NSW PROPERTY TAX PROPOSAL

Progress Paper for June 2021
Making Home Ownership More Achievable in NSW

BUYING IN NSW, BUILDING A FUTURE

CREATING JOBS *and* SECURING OUR FUTURE

NSW GOVERNMENT

CREATING JOBS *and* SECURING OUR FUTURE

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BARKINDJI PEOPLE, WILCANNIA
Destination NSW

ACKNOWLEDGEMENT OF COUNTRY

NSW Treasury acknowledges that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and thank them for their custodianship of Country – land, seas and skies. We acknowledge the diversity of First Nations cultures, histories and peoples, recognise their enduring connection to our State, and we pay our deepest respects to Elders past, present and emerging.

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Treasurer's Foreword

The NSW economy is the engine room of the nation. As Australia's gateway to the world, our state is globally oriented, and our success is driven by our greatest asset: the people and businesses who choose to call NSW home.

To build on that success for current and future generations, it is vital that we keep updating the policy settings that underpin our economy, ensuring they are a help – not a hindrance – to the productive pursuits of our people.

At the same time, our success as a state rises and falls on the quality of life citizens can enjoy. Making home ownership a reality for more of our people is an indispensable part of lifting living standards across NSW.

Those are two fundamental motivations for proposing a once in a generation reform to the property tax system: taking our economy up another gear, and improving home ownership for NSW residents, particularly younger generations.

This is a timely proposal. Good policies from the past can be a poor fit for the present, let alone the future. Stamp duty was introduced to NSW in 1865, and the system has not kept pace with the changing way people live, work and move.

It prevents people from living in the home that suits their lifestyle, and makes it harder for people who move for work or for family reasons to access the property market.

These are more than just personal inconveniences – they come at a huge cost. Research indicates that each additional dollar of residential stamp duty revenue lowers living standards by 90 cents. Without stamp duty, the annual incomes of NSW residents could be increased by more than $10 billion in total.

The proposed new property tax system, which replaces stamp duty with a small, annual tax, would not be a panacea for our future economic challenges. Nor could it single-handedly solve the ever complex home-ownership puzzle for NSW citizens.

But it would make things better – substantially so. It would stimulate home ownership, grow the economy and create jobs. It is estimated that, as a result of reform, more than 300,000 NSW residents could achieve their dream of home ownership and Gross State Product could increase by 1.7%.

Importantly the reform would not affect anyone who already owns their home. There would be no double taxation. The transition would be gradual, so anyone who has already planned their affairs around the existing system could continue on unaffected if they choose, and there would be appropriate safeguards to ensure it is fair for everyone.

The proposal, originally outlined in the November 2021 NSW budget, has generated a groundswell of public interest. Over the past six months we have conducted extensive community consultation, hearing from thousands of individuals and hundreds of community and business groups.

This Progress Paper builds on the community feedback and provides another level of policy detail as we work towards a final model for the Government to consider in the second half of the year.

Securing the economic future of our state is not a partisan project. I thank all who have contributed constructively to the conversation so far, and I look forward to continuing that constructive engagement as we continue down the path to reform for a better future.

Dominic Perrottet
NSW Treasurer

01. Taking Reform Forward

INTRODUCTION

As part of the 2020-21 Budget, the NSW Government unveiled a proposal to change the NSW tax system to give property buyers the choice to pay stamp duty (and any existing land tax, where applicable), or alternatively to pay a smaller annual property tax when they purchase a property.

The NSW Government released a Consultation Paper outlining the benefits of this proposed change, along with a proposed policy framework.

This Progress Paper provides an update on the consultation process as well as more information on the proposed model, reflecting further policy and design development.

The NSW Government is committed to putting forward the best possible model to create the most effective tax system for the people of NSW. Comments on the additional information presented in this document can be sent to TaxReformTaskforce@treasury.nsw.gov.au by Friday 30 July 2021.

THE TIMELINE SO FAR

2001
Review of State Business Taxes – Harvey Report

[Other expert reviews]

2010
The Henry Review – Australia's Future Tax System

[Other expert reviews]

NOVEMBER 2020
NSW State Budget – 17th November

Proposal for property tax reform launched & Public Consultation initiated

NSW Review of Federal Financial Relations released

MARCH 2021
Public Consultation closed

JUNE 2021
Progress Paper released

JULY 2021
Feedback closes/the NSW Government intends to then further refine the proposed reform

BOOSTING HOME OWNERSHIP

Home ownership is one of the most important steps toward financial security for most households. Owning your own home provides a sense of physical and emotional safety, and builds a stronger sense of belonging to a community. People who own their own homes have an asset they can draw on if times are tough or as part of a longer term financial plan. With land values being a significant part of community wealth, preserving widespread home ownership is also important to prevent rising inequality of wealth and incomes.

