IPTI Xtracts

Property Tax and Assessment News from Around the World

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Ideas to boost housing affordability have winners and losers

HOME prices have been rising faster than wages for several years, hitting housing affordability despite record low interest rates, and prompting a fresh wave of ideas about how to fix the issue.

Reserve Bank of Australia data shows that since 1985, the price of a home has jumped from about two times our annual household disposable incomes to almost five times.

Investors have taken much of the blame for driving prices higher, resulting in calls to cut their tax benefits such as negative gearing and the 50 per cent capital gains tax discount on assets held for more than a year.

Both ideas are political hot potatoes, and some other ideas being suggested may spark some equally fiery debate. Here are a few.

CHANGE THE TAX MIX

Wealth for Life Financial Planning principal Rex Whitford says people perceive the current rules are unfair to first home buyers and favour investors because only investors receive a tax deduction on their loan interest repayments.

Mr Whitford said a solution could be to make property investment loans only 50 per cent tax deductible while creating new tax incentives for first home buyers.

“For all first home purchases, the interest on the loan would become tax deductible at 50 per cent,” he said.

CUT STAMP DUTY

Mr Whitford said reductions to state stamp duties could help improve affordability for first home buyers.

The lost revenue could be recovered by a 5 per cent sales tax on the disposal of the first home, he said.

John Daley, the CEO of independent think tank The Grattan Institute, said high stamp duties encouraged people to hold onto property longer to avoid changeover costs.

Alternatively, higher annual land taxes would encourage more people to sell excess property, adding to supply and potentially reducing prices, he said.

Wealth For Life Financial Planning’s Rex Whitford says first home buyers could get tax deductions

REMOVE FAMILY HOME EXEMPTION

People with expensive homes benefit greatly from Australia’s age pension rules, which only count the first $200,000 of their property in asset test limits.

“They ignore all the rest, which is completely the wrong way around,” Mr Daley said.

He said most public policy groups believed the age pension asset test “should include much more, if not all, of the value of owner-occupied property”.

INCREASE HOUSING SUPPLY

This idea is often put forward but it relies mainly on state governments.

Mr Daley said many households were happy to see planning rules changed and more blocks subdivided, as long as it was not in their own suburb.

He said another commonly-suggested idea — to allow first homebuyers to access their superannuation as a deposit, would increase demand and prices.

“It sounds great, but in reality it acts as a further transfer (of wealth) from young people to older people by bidding house prices up.”

As for other radical ideas, Mr Daley said, “if they were silver bullets, we would have fired them by now”.

Property market stays on the boil

It was the biggest February weekend on record for Melbourne and Sydney’s property markets, with the most number of auctions selling a record number of homes as sellers took advantage of consistently high clearance rates since the summer holidays.

Sydney cleared 81.5 per cent — the third consecutive weekend above 80 — after 80.6 last week, while the Victorian capital had a clearance rate of 80.1 per cent, up from 75.7 per cent last week, CoreLogic figures showed.

“It was unf..king-believable,” Melbourne auctioneer Phillip Kingston from Gary Peer Real Estate said, describing the weekend’s action.

“The market is super strong. We had 23 auctions this weekend, and sold 21 out of 23. Last week we had 17 and sold 17. The previous week we sold six out of six. It’s as good as we could possibly ask for.”

Sydney had 1169 auctions last week, up from 856 the previous week, and 640 the week before that. This week last year there had been 919.

In Melbourne, auction numbers leapt up from 1347 for the week last year to 1613 this week.

A positive economic outlook and heartened buyers has led to the surge, CoreLogic’s Kevin Brogan said.

“We’ve seen the normal trend to higher volumes that occurs after the summer break, but this week we’ve seen the volumes take off over the normal seasonal trend,” he said.

“We’ve been reporting high clearance rates in end of 2016, and again in the 2017 auction season. That is something people have been aware of.”

Melbourne had its strongest month since October, according to Andrew Wilson from Australian Property Monitors.

“Maybe buyers who were sitting on their hands last year have decided to take the plunge,” he said.

Canberra and Adelaide also recorded positive results. There were 100 auctions in the nation’s capital, which recorded a clearance rate of 77.3 per cent, while Adelaide had a rate of 76.3 per cent from 121 listed properties.

