

Annexure 1- Responses to detailed questions within the Consultation Paper

Consultation questions appear to be worded with the unstated premise an Annual Property Tax WILL occur and it WILL be beneficial as a tool to help people own their own home. My responses correct both these wrong premises.

The questions demonstrate that 'the Vision' as stated is just an up-front selling tool to hide the fact that within approximately a decade (10 years) each NSW property will be subjected to an Annual Property Tax. Politicians of all persuasions, and citizens of NSW should not be taken in by such a ruse.

Question 1: Do you agree that Stamp Duty is out of date and is a handbrake on the economy? Is there merit in replacing it with a broad-based annual property tax?

No.

The proposed annual property tax would be a handbrake on the economy – it would reduce the disposable income of every resident of NSW – city and country - by the amount paid through to the NSW Government. There is unlikely to be any compensating increase in NSW resident's income (wages, Government assistance etc). There would be inflationary aspects as well – wage increases would be sought to cover the Annual Property Tax as a component of monthly expenditures.

I do not agree Stamp Duty is a handbrake on the economy, it is an accurate reflection of the economy. The incurring of Stamp Duty is a discretionary expense, in so far as it is levied on the purchaser of a property at a time when the individual feels able to afford the purchase of a property including the applicable Stamp Duty. If the economy is experiencing difficulties then individuals are less likely to make long term financial commitments when their employment is less certain. It is a self-policing mechanism. Conversely, in times of economic boom, people are more likely to commit to long term financial commitments because they feel more certain of their income. People prefer to commit to a known fixed current cost, rather than an unknown variable future cost. Regulators of financial product seek to ensure people do not overcommit, or are offered product that allows this to occur. NSW Treasury should not be allowed to fall into the trap of providing financial product with or without (potentially biased) financial advice to unsophisticated users.

There is no merit in replacing the current Stamp Duty system with a broad Annual Property Tax. For example:

- Current Stamp Duty is typically financed via savings or mortgage borrowings. To remove it does little (if anything) to change the borrowing capacity of the purchaser, and hence the removal of Stamp Duty will automatically equate to an increase in the prices of property by approximately the amount of the Stamp Duty. This, together with the committed ongoing cost of an Annual Property Tax makes home affordability more (not less) difficult for those attempting to enter the property market. It also adds to ongoing living

expenses that must be factored into the financial ebbs and flows of individuals financial circumstances. With the current Stamp Duty system, the expense/commitment is expended or 'bundled' into a mortgage that can be better dealt with by a property owner at a time of their choosing, rather than as an additional annual (varying) expense;

- As the current system 'wraps up' the Stamp Duty with the purchase of a property it has negligible effect on the future disposable income of the property purchaser as the Stamp Duty is normally wrapped up in a 30-year mortgage, or past savings; and
- The proposed Property Tax would provide the NSW Government an 'open chequebook' to levy the Property Tax at whatever rate it deems, at any future point in time it deems, at whatever land value it deems at that future point in time. These three factors, or levers, may be used by the NSW Government of the day (of whatever persuasion) to 'generate' desired financial yield results. None of these are related to 'the Vision' that is behind this proposal. Further, by these three variables, paying Annual Property Tax becomes an unknown financial commitment, unlike the current system, whereby the amount is known, and paid for, at the time of purchase.

Question 2: The annual property tax would be based on unimproved land value, much like the way council rates are calculated – what do you think of this approach?

This is not a good approach. I think it better to pay Stamp Duty on the known purchase price of a property. It is payable at a known fixed rate, based upon the fair value of a property determined by what a willing buyer and a willing seller are prepared to agree on at time of sale/purchase.

Under the current system, the value of the property transaction considers individual property characteristics, such as proximity to services, views, ability to develop, quality of structure etc. It is not determined based upon some arbitrary value placed on a piece of land by a land valuer using 'property sales in the vicinity' or similar yardstick to then apply that value to all generic properties in a locale on a per square metre basis. Clearly this approach would miss obvious differentiators, for example a property facing a busy road has less value than its neighbour facing a side street, other things being equal. Stamp duty reflects each unique property value, an annual property tax process unfairly charges as if all property in a locale has identical characteristics, which is clearly not the case.