Since 1990, NSW average earnings have trebled, average house prices have increased around five times, and average stamp duty on dwellings has increased more than seven times. Almost inevitably, homeownership has declined, from around 70% in the 1990s to around 64% today.

The NSW Government wants to make home ownership more achievable and is considering removing one of the biggest upfront barriers to buying a home, stamp duty. A reform focussed on home ownership is particularly relevant at a time when home prices are increasing rapidly.

The average sales price for a NSW property, has grown from six times average annual earnings in 1990 to 9.5 times average annual earnings in 2020.

For a full-time worker who earns the NSW average annual earnings and saves 15% of their income, stamp duty adds 2.5 years to the time required to save a deposit of 20% of the average NSW property.

CORE LOGIC, THE AUSTRALIAN BUREAU OF STATISTICS AND NSW TREASURY CALCULATIONS

BOOSTING FIRST HOME OWNERSHIP

A key part of the reform is a focus on first home buyers. First home buyers are entering the property market later in life. Between 1995-96 and 2017-18, the average age of a first home buyer has increased from 33 to 35 years. In two decades, the share of first home buyers aged under 35 has declined from 69% to 55%.

At the moment, full stamp duty concessions are available to first homebuyers purchasing homes up to $650,000 with partial stamp duty concessions offered on homes of up to $800,000. Given the price of homes, this leaves about a third of all first homebuyers paying the full amount of stamp duty. The up-front costs of a home are particularly constraining for first home buyers, because it can take many years in the workforce to save the necessary amount.

Moving to the proposed property tax would remove the requirement to pay stamp duty for all buyers. This would lower the up-front cost of home purchases for all first home buyers, not just those who purchase lower-priced properties.

Other aspects of the reform would also help to lift overall home ownership – the relative tax rates of owner-occupiers versus investors, long-run downward pressure on home prices and an overall increase in mobility are all expected to contribute to higher rates of home ownership, which means more NSW citizens will get into their first home at an earlier age.

ENHANCING HOUSEHOLD MOBILITY

Stamp duty has a direct impact on the ability for people to live where they want, when they want. Many people defer the purchase of a smaller first property, instead saving for a larger and more expensive family home to avoid paying stamp duty twice. Many people also stay in homes that do not suit their family or their lifestyle because of the large upfront transaction costs of buying a property, including stamp duty.

By offering the choice to not pay stamp duty and opt into a small annual property tax instead, the people of NSW will have more freedom to choose the right home for themselves and their family at every stage of life.

"25 per cent of households stated that they were unlikely to move soon as they could not afford the costs associated with moving. This locks homeowners into properties that no longer suit the needs of their families and increases urban congestion with families living far from their place of employment."

THE COMMONWEALTH PRODUCTIVITY COMMISSION, 2014

"Stamp duty strongly discourages property transactions. Reform would enable more mobility. Australian and international evidence suggests the number of property transactions would increase by about 50 per cent in the long run."

MALAKELLIS AND WARLTERS, 2021

Currently, a young couple starting out might buy a home that is bigger than they need, because they don't want to move and incur a second round of stamp duty when children are born. Under the proposed property tax, they could buy a smaller and cheaper home now, and in a few years move to a larger home without being penalised by a second round of stamp duty.

Stamp duty also currently penalises older households who are thinking about downsizing. At the moment, downsizers lose a significant amount of their equity through the requirement to pay stamp duty on their new smaller home. Under the proposed property tax, downsizers could actually reduce their expenses by downsizing.

Some people rent because their job requires them to move regularly – in some cases to different cities or towns. People who have to move frequently are reluctant to buy, because paying stamp duty can be considered to be a waste of money for those who only plan to live in the home for a short time. The proposed property tax will remove one of the barriers that prevents more mobile workers from buying their own home. This aspect of the reform could be particularly helpful for employers in regional NSW, who can have difficulty attracting workers who expect to stay for just a few years (e.g. young teachers).

In each of these examples, the proposed property tax would provide greater opportunity for the residents of NSW to own their own home where they want, when they want, sooner and at a lower cost.

STIMULATING ECONOMIC RECOVERY

Stamp duty is an inefficient and volatile tax that puts a brake on economic growth.

The proposed reforms would inject $11 billion back into the economy over the first four years, putting money back into the pockets of the people of NSW and stimulating the state economy as we continue to manage and recover from the COVID-19 crisis.

In the long run, the proposed reform would lift living standards. It is expected to expand the NSW economy by 1.7 per cent, or more than $10 billion additional annual income for NSW residents. This would provide an extra $3,300 of income per household and 75,000 additional jobs.

The reform can be compared with an infrastructure investment program. It involves substantial up-front cost to the state, and it would deliver a long-run stream of productivity benefits. In the case of infrastructure investment programs, many of them deliver a productivity benefit that is approximately equal to the cost of the investment. In the case of the proposed property tax reform, the productivity benefits are expected to be around 30 times higher than the costs.

