

Scrap Metal Industry Bill 2016

Second Reading

The Hon. RICK COLLESS (15:41): On behalf of the Hon. Duncan Gay: I move:

That this bill be now read a second time.

I seek leave to incorporate my speech in Hansard.

Leave granted.

I am pleased to support a bill which will, if enacted, we believe, make a serious difference in helping to prevent property crime across New South Wales whether it be opportunistic or well organised.

The Scrap Metal Industry Bill 2016 provides for the regulation of scrap metal dealers in New South Wales.

As the name suggests these are businesses which purchase generally for cash all manner of metal objects which are sold as scrap and then crushed and recycled.

I am advised that there are currently in the range of 600 to 700 scrap metal businesses operating across New South Wales.

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.

Police tell me that this might lead to, for example, the same people dropping off cars they have stolen to scrap metal yards every week, or someone offloading a dozen hot water systems they have illegally ripped out of a new development as scrap. Or, a bulk load of stolen copper piping or wire, which might until recently have been part of an operating rail line, or the copper plumbing infrastructure of a local school hall.

A scrap metal dealer offers you a few hundred bucks each time for the metal, no questions asked, and you are quickly on your way again off to score some drugs with the money, or whatever it is you do.

And the victim of crime, the builder, the government contractor, the low income family, the community group, is left to deal with the mess and find a way to carry on while they make an insurance claim, if indeed they even have insurance.

And the impacts of metal theft may be widespread.

For example, the Sydney Morning Herald reported on 25 August 2015 that would-be thieves were lucky not to have electrocuted themselves as they attempted to steal copper wire from Ausgrid power poles on the Central Coast.

The would-be burglars sawed through the pole on a paddock in Doyalson with a chainsaw bringing down a pole-top substation and live power lines across a property which then cut power to 800 homes and businesses on the Central Coast, according to Ausgrid.

The resultant sparking could have started a bushfire and the damage took three and a half hours for Ausgrid to repair.

It is the Government's view that the regulatory model proposed through this bill will help to significantly prevent property crime in three major ways:

It will close off scrap metal dealers as a source of quick cash;

It will ensure that sales of stolen scrap metal to dealers are able to be traced through the keeping of clear records; and

It will provide powers of entry and inspection for police officers.

I want to make it clear that the proposed legislation will not impact on anyone legitimately looking to offload scrap metal.

For instance, if you enjoy scavenging on council clean-up days with a view to making a few bucks, or if you need to remove a rusted car chassis from your backyard you can still do that as you normally would.

But you just will not be paid in cash anymore and you will need to prove your identity.

As is evidenced through the bill the intention here is to regulate the activity of scrap metal dealers and not the background, conduct or competency of those running or working in scrap metal yards.

This ensures that the scheme is easier to administer and comply with whilst at the same time directly addressing the practices which continue to drive property crime.

We also know that a similar scheme in place in the United Kingdom has already proven successful with the number of metal theft incidents falling significantly in the scheme's first year of operation.

I will now turn to the provisions of the bill in detail.

Clause 3 of the bill outlines a range of key definitions which highlight the scope of the proposed scheme.

Definitions of "motor vehicle", "scrap metal" and "scrap metal yard" are expressly provided.

Part 2 Division 1 of the bill sets out the registration requirements for scrap metal businesses.

This makes it clear that registration is automatic. Police cannot refuse an application for registration but it is an offence for scrap metal businesses not to register.

Businesses will be supplied with a certificate of registration and Police will keep and maintain a publicly-accessible register of scrap metal businesses.

We see the register as providing multiple benefits.

Firstly, it will make it easier for police to know how many scrap metal yards are operating in their local areas and pay them a visit should the need arise. I am told that currently some businesses could almost be said to be operating covertly.

The frequency of police visits to scrap metal yards will be driven by the volume of property thefts in a given area and the strength of relevant criminal intelligence or reports of suspicious transactions from scrap metal dealers themselves.

The register will also provide prospective customers with assurance that they are dealing with a business that is operating within the law.

And it will be useful for other government agencies both State and Federal such as the Environmental Protection Authority and the Australian Taxation Office, who have an interest in making contact with scrap metal businesses, to ensure these businesses are, for example, paying taxes and levies and disposing of waste appropriately.

These agencies will also benefit from the records scrap metal businesses will be required to keep under the proposed new scheme.

As I have previously flagged, clause 12 of the bill provides that scrap metal dealers will be prohibited from paying for scrap metal in cash or in kind with goods and services.

Businesses can pay their customers via an EFTPOS transfer or through a cheque. This will ensure that there is a record of the transaction and will remove the incentive of receiving an anonymous cash payment for a car or other metal items acquired through theft.

More and more businesses are relying on these types of payments so this is not considered onerous. It will also remove the need for scrap metal businesses to keep large volumes of cash on hand, which could also be a security risk.

Clause 16 of the bill outlines the transaction records scrap metal businesses will be required to keep under the proposed new scheme.

This includes key identification details for the seller of the metal, a description of the scrap metal and its quantity or weight and, in the case of motor vehicles, the unique identifiers. This is designed to ensure each transaction can be traced should it be necessary for police to do so in the investigation of property theft.

Part 3, division 1, of the bill provides for interim and long-term closure orders.

The Commissioner of Police is empowered to make an interim closure order provided certain criteria are met. The order lasts 72 hours unless it is sooner repealed or revoked. And more than one interim order closing the same premises may not be made within a seven-day period.

Police may also apply to the Local Court for a long term closure order.

This provides that a court may order the closure of specified premises for such a period or until such time as the court considers appropriate provided certain conditions are met.

This will help police to manage instances of ongoing non-compliance or where serious criminal offences have been or are likely to be committed at or in connection with the premises.

Part 3, division 2, of the bill outlines police powers available to officers seeking to administer and ensure compliance with the provisions outlined in the bill.

This includes the power of entry without a warrant to a scrap metal business for the purposes of determining whether there has been compliance with or a contravention of the Act. Any part of the premises which is used only for residential purposes is excluded from this provision.

In addition, whilst on a premises lawfully entered a police officer may carry out a range of actions as listed which are all geared towards gathering the evidence required to establish a contravention of the legislation.

These actions include seizing a document or other thing that the police officer believes on reasonable grounds is connected with an offence against the Act or supporting regulation, or taking photographs, films, audio, video or other recordings as the police officer considers necessary.

A supporting regulation will be drafted ready to commence concurrently with the legislation in early 2017.

This will, amongst other things, prescribe penalty notice offences and will outline a schedule of fees including the fee for a three-year registration certificate, which is likely to be less than \$300 for three years' registration.

Finally, it is proposed that the Act will be reviewed following three years of operation to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

This is a regulatory model effectively designed to prevent property crime, opportunistic or organised, large or small scale.

The model proposed in the bill strikes the right balance by not getting in the way of business but at the same time ensuring police have the powers and records they need to investigate property theft.

We want to close off an avenue which allows for the quick and anonymous disposal of stolen property such as cars, hot water systems, building materials and parts of critical infrastructure, and in so doing better protect victims from such theft.

Businesses who already do the right thing and, for example, keep reasonable records, will not notice much change at all.

I would like to recognise Commander Murray Chapman, Paul Skuratowski and Con Galea from the Property Crime Squad within State Crime Command both for the commitment they have

shown in developing this proposal and their ongoing efforts to drive down property crime across NSW.

I commend this bill to the House.