An example of this is my current home which I bought for \$475,000, which at the time had a rateable value of \$530,000. The property market determined the real value of the property, which included a perfectly liveable house, not some arbitrarily applied Valuer General idea of value clearly based on an expensive property in a better spot recently sold nearby.

In the last 12 months Sydney and regional property prices have increased dramatically. Historically, house prices in Sydney double every 10 years. We are currently in yet another property boom. Property prices are affected by the people (buyers and sellers) in the market at any point in time. The change in the value of a property has little impact upon a property owner not in the market, yet the proposed annual property tax would be determined by those actually in the market, and then imposed upon every NSW resident both in and not in the market, by the very fact the increased values would be applied across cities/regions. As house prices increase by approximately at least 10 % per year, so too would the flow-on annual property tax - but without equivalent wage and salary increases. People will expect each year as their tax payments rise to see improved service deliveries. This creates annual disquiet amongst voters.

However, there is no observable nexus/expectation between Stamp Duty/Land Tax paid and observable services to NSW residents. These are grudgingly paid - on a limited number of occasions in a person's lifetime - unlike the proposed Annual Property Tax - which would be an annual grudge spend, with huge voter unpopularity.

There is no nexus between the Annual Property Tax and 'the Vision' in any way other than it would create an initial 'sugar hit' for those willing to pay more for their new property (see other question responses) and to trade current certainty of amount paid away for future uncertainty of amounts to be paid away each year of their property owning lives. This is a dangerous financial product the Tax Reform Taskforce proposes, being sold to naïve people.

Question 3: Do you agree that it would be attractive to be able to choose an annual property tax rather than paying a large lump-sum stamp duty on a purchase and, for investors the current annual land tax?

No.

Other than the NSW Government who would acquire an income stream, the only beneficiaries from a replacement of the Stamp Duty systems would be those that churn properties, such as property developers and investors who enter/exit properties with typically more regularity than the usual owner occupiers (who are the ones 'the Vision' seeks to assist), and short-term NSW residents. It potentially saves the developer and investor considerable money as they are more likely to churn a property before paying anything like the quantum of Annual Property Tax that would have equated with the amount the existing Stamp Duty/Land Tax regime collects.

It would also be beneficial to investors as it would become an annual Federal tax-deductible yearly ongoing expense 'necessarily incurred' in offering the property for rent. Stamp Duty in Tax law is considered a capital cost and it only comes into play when determining the eventual capital profit/loss on the sale of the property investment. The times-past and one- off amount is difficult to pass through to renters, unlike an Annual Property tax where there is a direct relationship between the timeframe it covers and the renters occupancy timeframes.

There is no known way of avoiding landlords (both commercial and residential) from handing on an Annual Property Tax to renters. Even if there was a known way to check and deny, the cost of employing an audit team of people to do so (either State Revenue based employees, or external consultant audit firms) would be astronomical and remove increased revenue opportunities the Annual Land Tax presents.

An Annual Property Tax would be detrimental to most owner occupiers as over the life of property ownership it will cost substantially more than the current existing Stamp Duty. In the lifecycle of an individual/family who are supposed to benefit from 'the Vision', property transactions are few, and generally occur only at substantial shifts in circumstances. The current Stamp Duty is paid at the time of property acquisition, and the person determines whether their circumstances warrant a change in property. Alternatively, they may choose to improve their current property and not incur further Stamp Duty.

To illustrate by example. Someone becomes a property owner at age 30, and dies at age 85, and owns any sort of property. Under the proposed Annual Property Tax system, it subjects that person to 55 years of Property Tax on increasing (but unknowable) unimproved land values. This would involve a far greater cost to the property owner than the current Stamp Duty system. It is non-discretionary, and must be factored into the cost of living, which is difficult/impossible for any family to do, and for those on any sort of Government assistance and those whom 'the Vision' seeks to assist most. None of us can predict what lies ahead in our finances, and certainty is always better than uncertainty, particularly when the proposed Annual Property Tax does not provide any connected 'value provision' to the property owner each year by the government of the day. The same argument applies to property renters as they would similarly be burdened with paying the Annual Property Tax, via increased rent, for the duration of their property tenancy(ies).

