



AUSTRALIAN  
AUTOMOTIVE  
DEALER  
ASSOCIATION

PO Box 4409  
Kingston, ACT, 2604

E [info@aada.asn.au](mailto:info@aada.asn.au)

[aada.asn.au](http://aada.asn.au)

17 March 2022

The Treasury  
Langton Crescent  
Parkes ACT 2600

Email: [prebudgetsubs@treasury.gov.au](mailto:prebudgetsubs@treasury.gov.au)

To whom it may concern,

## **Australian Automotive Dealer Association Supplementary Pre-Budget Submission**

### **Taxation Ruling ("TR") 2019/D5 and its unintended consequences on the Australian automotive industry**

AADA is the peak industry advocacy body exclusively representing franchised new car Dealers in Australia. There are around 1,500 new car Dealers in Australia that operate over 3,000 dealerships. New car Dealers range from family-owned small businesses to larger and publicly owned businesses operating in regional Australia and capital cities across the country.

The new vehicle retailing sector employs more than 59,000 people including many apprentices, contributes over \$14 billion to the national economy, has a total turnover/sales of more than \$59 billion and generates in excess of \$2 billion in tax revenue.

We provide this supplementary pre-budget submission due to an emerging issue which is causing great concern among our members, namely the changes being introduced on 1 April in relation to car parking fringe benefits. The changes will capture many Dealerships and will fall more heavily on the automotive retail industry due to the unique circumstances in our industry. The effects of this change will have severe financial consequences for these businesses and their employees.

The AADA has commissioned Pitcher Partners to develop the attached submission which articulates the problem and provides a solution.

We would welcome the opportunity to meet with you and discuss this issue in greater detail.

Yours sincerely,

James Voortman  
Chief Executive Officer  
E [jvoortman@aada.asn.au](mailto:jvoortman@aada.asn.au)  
M +61 452 535 696

16 March 2022

**Private & Confidential**

James Voortman  
Chief Executive Officer  
Australian Automotive Dealer Association  
Level 3/10 National Circuit  
Barton ACT 2600

**PPNSW Services Pty Limited**

Level 16, Tower 2 Darling Park  
201 Sussex Street  
Sydney NSW 2000

Postal Address  
GPO Box 1615  
Sydney NSW 2001

**p.** +61 2 9221 2099  
**e.** [sydneypartners@pitcher.com.au](mailto:sydneypartners@pitcher.com.au)

Dear Mr Voortman and AADA members

**Submission on proposed draft Taxation Ruling ("TR") 2019/D5 and its unintended consequences on the Australian automotive industry**

We are pleased to be provided the opportunity to make a submission in relation to the Australian Tax Office's ("ATO") draft TR 2019/D5: "*Fringe benefits tax: car parking benefits*". This submission will outline the expected unintended impacts on the Australian automotive industry, specifically the impact to New and Used Car Dealerships ("Car Dealerships") and their employees.

By way of background, Pitcher Partners is an accounting and business advisory firm operating in the middle market, whose clients include privately owned businesses, small to medium public companies and individuals. Pitcher Partners is an association of independent Australian accounting firms located in Sydney, Melbourne, Perth, Adelaide, Brisbane and Newcastle. Nationally, this independent association has over 90 partners and 1,000 staff. Pitcher Partners is also an independent member firm of Baker Tilly International.

Most Pitcher Partner offices have specialist tax, audit and advisory automotive specialists who provide services to a range of businesses and individuals who operate in this industry, and we are regular participants on industry matters such as this draft TR.

**Background Facts and Practical Changes**

TR 2019/D5 was issued on the 9<sup>th</sup> of June 2019 and delayed significantly due to the COVID-19 pandemic. The TR will treat car parks at shopping centres, hospitals, universities and airports as "commercial" facilities for fringe benefit tax ("FBT") purposes where they offer all-day parking; covering at least six hours between 7am and 7pm. It is due to come into effect on the 1<sup>st</sup> of April 2022.

The new ruling will mean Car Dealerships located within 1 kilometre of newly deemed commercial car park facilities who provide staff with use of demo stock for travel to and from work will incur unprecedented FBT bills. Under the current definition of commercial car parks, a small minority of Car Dealerships may provide car parking fringe benefits to their employee, this is as a result of the general locality of Car Dealerships in industrial or fringe retail areas (with the exceptions being the few luxury Car Dealerships located within major CBD).

The provision of parking is a distinct, practical imperative of Car Dealerships whose staff need to be constantly trained and retrained on the multiple features of the cars they sell, service and repair as well as the multiple items of componentry (parts and accessories) that the business sells and fits for its customers. It is an expectation of Car Dealerships and their suppliers that staff are continuously swapping between company owned sales stock to gain a working knowledge of the vehicle.

## Unintended Impacts on Car Dealerships

In our view it was never the intention of the ATO or the legislature to capture more Car Dealership businesses with the change in definition of a commercial carpark, both at the advent of the legislation or its updated application. The practical implications of extending FBT to Car Dealerships and in some cases their sales stock (car dealer owned stock) as well as its employees would ultimately be borne by Australian consumers.

