IPTI Xtracts

Property Tax and Assessment News from Around the World

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NEW SOUTH WALES - Rail plan to link Wollongong and Campbelltown

A train line linking Wollongong and Campbelltown is one of the proposals pitched as part of a federal government push to improve rail services.
Last month the federal government announced the Faster Rail prospectus, which comes with a $20 million pool to help fund projects that speed up rail services and improve job and housing opportunities.

The Mercury understands at least two proposals deal with the Illawarra.

While the NSW government was planning on making submissions, earlier comments suggested the South Coast line would not be included.

One group that has put forward an Illawarra-linked proposal is the Centurion Group.

For a few years now, the group has been very interested in the possibility of linking the Illawarra to western Sydney, with the view that a rail line would increase land values and encourage housing in that area.

The government could use "value capture" – taking a portion of the improved land value – to fund the rail line.

The Centurion Group's Chief Operating Officer Annie Chatfield said the group had been working with Illawarra First on the South West Illawarra Rail Link – which would effectively be a combination of the Maldon-Dombarton freight line and a passenger line.
"We're saying we need to improve connectivity, particularly between Campbelltown and Picton as a first-off and then down through the Maldon-Dombarton and onto Wollongong," Ms Chatfield said.

"And at the same time looking at the [South Coast] line and try and do something to take the pressure off that, because there's no redundancies at the moment."

Ms Chatfield said the first stage of the rail link – Campbelltown to Picton – would not be difficult to achieve.

"It's really simple in terms of connectivity, it's only about eight kilometres to bring it through and then you've started the loop," she said.
Ms Chatfield said she was pleased the federal government had taken this step "because we seem to have had so many reports".

VICTORIA - Court of Appeal confirms VCAT decision in Southern Cross case

Court of Appeal confirms VCAT decision in Southern Cross case

The Courts have again confirmed the use of the direct comparison approach is often the most reliable method of valuing what a hypothetical and willing (but not anxious) vendor and purchaser would agree to. This traditional method has been preferred, even where there are no available sales evidence of a closely comparable property.

This was the case for various amended land tax assessments issued by the Commissioner of State Revenue (Vic) for part of the land located at, and known as, Southern Cross Station (**Southern Cross site**). Notably, the rail lines, retail areas, mezzanine carpark and undeveloped areas of the larger Southern Cross site, were not included in the valuation. The relevant assessments were based on site values in excess of $13 million, following substantial redevelopment of the site from 2012 to 2016. The applicants (the landowner and occupant) contended that the land had no value at all, as the station facilities were operating at a loss and could not be used for any other purpose.

Ultimately, the relevant assessments were reduced by the Victorian Civil and Administrative Tribunal (**VCAT**) by almost 50 per cent after adopting the direct comparison method and that decision was recently affirmed in by the Court of Appeal in September 2017[1].

The critical question for VCAT was how the site value of such land was to be determined in circumstances where:

- use and development of the Southern Cross site is strictly governed by the incorporated document, *Spencer Street Station redevelopment, August 2007* (part of the Melbourne Planning Scheme), which limits use and development of the land to a major public facility
- there was no directly comparable sale to the Southern Cross site.

Relevant statutory provisions

Section 5A(3) of the *Valuation of Land Act 1960* (**the Act**) directs how the valuation of the site value of the land is to be undertaken. Without limiting the generality of the foregoing provisions of this section when determining such value, the following, where relevant, will be taken into account:

- the use to which such land is being put at the relevant time, the highest and best use to which the land might reasonably be expected to be put at the relevant time and to an potential use
- the effect of any Act, regulation, local law, planning scheme or other such instrument which affects or may affect the use or development of such land
- the shape, size, topography, soil quality, situation and aspect of the land
- the situation of the land in respect of natural resources, transport and other facilities and amenities
- the condition and suitability of any improvements on the land
- the actual or potential capacity of the land to yield a monetary return.

Sections 5A(3)(a), (b) and (f) were relevant considerations in this proceeding.

VCAT application of relevant statutory provisions

The current use of the site comprises open space, train platforms, office pods, ticketing windows, retail and car parking areas. For the purposes of s 5A(3)(a) of the Act, there was no dispute that the best use of the Southern Cross site was its existing use as an 'inter-modal transport interchange facility'[2].

