

## Agreement in Principle

**Dr ANDREW McDONALD** (Macquarie Fields—Parliamentary Secretary) [10.02 a.m.]: I move:

That this bill be now agreed to in principle.

The Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010 introduces major reform to protect New South Wales consumers from profiteers and criminals who trade in written-off vehicles that are dangerously repaired, often with stolen parts. The bill will improve consumer protection, improve vehicle safety, strike at the heart of vehicle rebirthers and organised crime, reduce the cost to the New South Wales community of vehicle theft, reduce the risk of distress and injury to members of the public, who often unknowingly purchase a vehicle that has previously been written-off, and get shoddily repaired vehicles off our streets. The bill will build on legislation considered by the Parliament in 2007, which highlighted significant additional issues to be addressed to further improve consumer protection and road safety, and to reduce criminal activities linked to written-off vehicles in New South Wales. The bill introduces measures to address the issues raised by members during that debate. It also gives effect to some of the key principles contained within the New South Wales parliamentary Staysafe committee report No. 9/53 dated December 2005, "Repairing to a price, Not a standard", which inquired into the crash-damaged vehicle assessment and repair industry.

Under current arrangements there are two categories of written-off vehicles. The first category is the statutory written-off vehicle, or wrecked vehicle. A statutory written-off vehicle cannot be re-registered in New South Wales or, by national agreement, in any other jurisdiction and it can be sold only for spare parts or scrap metal. The second category is the repairable written-off vehicle, that is, a vehicle that has been assessed as a total loss but which, as the name suggests, is currently permitted to be repaired and re-registered. Under the new legislation all New South Wales written-off vehicles will be recorded as statutory write-offs and will not, therefore, be permitted to be re-registered. Statutory written-off vehicles still will be able to be purchased and sold but only for parts or scrap metal. The ban on registering all written-off vehicles builds on and strengthens existing written-off vehicle law. This reform will ensure that all New South Wales written-off vehicles will be recorded on the national Written-off Vehicle Register as statutory write-offs.

Vehicle rebirthing is the criminal activity of rebuilding a repairable written-off vehicle with parts from a stolen vehicle. The vehicle is then rebirthed by being re-registered and on-sold to an unsuspecting member of the community. Repairable write-offs are targeted by vehicle rebirthers who typically purchase these vehicles cheaply at auction. They then steal a similar vehicle and use the stolen vehicle's parts to illegitimately and shoddily repair the repairable write-off before presenting it for re-registration and sale to the unsuspecting consumer. There can be no more important reason for this legislation than the lives it will save by getting dangerously repaired vehicles off our streets. Dodgy cosmetic repairs to a repairable write-off too often disguise the true condition of the vehicle and can create road safety risks for the vehicle driver and occupants. In the event of a collision, a poorly repaired written-off vehicle is very likely to increase the chance and severity of a crash, while also failing to provide the expected level of safety and protection to a vehicle's occupants.

Despite the current New South Wales vehicle inspection regime, some unscrupulous persons employ sophisticated techniques to conceal poor quality repairs, which are often impossible to detect without more comprehensive or intrusive inspection techniques. I recently witnessed a graphic example of this risk to the safety of New South Wales motorists. On 18 May 2010 the Roads and Traffic Authority's Centre for Road Safety partnered with the New South Wales Motor Traders' Association to assess the potential risks involved in driving poorly repaired write-offs. A Roads and Traffic Authority crash lab test was conducted under scientifically controlled settings on a 2004 model Toyota Corolla repairable write-off that had been poorly repaired following extensive structural damage. I viewed the crash test footage and found the results to be extremely disturbing. I had hoped to show this footage today to demonstrate the tragic consequences of poorly repaired write-offs for members of the community. Unfortunately, I am unable to do so. Therefore I will try to convey the graphic nature of the crash lab video in words.

As is too often the case with poorly repaired written-off vehicles, this vehicle had faults with its seatbelts, airbags and other safety systems. The driver's airbag had been removed from the vehicle and replaced with a rolled-up rag. The airbag light was manipulated to flash on and off, giving the unsuspecting driver the impression that the vehicle's airbag and safety controls were functioning properly. Not only was the airbag missing, but the seatbelt pre-tensioners were never replaced. Travelling at a speed of only 56 kilometres per hour, the video shows the vehicle crashing head-on into a wall. As the seatbelts and airbag failed, the occupants were shown suffering catastrophic injuries that would have threatened their lives. In fact, when the results of the test were fully analysed, it was found that the driver of the repairable written-off vehicle had 42 times the risk of receiving critical head injuries over the driver of an identical standard Toyota Corolla. The passenger was 36 times more likely to suffer critical head injuries. The types of injuries identified in this class would include major skull fractures and irreversible brain damage. Such serious consequences for the community emphasise the urgent need for these reforms.

