



National Motor Vehicle  
Theft Reduction Council

# **Victorian Inter-Agency Task Force into Compliance with Local Laws and Illicit Export Activity**

## **Task Force Discover – Final Report**

September 2014

Prepared by: Victoria Police Crime Command (with  
Foreword by NMVTRC)

## Report outline

|                       |   |
|-----------------------|---|
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| <b>Title</b>          | Addressing Profit-Motivated Vehicle Theft in Victoria's Motor Wrecking and Scrap Metal Industries   |
| <b>Address</b>        | National Motor Vehicle Theft Reduction Council<br>Suite 1, 50-52 Howard Street<br>North Melbourne Victoria 3051   |
| <b>Email</b>          | info@carsafe.com.au   |
| <b>Type of report</b> | Technical Working Paper   |
| <b>Objectives</b>     | To gather empirical evidence of the level of compliance with local laws in respect of the second-hand parts and metal recycling sector in Victoria and facilitate discussion about reform of related activity.  |
| <b>NMV program</b>    | Disrupt Separated Parts Markets   |
| <b>Key milestones</b> | Completed   |
| <b>Abstract</b>       | <p>Task Force Discover was an Inter-agency Task Force (ITF) funded by the National Motor Vehicle Theft Reduction Council and led by Victoria Police Crime Command.</p> <p>Its audit of more than 400 Victorian motor wrecking and scrap metal businesses represents the most comprehensive compliance checking exercise ever undertaken in respect of this sector in Australia. The results reveal a staggering record of non-compliance across the regulatory spectrum with—</p> <ul style="list-style-type: none"><li>• 7 in 10 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;</li><li>• 9 in 10 not complying with written-off vehicle reporting obligations;</li><li>• 9 in 10 assessed to be non-compliant to some extent with OHS and environmental protection regulations, with—<ul style="list-style-type: none"><li>◦ 1 in 5 referred for extreme safety breaches deemed likely to cause imminent injury; and</li><li>◦ 1 in 10 referred for extreme environmental breaches causing obvious and ongoing serious pollution to soil and waterways.</li></ul></li></ul> <p>The ITF also observed that—</p> <ul style="list-style-type: none"><li>• with 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 raises questions about compliance with taxation; and</li><li>• 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.</li></ul> <p>The ITF report clearly demonstrates that the existing law, in respect of the management of separated vehicle parts and vehicle-related scrap, is in need of major reform.</p> <p>The NMVTRC's reform proposal is set out in the form of a set of model laws that are designed to remove ambiguities and gaps, and deal more effectively with enduring non-compliance. The report includes a link to an exposure draft of those model laws.</p> |
| <b>Key words</b>      | Separated parts, profit-motivated theft, second-hand dealing, scrap metal, auto recycling   |

## Foreword

As the re-birthing of whole vehicles becomes progressively harder, the dismantling or stripping of major components becomes increasingly more attractive and less risky for car criminals.

Numerous police investigations across Australia have shown that some of the most serious profit-motivated theft activity is conducted in association with enterprises that on the face of it are part of the automotive trades—including the recycling, end of life scrap and export sectors. In addition, many middle tier businesses that operate in these sectors, whilst not criminal themselves, have such poor business practices and records systems that they can unwittingly facilitate stolen vehicle disposal.

Responsible industry participants are finding it increasingly difficult to remain profitable in the face of unfair competition from growing numbers of operators who have no outward appearance of compliance with regulatory requirements or established industry standards and are calling for greater enforcement action from regulators.

In 2013, at the instigation of the NMVTRC, the Victoria Police agreed to lead an Inter-agency Task Force (ITF) to assess the level of regulatory compliance across the industry in Victoria. With the active cooperation of the Australian Crime Commission, Australian Customs and Border Protection Service, Consumer Affairs Victoria, the Environment Protection Authority and the Victorian WorkCover Authority the ITF has undertaken the most comprehensive assessment of the status of the industry ever undertaken in Australia.

Following eight months of site visits across Victoria, the ITF found a staggering record of non-compliance across the regulatory spectrum with—

- 7 in 10 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 were not complying with written-off vehicle reporting obligations;
- 9 in 10 were assessed to be non-compliant to some extent with OHS and environmental protection regulations, with—
  - 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.

The ITF also observed that—

- with 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 raises 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.

There are no quick fixes to either criminal infiltration or poor operating standards in the industry. The most effective outcomes will be derived from a combination of medium term improvements aimed at optimising the efficiency of existing regulatory regimes and in the longer term, the alignment of theft reduction objectives with reducing the environmental impacts of end-of-life vehicles and improving industry entry and operating standards through proposals such as product stewardship.

The ITF report clearly demonstrates that the existing law, in respect of the management of separated vehicle parts and vehicle-related scrap, is in need of major reform.

The NMVTRC's 2013-14 work program indicated that we would build on the previous review of the 'modernity' of related laws, conducted by lawyers DLA Piper in 2012, by developing a proposal for the consolidation of relevant laws to remove ambiguities and gaps, and deal more effectively with enduring non-compliance. An exposure draft of the model law package is now available for comment via this link <http://www.carsafe.com.au/modernising-regulatory-regimes>

While one of the observations of the ITF report authors is that licensing and registration schemes are ill-equipped to deal with the nature of the illicit trade, the NMVTRC's assessment is that the vast majority of the identified regulatory weaknesses can be addressed via the model law's proposed key features, which are designed to remove ambiguities and gaps, and deal more effectively with enduring non-compliance.

These key features include—

- an accreditation requirement for a person who carries on business as a motor vehicle dealer, motor vehicle recycler (including a metal recycler) or motor vehicle repairer;
- the inclusion of a chain of responsibility model for related parties which requires prescribed persons to—
  - take all reasonable steps to ensure that stolen motor vehicles or parts are not traded by any party in the chain; and
  - report suspicious vehicles or parts, whether in their custody or offered to the person for sale;
- a broad range of search, seize and retention powers for authorised officers—with or without consent;
- a range of regulatory tools for the “Regulator” to promote or assure compliance including the power to publicise breaches or offences;
- the creation of separate commercial and general offences—the former allowing the profit made in an illegal transaction to be taken into account;
- the inclusion of civil penalty orders with daily penalties for continuing non-compliance; and
- improvement and exclusion orders, under which a person may be required to improve their performance or face exclusion from the industry.

The NMVTRC welcomes stakeholder comments on the model law package. In particular, the NMVTRC is interested in stakeholders' views on—

- the likely impact and effectiveness of such reforms if implemented nationally;
- any interdependencies that need to be taken into account in design of related reforms (including the extent to which success relies on national harmonisation or synchronisation, etc)
- the achievability of such a reform program; and
- any perceived constraints or downsides that the NMVTRC should consider.

It is requested that comments be lodged electronically in both PDF and MS Word format via email to [info@carsafe.com.au](mailto:info@carsafe.com.au) using *Modernising Regulatory Regimes to Optimise Compliance* in the Subject line.

Comments should be forward to reach the NMVTRC by the close of business on **Friday 19 December 2014.**

All comments received will be treated as public documents and may be consolidated with the comments of others, or summarised, and published.

## **Acknowledgements**

The NMVTRC thanks the officers and agencies that contributed to Inter-agency Task Force for their assistance and co-operation in the design and conduct of its operations.

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Environment Protection Authority (Victoria)  
Victorian WorkCover Authority  
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# Executive Summary

## Background

The inter-agency Task Force Discover was established to examine how the motor wrecking and scrap metal industries may facilitate profit-motivated vehicle theft (PMVT). Led by Victoria Police Crime Command, the Task Force completed a state-wide regulatory audit of motor wreckers and scrap metal dealers to reconcile anecdotal evidence that regulatory non-compliance by these businesses creates opportunities for PMVT. The Task Force aimed to develop an objective understanding of the extent of regulatory compliance among motor wreckers and scrap metal dealers and consider how levels of non-compliance related to unrecovered stolen vehicles in Victoria.

PMVT is a significant problem in Victoria. Data from the National Motor Vehicle Theft Reduction Council demonstrates there were 2,562 unrecovered stolen passenger and light commercial (PLC) vehicles in Victoria in 2013. The number of unrecovered PLC vehicles in Victoria has increased 21 per cent over the last five years due to the ability of vehicle thieves to profit from the growing domestic and international demand for spare parts and scrap metal. This demand has led to an expansion in the motor wrecking and scrap metal industries<sup>1</sup>, which now comprise a variety of players displaying an equally diverse range of capital resources, experience and levels of compliance with the law. Vehicle thieves can subsequently exploit the non-compliant tiers of industry to off-load, launder and sell stolen vehicles for the value of their separated parts and left over scrap metal.

Between September 2013 and June 2014, Task Force Discover audited a total of 432 motor wreckers and scrap metal dealers, estimated to represent approximately 90 percent of all operators in Victoria. The Task Force audited all commercial practices supporting the trade in used vehicles, spare parts and scrap metal derived from vehicles in order to:

- collect intelligence on compliant and non-compliant commercial practices;
- complete an authoritative assessment on the overall extent of regulatory compliance and consider implications that levels of non-compliance have for levels of PMVT in Victoria; and
- improve the understanding of issues associated with the motor wrecking and scrap metal industries, including occupational health and safety (OHS) and environmental protection issues.

## Key findings

The Task Force Discover audit focused firstly on business licensing with a Motor Car Traders Licence (MCTL), business registration with Second-Hand Dealers Registration (SHDR) and record keeping practices for the trade in vehicles due to the implications that non-compliance in these areas has for PMVT. Secondly the audit focussed on occupational health and safety and environmental protection standards for the trade in parts and scrap due to the implications that non-compliance in these areas has for community harm. Task Force investigators (comprising Victoria Police detectives) made an assessment of the regulatory compliance of each business they attended. Of the 432 motor wreckers and scrap metal dealers audited:

- 302 businesses or 70 per cent were assessed by Task Force investigators as either not holding the required authorisation to trade (i.e. the correct licence or registration) or being non-compliant to some degree with the conditions of their business licence or registration. This non-compliance included:
  - incomplete record keeping on customer identities and vehicle identifiers
  - failing to make notifications to the Written-Off Vehicles Register (WOVR)
  - failing to undertake criminal history checks and background screening of employees, and

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<sup>1</sup> National Motor Vehicle Theft Reduction Council – Strategic Plan 2013-2016, NMVTRC, p14.



- failing to publicly display business licensing or registration details.
- 199 businesses or 46 per cent were assessed as not holding the required authorisation to trade and of these:
  - 112 businesses operated without a MCTL or SHDR, but were assessed as requiring a MCTL
  - 12 businesses operated without a MCTL or SHDR, but were assessed as requiring a SHDR
  - 75 businesses traded only with a SHDR, but were assessed as requiring a MCTL.
- 398 businesses or 92 per cent did not submit notifications to the WOVR.
- 390 businesses or 90 per cent were assessed to be non-compliant to some degree with OHS and environmental protection regulations
  - 82 businesses or almost 20 per cent were referred for safety breaches deemed likely to cause injury; and
  - 41 businesses or 9 per cent were referred for moderate environmental breaches causing obvious and ongoing serious pollution to soil and waterways.

## **Key observations of the current regulatory regime**

The regulatory regime that covers Victoria's motor wrecking and scrap metal industries is provided for in the *Motor Car Traders Act 1986* (MCTA), the *Second Hand Dealers and Pawnbrokers Act 1989* (SHDPA) and related regulations. This regime was conceived to regulate the trade in whole vehicles through business licensing (i.e. a MCTL) under the MCTA and the trade in second-hand goods through business registration (i.e. SHDR) under the SHDPA. Licensing and registration schemes for the trade in whole vehicles and second-hand goods are ill-suited to also regulate the trade in separated parts and scrap metal sourced from vehicles because:

- they are intended to support consumer protection outcomes and are not designed to detect vehicle crime, prevent the disposal of stolen vehicles or prioritise environmental and workplace safety hazards;
- their traditional enforcement targets are motor car traders and second-hand dealers, not motor wreckers and scrap metal dealers; and
- the current regulatory regime provides limited sanction for motor wreckers and scrap metal dealers who fail to familiarise themselves with the law and implement a compliant trading regime.

Motor wreckers and scrap metal dealers can exploit the regulatory regime, leading to non-compliant or criminal practices, because:

- the MCTA and the SHDPA do not define a motor wrecker or scrap metal dealer because the Acts are not intended to regulate motor wreckers or scrap metal dealers unless these businesses undertake trading that corresponds with motor car traders or second-hand dealers;
- there is limited guidance as to when a whole vehicle under the MCTA stops being a vehicle and becomes separated parts relevant to the SHDPA;
- the MCTA requires an objective assessment as to when a whole vehicle ceases to be a vehicle, which in practice may cause confusion and be difficult for motor wreckers or scrap metal dealers to undertake correctly;
- ferrous and non-ferrous scrap metal (excluding goods containing copper, gold or silver) are exempt from the application of the SHDPA, leading to confusion among scrap metal dealers as to their regulatory responsibilities<sup>2</sup>; and
- neither the MCTA nor the SHDPA prescribe how motor wreckers and scrap metal dealers should pay the public when acquiring vehicles, making cash-in-hand payments the norm.

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<sup>2</sup> Only scrap metal dealers that trade exclusively in scrap (that does not contain copper, gold or silver) and do not conduct trade in vehicle components are exempt from being registered as a second-hand dealer.

