

PARKING SPACE LEVY ACT 2009 REVIEW

Submission on behalf of the Owners' Corporation SP 75156
The Harris Street Car Park
320 Harris St, Pyrmont, NSW 2009

Prepared and submitted by
Dr Cameron Hazlehurst
Chairman
Executive Committee, the Owners' Corporation SP75156

The Parking Space Levy (PSL) is one of a number of NSW Government strategies to help reduce congestion in key business districts throughout Sydney. The aim of the PSL is to discourage car use in leviable districts, as well as attracting customers to public transport by funding around \$100 million of improvements to essential infrastructure each year, such as commuter car parks and interchanges.

The main purpose of this submission is to draw attention to the adverse consequences of the Parking Space Levy on the 220 owners who own 291 leviable bays in the Harris Street Car Park at Pyrmont.

Because of the lease arrangements made in 2005 between our owners and S & K Car Park Management Pty Ltd (Secure Parking) the levy applied to the owners has no effect on congestion. Our owners do not set the prices charged for parking on their lots. Therefore the escalation of levy charges has never served to send a price signal to owners. They are not in a position to pass on any of the amount they pay in levies.

However, what the nearly three-fold increase in the levy has caused since the Harris Street Car Park began to operate is the very serious unintended consequence of massively diminishing the value of owners' investments.

Our submission will explain how the PSL as applied to our owners is incapable of achieving the objective of the Act to reduce congestion. And, because it fails to achieve that basic objective, we ask that consideration be given to reducing the levy to a fair rate that would raise revenue without further eroding the value of the car spaces.

Preamble

Before presenting the case for relieving the levy burden on the Harris Street owners, we offer some general observations on questions raised in the Discussion Paper.

We note at the outset the affirmation in the Executive Summary of the Discussion Paper that 'the Government considers that the PSL remains appropriate for Sydney with no major changes'. This summary statement

is elaborated in the first of the four questions to which responses are requested.

‘The Government’s preliminary view is that the objectives of the Act remain valid and that the terms of the Act remain appropriate for securing those objectives’.

Question 1 *Do we agree that the objectives of the Act remain valid, and that the terms of the Act remain appropriate for securing those objectives?*

1 The first of the original stated objectives in the Discussion Paper is summarised as:

‘Reduce congestion by discouraging car trips into these areas’ (i.e. certain key commercial centres in Sydney).

We agree that the objective to reduce congestion by discouraging car trips into major commercial centres remains valid. In fact the reduction of congestion is even more important now than it was a decade ago.

2 The second stated objective is linked to the first. Not only is congestion to be discouraged by imposing a levy on parking spaces in the designated areas, but the revenue raised by the levy is to be used to encourage the use of public transport, especially to, from, and within the designated areas.

3 The Government presumably has assembled relevant statistics with the aim of evaluating the extent to which the objectives of the Act have been achieved. A summary presentation of such statistical information in the Discussion Paper would have been helpful to interested parties who do not have direct access to the sources of the data.

4 Rigorously collected data, if it exists, should assist the Government — and independent researchers — to determine the extent to which congestion has been reduced and whether the use of public transport, to and from, and within the designated areas, has increased during the period the levy has been in force. It must be acknowledged, however, that the available data is unlikely to enable much more than a simple correlation to be made between levy increases and increases in public transport usage. Recently released data shows aggregate increases in public transport usage which analysts are inclined to attribute to the introduction of the Opal Card.

5 A thorough examination of the working of the levy was undertaken by a team of four scholars and published in 2014. Their findings might require updating in the light of more recent experience. But they point to some fundamental flaws in the policy design which has not changed:

A single rate of application of PSL (whether Category 1 or Category 2) undoubtedly makes the scheme relatively simple to administer. However, this single rate of application does not allow a differentiation between areas within the spatially differentiated centres nor does it allow for differentiation between car park access which contribute more or less to congestion. It is therefore somewhat of a crude instrument and only an indirect instrument for government since its objectives (to reduce congestion) do not necessarily align with car park operators' objectives (to maximise or protect their revenue).