The Southern Cross site is part of a 30 year private-public partnership agreement, whereby the occupant was and is obliged to 'design, construct, commission, lease, operate and maintain'[3] the transport facility in accordance with prescribed performance indicators. Performance of the occupant's obligations must meet specified standards for the landowner to make certain payments toward construction costs and continued operation of the facility. A nominal rental of $10 per annum is payable under the agreement by the occupant. Coupled with the incorporated documents in the Melbourne Planning Scheme, this agreement between the applicant entities had the effect of restricting the use and development of the land for a specific public purpose (s 5A(3)(b)).

The applicants appeared to rely entirely upon s 5A(3)(f) in isolation. Their contentions were succinctly summarised by the Court of Appeal as follows:

"The applicants' central contention was a simple one, namely, that the land could not be put to a commercially viable use and, hence, had a nil value. The steps in the argument were as follows:

1. *the effect of the planning controls, and of the contractual obligations on the applicants, was that the land could only be used as a transport interchange facility*
2. *on the evidence, the facility had an operating loss of $5.5 million per annum*
3. *no commercial entity would have any interest in purchasing the land on which it was constrained to conduct a loss-making enterprise*
4. *accordingly, the site had no value at all."*[4]

The applicants' arguments were rejected for two main reasons:

1. sub-paragraph (f) of s 5A(3) of the Act 'could not, alone, override all other relevant considerations'[5]
2. failing to consider the well-known *Spencer* and *Raja* principles, which required an assessment of what the State, as the most likely hypothetical purchaser, would pay to acquire the Southern Cross site, which was required for a critical public purpose, rather than not own it. It was considered absurd to suggest (as the applicants did) that a landowner would give the site away to the State for no value at all.

Ultimately, the case was decided upon the rationale that the 'the pivotal importance of the station site to the State and the people of Victoria, who use the station daily, is a very strong imperative for the State of Victoria to purchase the station site at the hypothetical *Spencer* auction'[6] or otherwise, to compulsorily acquire it for a public purpose.

The applicants relied on two valuation methodologies: the hypothetical development approach and capitalisation of income. Both were presented at VCAT as appropriate in the circumstance where no directly comparable sale was available.

The hypothetical development approach presented the uneconomical cost to develop the land, which is strictly limited to the use and development for a public purpose. It was accepted that the site only had one likely, hypothetical purchaser, the State of Victoria. It was also argued that as no other buyer would seek to purchase the site to operate a public facility at a loss, there is no general market for the land and the Southern Cross site had no value.

This argument was rejected by the President of VCAT, His Honour Garde J, based on well-established principles set out by the Privy Council in *Raja Vyricherla Narayana Gajapatiraju v Revenue Divisional Officers Vizagapatam*[7]*,* where it is wrong to assume:

- the land has no market value because it is uneconomical to develop, or
- the State would pay nothing for land required by it for a vital public use.

His Honour also felt the process of examining a hypothetical development required too many assumptions and estimates, which produced varying results and preferred the use of comparable sales.

The capitalisation of income from the operation of the Southern Cross site was suggested to result in a nominal valuation for the site. This argument was based on the commercial leveraging of the site by the State as landowner to the occupant as lessee, which produced a capital value of little significance. This approach was also criticised by His Honour, for ignoring what the State would be prepared to pay for the site and indeed did pay for the use and development of the site needed for a major public transport facility. Under the terms of the agreement between the applicant entities, the State has paid, and continues to pay, significant sums of money towards the construction costs and for the continued operation of the site as an important public facility. The amounts paid far exceed the what was suggested by the applicants to be the capital value of the Southern Cross site.

Ultimately, VCAT preferred and applied the direct comparison approach by having regard to both sales evidence of:

- land for development sites within the Melbourne CBD (considered an upper cap on rates that might be considered for the Southern Cross site)
- sites on the fringe of the Melbourne CBD (considered inferior to the Southern Cross site).

Using the sales evidence, appropriate adjustments were made to arrive at a value for the larger Southern Cross site. Estimated annual values for the subject site were then deduced as a proportion of the larger Southern Cross site to arrive at site values substantially less than what was set out in the amended assessments by the Commissioner of State Revenue.

Lessons to be learned

When determining market value of a site used for public purposes, valuers must not look at the commercial viability of the facility operating on the land, otherwise it would likely produce an absurd result of little or no value.