## **Implications of non-compliance for PMVT, wider criminality and community harm**

The motor wrecking and scrap metal industries in Victoria largely operate within the cash economy. Cash transactions with vehicles are untraceable and unaccountable, which has implications for investigating the chain of vehicle acquisition and disposal and also raises questions about compliance with taxation.

Motor wreckers and scrap metal dealers can, deliberately or unwittingly, facilitate PMVT through non-compliance with business licensing, business registration and record keeping regulations. A lack of record keeping 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, while the non-recording of vehicle identification numbers (VINs) results in the loss of data needed to investigate vehicle theft, trace stolen property and notify the WOVR.

A lack of WOVR notification means VINs and vehicle identifiers retain a clear title and are highly suitable for use in re-birthing activity. Alternatively, the VIN and the chassis of a stripped vehicle may be retained and diverted into false upgrading. In both cases, the vehicle's clear title makes re-registration logistically easier and allows the vehicle to forgo WOVR identity and safety inspections.

Trading without a business licence under the MCTA or business registration under the SHDPA can restrict the ability of enforcement authorities to inspect suspect businesses. Enforcement authorities have powers of entry and inspection under the MCTA and SHDPA in relation to motor wreckers and scrap metal dealers that hold a specific business licence or registration. Unlicensed or unregistered trading limits the statutory powers of enforcement authorities to oversight business practices or to prevent them from trading without resorting to court action. A motor wrecker or scrap metal dealer could therefore choose to operate unlicensed or unregistered in order to deliberately isolate themselves from government scrutiny and hide illicit activity.

Non-compliance with business licensing, business registration and record keeping regulations is associated with wider non-compliant business practices that result in safety hazards and environmental pollution at worksites that can harm employees, consumers, surrounding ecosystems and the wider community. Task Force Discover found that a majority of motor wreckers and scrap metal dealers processed vehicles and parts in a manner that allowed fuels and oils to pollute soil, drains and waterways. The subsequent storage and stacking of vehicle bodies and parts was hazardous and at risk of movement, falling or collapse. Many motor wrecker and scrap metal dealer employees were deemed to be insufficiently trained in the safe use of machinery and poorly equipped with personal safety gear. The Task Force referred the extreme cases of OHS and environmental non-compliance to enforcement authorities.

## **Recommendation**

A policy working party comprising representatives of the Task Force Discover partner agencies be formed to examine the issues outlined in this report. The working party should develop responses and assess options, both regulatory and non-regulatory, to deter and prevent PMVT and other issues of concern identified in the motor wrecking and scrap metal industries.

# Task Force Discover: Concept of Operations

## 1. Background

In partnership with the National Motor Vehicle Theft Reduction Council, the inter-agency Task Force Discover was established to assess how profit-motivated vehicle theft (PMVT) may occur within Victoria's motor wrecking and scrap metal industries. Rates of PMVT in Victoria have remained consistent in the long-term (see Figure 6) and increased over the short-term (see Figure 7) due to the ability of vehicle thieves to adapt to the tighter regulation of written-off vehicles. This has seen a decreased incidence of traditional vehicle re-birthing and an increased preference for the use, sale and export of stolen vehicles and parts sourced from stolen vehicles through motor wreckers<sup>3 4</sup> and scrap metal dealers<sup>5 6</sup>.

Led by Victoria Police Crime Command, Task Force Discover completed a state-wide regulatory audit of the motor wrecking and scrap metal industries to reconcile anecdotal evidence that regulatory non-compliance by motor wreckers and scrap metal dealers facilitates PMVT. Between September 2013 and June 2014, Task Force investigators (comprising Victoria Police detectives) audited a total of 432 motor wreckers and scrap metal dealers, estimated to represent approximately 90 percent of all operators in Victoria. The Task Force audited all commercial practices supporting the trade in used vehicles, spare parts and scrap metal derived from vehicles in order to:

- collect intelligence on compliant and non-compliant commercial practices;
- complete an authoritative assessment on the overall extent of regulatory compliance and consider implications that levels of non-compliance has for levels of PMVT in Victoria;
- improve the understanding of issues associated with the motor wrecking and scrap metal industries, including occupational health and safety (OHS) and environmental protection issues;
- better understand vulnerabilities in the current regulatory regime;
- better understand the roles and responsibilities of enforcement agencies;
- improve partnerships between Task Force agencies to address future concerns within the motor wrecking and scrap metal industries; and
- identify strategic opportunities for the investigation and prosecution of non-compliance and criminality within the motor wrecking and scrap metal industries.

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<sup>3</sup> According to the Road Safety Act 1986, a motor wrecker carries on the business of a) demolishing or dismantling motor vehicles or parts of, or accessories for, motor vehicles; or b) buying motor vehicles and substantially demolished or dismantled motor vehicles and selling substantially demolished or dismantled motor vehicles. See *Road Safety Act 1986 - Section 16B*, viewed 9 May 2014, <[www.austlii.edu.au/cgi-bin/sinodisp/au/legis/vic/consol\\_act/rsa1986125/s16b.html?stem=0&synonyms=0&query=wrecker](http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/vic/consol_act/rsa1986125/s16b.html?stem=0&synonyms=0&query=wrecker)>

<sup>4</sup> Task Force Discover observed that motor wreckers in Victoria may also sell scrap metal and repair motor vehicles for re-sale.

<sup>5</sup> There is no definition of a scrap metal dealer in Victorian legislation. For this report, Task Force Discover has put together a definition with reference to the UK's Scrap Metal Dealers Act 2013, <[www.legislation.gov.uk/ukpga/2013/10/contents](http://www.legislation.gov.uk/ukpga/2013/10/contents)>.

<sup>6</sup> With reference to the UK Scrap Metal Dealers Act 2013, a scrap metal dealer a) carries on a business that consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or; b) carries on a business as a motor salvage operator, which consist wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap, or; c) buys written-off vehicles for repair and re-sale in addition to activities in a) and b).

## 2. The Task Force Discover Audit

Task Force Discover undertook an initial intelligence assessment using a combination of existing intelligence holdings from participating agencies, business licensing and registration records, export records, advertising sources and industry consultation to determine a profile of motor wreckers and scrap metal dealers operating in Victoria. This was followed by a programme of both targeted and random regulatory audits by Task Force investigators to determine levels of compliance with:

- appropriate business licensing or registration for the trading undertaken, including exports;
- appropriate record keeping;
- notifications to the Written-Off Vehicles Register (WOVR);
- criminal history checks of business employees;
- checks of vehicle identification numbers (VINs) against stolen vehicle data;
- OHS standards; and
- environmental protection standards.

Task Force Discover developed a compliance checklist and evidence collection template to incorporate all Task Force data requirements and intelligence gaps. These were used to document observations and statistical evidence collected during the state-wide audit, which encountered a variety of industry players from those that demonstrated good practice, to those that were significantly non-compliant and those found to be engaging in criminal activity. Task Force investigators made an assessment of the regulatory compliance of each business they attended.

Determining compliance levels with regulatory requirements is important because:

- motor wreckers and scrap metal dealers wittingly and unwittingly facilitate PMVT through non-compliance with business licensing, business registration and record keeping regulations;
- unlicensed and unregistered trading can impede the statutory rights of the Victorian Government to investigate and prosecute criminal behaviour, while non-compliant record keeping hinders the tracing of stolen property and prevents notifications to the WOVR;
- motor wreckers and scrap metal dealers with criminal intent can use unlicensed or unregistered trading and lax record keeping to avoid scrutiny from law enforcement, hide their complicity in the receipt and processing of stolen vehicles and make criminal associations difficult to detect<sup>7</sup> (see Case Study: Operation Neoplastic); and
- legitimate motor wreckers and scrap metal dealers may unintentionally but carelessly facilitate profit making with stolen vehicles through poor attention to detail and non-compliant business practices that vehicle thieves can exploit<sup>8</sup>.

Furthermore, regulatory non-compliance with business licensing, business registration and record keeping requirements is associated with wider non-compliant business practices that result in OHS hazards and pollution at motor wreckers and scrap metal dealers because:

- the physical safety of employees and consumers is placed at risk by the inappropriate processing and storage of vehicle bodies, engines, fuel tanks, panels and separated parts; and
- the surrounding environment including soil, waterways and air can be polluted by the inappropriate use, handling and storage of vehicle fuels, oils, fluids and other waste.

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<sup>7</sup> National Motor Vehicle Theft Reduction Council – Strategic Plan 2013-2016, NMVTRC, p13.

<sup>8</sup> National Motor Vehicle Theft Reduction Council – Strategic Plan 2013-2016, NMVTRC, p13.

## The Existing Regulatory Framework for the Motor Wrecking and Scrap Metal Industries

The regulatory regime that covers Victoria's motor wrecking and scrap metal industries was conceived to regulate the trade in whole vehicles and in second-hand goods, not separated parts and scrap metal. This regime is ill-suited to also regulate the trade in separated parts and scrap metal because:

- its traditional enforcement targets are motor car traders and second-hand dealers, not motor wreckers and scrap metal dealers;
- it is intended to support consumer protection outcomes and is not designed to detect vehicle crime, prevent the disposal of stolen vehicles or prioritise environmental and workplace safety hazards; and
- it provides limited sanction for motor wreckers and scrap metal dealers who fail to familiarise themselves with the law and implement a compliant trading regime

### 3. Motor Car Traders Act 1986

The *Motor Car Traders Act 1986*<sup>9</sup> (MCTA) regulates the trade in vehicles in Victoria and provides for the licensing of motor car traders with a Motor Car Traders Licence (MCTL). The MCTA is administered and enforced by Consumer Affairs Victoria (CAV). Victoria Police and CAV both have power to bring proceedings for offences under the MCTA but Victoria Police are not afforded any powers of entry and inspection under the Act.

The objective of the MCTA is to create an efficient and equitable licensing scheme in order to protect the rights of consumers and provide a level of confidence in the conduct of those licensed. A person carrying on the business of buying, selling or exchanging motor cars requires a MCTL. Any motor wrecker or scrap metal dealer that acquires vehicles from the general public deemed to be motor cars under the MCTA requires a MCTL, regardless of whether the vehicle's intended end-use is to be re-sold intact, dismantled for parts or crushed for scrap metal.

A strategic focus of CAV is to prevent unlicensed persons from carrying on the business of selling or offering to sell vehicles to the public. As a consumer-focussed Act, the MCTA is best suited to regulating the activities within the vehicle trade that may cause consumer detriment and is not well suited to detecting and responding to criminal activity such as PMVT.

The MCTA does not specifically define a motor wrecker or scrap metal dealer but the definition of a 'motor car' provides some guidance as to the treatment of these traders under the legislation. A motor car is defined under the MCTA as a vehicle within the meaning of the *Road Safety Act 1986*<sup>10</sup> (whether or not in working condition or complete) but does not include:

- an engine constructed for use as a motor tractor;
- a vehicle so constructed that its engine is used to drive or operate an agricultural implement forming an integral part of the motor vehicle; or
- an exempt vehicle (see Figure 2); or
- a vehicle that is not, and is not intended to be, used on a highway i.e. a vehicle not originally constructed to be used on a highway and/or a vehicle that (at the point of acquisition by a motor wrecker or scrap metal dealer) is beyond reasonable repair or restoration and in a condition that prevents it from operation on a highway.

For incomplete or damaged vehicles, the relevant consideration is likely to be whether a motor car is 'intended to be used on a highway.' This is an objective test that considers the characteristics of

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<sup>9</sup> *Motor Car Traders Act 1986*, viewed 16 April 2014,

<[www.austlii.edu.au/au/legis/vic/consol\\_act/mcta1986194/index.html#s3](http://www.austlii.edu.au/au/legis/vic/consol_act/mcta1986194/index.html#s3)>

<sup>10</sup> *Road Safety Act 1986 – Section 3*

<[www.austlii.edu.au/au/legis/vic/consol\\_act/rsa1986125/s3.html](http://www.austlii.edu.au/au/legis/vic/consol_act/rsa1986125/s3.html)>

the vehicle itself. A vehicle is intended to be used on a highway if a reasonable person with full knowledge of its characteristics and design says it would be used on a road. Task Force Discover investigators assessed that 88 per cent of audited motor wreckers and scrap metal dealers source at least part of their inventory from whole vehicles purchased from the general public and further assessed that a majority of these vehicles were motor cars as defined under the MCTA.

This means that a salvaged or damaged vehicle that a reasonable person would consider to be beyond restoration or repair – and therefore not capable of being returned to the road – can no longer be said to be a motor car within the meaning of the MCTA. This will be a matter of fact and degree in each case. Written off or damaged vehicles that can be repaired or restored may still be considered motor vehicles unless they are exempt transactions.

#### **4. Second-Hand-Dealers and Pawnbrokers Act 1989**

Scrap dealers and motor wreckers who do not require a licence under the MCTA may still be required to be registered as a second-hand dealer under the *Second-Hand Dealers and Pawnbrokers Act 1989*<sup>11</sup> (SHDPA) i.e. hold a Second-Hand Dealers Registration (SHDR).

The SHDPA is administered by CAV and enforced by Victoria Police. As with the MCTA, the SHDPA has a consumer focus demonstrated by its stated purpose to enhance the protection of consumers dealing with second-hand dealers and pawnbrokers. It also plays a role in addressing criminality and theft by expediting the recovery of stolen property from these businesses.

