note your concerns that the department's response to our December dated letter, may not have fully appreciated the significance of the industry dilemma, nor of the work the association has undertaken over the past 12 months, on the advice of your department following meetings with them in March 2009, that the association develop a pathway in collaboration with the Queensland Police Service and to present back to it, a solution of legislatively resolving the impasse.

I understand from our discussion that you were unaware of the significance of our request, nor of the department's relaxed response to this, and our association is very pleased that you have requested that we resubmit this correspondence for your personal review and response.

As I indicated to you at the time, The Waste Contractors and Recyclers Association of Queensland (inc.) was established by owners and operators in the Queensland waste and recycling sector, specifically to provide a more structured method of proactively engaging stakeholders, impacting our business sector.

The association represents every sector of the waste and recycling industry structure, with international and national corporations, and more than 50% of the members employing 20 or less staff in small family based operations.

Attached with this latest correspondence to you, are the specific details we have discussed **in detail** with the Queensland Police Service and submit **these you and the department**

We proposing *specific* amendments to the *Second-hand Dealers and Pawnbrokers Act 2003 (Qld)* and the *Second-hand Dealers and Pawnbrokers Regulation 2004 (Qld)* be considered.

Our letter dated December 2009 to you and also copied to the department provided the following broad proposal and background information.

Quote - In March of this year the association scrap metal recycling members, made representation to your Office of Fair Trading, setting out our industry's concerns in respect to commercially perverse operating parameters, now resulting from the *Second-hand Dealers and Pawnbrokers Act 2003 (Qld)* (**Act**) and the *Second-hand Dealers and Pawnbrokers Regulations 2004 (Qld)* (**Regulations**).

The meeting held with Mr Terry Ryan Assistant Director - General Policy and, Mr Damian Sammon – Director Fair Trading Policy Branch, was to allow representatives from OneSteel Recycling, Sims Metal and the Association (**industry representatives**) to discuss the our industry's concerns in relation to compliance by the with the current *Second-hand Dealers and Pawnbrokers Act 2003 (Qld)* (**Act**) and the *Second-hand Dealers and Pawnbrokers Regulations 2004 (Qld)* (**Regulations**).

The issues discussed at that meeting were:

- The Act having a number of unintended consequences on the scrap metal recycling industry, which over time as the recycling industry has matured was now placing industry representatives in the difficult position of being in potential breach of their legal and legislative obligations.
- Industry representatives would like to work with the Office of Fair Trade and Queensland Police Service (QPS) to reach a consensus in relation to amending the Act and Regulations so that they better reflect the consumer protection and crime deterrence sentiments that underpin the legislation while at the same time acknowledging the value of the scrap metal recycling industry to the community and the need to ensure it remains commercially viable.

The meeting concluded that it was possible that the Act from time to time required amending to allow it to keep pace with industry and community trends, and that where it is proven that elements of the act or regulation were resulting in unintended consequences, amendments could be accommodated if the changes would not adversely affect the achievement of the intent of the legislation itself.

Further it was resolved at the meeting that the association had proven legitimate concern and that the next step was to discuss the issues of industry concern with the Queensland Police, and work collaboratively through the matter with them. Following this work it was recommended we then revert back to the Office of Fair Trading, with a suggested path for resolving the issues with the legislation, which have been proven to inadvertently place scrap metal recycling companies in possible breach of their legal obligations.

On May 27 of this year, we initiated our first meeting with the Queensland Police Service (Crime and Lost Property Unit) and over the past 6 months have worked through the issues of concern to agree a path for resolving the matters.

We have now arrived at a point in process, where we wish to elevate the discussion, and to engage the Office of Fair Trading in the path we have agreed with the Queensland Police and to now follow the appropriate Government and Departmental process to present recommended changes to the act and regulations.

We would appreciate your advice of the protocols the association should now follow and recommendations as to the next step for seeking amendments be enacted to the Act during the 2010 parliamentary period.

Thank you for consideration of our proposal and we look forward to working with your department to successfully conclude the matter. End Quote

Our original letter to you was copied to the Director General – Mr Peter Heenekin as well as to the Director Fair Trading Policy Branch – Mr Damian Sammon.

I have taken a phone call from Mr Sammon, but as yet not received a formal written response apart from yours from the department, only this verbal request that we submit our proposal for the departments consideration.