STRONG SUPPORT FOR CHANGE

Feedback received through Public Consultation reinforced the case for change, and highlighted that the existing property tax system is not a suitable system in terms of meeting the needs of current and future citizens.

"Stamp duties have negative effects on housing and labour markets and restrict residential mobility, leading to inefficient allocations of housing resources and decreasing housing affordability, and there would be affordability benefits for home purchasers from moving to a broad-based tax on land."

AHURI (AUSTRALIAN HOUSING AND URBAN RESEARCH INSTITUTE), SUBMISSION 18 DECEMBER 2021

"Abolishing stamp duty on property conveyances must become top priority for housing tax reform...Stamp Duty is an inequitable tax which falls on a small cohort of taxpayers who need to move for varying reasons, such as change in household size, or for employment, education or training, health or financial reasons."

HOUSING INDUSTRY ASSOCIATION, SUBMISSION 15 MARCH 2021

"This concept is innovative and has been called for over some time."

POWERHOUSING AUSTRALIA, SUBMISSION 15 MARCH 2021

EXPERTS BACK THE NEED FOR CHANGE

There have been numerous reports which have recommended this reform.

The 2020 NSW Review of Federal Financial Relations, chaired by David Thodey, recommended that stamp duty be replaced with a broad-based land tax like the proposed property tax. The full review is available here: NSW Review of Federal Financial Relations.

Some of the expert reports that have recommended removing stamp duty and replacing it with a broad-based tax on land include:

- Review of State Business Taxes – Harvey Report (2001)
- IPART 2008 – Review of State Taxation
- The Henry Review (Commonwealth of Australia 2010) – Australia's Future Tax System Review
- The Lambert review (NSW Treasury 2011) – NSW Financial Audit
- ACT Taxation Review (2012)
- Commonwealth Productivity Commission's "Shifting the Dial" review (2017)
- NSW Productivity White Paper (2021).

A variety of think tanks have also recommended the replacement of stamp duty with a broad-based land tax, including:

- Centre for Independent Studies (2008)
- McKell Institute (2016)
- Grattan Institute (2018)
- Australia Institute (2020)

SUMMARY

The feedback received through the consultation process, combined with expert and NSW Treasury analysis, adds further weight to the case for change set out in the Consultation Paper.

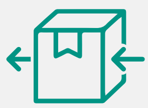
There is widespread support for the proposition that NSW should move away from the existing property tax system, characterised by the large 'upfront' cost of stamp duty, towards an alternative system that makes home ownership more accessible, supports household mobility, and better facilitates economic growth and prosperity.

THE CASE FOR CHANGE – A RECAP AND UPDATE

The Consultation Paper set out the case for changing NSW's property tax system, highlighting four key factors:

BOOSTING HOME OWNERSHIP

BOOSTING FIRST HOME OWNERSHIP



ENHANCING HOUSEHOLD MOBILITY

STIMULATING ECONOMIC RECOVERY

02. November 2020 Consultation Paper – A Policy Starting Point

INTRODUCTION

This section provides a recap of the proposed property tax features, the consultation process and channels used, and high-level outcomes and findings.

PROPERTY TAX – PROPOSED FEATURES SET OUT IN NOVEMBER 2020

The Consultation Paper set out a proposal for a property tax with the following features:

- **The property tax would be an annual tax based on unimproved land value.** The property tax would consist of a fixed amount plus a rate applied to the unimproved land value of an individual property, and not aggregate landholdings. This is the same approach as council rates.
- **Buyers would be given the choice of which tax to pay**. Buyers would be given the choice to pay the property tax at the time of purchase. It would replace stamp duty and (where applicable) land tax. Once a property is subject to the property tax, subsequent owners must pay the property tax.

- **For those not buying a property, there is no change**. There would be no double taxation. Those who have already paid stamp duty on their property would not have to pay the property tax.
- **Balanced rates**. Residential owner-occupied and primary production properties would pay lower rates than residential investment properties, which in turn would pay lower rates than commercial properties.
- **Price thresholds will help maintain fiscal responsibility.** Price thresholds would limit the number of properties initially eligible for transition to keep Government revenue and debt impacts within reasonable levels, while ensuring over 80 per cent of residential properties are eligible to opt-in from day one.
- **Protections**. Protections would apply so that the property tax does not result in rent increases without a tenant's agreement. A hardship scheme would recognise that taxpayers' financial situations can change over time and ensure that no one facing hardship needs to sell their home to meet property tax liabilities.
- **Revenue neutrality.** In the short term, the reform would reduce the NSW Government's revenue. Over the longer-term, the property tax would be revenue neutral, collecting the same amount of revenue as stamp duty and land tax.
- **First home buyers**. Existing stamp duty concessions for first home buyers would be replaced with a grant of up to $25,000.