'Second-hand goods' are defined broadly as any goods that have been worn or otherwise used. This definition encompasses used vehicle parts for the purposes of the spare parts trade undertaken by motor wreckers and scrap metal dealers. There are two exemptions from the requirement to be registered under the SHDPA that are relevant to scrap metal dealers and motor wreckers for the trade in separated parts:

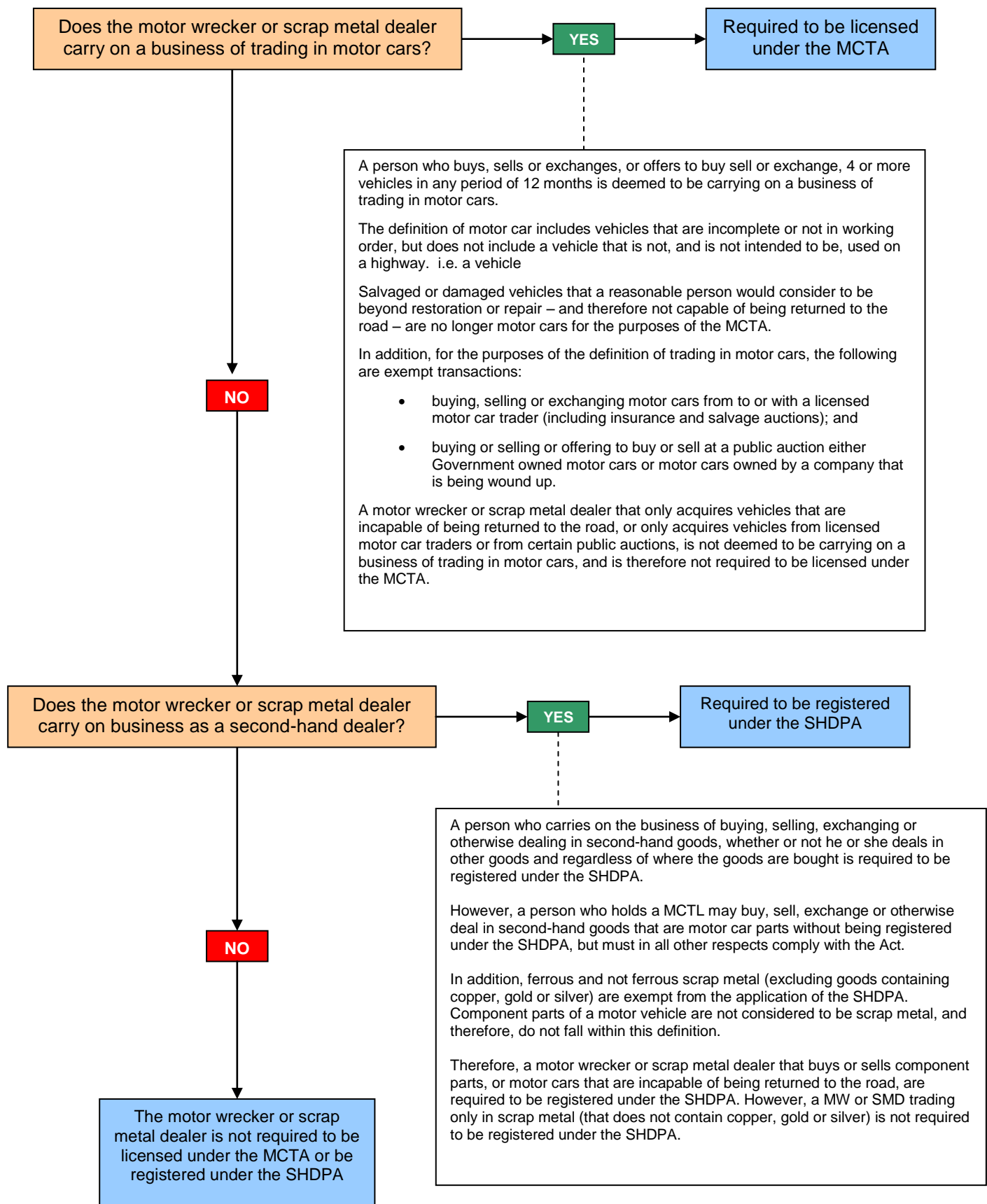
- section 5(2) of the SHDPA provides that a person holding a MCTL is not required to be registered as a second-hand dealer, but must in all other respects comply with the provisions SHDPA; and
- under Regulation 9 of the *Second-Hand Dealers and Pawnbrokers (Exemption) Regulations 2008*, ferrous and non-ferrous scrap metal (excluding goods containing copper, gold or silver) are exempt from the application of the SHDPA. This means scrap metal dealers that trade exclusively in scrap (that does not contain copper, gold or silver) and do not conduct trade in vehicle components are exempt from being registered as a second-hand dealer.

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<sup>11</sup> *Second-Hand Dealers and Pawnbrokers Act 1989*, viewed 16 April 2014

<[www.austlii.edu.au/au/legis/vic/consol\\_act/sdapa1989302/](http://www.austlii.edu.au/au/legis/vic/consol_act/sdapa1989302/)>

#### 4.1 Figure 1: Licensing under the MCTA and registration under the SHDPA<sup>12</sup>



<sup>12</sup> Provided by Consumer Affairs Victoria

#### 4.2 Figure 2: Conditions where a business may trade without a licence or registration

|  |
|--|
| A motor wrecker or scrap metal dealer may trade legitimately without a MCTL or without registration under the SHDPA when it:   |
| <ul style="list-style-type: none"><li>• does not buy, sell, or exchange motor vehicles with the general public; and</li><li>• acquires vehicles and/or separated parts exclusively through licensed traders and/or certain auction houses (including insurance and salvage auctions) and/or importations from overseas suppliers; and</li><li>• does not buy, sell, exchange or otherwise deal in motor vehicle parts with the general public.</li></ul> |

### 5. Record keeping requirements for the trade in vehicles and spare parts

Motor car traders are required to keep a number of records under the *Motor Car Traders Regulations 2008*<sup>13</sup>. These records provide CAV or Victoria Police with a means of tracing a vehicle's ownership history should the need arise, which in turn assists in theft prevention and the recovery of stolen vehicles.

Traders are required to keep a dealings book, which lists the acquisition and disposal details of a motor car. These details include information to identify the vehicle (such as the VIN) and the name and address of the person to whom the vehicle was acquired from or sold to. Sufficient details to identify the vehicle are also required to be included in forms when a motor car is advertised for sale and in the agreement of sale.

Similarly, per the *Second-Hand Dealers and Pawnbrokers Regulations 2008*<sup>14</sup>, second-hand dealers must also keep accurate and complete records of every transaction by which they receive second-hand goods. The information required includes an accurate description of the goods acquired and the name and address of the person from whom the goods were received.

### 6. Road Safety (Vehicles) Regulations 2009 and the WOVR

*The Road Safety (Vehicles) Regulations 2009*<sup>15</sup> are enforced by VicRoads and outline the obligations of various parties, including motor wreckers. The Regulations apply regardless of whether a business is licensed under the MCTA, registered under the SHDPA or trades outside both Acts and, in relation to written-off vehicles, require:

- notifications to the WOVR from motor wreckers and motor car traders<sup>16</sup> while making no specific reference to scrap metal dealers; and
- the WOVR to be notified of the VIN of any vehicle that is up to 15 years old, is not already recorded on the WOVR and is dismantled to the point of becoming a write-off.

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<sup>13</sup> *Motor Car Traders Regulations 2008 – Regulation 8*, viewed 16 April 2014, <\_www.austlii.edu.au/au/legis/vic/consol\_reg/mctr2008303/s8.html>

<sup>14</sup> *Second-Hand Dealers and Pawnbrokers Regulations 2008*, <\_www.legislation.vic.gov.au/Domino/Web\_Notes/LDMS/LTObject\_Store/LTObjSt5.nsf/DDE300B846EED9C7CA257616000A3571/BB69EB9AD8D16388CA257761003F9309/\$FILE/08-140sr002.pdf>

<sup>15</sup> *Road Safety (Vehicles) Regulations 2009*, viewed 16 April 2014, <\_www.austlii.edu.au/au/legis/vic/consol\_reg/rsr2009309/index.html>

<sup>16</sup> *Road Safety (Vehicles) Regulations 2009 – Regulation 88-89*, viewed 16 April 2014, <\_www.austlii.edu.au/au/legis/vic/consol\_reg/rsr2009309/>



## 7. OHS and environmental protection

Motor wreckers and scrap metal dealers must abide by OHS and environmental protection regulations per figures four and five below:

### 7.1 Figure 3: OHS regulations

| Act   | Function enforced by the Victorian WorkCover Authority (VWA)  | Explanatory notes specific to motor wreckers and scrap metal dealers   |
|---|---|--|
| Occupational Health and Safety Act 2004 <sup>17</sup>   | promotes the health and safety of persons present at worksites and seeks to eliminate health and safety risks at their source within the workplace              | <ul style="list-style-type: none"> <li>key activities under the Act include: <ul style="list-style-type: none"> <li>the storage and handling of vehicles and vehicle bodies</li> <li>the use of shredding or crushing equipment or vehicle baling machines</li> <li>the use, handling and storage of tools and machinery for the cutting and dismantling of chassis, panels, engines and fuel tanks</li> </ul> </li> </ul> |
| Dangerous Goods Act 1985 <sup>18</sup>  | promotes the safe use and storage of dangerous goods  | <ul style="list-style-type: none"> <li>dangerous goods relevant to the processing and dismantling of vehicles include: <ul style="list-style-type: none"> <li>fuels</li> <li>batteries</li> <li>gas (LPG)</li> </ul> </li> </ul>   |
| Accident Compensation (WorkCover Insurance) Act 1993 <sup>19</sup> and the Accident Compensation Act 1985 <sup>20</sup> | to reduce the incidence of injury and disease in the workplace and make provision for the rehabilitation, compensation and return to work of affected employees | <ul style="list-style-type: none"> <li>the Accident Compensation (WorkCover Insurance) Act 1993 Act mandates compulsory insurance for employers under WorkCover policies</li> <li>the Accident Compensation Act 1985 provides for a fully-funded scheme to compensate injured employees</li> </ul>   |

<sup>17</sup> *Occupational Health and Safety Act 2004*, viewed 16 April 2014, <\_www.austlii.edu.au/au/legis/vic/consol\_act/ohasa2004273/>

<sup>18</sup> *Dangerous Goods Act 1985*, viewed 16 April, <\_www.austlii.edu.au/au/legis/vic/consol\_act/dga1985171/>

<sup>19</sup> *Accident Compensation (WorkCover Insurance) Act 1993*, <\_viewed 16 April 2014, www.austlii.edu.au/au/legis/vic/consol\_act/acia1993420/>

<sup>20</sup> *Accident Compensation Act 1985*, viewed 16 April 2014, <\_www.austlii.edu.au/au/legis/vic/consol\_act/aca1985204/>

## 7.2 Figure 4: Environmental protection regulations

| Act   | Function enforced by the Environment Protection Authority (EPA) Victoria   | Explanatory notes specific to motor wreckers and scrap metal dealers  |
|---|--|---|
| Environment Protection Act 1970 <sup>21</sup> | <ul style="list-style-type: none"> <li>• EPA seeks to protect the environment through the principles of:               <ul style="list-style-type: none"> <li>○ the integration of economic, social and environmental consideration</li> <li>○ shared responsibility</li> <li>○ product stewardship</li> <li>○ application of the waste hierarchy</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• key activities under the Act include:               <ul style="list-style-type: none"> <li>○ the manner and location in which vehicles are processed</li> <li>○ the manner and location in which vehicle parts are stored</li> <li>○ the treatment and storage of vehicle fluids and gases</li> <li>○ the treatment, recycling or disposal of batteries</li> </ul> </li> </ul> |

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<sup>21</sup> *Environment Protection Act*, viewed 23 May 2014, <[\\_www.austlii.edu.au/au/legis/vic/consol\\_act/epa1970284/](http://www.austlii.edu.au/au/legis/vic/consol_act/epa1970284/)>

## PMVT: Overview of the Problem

### 8. Defining PMVT

The National Motor Vehicle Theft Reduction Council defines vehicle theft as either short term theft or profit-motivated theft depending on the probable end use of a stolen vehicle.

Stolen vehicles that are recovered are defined as short term thefts. These are often committed for joyrides or to assist in the perpetration of another crime, after which they are discarded and later found albeit damaged or in poor condition. Stolen and not recovered (SNR) vehicles are synonymous with PMVT<sup>22 23</sup>. These vehicles are used to generate cash via the sale of the whole vehicle or of its parts and chassis. They are typically dismantled, stripped, shredded, re-birthed and/or exported meaning they are unlikely to be found or traced by law enforcement.

In Victoria as in other Australian jurisdictions, PMVT is traditionally associated with vehicle re-birthing committed with the identity of written-off vehicles<sup>24</sup>. From 2002, the viability and practicality of traditional re-birthing went into steady decline following the introduction of nationally agreed principles for the management of written-off vehicles. This included reforms to the National Exchange of Vehicle and Driver Information System (NEVDIS), which initiated cross-jurisdictional access to all written-off vehicle identities through a national WOV. Additionally, state and territory jurisdictions leveraged the national resources of NEVDIS and developed rigorous local criteria for the operation of repairable written-off vehicles on their public roads. This included identity and safety inspections for all vehicles on the WOV presented for re-registration<sup>25 26</sup>.

