



WASTE CONTRACTORS &  
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Cc

The Hon Mr David Elliott in his capacity as Minister for Police and Emergency Services  
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**Statutory Review of the Scrap Metal Industry Act 2016  
Submission from the Waste Contractors & Recyclers Association of NSW**

On behalf of our Members, the Association hereby submits its feedback for your consideration as part of the Statutory Review of the Scrap Metal Industry Act 2016.

The Association has been representing the waste and recycling sector for 72 years, having maintained a continuous registration with the NSW Industrial Relations Commission since May 1948. In 2009 we applied for and were granted registration under the Fair Work (Registered Organisations) Act.

Our Association currently represents 205 Members across NSW and the ACT. Included in this membership is a very active group of Members whose primary business is scrap metal recycling. In the preparation of this submission, we have consulted with these Members and this submission summarises the major concerns that scrap metal recyclers have with this Act.

**In the Second Reading Speech, Hansard, 24 August 2016 it was said -:**

“Up until now, this trade has been largely unregulated and undocumented, making it extremely attractive to criminals as a way to make some quick cash”

**Our comment-:**

In 2016, we were promised that this Act would be supported by strong and effective policing. That has not been the case and the industry has been badly let down. And the payment of cash for scrap continues to grow, allowing organised crime syndicates to operate without any real fear of prosecution.



- **This is an example of an advertisement in a local newspaper offering to pay cash for end of life vehicles.**
- **Similar advertisements appear in newspapers daily across the State.**
- **Legitimate, lawful operators had and still have an expectation that the passing of the Scrap Metal Industry Act 2016 would put a stop to this type of activity.**

### **What are the concerns of the lawful, legitimate part of the scrap metal industry?**

1. All NSW laws and regulations should ban the payment of cash by any operator for end of life or scrapped motor vehicles. The payment of cash allows organised crime syndicates to operate in this space, as well as tax avoidance.
2. It is a matter of record that the Association and all bona-fide metal recyclers were strong supporters of the Act, when it was first proposed. Compliant and legally operating metal recyclers concurred with the findings of the NSW Police that trade in stolen cars and other metals and associated crime for profit was being aided by the ability to deal in cash and to keep poor and/or improper records. We were promised that this Act would be supported by strong and effective policing. Regrettably the industry has been badly let down.
3. There is an inadequate level of enforcement by Police, ATO and other relevant regulators and consequently limited and ineffectual checking on the payment of cash. Based upon the feedback from our Members the business operations of criminal gangs & rogue operators in the scrap metal sector are thriving.

4. Since the introduction of the Scrap Metal Industry Act 2016, the Association's scrap metal group Members have reported a decline of ~40% in the lawful, legitimate recycling numbers for end-of-life motor vehicles.
5. At the same time, Members have reported to the Association that the export trade in baled end-of-life motor vehicles is at an all-time high.
6. Also, at the same time, the National Motor Vehicle Theft Reduction Council reports that profit motivated theft has increased significantly in NSW.
7. And NSW steel mills who cannot obtain sufficient input stock of recycled scrap steel and need to import processed scrap metal from outside of NSW.
8. In recent years, poor operational, environmental and fire management practices in Motor Vehicle Recyclers (wrecking yards) have caused major issues for the broader recycling community. In our view, Motor Vehicle Recyclers (wrecking yards) should be subject to a NSW EPA license (based on volumes and a minimum threshold), a relevant Council planning consent, compliance with NSW Fire Safety in Waste Facility Guidelines and a prescribed level of insurance cover.
9. Members have also advised the Association that the introduction of the Act (where the payment of cash provisions have never been adequately enforced) has allowed an emerging '**car breaker**' business model to proffer. Our Members are concerned that these 'car breakers' operate outside of the law, most likely not complying with obligations such as payment of taxation, WHS, protection of the environment, industrial relations and have suspected criminal connections.
10. The concern is that these 'car breakers' have defied the requirements of the Act and in doing so, have grown their businesses at the expense of legitimate, lawful motor wrecking and scrap metal recyclers.