As noted, the provision of sales stock to staff is a key requirement of Car Dealerships conducting their business and is distinctly different to other industries use of the pool cars or fleet cars provisions. The primary purpose of the stock is for sales purposes, interim use should be wholly restricted to training and marketing with all use of the vehicle negatively impacting its value due to mileage depreciation. With employee right of use of sales stock restricted to travel between work and home, or otherwise necessary training exercises (e.g., driving from a Car Dealership to a product demonstration held by the supplier). Sales stock that employees arrive to work in are throughout the day and days prior marketed for sale, parked in position to be either test driven or physically inspected on the showroom floor. Sales stock may be parked for more than four hours in a day however they are parked in a state for physical inspection by customers, cleaned and washed daily to ensure they are saleable.

Car Dealerships have invested significantly in property that provides ample car parking for their customers and their stock with local council requirements dictating decades of development to that effect. This was done to prevent Car Dealerships parking stock vehicles on the street to avoid congestion on public roads.

The arbitrary nature of the 1km radius of a Work Car Park to a Commercial Car Park will create an artificial, anti-competitive imbalance for Car Dealerships with some located within 1km of a commercial carpark while others, often close by, are not. Dealerships are often spread in industrial or fringe retail areas along major roads and are frequently spread at greater than 1km apart. Examples of this imbalance would include Audi Centre Sydney vs Sutton City Nissan in relation to the location of the East Village Shopping Centre car park (which would under TR 2019/D5 be considered a Commercial Car Park) putting Audi Centre Sydney at a disadvantaged position.

Car Dealerships are structured to have very low profit margins; averaging 1.7% net profit as a percentage of sales in 2021 (Deloitte's eProfit Focus national average). Their high fixed costs (property and people) are covered by high volumes and revenues with tight competition on margins. Per our estimate of a Car Dealers potential additional FBT liability (see appendix attached) of \$40,125 the Business would have to generate an additional \$2,360,294 in revenue to cover this additional cost.

Current challenges from COVID-19, associated supply chain restrictions and Russia's war with Ukraine are significantly impacting Car Dealerships volumes and sales opportunities. An increased tax burden (atop GST, LCT, FBT, stamp duties, payroll taxes, registrations, and import tariffs) would put already at-risk Car Dealerships further into insolvency risk.

## Recommendations

TR 2019/D5 application and impact would be improved by either:

- a) Amending the definition of a *work car park* to exclude Car Dealership showrooms or customer facing carparking.
- b) Amending the definition of a *car space* to exclude Car Dealership showrooms or customer facing carparking.

- c) Amending the definition of *car* to exclude Car Dealership stock or exclude *cars* that are also listed for sale and made available daily to customers or potential customers to purchase.

If you have any queries in relation to the above, please contact me on 0410 538 773 or Steven Bragg on 0437 445 200.

Yours faithfully



**Martin Booth**  
Director  
PPNSW Services Pty Limited



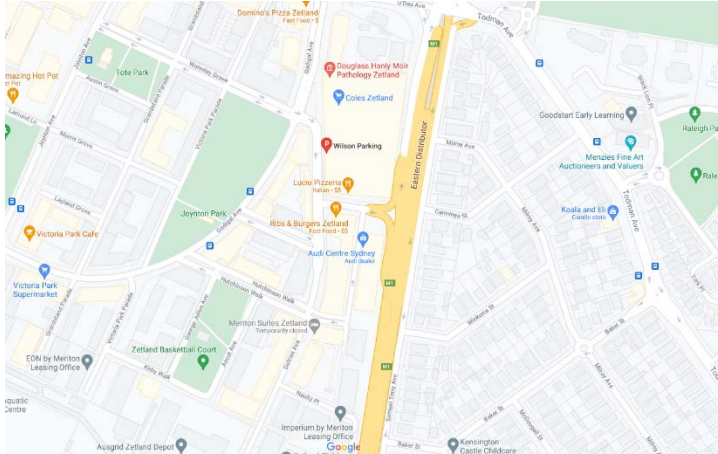
**Steven Bragg**  
Director  
PPNSW Services Pty Limited

## Appendix A – Worked example of Car Dealership impact under new FBT application

### Example dealership:

Audi Centre Sydney

[Address:](#) 895 S Dowling St, Zetland NSW 2017



### Commercial car parking within 1-kilometre of the dealership:

Wilson Parking – \$18 per day

East Village Shopping Centre - \$26 per day

Below is an **example** calculation of the FBT applicable to the dealership if 10 spaces were provided to employees for the FBT year.

### Example calculation

FBT car parking benefit calculation assumptions:

- \$18 per day is the lowest rate within 1-kilometre radius,
- 228 workdays per year,
- Car parking was provided every workday for more than 4 hours,
- 10 car spaces provided for employee parking.

Daily parking rate	Day's parking provided (4+ hours)	Number of spaces provided	Total Benefit	FBT (Type 1 benefit) gross-up	FBT tax rate	FBT tax on parking benefit
(A)	(B)	(C)	(A*B*C) = (D)	(E)	(F)	(D*E*F)
\$18	228	10	41,040	2.0802	47%	\$40,125