As well as the risks to the safety and, indeed, the lives of vehicle occupants from repairable write-offs, there is also a severe financial risk for vehicle owners. Victims of criminal rebirthing activities report an inability to recoup the money that they have paid for a vehicle that is later identified as rebirthed. Costs include the purchase of another vehicle while the rebirthed vehicle is impounded for police investigations, while still being burdened with the debt of the rebirthed vehicle. Coupled with this is the great distress suffered by these vehicle owners throughout this process.

On a broader scale, stolen vehicle activity and rebirthing is a major problem across New South Wales and Australia. The National Motor Vehicle Theft Reduction Council estimates the cost of vehicle theft in Australia to be approximately \$1 billion, excluding the very large community costs associated with police investigations and prosecutions, and their impact on the court system. In New South Wales, approximately 19,000 vehicles were stolen in 2008-09. Approximately 5,700 of these vehicles have not been recovered. The theft reduction council estimates that the total cost to the New South Wales community of these thefts is approximately \$270 million.

The changing trends in vehicle theft show the growth of the problem in rebirthing repairable written-off vehicles in recent years. The NSW Police Force advises that the number of unrecovered stolen vehicles is a key indicator of vehicle thefts for use in rebirthing activities. Analysis by the NSW Police Force has shown that the percentage of professional vehicle theft and rebirthing is increasing, even though the overall vehicle theft rate is decreasing. Vehicle theft and rebirthing activity has increased as a percentage of the overall theft rate from 20 per cent in 2002 to approximately 30 per cent in 2008-09. The NSW Police Force has concluded that this increase has been created by criminals constantly evolving their rebirthing techniques. It is estimated that up to six in 10 repairable write-offs presented for re-registration in New South Wales pose serious questions about the origin of the parts used to repair them. This amounts to more than 12,000 suspect repairable write-offs in New South Wales per year. I quote from formal NSW Police Force advice to the Roads and Traffic Authority, which states:

There is no doubt that the area that has been targeted by criminal groups is the written-off vehicle process and this is one area that can only be impacted upon by legislative and policy changes.

The National Motor Vehicle Theft Reduction Council conducted a national review of written-off vehicles during 2008 in response to the increase in rebirthing of repairable write-offs. The review concluded that banning the registration of repairable write-offs would provide the greatest national financial benefit. The review calculated that the annual financial benefit to vehicle owners and insurers nationally would be more than \$60 million. This is the highest benefit of all of the options that the council costed in its review. I am advised that following opposition from the insurance industry the theft reduction council unfortunately has not pursued or advocated the option of a complete ban, which its own review found would provide the greatest national benefit.

Prior to its fundamental change of policy, the theft reduction council had also concluded that the rebirthing of repairable write-off vehicles is a major vulnerability in the fight against vehicle theft. In the development of this bill, the Government has listened to the community and industry stakeholders. A range of options to improve the management of written-off vehicles was detailed in the Roads and Traffic Authority discussion paper, "Improving the Regulation of Written-Off Vehicles in New South Wales", which was released by the former Minister for Roads for public comment in August 2009.

A total of 56 submissions were received from a diverse range of industry and regulatory stakeholders, including major insurers, auction houses, metal recyclers, motor vehicle dealers and repairers, the Motor Traders' Association, the National Motor Vehicle Theft Reduction Council, the New South Wales Office of Fair Trading, the NSW Police Force, other Australian jurisdictions, and the general public. All submissions to the discussion paper were considered in detail. Comments on the discussion paper indicated strong support for a complete ban on the re-registration of repairable write-offs. In framing this bill the Government also has been mindful of the issues raised by the Parliament when this issue was previously considered, and has also reviewed recommendations arising from the important work of the Staysafe committee.

The bill will require all New South Wales registered vehicles, assessed as a total loss, to be classified as statutory write-offs under the new legislation. It will require all New South Wales registered vehicles that are written-off to be notified to the written-off vehicle register in New South Wales. It will prohibit registration in New South Wales of a vehicle classified as a repairable write-off in any other Australian jurisdiction, unless that vehicle has been first registered in another jurisdiction. It will enable operators of certain vehicles to make application for the repair of a statutory write-off, subject to satisfying prescribed conditions. These classes of vehicles are enthusiast vehicles, collectible vehicles, vehicles of high personal or economic value and some hail-damaged vehicles.

The legislation will require that a person who makes an assessment of a crash-damaged vehicle is a competent person, takes into account the national crash damage assessment criteria, and uses either the manufacturers repair guidelines or acceptable industry standards to calculate repair costs. It will require all notifiers to the written-off vehicle register to attach warning labels to statutorily written-off vehicles, to warn prospective buyers that these vehicles cannot be registered and can be used only for spare parts. The new legislation is also intended to ensure that all vehicles that should be written off under the law are in fact written off and ineligible for

re-registration. Under the current legislation, insurers, and others who are required to notify vehicles to the written-off vehicle register, have a degree of discretion regarding the vehicles they write off.