The current Land Tax system is and remains wholly appropriate for investors as it applies to non-principal places of residence, that is second properties where the aggregated land value is above a predetermined threshold.

Question 4: Is an opt-in and gradual approach the best way of ensuring a fair transition to the property tax?

No.

If an Annual Property Tax were to be implemented, property purchasers should have the option of choosing whether they opt for the new Annual Property Tax, or the existing Stamp Duty, for the duration of their ownership of that particular property, in perpetuity. That is, the taxable/dutiable position should not travel with and be determined by any prior owner of a property, at any time previously. Each new property owner has individual needs and if Annual Property Tax is implemented, they should be able to decide between the Annual Property Tax or Stamp Duty for each property purchase, based upon their own individual circumstances at the time of acquisition.

Allowing a purchaser to determine their preference eliminates a dual property market, whereby the ability to continue with the Stamp Duty system would automatically place a different value on an adjacent property that is otherwise similar. Where a previous owner has opted for the Annual Property Tax for one property, its value would become less than the adjacent one which has had a previous owner who has opted to retain the current Stamp Duty system. The ability to continue with the Stamp Duty option would become a clear financial benefit - and so a selling feature as time passes.

Question 5: Would you delay a home purchase if it meant that you could opt-in to the property tax? Should there be a limited window for retrospective opt into the property tax, after it commences?

I wouldn't opt-in to a Property Tax system - and so it would not delay my home purchase.

There should be no ability to retrospectively opt into the proposed Annual Property Tax system. It should be determined at the time of purchase. Typically, a lender generally funds purchase price and Stamp Duty via a mortgage. Any repayment of Stamp Duty because someone decides to retrospectively apply for the Annual Property Tax may result in the funds not being returned to the original financier. A whole new system would need to be created to track disposition of returned funds, with attendant Privacy Act implications needing to be addressed and resolved. This possibility opens the potential situation of providing mechanisms that could be used to defraud lenders/banks. Similarly, if Stamp Duty were returned to the purchaser's savings, then it would have positively impacted their borrowing capacity as the purchaser. Both lender and borrower lose an understanding of the actual financial situation.

Question 6: Should there be different property tax rates for residential investment properties, farmland and commercial properties?

No.

Property Tax rates should be consistent across NSW. This eliminates any self-certification as to what the property use is, does not allow for rate manipulation, and ensures changes in use of property are for genuine reasons and not simply made to deliver a tax-driven Annual Property Tax minimisation scheme.

Question 7: Given this tax reform is an investment into our future, do you think it is worth the cost?

No.

I fail to be persuaded that this change can in any way be regarded as an 'investment in the future'. Your Consultation Paper at page 22 states 'Over the long term, the

reform would generate the same amount of revenue as stamp duty and land tax'. I do not see this is a supportable statement.

The mooted Annual Property Tax system will result in additional operational costs. I have very lightly touched on these in responses to other questions (auditors, system changes, property valuers, regulators, reporting requirements). The current system is simple: buy the property, pay the Stamp Duty. No other properties are impacted, no audit is needed, no intrusions and delving into personal bank accounts is needed. The mooted new system would require additional costs in terms of invoicing, recovery, and supporting systems. It is possibly envisaged this process, like an attendant audit and checking function would be outsourced to a privatised entity, such as PEXA, who would welcome the additional income stream (via a scrape of the revenue received) to the benefit of their private owners, BUT to the detriment of the property owners who are supposedly enjoying the benefits of 'the Vision'.

Given historical increases in house prices, and likely increases into the future, the premise that 'the reform would generate the same amount of revenue as stamp duty and land tax' appears inconsistent and diametrically opposed to observable reality. No evidence, empirical or even anecdotal has been provided to support this assertion in the Consultation Paper, nor can it be found in any available other source – extensive electronic searching fails to find anything.

Question 8: Should price thresholds be used to exclude people buying the most expensive properties from being able to choose the property tax?

No.

What is the definition of an 'most expensive property'? In whose eyes?

'Expensive properties' are so because of the land value component. There must be a non-discriminatory system. It costs the same to build an identical house on an identical piece of land regardless as to whether it is in a 'cheap' or an 'expensive' suburb.