Minister, the matter of legal compliance with all statutes of Queensland law is a core principal the legitimate and licensed waste and recycling operators operate under. The shortcomings now facing our metals members in the legislation provide a real conundrum to them, in that they are legally obliged to comply, but other acts of Parliament (Queensland Environment Protection Act) inhibit this compliance.

The Association in all good faith and at great cost to the members has complied with the suggestions of the department following our meeting with them in March 2009. We urgently request a review to our proposal so that collaboratively we agree the changes proposed.

Thank you for allowing the association to resubmit our request for review. We await further advice from the department to this submission.

Yours Faithfully

Waste Contractors and Recyclers Association



Rick Ralph
Executive Director

CC Director Fair Trading Policy Branch – Mr Damian Sammon.



Copy of Correspondence with the Queensland Police Service

Amendments to the *Second-hand Dealers and Pawnbrokers Act 2003 (Qld)* and the *Second-hand Dealers and Pawnbrokers Regulation 2004 (Qld)*

We refer to the meeting between Inspector Steve Hollohan, Senior Sergeant Craig Dent, Acting Senior Sergeant Tony Bristow, Rick Ralph (Waste Contractors and Recyclers Association Queensland Inc), John Glyde (Sims Metal), Patrick Mullen (Sims Metal), Greg McAllister (OneSteel Recycling) and Matthew Smith (Sparke Helmore Lawyers on 27 May 2009 at 36 Vulture Street, West End.

1 Background

- » The purpose of the meeting on 27 May 2009 was to allow representatives from OneSteel Recycling, Sims Metal and the Waste Contractors & Recyclers Association of Queensland Inc (**industry representatives**) to discuss the Queensland Police Service's (**QPS**) concerns in relation to compliance by the scrap metal recycling industry with the *Second-hand Dealers and Pawnbrokers Act 2003 (Qld)* (**Act**) and the *Second-hand Dealers and Pawnbrokers Regulations 2004 (Qld)* (**Regulations**).
- » As a result of those discussions, it was resolved that the industry representatives would prepare a number of proposed amendments to the Act and Regulations for the QPS's consideration.
- » We have **enclosed** a draft of the proposed amendments for your consideration.

2 Reasons for proposed amendments

- » The Act has had a number of unintended consequences on the scrap metal recycling industry, placing industry representatives in the difficult position of being in potential breach of their obligations.
- » As such, the industry representatives would like to work with the QPS to reach a consensus in relation to amending the Act and Regulations so that they better reflect the consumer protection and crime deterrence sentiments that underpin the legislation while at the same time acknowledging the value of the continuing commercial viability of the scrap metal recycling industry.

3 Amendments proposed to Definitions in the Act

- » Industry representatives propose that '**scrap metal dealer**' should be defined by the Act in order to differentiate scrap metal recyclers from other second-hand dealers on the basis of their **environmental registration certificate for carrying out metal recovery** at their principal place of business.
- » Distinguishing scrap metal recyclers by inserting a definition for 'scrap metal dealer' is justified as scrap metal recyclers are a particular and identifiable sub-set of second-hand dealers:

scrap metal recyclers often purchase materials from other second-hand dealers or local government;

the scrap metal materials acquired by scrap metal recyclers are rarely in their original form;

the scrap metal materials acquired by scrap metal recyclers only have a commodity value rather than a high retail value (with the exception of non-ferrous metals);

scrap metal recyclers do not resell these materials for their original intended use. Rather, the materials are resold or disposed of as a recyclable commodities and are often purchased in commercial quantities by heavy industry rather than by transactions with individual consumers;

the activities of scrap metal recyclers are already regulated by other legislative instruments.

4 Amendments proposed to Section 37 of the Act and Regulation 6 of the Regulations

4.1 Providing electronic copies of transaction registers to the QPS

- » Industry representatives propose that scrap metal dealers should be required to **make electronic copies of their transactions registers available to the Queensland Police Service at least once per month.**
- » However, as the industry representatives acknowledge the importance of the QPS receiving regular copies of the transaction registers kept by second-hand dealers, they will endeavour to provide the QPS with access to electronic copies of their transaction registers at least once per month or on a regular basis.

4.2 Amending definition of second-hand property transaction

- » Industry representatives propose that the definition of **'second-hand property transaction'** should be **amended** to mean the acquisition, sale or disposal of second-hand property with a **resale value of at least \$75.**
- » This amendment will bring the definition in line with the GST guidelines for the scrap metal industry.