The National Motor Vehicle Theft Reduction Council contends that the 2002 reforms shut-down the supply of written-off vehicles into re-birthing activity and thereby deterred the theft of vehicles for re-identification. The reforms then proceeded to displace PMVT from highly regulated written-off vehicles to businesses in the motor wrecking and scrap metal industries. Contemporary PMVT is now less about the value of whole stolen vehicles and is more focused on the value of parts and scrap metal sourced from stolen vehicles and the value of legitimately owned vehicles repaired or upgraded with stolen parts.

According to the National Motor Vehicle Theft Reduction Council, the demand for quality used vehicle parts and components has grown exponentially in recent years leading to an increase in the establishment of motor wreckers and scrap metal dealers<sup>27</sup>. The motor wrecking and scrap metal industries are therefore comprised of businesses with varying degrees of capital resources

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<sup>22</sup> Although synonymous with PMVT, SNR rates are not definitive. This is because SNR rates indiscriminately capture all stolen vehicles remaining unrecovered – not all of which will have been stolen for profit making. They also automatically exclude all recovered stolen vehicles – some of which will have been stolen for the value of specific parts that are taken before the rest of the vehicle is dumped.

<sup>23</sup> Non profit-motivated scenarios causing a vehicle to remain unrecovered include vehicles involved in short term theft that are dumped in remote locations such as waterways and bushland in which they are never found. Vehicles can also be falsely reported stolen by owners who deliberately hide or destroy their vehicles in order to make fraudulent insurance claims.

<sup>24</sup> This corresponds with a traditional view of re-birthing, in which the identity of a stolen vehicle is swapped for the identity of a written-off vehicle. Some Australian jurisdictions, such as New South Wales, now use a broader definition of vehicle re-birthing encompassing the repair and upgrading of a legitimate vehicle with stolen parts, in which case the repaired or upgraded vehicle retains its original identity.

<sup>25</sup> The inspection process for the re-registration of a write-off requires a vehicle identification and VIN check, documented evidence of repair that may include photographs or a crash repair diary, receipts for all major replacement parts to prove their commercial or retail origin and the VIN of any donor vehicle from which used parts have been obtained.

<sup>26</sup> See for example VIC Roads 2014, *Keeping a crash repair diary*, State Government of Victoria, viewed 12 May 2014, <[www.vicroads.vic.gov.au/Home/Registration/WhatHasToBeRegistered/Written-off+Vehicles/Repairingavehicle.htm](http://www.vicroads.vic.gov.au/Home/Registration/WhatHasToBeRegistered/Written-off+Vehicles/Repairingavehicle.htm)> and VIC Roads 2014, *Why you need a Vehicle Identity Validation (VIV) inspection*, State Government of Victoria, viewed 12 May 2014, <[www.vicroads.vic.gov.au/Home/Registration/WhatHasToBeRegistered/Written-off+Vehicles/TheVehicleIdentityValidationVIVinspection.htm](http://www.vicroads.vic.gov.au/Home/Registration/WhatHasToBeRegistered/Written-off+Vehicles/TheVehicleIdentityValidationVIVinspection.htm)>

<sup>27</sup> *National Motor Vehicle Theft Reduction Council – Strategic Plan 2013-2016*, NMVTRC, p14.

and industry experience, which correspondingly sees varying levels of regulatory compliance (see Industry Testimonial 1).

## **8.1 Industry Testimonial 1:**

### **Perspectives from Total Auto Recyclers Pty. Ltd.**

Most developed nations have addressed issues around end of life motor vehicles and have developed schemes to account for their disposal and to manage the environmental impact of recycling activities.

In comparison, no Australian state government has yet legislated to manage the end of a vehicle's life in accordance with global best practice. In the absence of a responsible management scheme, conduct around vehicle disposal here has developed into a free for all open market, hosting a range of unacceptable practices and illicit activities, all of which have consequences for the broader community. This includes environmental pollution, unsafe workplaces, vehicle theft, illegal exports and a flourishing cash economy that facilitates tax evasion, welfare fraud and money laundering.

With minimal barriers to entry, dismantling vehicles for parts and scrap metal value is particularly attractive to new migrants from less developed countries. Subsequently, many ethnic communities have become involved in the industry and have developed export networks through which they conduct transactions with untraceable cash transactions.

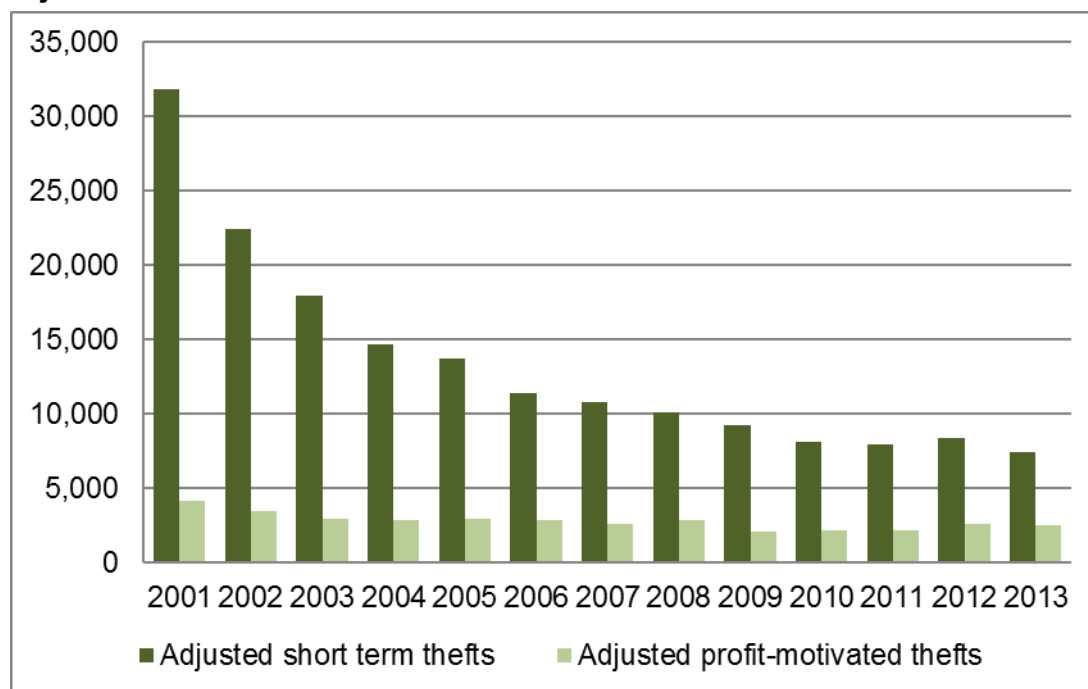
Most of these new entrepreneurs have not set out to deliberately engage in non-compliant behaviours and criminal activity is not fundamental to their enterprises. Rather, they have simply been able to go about business as they have been accustomed to in their countries of origin because we have an unregulated system. They enjoy significant financial advantage over legitimate businesses through their cash economies, leading some mainstream businesses to similarly take up non-compliant behaviours in order to remain competitive.

Of particular concern to legitimate businesses is evidence that they are now handling a smaller proportion of end of life vehicles than non-compliant operators, whose operations are growing rapidly.

## 9. The extent and resilience of PMVT in Victoria

Rates of PMVT have remained stable around Victoria even as the regulatory environment has shut down avenues for vehicle re-birthing with both statutory and repairable write-offs. This stability is significant given that it indicates a resilient, enduring and adaptive criminal activity designed to convert stolen vehicles into cash<sup>28</sup>. A comparison of Victoria's annual rates of passenger and light commercial vehicle<sup>29</sup> (PLC) theft between 2001 and 2013 (see Figure 6) shows vehicle theft was at a record high in 2001 with almost 32,000 short term PLC thefts and more than 4,200 SNR PLC vehicles recorded state-wide<sup>30</sup>. By 2013 there were 2,562 SNR PLC vehicles in Victoria, representing only a 39 per cent decrease from 2001<sup>31</sup>. This contrasts with the rates of short term theft, which had decreased 77 per cent to 7,273 PLC vehicles in the same period.<sup>32</sup>

### 9.1 Figure 5: Short term and profit-motivated PLC vehicle thefts in Victoria 2001 – 2013, adjusted<sup>33 34</sup>



Between 2009 and 2013, SNR PLC vehicles in Victoria increased 21 per cent (see Figure 7)<sup>35</sup>. Task Force Discover believes that rates of PMVT in Victoria have remained consistent in the long-term (see Figure 6) and increased over the short-term (see Figure 7) because vehicle thieves can exploit the lax commercial practices or deliberate non-compliance of motor wreckers and scrap metal dealers to off-load, launder and sell stolen property.

<sup>28</sup> National Motor Vehicle Theft Reduction Council – Strategic Plan 2013-2016, NMVTRC, p5.

<sup>29</sup> The National Motor Vehicle Theft Reduction Council defines PLC vehicles as small, medium and large passenger vehicles, sports cars, SUVs, people movers, light commercial utilities, light commercial vans and motor homes.

<sup>30</sup> National Motor Vehicle Theft Reduction Council

<sup>31</sup> Ibid

<sup>32</sup> Ibid; the progressive reduction in short-term thefts is attributed to the introduction of engine immobilising technology from 2001.

<sup>33</sup> Ibid

<sup>34</sup> This data has been adjusted for the number of missing vehicles that are expected to be recovered up to a year after the close of the data period. This adjustment has the effect of moving a percentage of vehicles from the profit-motivated category to the short term category.

<sup>35</sup> National Motor Vehicle Theft Reduction Council

## 9.2 Figure 6: Profit-motivated PLC vehicle theft in Australia, 2009 to 2013

| State or Territory         | Number of Profit-Motivated Thefts (number of SNR PLC vehicles) by State and Percent of Total Vehicle Theft Within that Jurisdiction |              |               |              |               |              |               |              |               |              |
|----------------------------|---|--------------|---------------|--------------|---------------|--------------|---------------|--------------|---------------|--------------|
|                            | 2009  |              | 2010          |              | 2011          |              | 2012          |              | 2013          |              |
| NSW                        | 5431  | 28.5%        | 5368          | 30.7%        | 5129          | 29.8%        | 4970          | 30.6%        | 4144          | 30.1%        |
| VIC                        | 2119  | 18.6%        | 2187          | 21.1%        | 2152          | 21.2%        | 2623          | 23.7%        | 2562          | 25.6%        |
| QLD                        | 1294  | 17.9%        | 1309          | 19.1%        | 1741          | 21.3%        | 1875          | 18.5%        | 1804          | 19.8%        |
| SA                         | 663   | 15.6%        | 661           | 17.8%        | 748           | 20.1%        | 762           | 21.5%        | 703           | 24.7%        |
| WA                         | 583   | 12.8%        | 489           | 13.8%        | 652           | 13.1%        | 919           | 16.0%        | 888           | 16.7%        |
| ACT                        | 388   | 19.8%        | 363           | 24.6%        | 130           | 18.3%        | 202           | 22.2%        | 124           | 21.5%        |
| TAS                        | 95  | 7.1%         | 125           | 7.8%         | 128           | 8.6%         | 116           | 9.6%         | 122           | 12.3%        |
| NT                         | 62  | 8.9%         | 51            | 6.0%         | 45            | 7.8%         | 62            | 7.2%         | 71            | 9.4%         |
| <b>Total for Australia</b> | <b>10,635</b>   | <b>21.1%</b> | <b>10,553</b> | <b>23.0%</b> | <b>10,725</b> | <b>22.8%</b> | <b>11,529</b> | <b>23.2%</b> | <b>10,418</b> | <b>24.0%</b> |

Between 2009 and 2013 an average of 2,330 vehicles were stolen annually in Victoria for profit-making purposes (see Figure 7). Naturally, not every motor wrecker or scrap metal dealer in the state is complicit in or involved with PMVT and not all vehicles stolen for profit will be processed through the separated parts and scrap markets. This means law enforcement is faced with the significant challenge of finding stolen vehicles dispersed randomly in unknown proportions among an unknown number of businesses in a variety of metropolitan and regional locations. It is therefore impractical to expect SNR vehicles could be recovered in Victoria through *ad hoc* or incidental state-wide inspections of motor wreckers and scrap metal dealers, especially given the rapid turnover of vehicle stocks per established industry practice. Furthermore, according to Task Force Discover investigators, businesses complicit in vehicle theft will dismantle, sell, or export stolen vehicles and crush leftover components for scrap metal in a matter of hours, ensuring an even shorter window of opportunity to detect and seize the physical evidence of theft.

It is therefore Task Force Discover's position that best practice regulation, and not greater industry monitoring or inspections alone, is the key to inhibiting PMVT in the motor wrecking and scrap metal industries. Best practice regulation in tandem with effective enforcement will tighten business accountability at the point vehicles enter and exit motor wreckers and scrap metal dealers as profitable commodities. Best practice regulation will subsequently prove a catalyst for the uptake of wider compliant behaviours by not only deterring vehicle crime but also promoting commercial practices that minimise community harm from injury and pollution in the workplace.