(Stephen Ison, Corinne Mulley, Anthony Mifsud and Chinh Ho, 'A Parking Space Levy: A Case Study Of Sydney, Australia', in Corinne Mulley and Stephen Ison eds, *Parking : Issues and Policies*, Emerald Group Publishing, pp.317-333)

Question 2 *Do we support simplifying calculation of PSL liability?*

6 Reducing 'red tape' is clearly an objective of the review. The assertion is made that 'the current methodology for establishing the PSL liability for the owners of casual parking' creates 'significant red tape for businesses' and 'imposes substantial administrative costs on the OSR'. It appears to be assumed that the businesses affected are large scale commercial operations. There is no mention of small family enterprises or self-managed superannuation funds which have significant holdings in the strata titled car park at Harris Street.

7 No estimate is made of the actual impact on businesses of the procedures established for calculating the liability. It is in the interests of affected businesses to submit their own estimates, and large companies may be expected to do so. For the review to be credible, however, estimates of compliance cost should be independently audited.

8 From a public policy point of view it would be reasonable to expect that the Government itself would provide information on the cost of administering the scheme. Such information would normally be gathered in the context of preparing departmental and agency annual financial statements and periodic efficiency reviews.

9 An argument can always be made for attempting to minimise the cost of collecting particular sources of revenue. But in making such a

case it is important that any alternative scheme should be provably more efficient, more effective, and/or more equitable than the existing one.

10 Better alternatives? The review Discussion Paper proposes an alternative to the present system of compiling daily records of unused leviable spaces in order to calculate the amount of levy payable. The suggested option for consideration is 'using assumed casual vacancy rates to discount PSL liability'.

11 No detail is provided on how such 'assumed casual vacancy rates' might be determined. All that is indicated is that the rate 'would need to be determined in consultation with industry and the OSR'. It is not clear how common ground within 'industry' might be found. Car parks are of differing sizes, sited in widely dispersed locations, with variable availability of accessible public transport. Information on the financial performance and commercial strategies of major parking businesses is in many cases held behind a veil of private company confidentiality.

12 Public confidence in the integrity of the 'consultation' would require more than an assurance that the industry players consulted were happy with the negotiated result they had achieved. Essential transparency could be provided by published guidelines on the process to be adopted, and disclosure of the reasoning underlying both the parameters considered and the outcomes reached.

The special case of the Harris Street Car Park.

13 A process of consultation leading to an assumed casual vacancy rate across the entire number of leviable spaces in and around the CBD would have a profoundly unfair impact on the lot owners of SP75156.

14 The Discussion Paper appears to have been written without reference to the specific arrangements agreed with the OSR for calculating the levy to apply to the strata titled leviable bays in the Harris Street Car Park which are leased to Secure Parking. When the Car Park opened there were more than 300 strata titled leviable bays. As at 1 December 2016 there are 291.

15 The developers of the Harris Street Car Park were granted Development Approval for the adjacent M Central Residential Apartment schemes contingent on the creation of not fewer than 200 public car parking spaces. The approval entailed strict conditions that prohibited the conversion of the spaces to other uses e.g. enclosure as storage cages. Consequently, a large proportion of owners now find that their mortgage repayments, council rates, and strata levies, combined with the escalating PSL, are rendering their investment uneconomic.

16 Purchasers of the strata titled spaces who did not require the spaces for their personal use were bound by the sale contracts to enter into lease agreements with S & K Parking Management Pty Ltd. The leases were for 10 years (five with an option of five more years in favour of the car park operator).

17 Under the terms of the leases the owners are paid a fee per lot each year. The fee is determined at the end of the previous year. The fee for the current year to October 2017 is fixed at \$4,110. For the year to 30 September 2016 the fee was \$4,959.80. This 17% nominal reduction might be partly offset by a promised share of any profit recorded by Secure Parking that exceeds projections at the beginning of the period. But declining occupancy rates may render this profit share illusory.

18 Data provided by Secure Parking reveals an upward trajectory in the vacancy rates at Harris Street: 2014 - 14.04%, 2015 - 22.44%, 2016 - 30.21%. Secure Parking advise that the major contributors to the decline in occupancy are redevelopments in the area, closure of the monorail, and low nearby hotel occupancy. If this trend continues owners fear that the lease payments they receive will be adjusted further downwards.

19 When the Harris Street Car Park began operations, all of the individual owners were deemed liable for the full parking space levy. The owners were not eligible for the discount that was enjoyed by the major car park operators who could demonstrate an annual vacancy rate based on daily recording of usage.