4.3 Exempting transactions from the record keeping requirements

- » The industry representatives propose that all scrap metal recyclers, defined as **'scrap metal dealers'**, should be **exempted from the transaction register requirements** under the Act and Regulations for all 'second-hand property transactions' entered into with **local governments, government owned corporations, scrap metal recyclers, other licensed second-hand dealers, licensed motor dealers, constitutional corporations and licensed tow truck drivers.**
- » It is also proposed that **'scrap metal dealers' should be exempted from complying with the transaction register requirements** under the Act and Regulations for the **sale of 'second-hand property' to other scrap metal recyclers** or where the 'second-hand property' is **not being resold for its original intended use, but rather, as a recyclable commodity.**
- » It is impractical and in some cases physically impossible for scrap metal recyclers to identify and record the information required by the Regulations and in the manner prescribed by the Act due to the nature and volume of the materials handled. Further, the majority of transactions entered into by scrap metal recyclers are with operators and businesses that have already been required to comply with record keeping requirements under the Act and Regulations or other similar legislation.
- » For these reasons, the industry representatives submit that these exemptions are justified. Further, it is submitted that the crime deterrence and consumer protection objectives of the legislation are not diminished by excluding scrap metal recyclers from these record keeping requirements.

5 Amendments proposed to Section 44 of the Act

- » The industry representatives submit that the Act should be amended so as to **exclude 'scrap metal dealers' from the seven business day holding requirements unless** the 'nominated property' acquired by a scrap metal dealer is **resold for its original intended use** and not processed for further processing by scrap metal dealer, steel mill or foundry or resold or disposed of as a recyclable commodity.

- » The enormous volume and variety of material handled by scrap metal recyclers means that it is extremely difficult, if not impossible, for them to comply with the holding requirement under the Act.

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

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

6.1 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 on the business of dealing in scrap or recyclable metals.’

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

7.1 Existing s 37 (Second-hand dealer must keep a transactions register)

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 dealer’s licence.

Maximum penalty—200 penalty units.

(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.

7.2 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.’

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

8.1 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.

8.2 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.’

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

9.1 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.

9.2 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.’

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 on the business of dealing in scrap or recyclable metals.'

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

2.1 Existing s 37 (Second-hand dealer must keep a transactions register)

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 dealer's licence.

Maximum penalty—200 penalty units.

(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.’

Matthew Smith
Partner

████████████████████
████████████████████
████████████████████
████████████████████

Waste Contractors and Recyclers Association of Queensland (inc):

Meeting Notes Provided By Mr Rick Ralph WCRAQ Executive Director

Date: Thursday May 17 2012

To: The Honourable Attorney-General and Minister for Justice Mr Jarrod Bleijie

Subject- Amendments - Second-Hand Dealers and Pawnbrokers Act 2003 (Qld) (Act) and its subordinate legislation the Second-hand Dealers and Pawnbrokers Regulations 2004 (Qld) (Regulations).

Requested By The Waste Contractors and Recycling Association of Queensland (WCRAQ). Queensland's lead industry organisation of legitimate waste and recycling companies.

Timeframe- Next Act / Regulation miscellaneous amendments bill process

Actions for Consideration

That the Minister consider the proposed amendments as outlined by the Association, and request the Office of Fair Trading investigate and report actions to address the legislative concerns.

Background

In March 2009 the WCRAQ scrap metal recycling members, made representation to the Office of Fair Trading, providing information in respect to commercially perverse operating parameters, now resulting from the very out dated *Second-hand Dealers and Pawnbrokers Act 2003 (Qld) (Act)* and its subordinate legislation the *Second-hand Dealers and Pawnbrokers Regulations 2004 (Qld) (Regulations)*.

Issues of concern outlined were:

- Evidence of the Act and its Regulations not being congruent with industry's best practice operations as these relate to reporting and second hand materials tracking processes. These inconsistencies were placing industry representatives in the very difficult position of being in potential breach of their legal and other legislative obligations.
- Industry representatives indicated a willingness to work with the Office of Fair Trading and Queensland Police Service (QPS) to collaboratively reach consensus in relation to providing a framework that resulted in the amending of the Act and Regulations. It was agreed that any amendments proposed must be enshrined to reflect consumer protection and crime deterrence sentiments, whilst giving the legitimate operators in the scrap metal recycling industry greater protection and flexibility.