### **Concerns from an SME Member**

*This is an extract from their e mail to the Association.*

- We are extremely disappointed with the Scrap Metal Industry Act 2016, that was introduced into the scrap metal industry for the reasons given to the industry by the Police, to make it a fair playing field to all in the recycling industry.
- Since it has been introduced there has been no Policing of 'the no cash for scrap'. Our business has dropped, customers go to dealers that continue to pay cash.
- Since it is not being policed, the dealers that are not abiding by the law are the ones who are being rewarded by this Scrap Metal Industry Act.
- I feel this Act has turned our industry from a slightly unfair playing field to an extremely unfair playing field because the legitimate dealers are simply continuing to do the right thing. In its current form and without any form of Policing, the Act encourages and rewards the illegitimate (rogue, possibly criminal) dealers to continue doing the wrong thing and remain unchecked to do so.

**Our Members have a very reasonable expectation that laws & regulations be enforced so that they can grow their business in a lawful & sustainable manner.**

## Concerns from a Member in rural NSW

*This is an extract from their e mail to the Association.*

- The 'CASH PAYERS' of scrap have won the day – they continue to exist on large scales [monetary wise], and in some instances have grown to large and only now [since this legislation has been introduced], have developed into sophisticated businesses. This legislation has given these operators the legs to grow. Materials generated by the 'cash payers' are exported in most instances GST is evaded / avoided / used to increase profit margins.
- The policing of the legislation has not been consistent which has resulted in a significantly unfair playing field e.g. businesses advertising with paying cash for cars & scrap is widespread amongst rogue operators. This is happening in all areas of NSW, and hire vans are going into rural NSW sourcing supply and paying cash.
- Many regional dealers have never been visited by the Police and it is our view that Local Police (general duties officers) aren't aware of the legislation
- How many parties have received a fine or forced to stop trading since the introduction of this Act?
- As part of the policing, what statistics support the reduction in copper theft & car rebirthing? It appears from a private trading level that it has in fact increased.
- Consideration needs to be given to a system to encourage non-compliance. For example an APP may be an easy way to report concerns.
- The loophole exists that wreckers can still pay cash for cars, thereby making it easier to access cars for re-birthing – cars bought for spare parts are being rebirthed or exported. This also exists in the scrap battery space.
- The 'scrap car exporters' have grown significantly since the implementation of this legislation. In the scrap metal industry, the product segment that has grown the most is scrap cars, and typically foreign owners create businesses that buy up scrap car arisings and export them. It is doubtful that they comply with many Australian laws and regulations. (used tyres is another concern).
- Penalties should also apply to the seller, not just the buyer.
- There has been leakage of scrap metal and old cars to other states that pay cash. That is, material can be sold in Queensland by a NSW dealer, despite the fact the legislation applies to the location of material origin.
- EFT payments have driven smaller suppliers away or encourage tradies to dispose in general waste OR to cash buyers.
- A number of foreign buyers regularly visit regional areas paying cash for scrap.

- There should be a 'portal' to check for stolen car records and used to record the scrap disposal of a car. As it stands the records & car details such as VIN numbers are not checked or used any further than when the dealer completes the purchase transaction.

## **Our closing thoughts on the Scrap Metal Industry Act 2016**

Many non-compliant, rogue operators do not comply with the law

- The payment of cash is more prevalent than ever
- This is aiding and abetting organised crime
- Paying cash for scrap metal and not recording these dealings avoids GST, income and other taxes
- They ignore planning and consent laws at their premises.
- They ignore WHS practices.
- They ignore employment law in terms of rates of pay, conditions etc. It is not uncommon to witness workers residing on premise.
- They avoid environmental compliance requirements (and their resultant costs) that legitimate operators bare – many of these yards operate rudimentarily with no regard for capturing processing emissions and often operate in dangerously contaminated conditions.
- With the greatest of respect to Local Police who do a wonderful job in protecting the community, they lack the time, the knowledge and the 'street smarts' to know what to look for (a common practice involves documenting the transaction and paying a portion of the value using legal means and pay the balance in cash)
- Cash buyers use scrap metal and end-of-life vehicles to launder money and move the proceeds offshore
- It is our recommendation that the NSW Police establish a dedicated team to address these concerns and to bring the industry back into line
- The Police need to consider the seconding of expertise from the ATO, EPA, Safe Work NSW and the recycling industry.
- To that extent, the Association will offer a half a day of my time per month for 12 months as an independent, experienced industry advisor to this dedicated team.

Should you require any clarification and/or further details, please contact the undersigned.

Yours faithfully

*Tony Khoury*

Tony Khoury, Executive Director

**Attached** is a copy of our submission dated 12<sup>th</sup> August 2020 in response to the review of the Motor Dealer and Repairers Act