

Agreement in Principle

Mr PAUL LYNCH (Liverpool—Minister for Ageing, Minister for Disability Services, and Minister for Aboriginal Affairs) [12.24 p.m.]: I move:

That this bill be now agreed to in principle.

On behalf of the Minister for Transport I am pleased to introduce the Parking Space Levy Bill 2009. The bill seeks to update the Parking Space Levy Act 1992 to ensure that its policy objectives and provisions remain relevant. The parking space levy was introduced in 1992 with the support of all members. The object of the Parking Space Levy Act is to discourage car use in business districts and to use the revenue raised to provide facilities and services that encourage the use of public transport. The object of this legislation remains relevant today. The community wants this Government to focus on reducing congestion on our roads and to provide public transport services that effectively support our transport needs.

The levy applies to part of the City of Sydney and to North Sydney and Milsons Point, or category 1, and the central business district areas of Bondi Junction, Chatswood, St Leonards and Parramatta, or category 2. These areas already have a good network of public transport services. The levy is currently the sole source of income for the Public Transport Fund. It is the principal source of ongoing capital funding for multi-use interchanges for rail, bus, ferry and taxi services, and for commuter car parking facilities at transport interchanges in the urban transport network. Since its inception, the parking space levy has funded a number of major and minor projects. Significant among these are the Parramatta bus interchange, interchanges on the transport network, and the extension of the light rail system to Lilyfield, in addition to numerous interchanges, commuter car parks and wharf upgrades.

Current projects being funded by the levy include: the Holsworthy, Wentworthville and Woy Woy commuter car parks, Morisset, Windsor and Tuggerah interchanges and car parks, Hurstville interchange, Bundeena and Cronulla wharf upgrades, along with the ongoing maintenance work required on some of the previously constructed facilities. In addition, the Government has also announced a further \$56 million over three years for more commuter car parks. Already announced as part of this program are additional commuter car parks for Wollongong, Emu Plains and Quakers Hill. The parking space levy program had not been subject to a comprehensive review since its inception in 1992. In light of this, and consistent with the Government's commitment to review regulations periodically, there was a review of the Act and regulation.

The result of the review process was that the Act and regulation were found to be generally meeting their objectives. However, opportunities for improvements were identified in a number of areas. These included: clarifying the boundaries of the levy areas, freeing up the restrictions that limit the way the levy proceeds are used, and simplifying the administration by clarifying a few rules and definitions. The changes identified would not result in the addition of any new spaces that had not been intended to be captured by the original Act or add to a general increase in revenue. However, there may be some minor impact on owners of spaces who have relied on loose definitions to seek exemptions and thus avoid their obligations to the community in reducing congestion and its impact on the environment.

It was clear that legislative amendments were essential to provide more certainty for parking space owners and enhance the administrative efficiency of the parking space levy legislation. In addition, a number of provisions under the parking space levy legislation had to be amended or removed to ensure coherent application of the legislative obligations in conjunction with the provisions of the Taxation Administration Act 1996. The resultant changes are detailed in the new bill and associated regulation. Clarifying the current Acts, the category 1 area, City of Sydney, is defined by the local government area. With the boundary alterations on 8 May 2003 and amalgamation with South Sydney Council on 6 February 2004, a number of suburbs were added to the original City of Sydney levy area.

A temporary solution was implemented that grants an exemption for these areas on an annual basis, but creates uncertainty for property owners in the extended area of the City of Sydney. Redefining the City of Sydney area was a key issue of the review. The Government proposes to adopt the review recommendation that the City of Sydney area be defined by a map based on the pre-May 2003 council area. The bill before the House now defines the City of Sydney as demarcated by a map, like all the other levy areas. All category 1 and category 2 areas that are subject to the parking space levy have now been prescribed by the regulation.

To best match the objective of the parking space levy legislation, revenue should be available for projects that best enhance the use of public transport. This is supported by the responses at public forums and public submissions during the review of the Act. The current limitation on using levy revenue only for infrastructure and maintenance should be removed from the Act and regulation. It was noted that this could mean the inclusion of initiatives such as public information, utilising new technologies to communicate with commuters, and funding to assist with the ongoing management of transport infrastructure. To confirm this change in the broader application

of the levy, the name of the fund has been amended to the Public Transport Fund.