The actions noted were:

That the Act was regarded as being in need of revision for it to keep pace with industry and community trends. Where it is proven that elements of an act or regulation were resulting in unintended lawful or legislated consequences, amendments could be accommodated by departments as part of normal annual review processes that apply.

It was agreed the association had legitimate concerns that should be addressed. The next step was to discuss these with Queensland Police, and to work through the matter with them.

Following this it was recommended the Association revert back to the Office of Fair Trading, with a resolution process offered.

On May 27 2009, the Association initiated its first meeting with the QPS (Crime and Lost Property Unit). Over a 6 month period we worked with them to resolve the issues we had identified.

In December 2010 the Association presented its solution after agreement by the QPS that the procedure should now revert to normal Act or sub-ordinate legislative review processes. That the Office of Fair Trading then considers our proposal of amendments to the Legislation and include these as part of its normal legislation review.

The Association made several attempts to have the issues elevated for consideration and provided correspondence to the Minister Mr Peter Lawlor, Department Director General – Mr Peter Heenekin as well as to the Director Fair Trading Policy Branch – Mr Damian Sammon.

It received several responses from the Minister but none from the Department to these requests.

We advised the Minister and other Department executives repeatedly over two years in all approaches to them that the matter of legal compliance with all statutes of Queensland law is a core principal legitimate and licensed waste and recycling operators comply with. All companies in joining the Association agree to comply with the Associations voluntary ‘ Code of Conduct’ It states that it is a requirement members in joining abide by all statutory and legislative laws applying in the state at all times. The shortcomings facing metals members in the legislation provide a real conundrum to them, in that they are legally obliged to comply with this Act, but as it conflicts with other acts of Parliament (Queensland Environment Protection Act) this inhibits this compliance.

The Association has in all good faith and at great cost to it complied with the suggestions of the department following our meeting with them in March 2009.

We urgently request a review to our proposal so that collaboratively we agree the changes proposed be finally enacted.

Attached papers of relevance:

Correspondence from the Ministers Office February 2010 May 2010 and September 2010.

Association correspondence to the Department:

Executive Summary – Amendments *Second-hand Dealers and Pawnbrokers Act 2003* (Qld) (**Act**) and its subordinate legislation the *Second-hand Dealers and Pawnbrokers Regulations 2004* (Qld) (**Regulations**).

Specific Clauses Proposed amendments *Second-hand Dealers and Pawnbrokers Act 2003* (Qld) (**Act**) and its subordinate legislation the *Second-hand Dealers and Pawnbrokers Regulations 2004* (Qld) (**Regulations**).

Demand for copper creates chaos



Thieves have caused fires in their quest for copper. Below: A legally operating Sydney recycler. Photos: Nick Moir

Thieves are stripping the metal anywhere, anyhow, write **Harriet Alexander** and **Catherine Naylor**.

In the middle of the night, a Muswellbrook farmer smelled smoke. A grass fire was spreading quickly across his bottom paddock.

Criminals looking for copper to sell as scrap metal had used a chainsaw to bring down a power pole and left live electricity wires trailing through the grass. As the farmer rushed out to fight the flames, he had no idea of the danger he was rushing towards. The fire engulfed 50 hectares of farmland before it was extinguished.

Since that bushfire in the Upper Hunter of NSW in September 2021, copper thieves have caused chaos of all varieties. They have stripped copper from electricity substations and plunged thousands of homes into darkness, ripped it out of the rail network and caused train delays, and used shovels to dig cables out of the ground.

In June, thieves near Merriwa cut the copper earth tails off more than 50 Ausgrid power poles along the Golden Highway in the Upper Hunter. The Sydney Trains network has reported 57 copper thefts this year alone – an average of more than one a week. Thieves have also targeted the National Broadband Network on the Central Coast, prompting warnings to recyclers to look out for cabling with “nbn” printed on the outer sheath.

The thieves are driven by the opportunity to cash in on the high prices copper and other recyclable metals are collecting on the international market. Copper is one of the best conductors of electricity. It

is used widely in electrical circuits. It fetches about \$12.80 a kilogram on the international market, though the price was as high as \$16 in early 2022.

Petty thieves and meth addicts sell it to scrap metal yards, where it is packed into shipping containers and exported. Those working in the industry suspect organised crime groups are using it to legitimise dirty cash.