In Brisbane, Australia’s third largest market, 63.6 per cent of homes sold from 174 auctions. Perth had a clearance rate of 21.4 per cent from 46 properties, while Tasmania had 50 per cent from nine.

Mr Kingston believed there were three key drivers contributing to the boom.

“Low interest rates — though people are expecting a rate rise — low unemployment, followed by Australia’s reasonable economic growth,” he said.

“With those three drivers intact, we’re in positive territory.”

VICTORIA - Bill shock for landlords as land tax skyrockets

Landlords have been hit by steep land tax increases from soaring property values, in some cases more than doubling tax bills and making investments uneconomic.

Many landlords, property owners and lessors, confronted with sharp increases in land tax bills this month, were reacting with "shock or disbelief", agents and lawyers said.

"In many cases they think there's a mistake," Teska Carson agent Barry Novy said.

If a property owner signed a 15-year lease with two 10-year options before the last land tax rise, they could be significantly out of pocket, he said.

"If that's the case, that property could effectively have limited, and, in some cases, possibly no income for a number of years," Mr Novy said.

Retail tenancy laws prohibit landlords from passing on land taxes to their tenants unless the business is a listed company.

A national ASX-listed supermarket chain which operates a store in Melbourne's south-east under a long lease has seen its bill rise from $167,625 last year to $261,788 this year.

In another case, an elderly 90-year-old woman who owns a Swanston Street shop and lives off the income with a full-time carer, has seen her most recent tax bill jump from $6095 to $40,950.

A Toorak rental property's bill rose from $16,915 to $31,725.

Land tax rates rise steeply once land values surpass $1.8 million. Sites valued under $250,000 do not attract tax and, unlike local council rates, land tax is not capped.

The Victorian government budget forecasts land tax revenue to rise a whopping 22 per cent this financial year to $2.225 billion.

Last year land tax contributed $1.734 billion to state coffers.

"Revenue is forecast to rise strongly as a result of the current revaluation process because property values have increased rapidly over the two years since the previous revaluation," the budget states.

Inner-city commercial property values rose more than most.

Melbourne, Port Phillip, Yarra, Stonnington, Bayside, Whitehorse, Manningham and Boroondara saw rises between 14 and 25 per cent.

"A large amount of this increase ... was due to mixed-use developments in high-density precincts," valuer general Robert Marsh said last year.

Tisher Liner FC Law's Jonathan Tisher said a range of factors could influence whether a property had been valued correctly.

Valuations sometimes failed to account for heritage or environmental issues that may affect the value of the land.

"It's really a question of being vigilant and taking prudent steps," he said.

Market participants predict a slew of sales as a result of the increases.

"I've been inundated with calls. There has been an increase in the number of people seriously looking at selling their properties as a result of land tax increases," Mr Tisher said.

Property owners had 60 days to object otherwise they were deemed to accept the new value, he said.

"The new land tax assessments have prompted many of our clients to consider selling as a major increase in these rates have made their property investments unviable," CBRE's Tom Tuxworth said.

"We met with one landlord who had multiple land holdings across Melbourne including within the CBD and Carlton who has been hit with a land tax bill that is 60 per cent higher than in previous years."

They were now weighing options and might look at divesting out of some assets to allow them to keep servicing their loans, he said.

A steep rise in land tax was problematic for anyone with a vacant shop not returning income, Colliers International retail director Cam Taranto said.

"If it's become an exorbitant cost, it's going to put the pressure on landlords," he said.

The Property Council said it would support a review to ensure a flatter and fairer land tax system that attracts investment and growth.

"Despite big increases in underlying land values over time, industry has not seen any meaningful relief in land tax, resulting in bracket creep," it said.

NEW SOUTH WALES - Stamp Duty battle forcing thousands from buying into the Property Market

First-home buyers already face a monumental task, but if trying to squirrel away a deposit was already hard enough, imagine it when the tax balloons to almost half your annual wage.

Figures for New South Wales have revealed how stamp duty in Sydney now sits at almost 40 per cent of the average yearly household income.

It's great news for the Government, as they are set to rake in another record income from the tax, with residential stamp duty earning a $7 billion figure by June 30… up from the $6.5 billion earned last year.