### 10. The expansion of the illicit separated parts market

The net value of a vehicle's parts has been estimated at two to three times greater than the value of a whole vehicle<sup>36</sup>. The difficulty of re-birthing and the value inherent in quality used parts has subsequently led the separated parts market to become a driver for PMVT as evidenced by the current high proportion of older, low value SNR vehicles in Victoria. In 2012, 86 per cent of all SNR PLC vehicles in Victoria were more than 11 years old, 74 per cent were worth less than \$10,000 and 56 per cent were worth less than \$5,000<sup>37</sup>. This indicates a criminal preference for vehicles that, due to age and condition, have little demand on the used vehicle market and instead retain value in their parts and components. Task Force Discover investigators note that vehicle thieves can also profit from the domestic sale or export of stolen parts from newer vehicles that are scarce or otherwise command high retail prices (see Case Study: Operation Neoplastic).

<sup>36</sup> Longman M 2006, 'The problem of auto theft', in Stauffer E and Bonfanti M.S. (Eds.), *Forensic Investigation of Stolen-Recovered and Other Crime-Related Vehicles*, Oxford: Elsevier, p3.

<sup>37</sup> National Motor Vehicle Theft Reduction Council

Vehicle thieves can exploit the fact that there is no NEVDIS-equivalent national parts register and, even if there was, most vehicle parts have no markers or identifiers making stolen parts difficult to trace and identify. It is telling that a practical and cost-effective vehicle parts identification technology is no closer to development than it was a decade ago<sup>38</sup>, demonstrating the ongoing challenges for law enforcement in tracing the provenance of vehicle parts and highlighting the opportunities this presents to launder stolen vehicle parts into legitimate written-off, end-of-life or damaged vehicles.

## **11. Export Markets: A driver for PMVT**

Task Force Discover notes that opportunities exist to export stolen property undetected due to the burden in monitoring outgoing shipping cargo. While the Australian Customs and Border Protection Service (ACBPS) has worked closely with Victoria Police to disrupt the export of stolen vehicles and parts in the past<sup>39</sup>, the ability of Victoria Police and the ACBS to intercept stolen vehicles at the border is entirely intelligence-led. The logistical challenges involved in detecting, unpacking and inspecting suspect shipping containers makes *ad hoc* inspections prohibitive. Instead, the inspections that do occur are highly targeted and are based on the collection of intelligence that indicates the attempted export of stolen property. This means only a limited amount of outgoing export cargo can be cross-checked with export declarations.

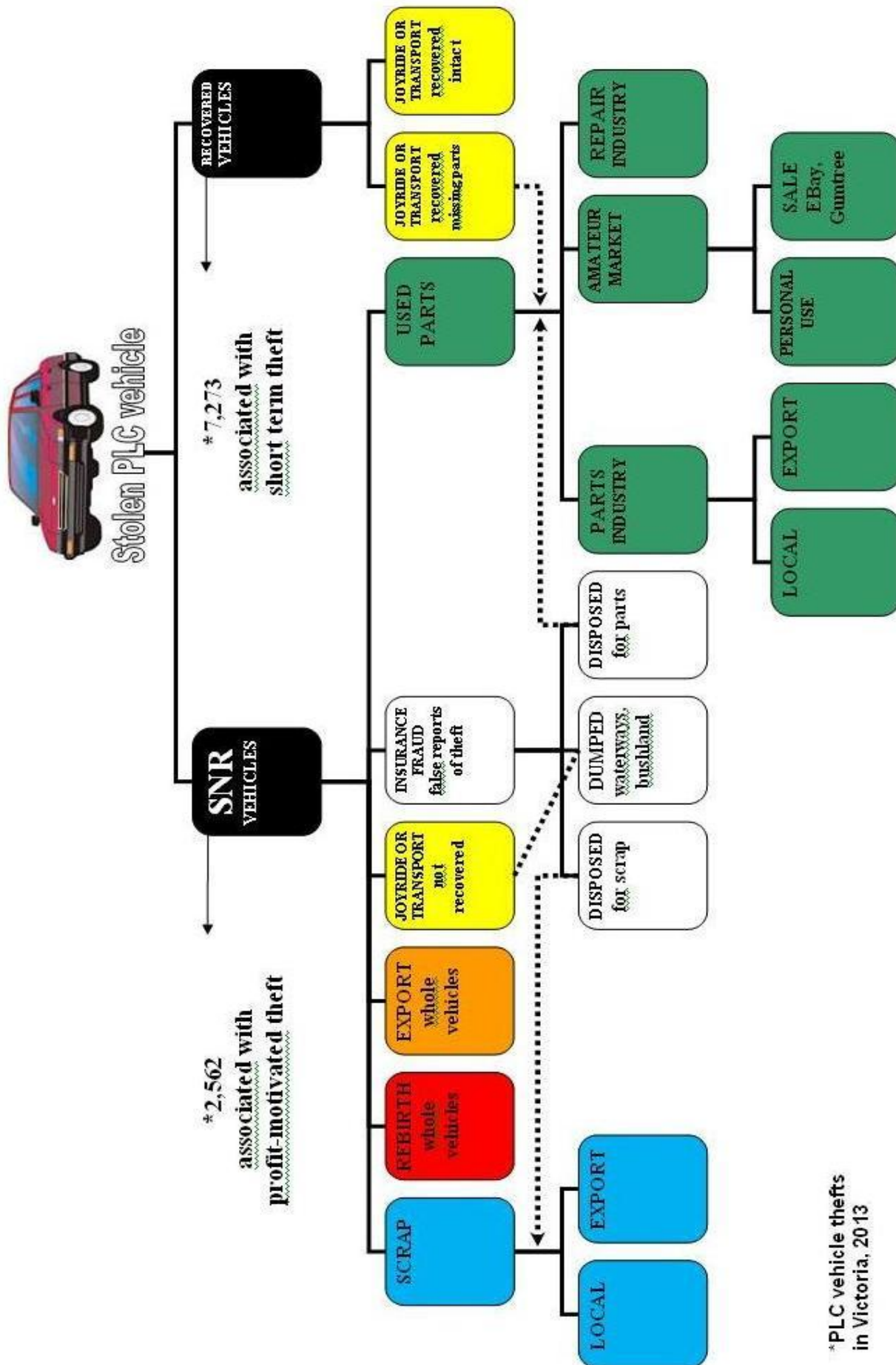
According to Task Force Discover investigators, stolen vehicle parts that have high demand on the separated parts market include engines, gear boxes and body panels. An as yet unknown proportion of parts stolen in Victoria will be destined for export markets in the Middle East, Africa and the Subcontinent via familial connections that some vehicle thieves are believed to maintain overseas (see Case Study: Operation Neoplastic). Exported vehicles may be stolen to order, with evidence that vehicle thieves in Victoria have been provided with shopping lists of vehicles and parts by criminal associates based offshore. Investigators believe it possible that stolen vehicles and stolen parts are exported from Australia under the guise of generic spare parts, scrap metal or innocuous household items.

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<sup>38</sup> *National Motor Vehicle Theft Reduction Council – Strategic Plan 2013-2016*, NMVTRC, p12.

<sup>39</sup> Intelligence Support to Operations Victoria, Australian Customs and Border Protection Service

11.1 Figure 7: Pathways for a stolen PLC vehicle



\*PLC vehicle thefts in Victoria, 2013



## **Case Study in PMVT: Operation Neoplastic**

Task Force Discover's disruption of a motor wrecker allegedly exporting stolen vehicles.

### **12. Identification of the accused motor wrecker**

Task Force Discover analysed customs data for the export of vehicle parts and scrap metal from Victoria. Analysis of the data indicated that between May 2013 and April 2014 a motor wrecking business in Campbellfield had exported 11 containers of vehicle parts and accessories to Kuwait and Lebanon with a gross weight of 163 tonnes and a 'free on board' value of \$394,113. Between December 2012 and April 2013, the same operators under a different business name had exported an additional five containers to the same destinations, with a gross weight of 79 tonnes and a 'free on board' value of \$75,204.

The motor wrecking business had not been visited during the audit phase of Task Force Discover due to the fact the business deliberately maintained a low profile. It did not advertise for the purchase of vehicles from the public and it did not operate a shop front for the local sale of vehicles or used parts. Instead, in addition to exporting, the business engaged in domestic online trading by selling parts through eBay and by selling vehicles through the carsales.com.au website. Physical inspection of the business revealed that the signage on the front of the premises was from the previous occupants and bore no relationship to motor wrecking.

### **13. Task Force Discover Audit**

On Monday 7 April 2014 Victoria Police visited the business under Task Force Discover and established that the business was trading without a MCTL. The business owner claimed to acquire mostly Toyota sedans and four wheel drives from insurance and salvage auctions.

As part of the audit, a number of vehicles and half-cuts of vehicles on the premises were checked. It was established that two Toyota Prados were stolen vehicles, with one having been stolen in the previous 24 hours and the other having been stolen sometime in the previous four days.

### **14. Victoria Police investigation**

A search warrant for the business premises was obtained and executed late in the afternoon of 7 April 2014. The subsequent search of the premises revealed a further five stolen vehicles and a substantial amount of property was seized including vehicle log books, a Toyota key code reader, a number of blank Toyota keys, on-board diagnostic readers, an eTag and three bull bars two of which had winches attached.

Victoria Police identified an additional 27 stolen vehicles, comprising 18 vehicles traced through the confiscated log books, two vehicles were identified from the winches on the bull bars, one vehicle was identified from the confiscated eTag, five vehicles were identified through additional personal property found in the stolen vehicles and one vehicle was identified through examination of a build plate remaining from a dismantled vehicle.

As at 30 July 2014, a total of 70 stolen vehicles had been identified with a total insured value of approximately \$2 million, which represents 8 per cent of the total value of all profit-motivated thefts in Victoria in 2013<sup>40</sup>. This matter is currently before the Victorian courts and as at July 2014 the accused had not been convicted of these alleged offences.

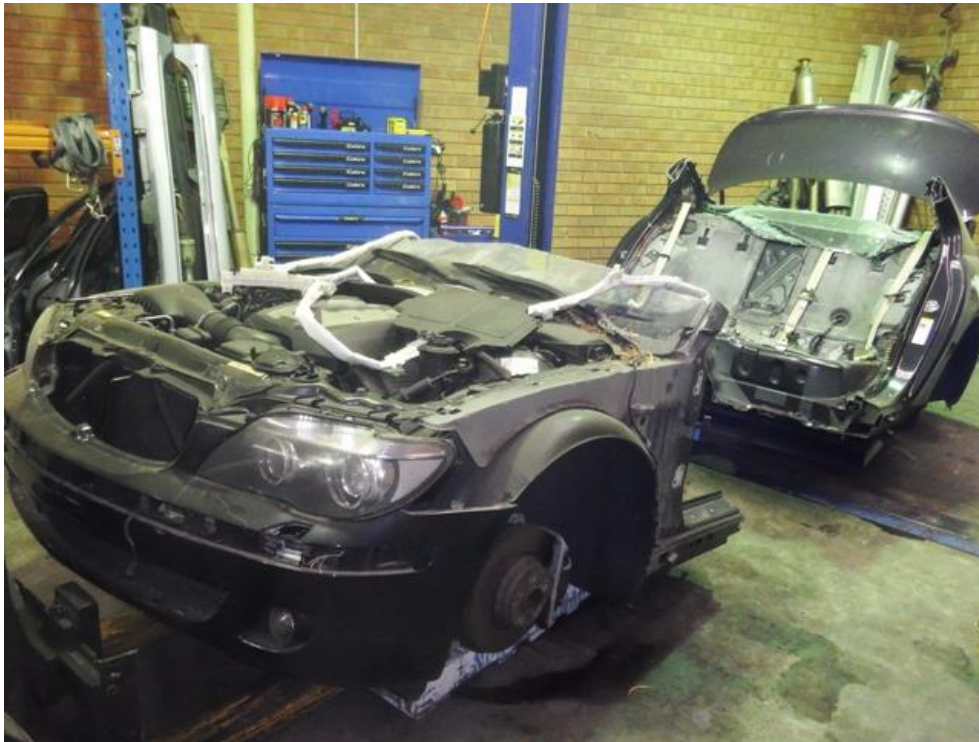
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<sup>40</sup> The total estimated value of all profit-motivated thefts in Victoria in 2013 was \$24,929,739; sourced from the National Motor Vehicle Theft Reduction Council.

**14.1 Figure 8: Stolen Toyota Prado in the process of being stripped**



**14.2 Figure 9: Front and rear cut of stolen BMW 740 sedan**



**14.3 Figure 10: Bull bar with winch attached from a stolen Toyota Prado**



**14.4 Figure 11: Section of sill and 'B' pillar from a stolen Toyota RAV4, build plate attached**



## Audit Results

The Task Force Discover audit uncovered widespread non-compliance across a range of regulatory obligations. The main identified areas of non-compliance were with respect to: business licensing and business registration; record-keeping and WOVN notifications; and OHS and environmental protection regulations.

In order to assess compliance with regulatory requirements for the trade in vehicles, parts and scrap, Task Force Discover investigators first assessed if an audited motor wrecker or scrap metal dealer conducted trading with the general public, including the acquisition of vehicles from the public. Task Force investigators documented that motor wreckers and scrap metal dealers acquired vehicles from the general public as well as from insurance and salvage auctions in a range of conditions. The investigators then assessed the condition and status of vehicles found at audited businesses according to the definition of a motor car in the MCTA.