The state government regulated the scrap metal trade in 2016, prior to which the industry had been a free-for-all that was highly attractive to criminals. The new laws prohibits the sale of scrap for cash and requires dealers to report to police any metal that they reasonably believe to be stolen. Dealers were required to keep records of their transactions.

But the laws did not eliminate criminality. Instead, they opened new opportunities in the black economy. Many dealers continue to openly advertise scrap for cash.

Operational police told a statutory review of the laws last year that the number of registered dealers had been roughly halved since the act began, though the evidence suggested many businesses continued to trade outside the law. The fine for trading without a licence was only \$1900, less than the cost of registration and could easily be absorbed as a business cost.

National Waste and Recycling Industry Council chief executive Rick Ralph said unscrupulous scrap metal dealers were driving the crime spree, flouting the law and accepting cash payments before exporting the valuable metal overseas.

“The fact all this copper is disappearing and nobody knows where it is going is a part of the industry that needs to be investigated,” Ralph said. “It will probably involve, in some respect, money laundering. You need a dedicated squad focused on illicit activities to stop it.”

Police recorded 678 copper thefts across the state in the 12 months to March – a 35 per cent increase on the previous 12 months

– but there were only three recorded instances of people receiving or handling stolen copper.

One business owner, who asked not to be identified due to fears he would be targeted by organised crime groups, said police recently visited his scrapyards and seized stolen metal that he was able to identify had been sold to him by another scrap dealer. But when police visited the original dealer they learnt that the stolen metal had been acquired in a cash sale, with no record of the seller. They took no action against the dealer who had paid cash.

Waste Contractor and Recyclers Association of NSW executive director Tony Khoury said the laws were sound but their lack of enforcement had put law-abiding businesses at a competitive disadvantage. The act was tightened last year and higher penalties were introduced, but police had not prosecuted any offenders, to his knowledge, and there had been no change on the ground.

“The rogue element of the market has little regard for the laws and they know that the police aren’t enforcing them,” Khoury said. “They continue to pay cash and that then takes business away from

the legitimate operators.”

Further down the line, the mills that buy scrap metal to produce steel are also feeling the pinch. Legitimate scrap dealers strip out the valuable components of the metal and sell it for re-use, sending the remainder to landfill and paying a tax on that component. But cheaper operations typically skip the recycling part and send the entire package overseas in shipping containers to avoid the waste levy.

This is occurring in such vast quantities that steel mills are struggling to source recycled metal locally.

Australia exported more than 2.5 million tonnes of scrap metal in 2021-22, and the value of the export has increased by about 50 per cent in just two years to more than \$3 billion.

In 2020, steel manufacturer BlueScope started importing scrap metal for the first time.

Corporate affairs

director

Michael Reay said the biggest factor driving the scarcity of scrap metal was the “containerisation” of metals. BlueScope had increased its recycling in each heat of steel from 18 per cent to 25 per cent in recent years to improve its carbon intensity and aimed to boost the figure to 30 per cent.

“But we are constrained by the local scrap steel supply,” Reay said.

Police told last year’s statutory review that it was difficult to prove that dealers who advertised cash for scrap were doing so.

In some cases the dealers were placing a small “no” before large lettering that advertised “cash for scrap”. Dealers can also get around the rules by registering as car wreckage dealers, who are not subject to the same ban on cash – although that ban is due to come in this year.

About 30 per cent of scrap metal dealers also hold motor recycler or repairer licences.

Business records of scrap metal dealerships that advertise cash payments show a complex web of interconnected companies, controlled by the same individuals. Those contacted by the *Herald* denied handing out cash and insisted that payments were completed by electronic funds transfer.

A director of a Sydney copper recycling business said his business did not occupy enough land to run an export operation, and scrap received was sold on to middlemen as quickly as possible. He did not always know the source of the metal he received.

“If someone turns up in a ute or a car with metal, we’re not going to ask, ‘where did you get that from?’” he said.

“They will never come back to us. They will say ‘it’s none of your business’ and they will go to the other place.”

Police Minister Yasmin Catley said she had recently met with representatives from the scrap metal industry and would continue to engage with them.

“Police resources are an operational matter for the NSW Police. They’re deployed when and where they’re most needed,”

Catley said.

Ausgrid said the case of the

felled power pole that started

the Muswellbrook bushfire

had never been

solved.