Once you take commercial stamp duty into account, the Berejiklian government will be looking at a cool $9 billion, an increase from last year's $8.4 billion.

So while the government's pockets will be lined, and the monumental figures mean good things for the state's bottom line, it is still another obstacle to overcome for first-home buyers.

The tax is based on property value, and as NSW property prices continue to skyrocket, so too does the stamp duty.

Last year for example saw the Sydney median property price rise by a strong 15 per cent, with $850,000 sitting as the median price for a home.

Therefore, buyers will need to cough up $33,000 in stamp duty, which is around 38 per cent of the average NSW household income of $86,000.

The figures are a stark contrast to years past. If you look at 1995 over 20 years ago, buyers were forking out less than 10 per cent of the average NSW household income to pay for stamp duty.

VICTORIA - Value Capture Looms Large in Victoria

With numerous projects proposed and underway across Victoria, value capture has emerged as an innovative strategy to fund major infrastructure works. As governments explore more efficient ways of funding critical transport works, the value capture mechanism provides innovative opportunities and new challenges for the Australian infrastructure sector.

Value capture, a type of public financing that recovers some or all of the value generated by public infrastructure, has sharply risen in popularity with multiple projects utilising this style of funding for major works across Australia.

The recent release of the Federal Government's discussion paper, 'Using Value Capture to Help Deliver Major Land Transport Infrastructure', highlights the increased interest of the funding mechanism in both the public and private sector.

The paper shows how governments can ensure that value capture is not an additional tax, but a more efficient and fair allocation of benefits and costs.

Under a value capture mechanism, a new piece of infrastructure such as a freeway or railway line creates economic value, such as the value of land near a new station will typically increase. Tapping into part of this value increase offers a source of funds to contribute towards the cost of the project.

Value capture approaches can also be applicable for other types of infrastructure, such as health and education infrastructure. The ideas presents an opportunity for governments to better leverage value increase as a means of funding the cost of infrastructure, while sharing the costs with those that benefit the most. Value capture places a greater focus on end benefits and public objectives which will lead to better infrastructure and services. Value creation is aligned to project funding as those who benefit most contribute to the infrastructure cost.

There are proposals, such as the Consolidated Land and Rail Australia (CLARA) plan, to fund a high-speed rail link which would pass through Canberra, connecting Sydney to Melbourne, through value capture.

The high-speed rail would give rise to more affordable housing in Australia by relieving the country's capital cities of the burden of growth, decentralising the population through faster transport into urban areas. Increasingly developed regional centres would also be a beneficial outcome of the high-speed rail.

In funding the high-speed rail system, state and territory governments could collect funding through taxing or levying increases in values along the rail route, a funding source that would ease the public's cost burden for the project.

The 9th Annual Victorian Transport Infrastructure Conference 2017 will present a platform for stakeholders in the infrastructure sector to discuss value capture mechanisms in transport infrastructure funding. Paul Kenny, leader of Allens' government advisory practice, has extensive experience in advising government and private sector clients on commercial transactions, financing arrangements and major infrastructure projects. Paul will present at the Conference on funding transport Infrastructure through value capture, an innovative alternative funding mechanism.

The 9th Annual Victorian Transport Infrastructure Conference 2017 convenes on the 21st and 22nd of March 2017 at the Melbourne Convention and Exhibition Centre.

NEW SOUTH WALES - Land tax win for property developers, primary production

In a ground breaking win for property developers, a recent NSW Court of Appeal decision found that land held for future development but used for grazing, can be exempt from land tax.

The Court of Appeal's recent decision in CCSR v Metricon QLD Pty Ltd (2016) affirmed the position that property developers are entitled to rely on the exemption described in s10AA of the Land Tax Assessment Act (1956) if the land is being used for primary production.

The primary production exemption requires the dominant use of the land to be for primary production. The Office of State Revenue (OSR) has increasingly refused claims for the primary production land tax exemption, for property which actually is used for primary production, where the land is also held for future development. The OSR's position is based on a view that the exemption does not apply because the 'dominant use' of such land is for 'land banking' or 'land development', not for primary production.