As can be seen from our recent announcements concerning \$56 million in new infrastructure from the levy, our commitment to use those funds predominantly for infrastructure continues but other initiatives should be able to be pursued if they lead also to the goal of encouraging the use of public transport. The current legislation suffers from a lack of substantive definitions, instances of ambiguity and drafting inconsistencies. This has resulted in an increase in administration costs, a number of levy owners incorrectly claiming exemptions and thus a potential revenue leakage.

The addition or further refinement of definitions for terms used in the legislation simplifies the administration of the legislation while providing certainty to parking space owners. The legislative amendments incorporated in this bill are relatively minor and are recommended so as to confirm current operational practices. The particular amendments are as follows. The lack of definition has created difficulties about who is ultimately responsible for payment and lodgement of the return in relation to the definition of "owner". This confusion is especially pronounced where a property is subject to a long-term lease or the owner is an overseas or shelf company.

Defining "owner" and making interested parties—that is, lessees, licensees and sublessees—jointly and severally liable will ensure that the administration of the parking space levy is more efficient. The efficiencies are gained by removing the Office of State Revenue from any disputes between interested parties about who is liable and any objections between the various parties, as all parties are jointly and severally liable. The definition of "a parking space" has been clarified to address the emerging practice where more than one vehicle is parked in a designated space, either by the use of mechanical stacking devices or marking spaces so as to allow two cars to park in the one space. Currently a parking space is exempt if the space is either set aside or used exclusively for an identified purpose listed under the Act or regulation.

The existence of the term "set aside" allows the abuse of exemptions that would undermine the spirit of the legislation. For example, a parking space owner could claim that a parking space is set aside for services on a casual basis, but then use that space for other purposes. Enforcement by the Office of State Revenue is impracticable. Therefore, in keeping with the intention of the legislation, exemptions will be allowed only where a parking space is used exclusively for a listed exemption and the term "set aside" is removed. In keeping with the refinement of the Act to simplify the administration of the parking space levy legislation, all exemptions are now prescribed together under the regulation. Importantly, this bill does not alter the existing arrangements concerning exemptions from the levy.

In relation to the definition of "loading/unloading" zone, this exemption currently is being claimed for on grounds that are not in keeping with the original intent of the exemption. For example, claims for an exemption are being launched to load minor items while substantially using the space for a non-exempt purpose. Removal of the term "set aside" will assist with minimising the abuse of this exemption. However, the exemption is also being defined to clarify that an exemption will be granted only if the vehicle immediately vacates the parking space once the loading or unloading has been completed.

The original intention of the exemption regarding services on a casual basis was to allow parking spaces designated for use when providing services for the maintenance and improvement of a building or facility, such as air-conditioning maintenance and electricians. However, claims are being made on the grounds that the parking space is used for casual employees, contractors and consultants. A new definition for this exemption is included in the regulation to minimise this practice.

Under the Act parking space levy liability is assessed once per year on 1 July for parking spaces that existed during the previous financial year. The period for which the levy assessment is issued has been misinterpreted and misapplied by parking space owners when assessing their liability for the levy. The calculation and liability of the levy is based on actuals and not estimates. Sections 9 and 13 have been removed from the Act and redrafted in the regulation so as to clarify the relationship between the liability date and assessment period. Under clause 7 (3) if parking spaces are not formally delineated a formula is used whereby a total area is divided by 25 square metres to determine the number of spaces.

However, the Office of State Revenue audit program has identified that more motor vehicles are being parked into a space less than the 25 square metres formula estimates. Accordingly, the formula is revised to 18 square metres, a value that reflects what is actually occurring. Currently the six leviable areas are either prescribed under the Act or under the regulation. These amendments simplify this situation by removing references in the Act and prescribing all areas under the regulation. In conclusion, the bill is necessary to ensure the effective administration of the parking space levy scheme and to enable the Government to deliver on its policy directions for public transport. I commend the bill to the House.