### 15. Compliance with business licensing and registration

Of the 432 motor wreckers and scrap metal recyclers audited by Task Force Discover, 199 businesses or 46 per cent were assessed to be holding the wrong licence or registration or to be trading without a licence or registration when required to do so. The licensing arrangements of all audited businesses are provided in Appendix A.

Task Force Discover's audit results for the 432 motor wreckers and scrap metal dealers reveal that:

- 217 businesses (50 per cent) traded with a MCTL and of these,
  - 164 had a MCTL and no registration under the SHDPA<sup>41</sup>
  - 53 possessed both a MCTL and registration
  - 198 acquired whole vehicles from the general public
  - 98 undertook the *ad hoc* sale of whole vehicles to the general public
- 83 businesses (19 per cent) traded with only registration under the SHDPA and of these,
  - 8 were assessed to meet the conditions for trading solely with registration
  - 75 were assessed as being required to hold a MCTL
  - 73 acquired whole vehicles from the general public
  - 10 undertook the *ad hoc* sale of whole vehicles to the general public
- 132 businesses (31 per cent) traded without a licence or registration and of these,
  - 12 were assessed to require registration under the SHDPA
  - 112 were assessed as being required to hold a MCTL
  - 7 were assessed as not being required to hold either a MCTL or to be registered
  - 107 acquired whole vehicles from the general public
  - 24 undertook the *ad hoc* sale of whole vehicles to the general public

The Task Force Discover audit results show that 88 per cent of audited motor wreckers and scrap metal dealers source at least part of their inventory from whole vehicles purchased from the general public. Task Force investigators assessed that a majority of these vehicles were motor cars as defined under the MCTA and therefore a majority of the audited motor wreckers and scrap metal dealers were assessed as being required to hold a MCTL. Motor wreckers or scrap metal dealers that can trade solely under the SHDPA are in the minority while rarer still are trading conditions that would allow them to trade without any licence or registration.

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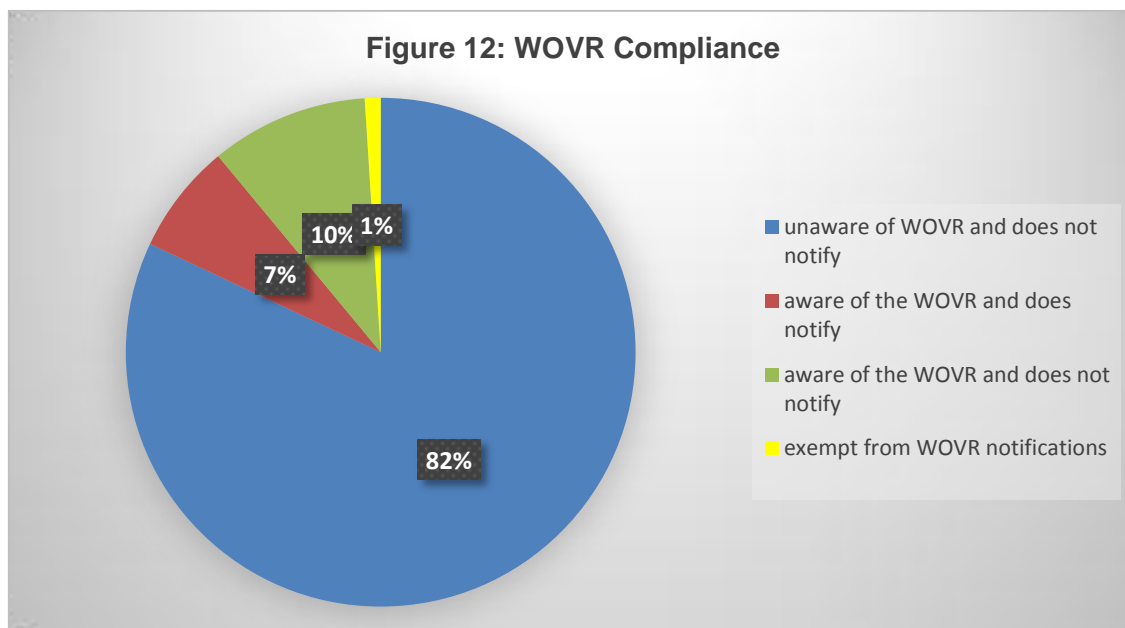
<sup>41</sup> Licensed motor car traders are not required to be registered under the SHDPA, but must in all other respects comply with that Act.



## 16. Compliance with record keeping and WOVR notifications

Task Force Discover found widespread non-compliance with record-keeping and WOVR notification requirements. The audit results on record keeping and the use of dealings books for the 432 motor wreckers and scrap metal dealers reveal that:

- 132 businesses undertook retail vehicle sales to the general public and of these
  - 90 kept motor car trading records and 42 had no records;
- 321 businesses traded in recycled vehicle parts to the general public and of these
  - 170 kept second hand trading records and 151 had no records;
- 78 businesses traded exclusively in scrap metal and of these
  - 49 kept vehicle acquisition and disposal records and \*29 had no records
  - \*2 of these businesses acquired vehicles exclusively from auctions or wholesale channels and were exempt from business licencing provisions;
- 353 businesses claimed to be unaware of WOVR reporting requirements and did not notify VicRoads of relevant vehicles;
- only 28 businesses were aware of WOVR reporting requirements and notified VicRoads of relevant vehicles;
- 45 businesses were aware of WOVR reporting requirements but did not provide notifications to VicRoads; and
- only 6 businesses dealt exclusively in vehicles that were older than 15 years and were exempt from notifying the WOVR.



## **17. Compliance with OHS regulations**

Task Force Discover audits identified 82 motor wreckers and scrap metal dealers that required improvements to workplace health and safety. These cases concerned extensive numbers of vehicle bodies, engines and parts that were stacked or stored together in a hazardous manner so as to pose a high risk of collapse onto persons present at worksites. Separate to these cases, the Task Force found that general compliance with worksite safety conditions was poor and estimated that 90 percent of businesses were non-compliant to some degree.

According to VWA, issues of non-compliance prevalent among motor wreckers and scrap metal dealers are:

- lack of subscription to WorkCover insurance policies;
- under-reporting of workplace health and safety incidents and accidents;
- poorly stored and stacked vehicle bodies, panels, engines and parts;
- lack of training and induction in the safe use of machinery and plant equipment such as forklifts;
- electrical hazards from flexible electrical leads, fixed wiring and fixtures;
- hazardous floor and ground conditions risking slips and falls;
- fuels and oils stored inappropriately near ignition sources; and
- lack of personal protective equipment such as glasses, gloves, boots and acoustic earmuffs.

## **18. Compliance with environmental protection regulations**

Task Force Discover audits identified 41 motor wreckers and scrap metal dealers at the moderate end of environmental non-compliance, representing 9.5 per cent of all audited businesses, which will be referred to EPA for follow-up. These cases concerned vehicles being processed on open ground causing the leakage of vehicle oils and fluids into the soil of unsealed work areas and into stormwater drains. Separate to these cases, the Task Force found that general compliance with provisions for environmental protection was poor and estimated that 90 percent of businesses were non-compliant to some degree.

According to EPA, issues of low-level non-compliance is prevalent among motor wreckers and scrap metal dealers resulting in the potential contamination of air, land, soil, groundwater and waterways. This occurs because:

- vehicle dismantling work is conducted on a non-sealed surface;
- vehicles are drained of coolants, fuels, brake fluids and engine, transmission and differential oils on a non-sealed surface or in a non-bunded area;
- vehicle parts containing fluids, liquids or oils (including batteries, radiators, oil filters and engines) are stored on a non-sealed surface or non-bunded area;
- waste water from vehicle processing and cleaning is not disposed of through an oil water separator or through the sewer via a trade waste agreement;
- waste water containing vehicle fluids, liquids or oils enters stormwater drains or is allowed contact with the soil;
- reclaimed refrigerants from air-conditioning units leak or are released into the air; and
- vehicle tyres and batteries are not recycled.

## Case Studies in OHS and Environmental Protection Compliance

The following case studies demonstrate the varying levels of compliance that Task Force Discover found with OHS and environmental protection regulations.

### 19. Substantially compliant motor wrecker trading in recycled parts with a MCTL, Victoria Police Western Region

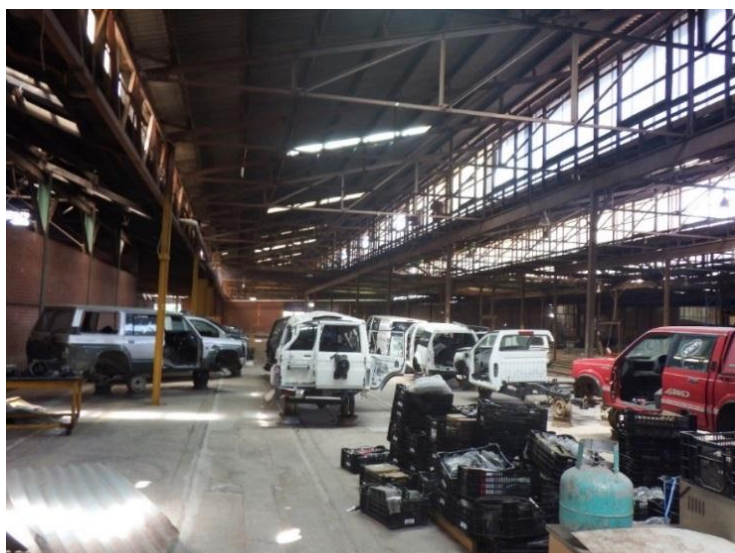
No OHS or environmental concerns were apparent. For all vehicles acquired this motor wrecker:

- took copies of photo identification such as drivers licence for vehicles acquired from the public;
- completed PPSR checks and vehicle disposal forms;
- took photos of VINs, compliance plates and bodies;
- notified the WOVN of VINs from relevant dismantled and scrapped vehicles;
- assigned stock numbers to vehicles and bar codes were attached to parts;
- stored vehicle bodies undercover and parts securely on shelves; and
- had excellent record keeping with the electronic system 'Aden', which holds invoice records and can trace the storage location of all parts tagged and shelved.

#### 19.1 Figure 13: Substantially compliant worksite, vehicles processed indoors on a sealed surface



#### 19.2 Figure 14: Substantially compliant worksite, vehicles processed indoors on a sealed surface

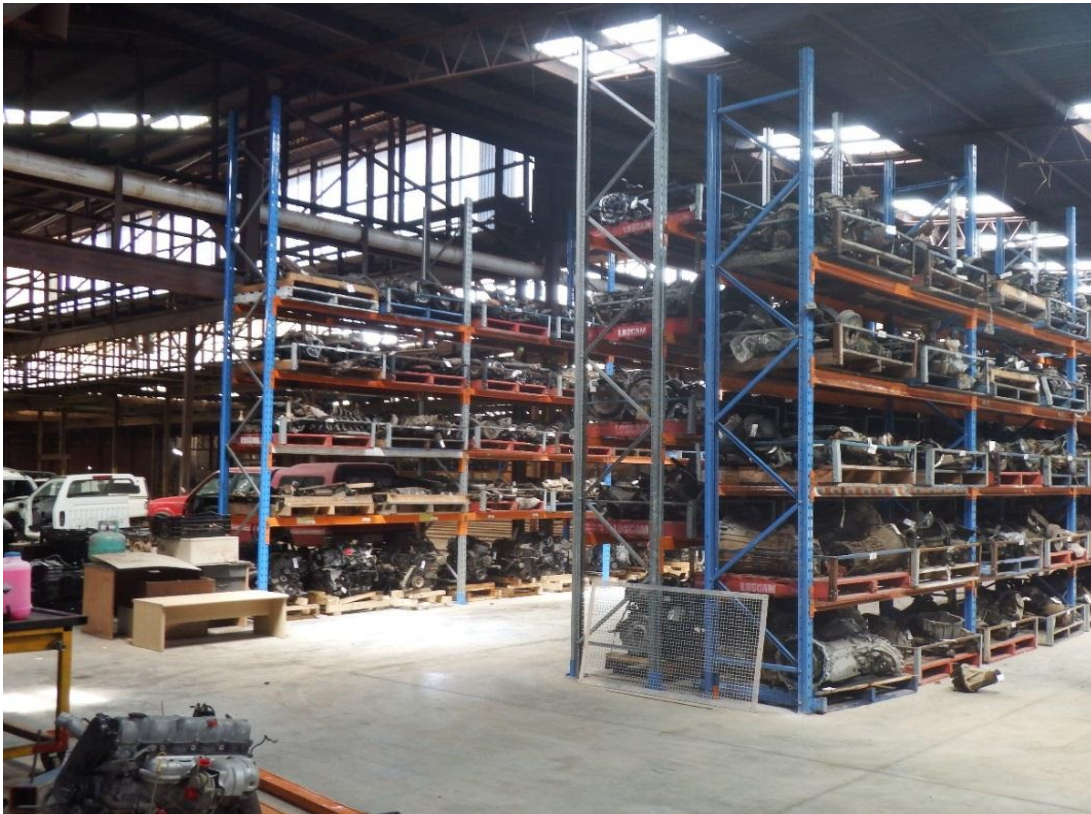




**19.3 Figure 15: Substantially compliant worksite with stable storage and shelving**



**19.4 Figure 16: Substantially compliant worksite with stable storage and shelving**





## 20. Mostly compliant motor wrecker trading in scrap and the export of recycled parts with a MCTL, Victoria Police North West Metro Region

Task Force Discover identified the following OHS and environmental issues:

- combined inside and outside storage of vehicle bodies and engines, with shelving for parts appearing mostly secure with some possible instability; and
- minor potential safety issues identified in the storage of gas cylinders and vehicle bodies, some of which were observed stacked on top of each other

For all vehicles acquired this motor wrecker:

- completed vehicle disposal forms for most but not all vehicles;
- did not notify the WOVOR of relevant dismantled or scrapped vehicles; and
- had good record keeping with the electronic system 'Pinnacle'.