20 The Owners Corporation made representations to the Office of State Revenue pointing out that this was an anomaly not contemplated by the legislation. Our owners had registered their car spaces and were in effect being discriminated against compared with the many individual owners elsewhere who had not registered and were thus avoiding the levy. The OSR recognised the unfairness of imposing a charge on those who voluntarily disclosed their own liability while no steps were being taken to identify those who were failing to comply with the requirement of the Act to register.

21 The Harris Street Owners' Corporation proposed that a fair arrangement would be to use the vacancy data for the car park as a whole and apply the same percentage to each individual lot. There was of course no practicable way of calculating the occupancy of each lot. Nor would it have made sense to do so given that parkers could choose any lot in the complex at random.

21 The Harris Street owners' proposal was initially unsuccessful because the OSR believed itself bound by the Act which evidently gave them no basis to vary the way in which liability was calculated.

22 A way forward was found when the Owners Corporation drew attention to provisions of the Taxation Administration Act 1996 No. 7 Part 3 Sections 11 and 12 which gave the Chief Commissioner discretion to make 'an assessment by way of estimate' where there was insufficient information to make an exact estimate of tax liability; and to make a 'Compromise assessment' in circumstances where it is 'difficult or impracticable...to determine a person's tax liability...without undue delay or expense because of the complexity or uncertainty of the case or for any other reason' (italics added)

23 Henceforth, and to this day, the Owners' Corporation and Secure Parking have co-operated to provide information to owners and the OSR to assist in the preparation of annual returns.

24 The effect of an assumed casual vacancy rate to apply to all car spaces would return the Harris Street owners to a position that takes no account of the unique circumstances of the strata titled spaces. The rate that would apply to them would reflect the situation in very different single corporate owner carparks across the designated district.

25 As the Harris Street owners would continue to have no control over the parking charges that are determined by Secure Parking the levy could have no effect on traffic congestion. Any price signal the owners received via the levies that are imposed would not be felt by those who set the parking charges that apply to all the owners' lots.

26 It is undeniable that the levy paid by the Harris Street owners, irrespective of how it is calculated, has never and cannot contribute to the achievement of the Parking Space Levy's primary objective of reducing congestion. Imposing an ever increasing levy on these owners is arbitrary and discriminatory. Compared to the owners of other leviable spaces a substantial proportion of the levy paid by the owners of the strata titled spaces is being collected without any policy justification.

27 The net effect of the combined expenses associated with the Harris Street lots has led many owners to try to divest their holdings, especially those with multiple spaces in their portfolios. Unfortunately the market for the spaces is a buyers' market. Lots that were purchased for some \$56,000 in 2005 can be bought for as little as \$30,000 now. And the return on investment is so low that there are very few sales except to residents of nearby apartments who need them for personal use.

A fairer solution?

27 Notwithstanding the alleged red tape and cost burden on businesses and the OSR of the present system, there is a strong case for continuing with a regime that ensures that the way the levy is calibrated recognises the relevant variability of the circumstances of each car park. It remains to be demonstrated that the savings flowing from an assumed casual vacancy rate would justify the much cruder scheme that is envisaged.

28 Could an assumed casual vacancy rate be modified in a way that recognises the special circumstances of the Harris Street Car Park strata titled lots?

29 Our owners support that part of the levy that raises revenue for the purpose of improving public transport. If the revenue collected for public transport purposes could be deemed to be say 50% of the total levy, we would think it fair that we pay 50% of the total levy. We would thus be making an appropriate contribution to achieving the improved public transport objective.

30 ***Accordingly, we request that, for the owners of strata titled lots in the Harris Street Car Park, consideration be given to halving the levy that would be calculated by reference to an assumed casual vacancy rate.***

31 ***If it is decided to maintain the current system, which we understand is favoured by Secure Parking, we submit that the levy imposed on the Harris Street owners should be halved in recognition of the fact that it does not contribute in any way to the primary objective of reducing congestion.***

If it would be helpful to the Review we would be happy to discuss this submission, answer any questions, and provide further information.

We have no objection to the submission being made public. And we would appreciate the opportunity to comment on other submissions when they are available.

For any queries please contact

Dr Cameron Hazlehurst:

cameron.hazlehurst@gmail.com