The current Stamp Duty rates are sufficient to satisfy the social taxing aspects of a property tax - if that is an objective of Stamp duty/Land Tax over and above it being a revenue raising measure - and these are known at the time of purchase.

Question 9: What arrangements should be made for residential and commercial tenants if their landlord chooses to pay the property tax?

The NSW Government has no ability to control rent as this is an area that is subject to supply and demand. If introduced, rents will increase to cover any Annual Property Tax, and renters would be disadvantaged.

There is the premise (viewable on the NSW Treasury website) that the NSW Government can ensure that ‘an Annual Property Tax does not result in rent increases without the tenant’s agreement’.

This premise appears naïve. The NSW Government cannot (with or without employing hordes of auditors) possibly actively police, in real time, the nature of rent increases across the State. Tenancies can be terminated, and rents increased to ‘market rate’ and a new tenant will quickly be found. Tenants are always more vulnerable than landlords. Rent Review Boards, Bond Tribunals and the like are already swamped with trying to administer their existing remits, adding to their tasks would require additional staffing.

Question 10: What should happen for people who have chosen the property tax, but then can’t afford it?

This question is a strong reason as to why the proposed change away from stamp duty/land tax to a property tax should not occur. Namely:

- This is not ever an issue under the current Stamp Duty system. There is no ongoing financial obligation after property acquisition;
- If the NSW Government were to allow people to accumulate the debt against their property (as I think is the anticipated and possibly sought answer) then it would obtain a priority repayment over any mortgage on the property, ahead of the banks. This would be untenable to the banks, and would likely reduce prospective property owners borrowing capabilities;
- The NSW Government would be knowingly and wilfully entering the money-lending business with consumers, which would of course be subject to applicable laws;
- There would be (yet unquantified) additional debt that would have to be taken on by the State Government to fund the non-collection of receivables comprising uncollected annual property tax that had replaced the steady collection of revenues under stamp duty/land tax;
- It adds to the stress of property owners that find themselves in financial difficulties;
- There are some in the community that do not like to be in debt, and it would sway those to sell their property, because they see no acceptable alternative. This would further impact their lives, beyond the debt itself; and
- In summary any change to current process would simply create more problems than mooted changes (may) solve

Question 11: What is the best way of ensuring that the property tax remains affordable for taxpayers, while generating the same amount of long-run revenue as stamp duty and land tax?

There is no best way to ensure the proposed Annual Property Tax remains affordable for taxpayers.

The best way of ensuring housing affordability (which is ‘the Vision’) is to maintain status quo - no change to the current mechanisms, but introduce a Stamp Duty Loan repayment system/scheme.

Your Consultation Paper (page 22) states that:

‘Over the long term, the reform would generate the same amount of revenue as stamp duty and land tax’. As said already, this is queried – it is a value judgement and supposition, and unproven. The subject requires higher standards than mere supposition.

Question 12: Is there a specific aspect of our proposed reform you would change to help make the proposal better?

Yes.

If the proposed Annual Property Tax were to be limited to the amount of Stamp Duty or Land tax payable at the time of acquisition, then this would be an acceptable approach. Once the predetermined amount is paid, there is no obligation for further Annual Property Tax payments.

It remains Stamp Duty/Land Tax but gets rebadged to a single new name ‘Property Tax’. It removes the need to have the word ‘annual’ in the title, with its negative connotations.

The Consultation Paper states Stamp Duty ‘is a major barrier to anyone saving for their first home or wanting to upgrade’. If this is so, the NSW Government can have a Stamp Duty Loan repayment system, allowing for regular interest and principal repayments over a fixed period that allows for early repayment. The eligibility for inclusion within the scheme can be targeted, just as the current First Homeowners Scheme does. If the argument stands that first homeowners and upgraders can afford an ongoing Annual Property Tax, then they can equally afford repaying Stamp Duty via regular repayments.

If (as is asserted) the Government has valid ground to support the statement ‘Over the long term, the reform would generate the same amount of revenue as stamp duty and land tax’, then the change cannot be seen as being driven by increased revenue raising. A Stamp Duty Loan repayment scheme is a simple, progressive approach to home affordability.