### 20.1 Figure 17: Mostly compliant worksite, external shelving and stacking of gas cylinders assessed to be problematic



### 20.2 Figure 18: Mostly compliant worksite



**20.3 Figure 19: Mostly compliant worksite, storage bins are in a bunded area but bins are too full and parts are stacked too high**



**20.4 Figure 20: Mostly compliant worksite, the storage and disposal of vehicle waste matter assessed to be problematic**





## **21. Substantially non-compliant motor wrecker trading in the export of recycled parts and scrap with a MCTL, Victoria Police North West Metro Region**

Task Force Discover identified the following OHS and environmental issues:

- car bodies and parts were stacked too high; and
- substantial oil and vehicle fluid leaks were apparent and were not contained;

For all vehicles acquired this motor wrecker:

- maintained a dealings book that was apparently kept off-site so record keeping could not be confirmed, which was in contravention of the MCTA; and
- did not notify the WOVR of relevant dismantled and scrapped vehicles.

### **21.1 Figure 21: Substantially non-compliant worksite, vehicle bodies stacked on top of unsecured parts and engines with fluids on ground**



**21.2 Figure 22: Substantially non-compliant worksite, oils and fuels on ground create a slip hazard**



**21.3 Figure 23: Substantially non-compliant worksite, vehicle bodies stacked unsafely**



**21.4 Figure 24: Substantially non-compliant worksite, vehicle bodies stacked unsafely**



**22. Completely non-compliant motor wrecker trading in recycled parts and scrap with no business licence or registration, Victoria Police North West Metro Region**

Task Force Discover identified the following OHS and environmental issues:

- vehicle bodies and parts stacked and stored unsafely and haphazardly;
- engines, parts, panels and other components littered the workshop floor creating safety hazards;
- oil leaks were apparent on the workshop floor creating slip hazards; and
- oils, lubricants, coolants and fuel leaking into the soil via an unsealed pit outside

For all vehicles acquired this motor wrecker:

- operated completely unlicensed;
- acquired vehicles from and sold vehicles to the general public;
- kept minimal records comprising invoices only;
- did not notify the WOVR of relevant dismantled and scrapped vehicles; and
- was completely non-compliant with conditions required by the MCTA.



**22.1 Figure 25: Completely non-compliant worksite, engines and vehicles stacked close to public road and median strip, possible risk to pedestrian and road users if vehicle fluids leak**



**22.2 Figure 26: Completely non-compliant worksite, vehicle bodies stacked unsafely**



**22.3 Figure 27: Completely non-compliant worksite engines stored on worksite floor, lack of bins or storage containers**



**22.4 Figure 28: Completely non-compliant worksite oils, fuels and other vehicle fluids leaking into unsealed pit**



## Causes of Non-Compliance and Implications for PMVT

### 23. Non-Compliance with business licensing and registration requirements

The results of the Task Force Discover audit suggest there is significant confusion within the motor wrecking and scrap metal industries as to whether a MCTL or registration under the SHPDA, if any, is required to conduct trading activities. Some traders, including those involved in PMVT, may deliberately exploit this confusion to avoid complying with licencing or registration requirements and thereby frustrating the ability of regulators to oversee their activities. The Task Force identified the following aspects of the MCTA and the SHDPA that may be sources of confusion and are vulnerable to criminal exploitation within the motor wrecking and scrap metal industries:

#### *No definition of a 'motor wrecker' or 'scrap metal dealer'*

The MCTA and the SHDPA function to create an equitable business licensing scheme over motor car traders, second-hand dealers and pawn brokers – that is to say, the Acts offer no definition of a motor wrecker or scrap metal dealer. The MCTA and the SHDPA are not intended to regulate motor wreckers or scrap metal dealers unless these businesses undertake trading that corresponds with motor car traders or second-hand dealers. This therefore places the onus on wreckers and scrappers to self-assess which business model<sup>42</sup> their operations align with and apply for the relevant business licence or registration. When operations seem to straddle both the motor car trade and second-hand dealing within the one business, it is not inconceivable that wreckers or scrappers may mistakenly choose the wrong trading instrument.

'Motor wrecker' is defined in the *Road Safety Act 1986*<sup>43</sup> and this definition is sufficiently broad so as to capture the activities of a scrap metal dealer; however, this Act is concerned with road safety as opposed to the regulation of the motor wrecking and scrap metal industries.

The lack of a definition of scrap metal dealing under Victorian law creates ambiguity that may create confusion for scrap metal dealers attempting to self-assess their own business model for licensing or registration purposes. Rogue businesses notionally calling themselves scrap metal dealers might exploit ambiguity in the law to cherry-pick business licensing that best conceals non-compliance and criminality (see Case Study: Operation Neoplastic).

#### *Lack of clarity between whole vehicles and separated parts*

The Acts define 'motor cars' and 'second-hand goods' broadly but provide only limited guidance as to the point when trading with a whole vehicle acquired from the public (requiring a MCTL) ceases to be a vehicle and becomes separated parts (requiring registration under the SHDPA). The definition of 'motor car' under the MCTA includes vehicles whether or not they are in working condition or complete, but does not include a vehicle that is not, and is not intended to be, used on a highway. Under the MCTA, vehicles that are salvaged or damaged beyond restoration or repair can cease to be motor cars and can therefore be traded with registration under the SHPDA.

A wrecker or scrapper that purchases separated parts and not whole vehicles from the public can undertake this activity solely with registration under the SHDPA; however, it is understood that few motor wreckers or scrap metal dealers are willing to purchase parts already separated from vehicles due to uncertainty regarding origin and quality. Parts dealers who acquire whole vehicles are only required to hold a MCTL if these vehicles are capable of being returned to the road.

It can be complex for motor wreckers and scrap metal dealers to correctly assess the condition and status of the vehicles they trade with and then align their vehicle inventories with the relevant legislation. The lack of a clear legal distinction between motor cars and separated parts can therefore make it difficult for businesses to assess which licence or registration they require. Task

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<sup>42</sup> Whether they are a motor car trader or second hand dealer; pawn broking will not be relevant to the separated parts and scrap markets.

<sup>43</sup> *Road Safety Act 1986 - Section 16B*, viewed 9 May 2014, <[www.austlii.edu.au/cgi-bin/sinodisp/au/legis/vic/consol\\_act/ras1986125/s16b.html?stem=0&synonyms=0&query=wrecker](http://www.austlii.edu.au/cgi-bin/sinodisp/au/legis/vic/consol_act/ras1986125/s16b.html?stem=0&synonyms=0&query=wrecker)>



Force Discover found that many motor wreckers and scrap metal dealers acquiring whole vehicles from the general public without a MCTL considered the transaction to represent the trade in separated parts and components per the SHDPA, despite the vehicle's intact nature when acquired. These businesses therefore claimed exemption from the MCTA and if they believed they were dealing exclusively in scrap they also claimed exemption from the SHDPA (see below – the exemption of scrap metal is limited and does not apply to a business buying and selling car parts). Rogue traders can also attempt to exploit ambiguity in the law by spuriously claiming they did not believe that the vehicles they traded fell under the definition of a motor car.

#### *Scrap metal exemption*

The classification of ferrous and non-ferrous scrap metal as an exempt good under the SHDPA appears to create confusion among some traders. This exemption can be relied on if they only deal in scrap metal from vehicles and not any other component parts and the metal does not contain copper, gold or silver. Task Force Discover found that 36 per cent of scrap metal dealers processing whole vehicles sold used vehicle parts taken from the scrapping process. The Task Force also found many of these scrap metal dealers claimed exemption from the SHDPA based on their business name alone even though their trading included used vehicle parts. Some of these same scrappers also claimed exemption from the MCTA (per the above) and traded completely unlicensed and unregistered. It would appear therefore that there is potential for this exemption to be claimed falsely by businesses intent on avoiding the scrutiny of regulators.

#### *Enforcement issues*

CAV and Victoria Police are imbued with powers of entry, inspection and enforcement for their respective Acts only when suspect commercial entities are specifically licensed with a MCTL or registered under the SHDPA. Unlicensed or unregistered trading limits the statutory powers of enforcement authorities to oversight business practices or to prevent them from trading without resorting to court action. A motor wrecker or scrap metal dealer could therefore choose to operate without a licence or registration in order to deliberately isolate themselves from government scrutiny and hide illicit activity.

Neither CAV nor Victoria Police retain any statutory powers of entry over the 132 unlicensed and unregistered motor wreckers and scrap metal dealers identified by Task Force Discover. Under the MCTA, either CAV or the Victoria Police could seek to prosecute an unlicensed and unregistered business for non-compliance, but a prosecution could only succeed with sufficient evidence. In such scenarios, it is possible Victoria Police would be granted physical access to an unlicensed business, but this would be due to the persuasion of a policing presence alone given they would also be bereft of statutory powers of entry. If a business refused Victoria Police access then they would be left to rely on powers of entry through warrant, which could only be procured with sufficient evidence of criminal activity and this would be lacking unless evidence was collected separate to the physical inspection of the suspect business.

This imposes obvious limitations on Victoria Police's visibility of motor wreckers and scrap metal dealers beyond businesses trading solely under the SHDPA. Victoria Police acknowledges that, hitherto, its limited statutory authority over motor wreckers and scrap metal dealers has meant investigations into vehicle theft have rarely involved these businesses. Instead, its visibility of PMVT opportunities within the separated parts and scrap markets has been incidental and contingent on occasions when a motor wrecker or scrap metal dealer is implicated in separate criminal activity such as assault, illicit drugs or homicide.

Task Force Discover found only 83 motor wreckers and scrap metal dealers conducting transactions solely under the SHDPA, representing 19 per cent (the smallest proportion) of all audited businesses. Task Force investigators assessed that 75 of these businesses or 90 per cent were engaged in unauthorised trading and in need of a MCTL. The proportion of businesses Victoria Police will have statutory authority over will continue to grow even smaller when/if these businesses obtain a MCTL and let their registration under the SHDPA lapse.

## 24. Non-Compliance with record keeping

The audit found widespread non-compliance with record-keeping requirements under the MCTA and SHDPA. Non-compliance with record keeping hinders investigations because vehicle thieves can launder stolen vehicles through motor wreckers or scrap metal dealers with little or no risk their personal details will be recorded. Stolen vehicles are then stripped for parts and crushed for scrap metal, leaving little traceable data. If VINs and vehicle identifiers are not recorded the crucial evidence needed for the investigation of vehicle theft is effectively destroyed.

A related issue is that the MCTA, the SHDPA and their associated Regulations do not prescribe or regulate the manner in which motor wreckers and scrap metal dealers facilitate payments to the public for vehicles. Cash-in-hand payments are subsequently the norm within Victoria's motor wrecking and scrap metal industries. This practice, when combined with the generally poor record-keeping standards identified in the audit, makes it difficult to trace the chain of vehicle acquisition and disposal (see Industry Testimonial 2). It also has implications for tax fraud.

Task Force Discover notes that the *Scrap Metal Dealers Act 2013* (United Kingdom) makes it an offence for dealers to pay cash for scrap metal. It would be worth considering this, and other similar legislation in any regulatory review.

### 24.1 Industry Testimonial 2:

#### Perspectives from SIMS Metal Management

Each country that we operate in globally experiences the issues that Task Force Discover is investigating and has approached the problem via different strategies.

The most successful strategy has undoubtedly come about through legislation that prohibits the payment of cash for scrap metal of any kind including vehicle bodies. This legislation was introduced into the UK in 2013 following a multi-jurisdictional task force that recommended prohibiting cash-in-hand payments for vehicles and scrap.

In Australia, legislation varies between states regarding the purchasing of scrap and there appears to be little to no enforcement of this legislation.

It is the view of SIMS Metal Management, particularly in light of the success of the legislation in the UK, that prohibiting cash payments for scrap metal and vehicle bodies in Australia would have similar success in reducing criminal activity. SIMS understands that the UK legislation was accompanied by rigorous enforcement, with non-compliant businesses either heavily fined or forced to close.