The current legislation enables a determination to be made that a vehicle will be written off, without stipulating specific economic criteria for this determination. Under the new legislation, all vehicles assessed as an economic total loss must be written off, and classified as statutory write-offs. A damaged vehicle is classified as a total loss when the cost of its repairs, plus its value as a damaged vehicle, are higher than its undamaged market value. The new legislation therefore will prevent any unscrupulous attempts to reduce the number of vehicles that are written off. The new legislation will require that all total loss vehicles are written off and taken off the road. A non-regulatory enhancement of consumer protection has already been developed by the Roads and Traffic Authority through its online vehicle history check service. This service provides purchasers of New South Wales registered second-hand vehicles with comprehensive vehicle information, including written-off and stolen vehicle information. While this service enables consumers to check the status and history of currently registered New South Wales vehicles, and has been welcomed by consumers and industry, such a service cannot prevent ongoing or future vehicle theft and rebirthing activities—or dodgy repairs to damaged vehicles.

The bill is predicated on the public policy objective that a crash-damaged vehicle should be assessed and repaired, if eligible, to a standard, and not a price. In that regard, the bill gives effect to the policy intent of the report of the New South Wales Joint Standing Committee on Road Safety, or Staysafe committee, "Repairing to a price, Not a standard", Report No. 9/53 December 2005. The bill introduces an additional measure of consumer protection by requiring that a competent person be used to assess crash-damaged vehicles. This approach has been taken due to the absence of a formalised accreditation scheme or endorsed national competency standards for vehicle damage assessors. The training and qualifications required for a person to be defined as a competent person will be determined in consultation with the New South Wales Office of Fair Trading and industry.

The provision requiring the use of a competent person will take effect six months after the legislation commences to enable sufficient time for any additional training to be conducted, so that assessors can meet the required standards without disruption to industry or to the livelihood of assessors. The bill provides that a crash-damaged vehicle must be assessed against a standard. The standard is that the cost of repairs must be determined on the basis of recognised industry repair methods, and not price alone. The bill further provides that any vehicle eligible and capable of being repaired must be repaired to that same standard. Accordingly, the bill provides that consumer protection—through the application of industry recognised repair standards—is centre stage at the front end of the process, when the vehicle is assessed, and at the back end of the process, when the vehicle is repaired.

Vehicles recorded on the Written-off Vehicle Register as repairable write-offs before the reforms commence as law will be eligible to be re-registered, provided registration requirements are met and they are presented for registration within two years. The reforms will not be applied retrospectively to vehicles that have been repaired and re-registered previously. The legislation will cover all light vehicles including trailers, caravans and motorcycles. The regulation of written-off heavy vehicles will be addressed by the proposed National Heavy Vehicle Regulator in due course.

I wish to make some comment on the flexibility provided in the bill to address special circumstances. The bill provides a number of important, though low-volume exemptions from the ban to allow the re-registration of specified repairable write-offs. Vehicles retained by the same operator and which are aged six years or older with a market value of more than \$50,000, or vehicles less than six years of age with a value of more than \$100,000, will be considered for exemption as these are likely to be rarer vehicles and very difficult to rebirth via the theft of an identical vehicle or parts. Enthusiasts' vehicles, classic collectors' vehicles and specified personally imported vehicles, which may or may not have a high market value, will also be considered for exemption on similar grounds of being extremely difficult to rebirth via the theft of an identical vehicle or parts.

Vehicles which have a demonstrated high personal or sentimental value to the owner—for example, the vehicle may have been a gift or may have been in the family for many years—will also be considered for exemption on a case-by-case basis. Exemptions will also be considered for write-offs following hail damage if the vehicle is retained by the same operator and if the vehicle does not fail the National Crash Damage Assessment criteria. Prior to an exemption being considered, the damage assessment of the vehicle must be conducted by a competent person using the crash damage criteria and manufacturers' repair guidelines or accepted industry standards. This framework is used by the insurer, or any other required notifier to the Written-off Vehicle Register, to declare whether the vehicle is able to be safely repaired. No exemption application from the vehicle owner will be considered if the vehicle fails the National Crash Damage Assessment criteria.

New South Wales is taking a national lead with this initiative, as it has done in the past. New South Wales initiated the Written-off Vehicle Register in 1996. The register was used as the model for all other States and Territories to adopt, and is now a nationally integrated system for recording and tracking written-off vehicles. By prohibiting the re-registration of repairable written-off vehicles, this bill will protect consumers, it will result in safer vehicles, it will remove the risk of poorly repaired "deathtraps" returning to New South Wales roads and it will reduce the cost to the community of vehicle theft, vehicle re-birthing and organised crime. I commend the bill

to the House.