The questions to ask are those set out in s 5A but also, more specifically:

- What is the potential of the site for use as a public facility worth, based upon available sales evidence?
- What would a hypothetical purchaser be prepared to pay for the site, rather than acquire an alternative site for the public facility?

Essentially, the value of land required for a public purpose is not in its commercial potential, but the potential of its use as an important public facility.

[1] *Public Transport Development Authority v Commissioner of State Revenue (Vic)* [2017] VSCA 266
[2] *Public Transport Development Authority v Commissioner of State Revenue (Vic)* [2017] VSCA 266 at 4
[3] *PTDA & Civic Nexus Pty Ltd Commissioner of State Revenue (Review and Regulation) [2016] VCAT* 1457 at 34
[4] Ibid at 30
[5] Ibid at 50
[6] *PTDA & Civic Nexus Pty Ltd Commissioner of State Revenue (Review and Regulation) [2016] VCAT* 1457 at 66
[7] *[1939] AC 302*

BIS says Australia's 55-year house price 'upswing' the longest in the world

The long-term rise in Australian house prices since the early 1960s has been the most sustained property market upswing in the world in recent decades, new research says.

Researchers at the Switzerland-based Bank for International Settlements have analysed long-run trends in house prices across 47 countries, as part of a paper exploring how interest rates affect the price of real estate.

The paper, which finds short-term interest rates are a "surprisingly important" driver of house prices, also includes extensive data that underline the sheer size of the boom in house prices here and elsewhere.

In one such illustration, the authors analyse housing market "upswings" and "downswings" - which they define as periods of price rises (or falls) that last for three years or more.

The report found upswings had been far more common than downswings across the 47 countries, accounting for nearly 80 per cent of the periods studied in advanced economies. The long-term rise in Australian housing was the most persistent of all.

"The upswings lasted on average 13 years; with the longest one, in Australia, still continuing after half a century," the report said.

"By contrast, downswings accounted for only 8 per cent of the advanced economy sample; they lasted on average five years, and the longest one, in Japan, lasted 13 years."

Since 1961, it says the cumulative gain in Australian property prices is a whopping 6556 per cent. That compares with a cumulative 1332 per cent, or 13-fold, rise in United States house prices over 47 years.

Australia's cumulative growth is lower than the 7726 per cent increase in Norway's housing market, although that occurred over a longer timeframe of 66 years.

The authors acknowledge their data is "unbalanced", as it spans different periods of time depending on the country. Even so, it highlights very strong growth in property prices over multiple decades.

"Is housing a good long-term investment? Our data suggest that the answer is an unqualified "yes": real house prices increased on average by close to 7 per cent per annum in the sample of 20 advanced economies for which there are 45 years of data on average," said the working paper, by Gregory Sutton, Dubravko Mihaljek and Agne Subelyte.

Given the study's focus on national prices, and long-term moves, it does not consider localised falls in house prices within Australian cities, or falls that lasted less than three years.

By the author's definitions, Switzerland, Sweden, Canada and New Zealand have also not experienced a "downswing" of three years or more in their house prices.

However, the data the researchers used for these countries do not go back as far in time as Australia's figures, giving Australia the longest-running "upswing".

The research comes as Australian regulators and central banks are keenly focused on the risks created by a build-up of housing debt, which has reached record highs after the growth spurt of recent years.

The Reserve Bank last week warned about several areas where it sees "potential risk" in the property investment market, such as the growing number of people with multiple investment properties, and an increase in investors aged over 60 who have a mortgage.

A key finding of the BIS report is that there is a lag between changes in interest rates and movements in house prices, and it can take up to five years for changes in borrowing costs to have a major impact on prices.

The authors said this delayed response might be because of the high "transaction costs" (such as taxes and real estate fees) involved in property purchases.

VICTORIA - Government pushes for annual property valuations

The government is pushing ahead with a controversial change to property valuations, which its critics have labelled a $200 million “tax grab”.

From 2019, the government is planning a move to annual property valuations instead of every two years — which the Budget shows will boost the state government coffers by an extra $200 million that year.

It is also hoping to buy off opposition from local councils — who now perform valuations — by agreeing to pay the extra costs associated with yearly valuations.

Treasurer Tim Pallas has said the change would just mean more gradual rises in land tax. But the Opposition and council valuers say the rejig will lead to a huge government tax windfall.

Annual valuations were taken out of June’s Taxation Bill after local councils were concerned they would be hit with an extra $20 million bill every other year.