This also clears the way for the acquisition or continued holding of farm land with a view for future development without the significant holding costs associated with land tax (subject to meeting the tests for primary production use).

NEW SOUTH WALES - Property policies all talk

The NSW government and other state governments could make a serious dent in the so-called housing affordability crisis if they wanted. But they won't.

Politicians love talking about wanting to improve housing affordability — who could possibly be against making something more affordable? But you'll never find them advocating anything that would actually lower house prices.

They want higher house prices and more affordable houses at the same time.

Raw politics sustains this double think. About a third of households own a house outright and another third have a mortgage. These people naturally don't want to see the value of their asset fall, especially mortgage holders leveraged to the hilt, whose equity could be wiped by even a modest fall in prices. It's only the third of households who rent who have any immediate financial interest in house prices falling.

To maintain the charade it’s doing something to make houses more affordable, the NSW government has hired former RBA governor Glenn Stevens to advise it on how to improve housing affordability.

It’s an odd choice given Stevens’ low interest rate policies were more responsible than anything else for underpinning the massive increase in demand for property in recent years.

Since the Reserve Bank started cutting interest rates in late 2011, median house prices have increased by 70 per cent in Sydney and 50 per cent in Melbourne.

The government shouldn’t have to consult on what has caused houses to be unaffordable: it is constrained supply and strong demand.

State governments can’t do much about demand, but here is my unsolicited three-point plan for NSW to increase supply in a way that would meaningfully lower prices.

First, the NSW government should start rezoning land in the most desirable locations to allow for high-rise accommodation, near the beach, or the city, for instance.

The problem with much of the explosion in supply is it is in places where people don’t want to live, such as in city fringes or less salubrious inner city areas. Over the two years to October 2016, for instance, only 42 and 72 new dwellings were built in Sydney’s expensive Woollahra and Manly, respectively. Meanwhile, 4834 and 4022 new dwellings, respectively, were built in cheaper Blacktown and Parramatta. The same pattern would occur in the other state capitals.

As long as the dwelling stock in premium locations remains fixed, which it essentially has been, prices will continue to rise inexorably across the whole spectrum of homes as frustrated buyers turn to less expensive stock.

Second, the government would need to tax the unearned windfall gains from the rezoning, which would accrue to the owners should they sell. The rezoning would naturally create a powerful incentive for developers to buy collections of houses and replace them with high-density towers, which would dramatically increase supply in desirable areas. Existing owners on these locations would hate this but it’s not clear why their welfare should outweigh the welfare of new or potential residents.

Third, the state government should announce the phasing out of stamp duty on property transactions and phasing in of a simple flat rate of land tax applying equally to all land. Land tax wouldn’t have to be paid on a property until its ownership changed, to ensure no one was forced out because they didn’t have the cash to pay the tax. A land tax would provide a further incentive to increase the supply of housing in desirable areas because the tax owed by a single house owner would naturally be much higher than the amounts owed by individuals in a multi-unit dwelling block.

My list would never fly of course, because the public interest has no chance. It’s politically far easier to keep talking about improving affordability while signing off on another giant residential tower in Rockdale.

Absent such changes in rules, the only way house prices will come down is a significant global increase in interest rates that pushes up servicing costs and undermines demand.

Regulations that keep Australia’s house prices high and rising have dangerously distorted the economy, which is now highly dependent on rising house prices. Australia has become a hedge fund that has gone very long on residential property. The model is to borrow heavily from foreigners, via the big four Australian banks, who take a cut, and then buy and sell existing dwellings from each other at ever higher prices.

Rising house prices explain everything from the Commonwealth Bank’s latest bumper profit to the dominance of furniture and household supplies in retail sales figures. In a world of anaemic wage growth, policy makers stress the importance of the wealth effect — rising house prices — to keep confidence and consumer spending up.

Building houses and apartments is not investment, it is consumption. They don’t create jobs, they don’t incubate new ideas, or increase productivity. In fact, the homes people are buying are worth relatively little — the quality of construction is in some ways inferior to homes built a century ago. It’s the land that matters, and even more so the regulations that limit how it’s used. Buyers are taking a bet that the political process won’t alter the rules in any way.