## 25. Non-Compliance with WOVN notifications

While VicRoads makes available a range of information to vehicle wrecking representative groups regarding the statutory obligations of their members to the WOVN, there is no guarantee that this information will be studied or implemented. The Task Force Discover audit found 82 per cent of motor wreckers claim (or feign) ignorance of WOVN notifications. The Task Force considers the provisions of the Road Safety (Vehicles) Regulations 2009 to be problematic for compliance because the Regulations:

- reference only motor wreckers and motor car traders, thereby exempting scrap metal dealers. Businesses calling themselves scrap metal dealers might argue that the Regulations absolve them of responsibilities to the WOVN. Task Force Discover notes, however, that sourcing scrap metal from a whole vehicle will involve some form of wrecking activity and also notes some scrap metal dealers will acquire vehicles from the public and undertake the *ad hoc* sale of vehicles in line with the activities of a motor car trader; and

- prescribe unequal obligations on those who notify the WOVR and on those who maintain it. Regulations 87-89 advise insurers, self-insurers, motor wreckers and motor car traders that they “must” provide written-off vehicle data to VicRoads<sup>44</sup>. Regulation 93 then advises that VicRoads “must” enter this data into the WOVR when it is from insurers and self-insurers, but only “may” enter this data when it is from motor wreckers and motor car traders<sup>45</sup>. VicRoads policy is to record all WOVR notifications it receives; however, motor wreckers may not feel compelled to make notifications to VicRoads if the Regulations lead them to believe incorporation of data into the WOVR is only irregular or otherwise not guaranteed.

Even when vehicles are demolished and cease to physically exist, a lack of WOVR notification means VINs and vehicle identifiers retain a clear title and are highly suitable for use in re-birthing activity. Alternatively, the VIN and the chassis of a stripped vehicle may be retained and diverted into false upgrading. In both cases, the vehicle’s clear title makes re-registration logistically easier and allows the vehicle to forgo WOVR identity and safety inspections.

## **26. Non-Compliance with OHS and environmental protection regulations**

The audit found that non-compliance with business licensing and record keeping regulations is associated with wider non-compliant business practices that result in safety hazards and environmental pollution at worksites that can harm employees, consumers, surrounding ecosystems and the wider community.

Task Force Discover found that a majority of motor wreckers and scrap metal dealers processed vehicles and parts in a manner that allowed fuels and oils to pollute soil, drains and waterways. The subsequent storage and stacking of vehicle bodies and parts was hazardous and at risk of movement, falling or collapse. Many motor wrecker and scrap metal dealer employees were deemed to be insufficiently trained in the safe use of machinery and poorly equipped with personal safety gear. Task Force Discover referred these cases of OHS and environmental non-compliance to enforcement authorities.

## **27. The costs of compliance**

Task Force Discover notes that motor wreckers or scrap metal dealers that do not comply with regulatory requirements do not incur the associated compliance costs. This lowers the operating costs of non-compliant businesses and allows them to obtain an unfair commercial advantage by undercutting compliant businesses (see Industry Testimonial 3). This can weaken the motivation for legitimate businesses to remain compliant in the face of unfair competition and therefore increase overall rates of non-compliance.

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<sup>44</sup> *Road Safety (Vehicles) Regulations 2009 – Regulations 87-89*, viewed 16 April 2014, <[www.austlii.edu.au/au/legis/vic/consol\\_reg/rsr2009309/](http://www.austlii.edu.au/au/legis/vic/consol_reg/rsr2009309/)>

<sup>45</sup> *Road Safety (Vehicles) Regulations 2009 – Regulation 93*, viewed 16 April 2014, <[www.austlii.edu.au/au/legis/vic/consol\\_reg/rsr2009309/](http://www.austlii.edu.au/au/legis/vic/consol_reg/rsr2009309/)>

### **27.1 Industry Testimonial 3:**

#### **Perspectives from OneSteel Recycling**

Competition is healthy and we encourage it; however it must be on a level playing field. OneSteel Recycling has invested millions of dollars in our facilities, our equipment and most importantly in training our people to ensure we run a legitimate, viable, sustainable and compliant business. The people that are flagrantly flouting Victoria Police, the Environment Protection Authority and Australian Taxation Office rules are not compliant and in the process run a lower cost operation that undercuts our legitimate business.

We encourage fit for purpose regulation of the recycling and like industries; however regulation must be hand-in-hand with enforcement. There is no point regulating the legitimate operators to see the illegitimate ones prosper due to non-enforcement of the set rules. This is applicable to Victoria Police, the Environment Protection Authority, Work Safe Victoria and Australian Taxation Office enforcement – and it must be continual otherwise the shonky operators will only reappear.

## Appendix A

### 28. Appendix A – Tables

**28.1 Figure 29: Trading scenarios observed through Task Force Discover when a motor wrecker or scrap metal dealer only acquires vehicles from insurance or salvage auctions**

| Number of businesses found per trading scenario arranged by licensing and registration  |  |  |   |   |
|---|--|--|---|---|
| <i>a motor wrecker or scrap metal dealer only acquires vehicles from insurance and salvage auctions and then:</i>                       | <i>Licence or registration appropriate for scenario<sup>46</sup></i> | <i>Businesses found with appropriate licence or registration</i> | <i>Businesses found without appropriate licence or registration</i> | <b><i>Total number of businesses (out of 432)</i></b> |
| - repairs and sells vehicles to the public  | MCTL   | 0  | 2   | <b>2</b>  |
| - sells scrap metal to licensed domestic wholesalers or for export  | NONE   | 1  | 0   | <b>1</b>  |
| - sells parts to the public<br>- sells scrap metal to licensed domestic wholesalers or for export                                       | SHDR or MCTL   | 18   | 9   | <b>27</b>   |
| - exports parts<br>- sells scrap metal to licensed domestic wholesalers or for export   | NONE   | 1  | 0   | <b>1</b>  |
| - sells whole vehicles and parts to the public<br>- sells scrap metal to licensed domestic wholesalers or for export                    | MCTL   | 6  | 3   | <b>9</b>  |
| - exports whole vehicles and parts<br>- sells scrap metal to licensed domestic wholesalers or for export                                | NONE   | 4  | 0   | <b>4</b>  |
| - exports whole vehicles and parts<br>- sells parts to the public<br>- sells scrap metal to licensed domestic wholesalers or for export | SHDR or MCTL   | 2  | 3   | <b>5</b>  |
| - exports parts<br>- sells parts to the public<br>- sells scrap metal to licensed domestic wholesalers or for export                    | SHDR or MCTL   | 0  | 1   | <b>1</b>  |
| - exports parts<br>- sells whole vehicles and parts to the public<br>- sells scrap metal to licensed domestic wholesalers or for export | MCTL   | 0  | 1   | <b>1</b>  |
|   |  | <b>TOTAL</b>   | <b>TOTAL</b>  | <b>TOTAL</b>  |
|   |  | 32   | 19  | <b>51</b>   |

<sup>46</sup> When appropriate licensing or registration is "NONE", businesses holding no licence or registration have been assessed as holding the appropriate licence / registration.

**28.2 Figure 30: Trading scenarios observed through Task Force Discover when a motor wrecker or scrap metal dealer only acquires vehicles from the public**

| Number of businesses found per trading scenario arranged by licensing and registration  |   |  |   |   |
|---|---|--|---|---|
| <i>a motor wrecker or scrap metal dealer only acquires vehicles from the public and then:</i>                                     | <i>Licence or registration appropriate for scenario</i> | <i>Businesses found with appropriate licence or registration</i> | <i>Businesses found without appropriate licence or registration</i> | <b><i>Total number of businesses (out of 432)</i></b> |
| - sells parts to the public   | MCTL  | 2  | 6   | <b>8</b>  |
| - sells scrap to licensed domestic wholesalers or for export  | MCTL  | 24   | 47  | <b>71</b>   |
| - exports whole vehicles and parts  | MCTL  | 1  | 1   | <b>2</b>  |
| - exports parts<br>- sells whole vehicles to the public   | MCTL  | 0  | 1   | <b>1</b>  |
| - exports parts<br>- sells scrap to licensed domestic wholesalers or for export   | MCTL  | 0  | 3   | <b>3</b>  |
| - sells parts to the public<br>- sells scrap to licensed domestic wholesalers or for export                                       | MCTL  | 14   | 42  | <b>56</b>   |
| - sells whole vehicles to the public<br>- sells scrap to licensed domestic wholesalers or for export                              | MCTL  | 3  | 6   | <b>9</b>  |
| - sells whole vehicles and parts to the public<br>- sells scrap to licensed domestic wholesalers or for export                    | MCTL  | 14   | 5   | <b>19</b>   |
| - sells whole vehicles to licensed domestic wholesalers<br>- sells scrap to licensed domestic wholesalers or for export           | MCTL  | 2  | 0   | <b>2</b>  |
| - exports parts<br>- sells whole vehicles and parts to the public<br>- sells scrap to licensed domestic wholesalers or for export | MCTL  | 5  | 0   | <b>5</b>  |
|   |   | <b>TOTAL</b>   | <b>TOTAL</b>  | <b>TOTAL</b>  |
|   |   | 65   | 111   | <b>176</b>  |

**28.3 Figure 31: Trading scenarios observed through Task Force Discover when a motor wrecker or scrap metal dealer acquires vehicles from the public and from insurance or salvage auctions**

| Number of businesses found per trading scenario arranged by licensing and registration   |   |  |   |  |
|--|---|--|---|--|
| <i>a motor wrecker or scrap metal dealer acquires vehicles from the public and from insurance or salvage auctions and then:</i>                      | <i>Licence or registration appropriate for scenario</i> | <i>Businesses found with appropriate licence or registration</i> | <i>Businesses found without appropriate licence or registration</i> | <b>Total number of businesses (out of 432)</b> |
| - sells parts to the public  | MCTL  | 1  | 3   | <b>4</b>                                       |
| - sells scrap metal to licensed domestic wholesalers or for export   | MCTL  | 0  | 4   | <b>4</b>                                       |
| - sells whole vehicles and parts to the public   | MCTL  | 2  | 0   | <b>2</b>                                       |
| - sells parts to the public<br>- sells scrap to licensed domestic wholesalers or for export  | MCTL  | 49   | 39  | <b>88</b>                                      |
| - sells whole vehicles and parts to the public<br>- sells scrap to licensed domestic wholesalers or for export                                       | MCTL  | 61   | 14  | <b>75</b>                                      |
| - exports parts<br>- sells scrap metal to licensed domestic wholesalers or for export  | MCTL  | 5  | 2   | <b>7</b>                                       |
| - exports whole vehicles and parts<br>- sells scrap to licensed domestic wholesalers or for export   | MCTL  | 1  | 2   | <b>3</b>                                       |
| - exports whole vehicles and parts<br>- sells whole vehicles and parts to the public<br>- sells scrap to licensed domestic wholesalers or for export | MCTL  | 1  | 1   | <b>2</b>                                       |
| - exports parts<br>- sells parts to the public<br>- sells scrap to licensed domestic wholesalers or for export                                       | MCTL  | 7  | 0   | <b>7</b>                                       |
| - exports parts<br>- sells whole vehicles and parts to the public<br>- sells scrap to licensed domestic wholesalers or for export                    | MCTL  | 0  | 1   | <b>1</b>                                       |
| - exports whole vehicles and parts<br>- sells parts to the public<br>- sells scrap to licensed domestic wholesalers or for export                    | MCTL  | 2  | 0   | <b>2</b>                                       |
|  |   | <b>TOTAL</b>   | <b>TOTAL</b>  | <b>TOTAL</b>                                   |
|  |   | 129  | 66  | <b>195</b>                                     |

## 28.4 Figure 32: Other trading scenarios observed through Task Force Discover

| Number of businesses found per trading scenario arranged by licensing and registration   |  |  |   |   |
|--|--|--|---|---|
| <i>a motor wrecker or scrap metal dealer:</i>  | <i>Licence or registration appropriate for scenario<sup>47</sup></i> | <i>Businesses found with appropriate licence or registration</i> | <i>Businesses found without appropriate licence or registration</i> | <i><b>Total number of businesses (out of 432)</b></i> |
| <ul style="list-style-type: none"> <li>acquires parts and scrap from motor wreckers trading with a MCTL and then</li> <li>- exports parts and scrap</li> </ul>   | NONE   | 1  | 0   | 1   |
| <ul style="list-style-type: none"> <li>acquires parts from overseas suppliers and then</li> <li>- exports parts</li> </ul>   | NONE   | 1  | 0   | 1   |
| <ul style="list-style-type: none"> <li>acquires vehicles and parts from overseas suppliers and then</li> <li>- sells whole vehicles and parts to the public</li> </ul>   | MCTL   | 2  | 2   | 4   |
| <ul style="list-style-type: none"> <li>acquires vehicles from insurance or salvage auctions and from a motor wrecker or scrap metal trader trading with a MCTL and then</li> <li>- exports parts</li> </ul>  | NONE   | 1  | 0   | 1   |
| <ul style="list-style-type: none"> <li>acquires vehicles from a motor wrecker or scrap metal trader trading with a MCTL and then</li> <li>- sells scrap to licensed domestic wholesalers or for export</li> </ul>                                      | NONE   | 2  | 0   | 2   |
| <ul style="list-style-type: none"> <li>acquires vehicles from a motor wrecker or scrap metal dealer trading with a MCTL and then</li> <li>- sells parts to the public</li> <li>- sells scrap to licensed domestic wholesalers or for export</li> </ul> | SHDR   | 0  | 1   | 1   |
|  |  | <b>TOTAL</b>   | <b>TOTAL</b>  | <b>TOTAL</b>  |
|  |  | 7  | 3   | 10  |

<sup>47</sup> When appropriate licensing or registration is "NONE", businesses holding no licence or registration have been assessed as holding the appropriate licence / registration.