But the government is so determined to push through the changes that Mr Pallas has assured local governments he will pay for the extra administrative costs and software upgrades associated with moving to annual valuations.

It will also reimburse council’s lost revenue from selling on property data.

The government will reintroduce the measure — and a plan to centralise all valuations with the Valuer-General Victoria — in the Spring Taxation Bill likely to be introduced to parliament in weeks.

The Municipal Group of Valuers said there was no doubt that in a rising property market, the government would net more from land tax.

Its 16-point rejection of annual property valuations, circulated to some state MPs, said the move would create less accurate valuations, and council rate bills would become more unpredictable.

It also says valuable local knowledge and expertise would be lost if valuations were centralised.

A Victorian government spokesman said it would continue to consult the local government sector on the property valuation changes.

“We will continue to work closely with the Municipal Association of Victoria on the implementation of reforms that will improve the efficiency, consistency and transparency of property valuations in Victoria,” the spokesman said.

Shadow treasurer Michael O’Brien said annual valuations was a tax rise in disguise.

“Under Labor, land tax has increased by 35 per cent but this new slug will make it worse,” he said.

Property Council of Australia executive director Sally Capp said the best way to smooth out land tax fluctuations was to move to three-year rolling averages.

She said land tax remained a huge cash flow burden on businesses and landlords, who were then forced to pass the cost to consumers.

QUEENSLAND - Valuer-general takes it easy on Mackay land values

Mackay property owners - your land value won't change this year.

After two years when Mackay was targeted by the Queensland valuer-general to have the land value reassessed- Mackay hasn't been included on the program this year.

Each year the valuer-general selects which council areas the valuation department will go through and reassess how much land values are worth.

In 2016 the land valuer swiped 6% of the average Mackay property land value and then took a further 8.6% last year.

Of the 62 regional council areas set for new values, Mackay is not one.

Whitsunday has also been given a break after dropping by 15.8% in 2016 and 1.5% drop in 2017.

Isaac region is back on the list after having a break last year after a 26.6% drop in 2016.

"The decision not to undertake a revaluation for LGAs such as Brisbane, Townsville, Logan and Ipswich was made following consultation with those councils, stakeholders and industry representatives, and consideration of the property market survey report," Queensland's independent Valuer-General Neil Bray said.

"Valuers research the property market, examine trends and sales information for each land use category and inspect vacant or lightly improved properties that have recently been sold.

"The property market survey reports for those LGAs not being revalued showed minimal movement across most market segments."

Mr Bray said it was important to understand that while land values were assessed annually, not every LGA was included in the annual program.

"In LGAs where new valuations are not issued in 2018, the most recent annual valuation will remain effective for rating, land tax and state land rental purposes until the next valuation is undertaken.," he said.

Mr Bray said landowners could have confidence in the accuracy and integrity of Queensland's land valuations system.

The Local Government Areas that will receive new valuations are Banana, Barcoo, Boulia, Bulloo, Central Highlands, Charters Towers, Diamantina, Douglas, Fraser Coast, Gladstone, Gold Coast, Goondiwindi, Hinchinbrook, Isaac, Maranoa, Murweh, Noosa, Paroo, Quilpie, Scenic Rim, Sunshine Coast and Toowoomba.

QUEENSLAND - Overseas based investors are selling off Queensland assets because of new taxes

FOREIGN buyers have begun selling off their Queensland property assets following the introduction of a new tax regime.

A surcharge on land tax for absentee (foreign) owners was introduced by the State Government in July.

That means they are charged 1.5 per cent more land tax than Australian based owners, on property holdings with government valuations of more than $350,000.

Andrew Henderson, principal of John Henderson Professionals Mermaid Beach, has listed three properties where he said the extra tax made the owners consider them no longer a viable investment.

He said many of the foreign investors hadn't realised they would have to pay the additional charges until they received their latest land tax bill.

For some owners it could be a substantial additional cost of thousands of dollars.

"Anything over land value of $350,000, so when you look at suburbs like Mermaid Beach your average unimproved land value is $1 million, so when you are then talking about (figures like that) it adds substantial costs to the bottom line of the holding costs of that investment property,'' Mr Henderson said.

He said some of the properties were already negatively geared and on top of rates and current land tax charges it made it unviable for the owners.