NEW SOUTH WALES - Sydney's south west well above state's average in Valuer General's land valuation

Residential land value has increased 25 per cent across the Liverpool local government area.

This figure is well above the state average of 15 per cent.

And, in some cases, property has risen a whopping 39 per cent locally.

The Valuer General is responsible for providing land values in NSW for 2.5 million properties.

It is the market value of the land only and does not include the value of buildings or other structures on the property.

Land values are used by councils to set rates and the Office of State Revenue uses the figures to calculate land tax.

And, from July 1, the Emergency Services Property Levy will replace the current levy on property insurance to fund the cost of emergency services operating in NSW.

Sydney's west, which Liverpool Council is part of, has had one of the largest growths across residential, commercial and industrial.

NSW Valuer General Simon Gilkes said property sales were the most important factor to be considered. "Changes in land value don't always mean a change in council rates," he said.

"Each council develops a revenue policy which is used to determine rates charged to fund community services."

Landholders will receive a notice of valuation showing their land value before it is used by council for rating.

Western Sydney University has independently checked the quality and accuracy of the land values for residential, rural, industrial and commercial property against industry recognised valuation standards.
Commercial land values increased an average of 12.8 per cent, with mixed-use zones, with a blend of residential and commercial, having the highest increases.

The land value is based on the analysis of more than 48,000 property sales from July 2015 to July 2016.

This was more than 2500 extra sales on the previous year.

The total land value of NSW increased by 11.3 per cent to $1.5 trillion.

Included in this figure is Sydney's west contribution of $258.13 billion.

Rural properties recorded an overall increase of 34.2 per cent, largely attributed to the residential market influence in neighbouring urban release areas.

Industrial land values rose a solid 10.5 per cent.

Landholders concerned about their valuation have 60 days to lodge an objection.

Mayor's Message | New land valuation details

Home owners in Lake Macquarie should receive their new land valuations this week.

Land values are assessed every three years by the Valuer General, a NSW Government office, and the information is provided to councils to assist them in the task of setting rates.

This latest round of valuations shows land in Lake Macquarie has increased by an average of 30 per cent over the past three years.

This is good news for home owners because it reflects the increasing desirability of Lake Macquarie as a place to live, work and raise families.

An increase in land values can sometimes cause people to become concerned that their rates will increase proportionally, but this is not the case.

Council does not receive extra funding when property values increase; the new valuations effectively just change the mix.

Some ratepayers will pay more and some will pay less, depending on the new value of their property relative to other properties in the City.

If land values increase by 30 per cent across the City, and your block increases by 30 per cent, then the impact on your rates is likely to be minimal.

It is important to keep in mind that land value is just one component of our rating system in Lake Macquarie.

Only 50 per cent of your rates are linked to your land value, which is known as the ‘ad valorem’ component.

The other part of your rates is known as the ‘base amount’, which is a uniform charge that all residential ratepayers pay.

Rates can also be affected by increases allowed under a ‘special variation’.

The Independent Pricing and Regulatory Tribunal (IPART) determines the maximum amount by which a council can increase its rates under what is known as ‘rate pegging’.

However, councils can apply for an increase above the rate peg due to special circumstances.

At the moment, Lake Macquarie is part of the way through a special variation period, which means there will be a modest rate rise across the board when notices are issued in July, as has been the case for the past four years.

If you would like to know more about how rates and land valuations work, and the many services and facilities your rates pay for, visit our rates information page on lakemac.com.au.

Mayor of Lake Macquarie, Cr Kay Fraser

Australian Real Estate Tax Review Urged

The Real Estate Institute of Australia (REIA) has called on the Government to examine property taxes as part of Budget 2017.

Publishing REIA's pre-Budget submission, President Malcolm Gunning said that the association is "urging the federal Government to show leadership in addressing housing affordability, by taking a co-ordinated and holistic approach [at] all levels of government in objectively addressing all property taxes."

Gunning said that stamp duties are a major hurdle for first-time buyers and older homeowners looking to downsize.

"It is high time that all property taxes are examined," he concluded.

QUEENSLAND - Time for commercial lessees to pick up the land tax bill in Queensland?