He said ultimately the people who lost out where the tenants of these properties, as it was highly likely they would sell to owner occupiers in the current market.

Properties his agency had listed for sale because of the land tax issue included a four-bedroom home at 39 San Simeon Drive, Clear Island Waters.

The waterfront home will be auctioned on October 29. It has views of Surfers Paradise and Broadbeach and is on 1005 sq m of land.

Mr Henderson said the Singapore-based owner had decided the new land tax charges meant it was no longer a worthwhile investment for him. It has an estimated rental income of $650 a week.

A property owned by an Indonesian based investor at 38 Pintail Crescent, Burleigh Waters has been listed for sale for the same reason.

The three-bedroom home was tenanted for $470 a week.

The other property affected by the same issue was also owned by an Indonesia-based investor.

The house at 134 Santa Cruz Boulevard, Clear Island Waters was listed for $899,000. It has four bedrooms and is within walking distance of the Surfers Paradise Golf Course.

It is rented for $2080 a month.

“Regardless whether or not you support the new laws, there is no doubt it is starting to have an effect,’’ said Mr Henderson.

QUEENSLAND - Million homes won’t be revalued after shock decision by Queensland’s Valuer-General

CLOSE to a million Queensland homes won’t be revalued next year because of a shock decision by the state’s Valuer-General that’s been slammed by the Property Council.

Queensland Valuer-General Neil Bray had to defend his decision to revalue only 22 of the state’s 62 rateable local government areas next year, leaving off the list not just the state capital Brisbane but also densely populated areas like Logan, Ipswich, Moreton Bay and Townsville.

“The property market survey reports for those LGAs not being revalued showed minimal movement across most market segments. In Brisbane, for example, there were some small pockets that showed some change, however overall the changes did not justify inclusion in the annual valuation program,” he said.

But Property Council Queensland executive director Chris Mountford was unconvinced, warning the move raised serious questions about the state’s valuation system - especially when the capital city was bypassed.

“A significant number of transactions were undertaken in the 2016-2017 financial year, which would help inform new valuations. On this basis, the Property Council sees no reason for the decision not to value more than 29 per cent of rateable properties across the state.”

The decision marked the first time in eight years that the Valuer-General won’t have the capital city in his annual Queensland revaluations.

Mr Mountford said “in both 2015 and 2016, landowners in Brisbane’s CBD raised significant concerns with their annual land valuations”.

"In 2016, almost 1,200 objections were lodged across Brisbane, 241 of them for properties over $5 million - most of them in the CBD. A similar number were lodged in the previous year. Given this level of debate about statutory valuations in Brisbane in recent years, its clearly an odd decision not to revalue the State's capital city."

Mr Mountford said major, diverse markets like Brisbane needed to be valued every year "to ensure the tax system remains fair and equitable".

"Has the government made this decision because the State Valuation Service doesn't have the resources to undertake the task? Or perhaps the State is looking to ensure its land tax revenue is locked in at a certain level for next year? Either way, it's not the basis of a fair tax system."

Mr Bray said the 2018 valuations - to be released in March next year - would involve 492,000 properties making up about 29 per cent of Queensland's valuation roll.

The LGAs that would get new valuations were Banana, Barcoo, Boulia, Bulloo, Central Highlands, Charters Towers, Diamantina, Douglas, Fraser Coast, Gladstone, Gold Coast, Goondiwindi, Hinchinbrook, Isaac, Maranoa, Murweh, Noosa, Paroo, Quilpie, Scenic Rim, Sunshine Coast and Toowoomba.

"Valuations are issued annually across the state, except in unusual circumstances or where it is determined there has been insufficient market movement in a local government area to warrant an annual valuation being issued," he said.

Mr Bray said in a statement that where new valuations were not issued in 2018, the most recent annual valuation would stay in force "for rating, land tax and state land rental purposes until the next valuation is undertaken".

But if you're in the unvalued zones and think that means your rates will stay put next year, think again.

"Landowners should remember that land valuations are just one of the factors taken into account by local councils when they prepare their annual budget and set rates to pay for the services they provide to their community," Mr Bray said.

Under the Land Valuation Act 2010 valuation notices have to be issued no later than March 31 in the year that the annual valuation takes effect.

"The valuations will be determined as at 1 October 2017, and become effective for rating, land tax and State Land rental (for leasehold land) purposes as at 30 June 2018," he said.