In September 2016 the case of *Vikpro Pty Ltd v Wyuna Court Pty Ltd ATF Wyuna Court Unit Trust* [2016] QCA 225 was heard before Holmes CJ, Phillipedes and Phillip McMurdo JJA in the appeal division of the Supreme Court of Queensland. The outcome of the case was a fundamental, 360-degree change in respect of the party that bears the land tax liability in a commercial lease arrangement.

Facts

The tenant leased land under a lease which provided that the lessee was liable to pay, or otherwise recompense the lessor for land tax incurred during the period of the lease. The lease was entered into in August 2006 for a 70-year term. Prior to the amendments to the Land Tax Act (see below), Clause 11.2 was unenforceable against the lessee.

Legislative Changes

The Land Tax Act 1915 (Qld) (repealed) (**1915 Act**) rendered unenforceable contractual provisions that required the lessee to pay all taxes and rates in respect of demised land. Therefore pursuant to section 44(1A) of the 1915 Act, the landlord's rights to recover land tax from a tenant under a commercial lease entered into after 1 January 1992 were suspended.

44A Provision to pay land tax etc. unenforceable

1. *A provision in a lease entered into after 1 January 1992 requiring a lessee to:*
    - *pay land tax; or*
    - *reimburse the lessor for land tax;*

    is unenforceable.

This section was removed and replaced by transitional provisions in 2009. The enactment of the *Land Tax Act 2010* (Qld) (**2010 Act**) sought to reverse this position.

Sections 88 and 89 of the transitional provisions to the 2010 Act provided as followed:

88 Application of this Act

1. *This Act applies to:*
    - *a post-commencement liability; and*
    - *an act or omission done or omitted to be done for this Act on or after 30 June 2010.*

    This section applies subject to section 93.

89 Continued application of repealed Act

Despite its repeal, the repealed Act continues to apply to—

· *a pre-commencement liability; and*

· *an act or omission done or omitted to be done for the repealed Act before 30 June 2010.?*

Section 86 defined "post" and "pre" commencement liabilities:

- A "post-commencement liability" was defined as meaning 'a liability for land tax arising on or after 30 June 2010'.
- A "pre-commencement liability" was defined as meaning 'a liability for land tax, within the meaning of the repealed Act arising before 30 June 2010'.

Lessee's Claim

The lessee contended it was not liable to pay land tax levied in relation to the land because provisions of the 1915 Act still continued in a relevant manner.

Judgments

The Court held the deliberate failure by the Government to re-enact a provision equivalent to section 44(1A) of the 1915 Act illustrated an intention to reverse this position in the 2010 Act. Thereby, this allowed a landlord with appropriate lease provisions to recover land tax (imposed on or after 30 June 2010) from a tenant.

Chief Justice Holmes rejected the Appellant's contentions, and held that the transitional provisions (sections 88 and 89), when read together, clearly drew a distinction between the continuation in the same manner under the 1915 Act of pre and post-commencement liabilities to land tax. Principally, Her Honour confirmed that the 2010 Act contemplated the following:

- The provisions relating to pre-commencement liabilities to land tax would continue to apply in accordance with the repealed 1915 Act.
- The provisions relating to post-commencement liabilities (i.e. land tax incurred on leased properties) would be dealt with in accordance with the provisions of the 2010 Act.

Her Honour confirmed that the Explanatory Notes to the Transitional Provisions did nothing to indicate that the legislature contemplated that a lessee's relief from liability to land tax should continue as it had under the 1915 Act, but rather the clear implication from the repeal of section 44A of the 1915 Act was to *change* a lessee's immunity from payment of land tax.

Phillip McMurdo JA agreed with the reasons of Chief Justice Holmes, however Phillipedes JA was in the minority.

What does this mean for leasing arrangements?

This case has two major implications for lessors of commercial or industrial premises:

1. A lessor may now offer a lease to a potential lessee in Queensland on terms that include recovery of land tax from the lessee for the duration of the lease.
2. It appears that there has been a general practice of lessors including such clauses in leases despite their unenforceability under the 1915 Act. Should a lessor and lessee have a current existing lease agreement in Queensland that contains such a clause, that clause will now be enforceable against the lessee.

As a proceeding before a superior court of Queensland, this case provides a great deal of certainty for lessors and lessees.