ABOUT THE CONSULTATION

As summarised in Section 1 of this document, there is a strong case for change and a requirement for reform. Reform inevitably involves major changes and people who may be affected by these changes will rightly have questions and concerns. Moreover, the existing tax system is complex, and the property tax features outlined in November 2020 introduced new ideas and different terms that needed to be carefully explored.

Accordingly, the consultation process was designed to provide all NSW stakeholders – ranging from consumers to industry peak bodies – with an opportunity to inform the NSW Government about how the reform could affect them. The NSW Government is committed to designing the best reform for all and consultation is a critical step to achieving this objective.

The public consultation period ran for four months, concluding in mid-March 2021. Throughout the consultation process, thousands of people and stakeholders from across NSW provided valuable insights about the proposal, what it could mean for them and how it could be improved.

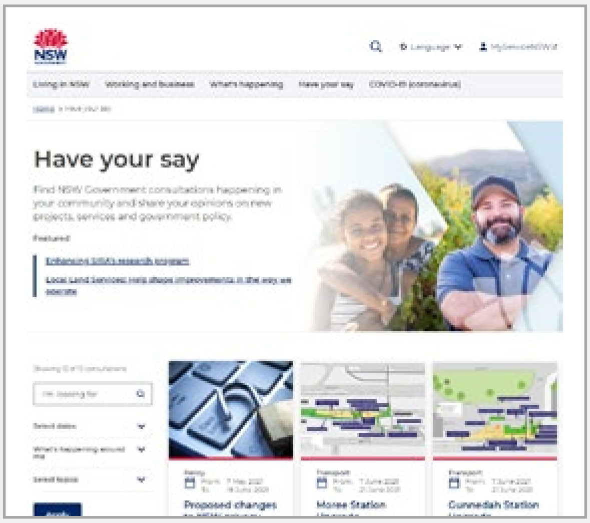
Feedback received provided a mix of views. The key themes emerging from this feedback are provided in the next section, reflecting the complexity of change, and the challenges around how any change would need to be carefully managed if implemented.

CONSULTATION CHANNELS

Information and feedback were provided and sought through the following channels:

- NSW Government 'Have Your Say' website – a community focused website that provides a 'front door' for community views
- NSW Treasury Website – providing content on the proposed reform
- NSW Treasury email – providing a channel for formal submissions
- Stakeholder engagement meetings
- Working groups

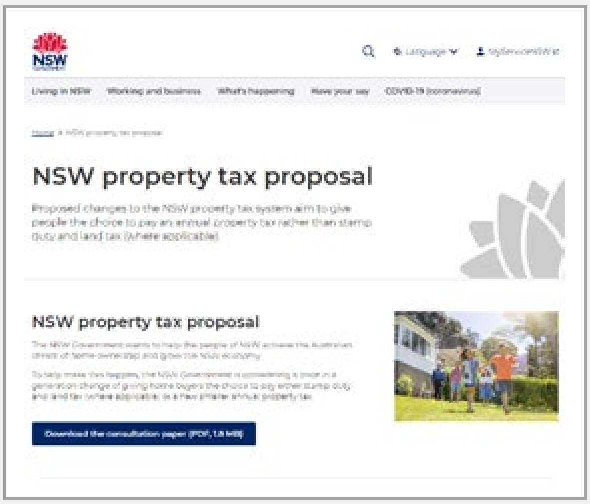
As outlined in the following pages, many individuals, businesses and organisations dedicated considerable time, energy and resources to contributing to the public consultation. Their contribution has been an integral part of shaping the future of the NSW property tax system.



HAVE YOUR SAY WEBSITE

Visitors to the 'Have Your Say' website were able to participate in the conversation.

The website attracted more than 23,800 visits, 6,152 responses to the quick poll and 3,544 survey completions.



NSW TREASURY WEBSITE

A dedicated page on the NSW Treasury website was established to provide information on the proposed property tax. This is where the Consultation Paper was located for people to read and download.

The site and home page has had 72,000 views and the 'What it could mean for you' was the second most viewed page with 19,000 views.

The Consultation Paper and NSW Treasury website was also linked to a specific Tax Reform email address. The email address was used to receive incoming questions and submissions from the NSW Treasury and Have Your Say websites.

57 formal submissions were received that were not subject to confidentiality requests. These have been made available on the property tax website.

Submissions were received from the following entities:

Real Estate

- Domain Group
- Colliers
- Real Estate Institute NSW (REINSW)

Financial Institutions and Services

- Australia Banking Association
- Mortgage and Finance Association Australia

Professional Advisors and Services

- CPA Australia
- Chartered Accountants Australia and New Zealand
- Law Society of NSW
- The Law Society – NSW Young Lawyers Taxation Law Committee
- Moore Australia
- Tax Institute Australia

Commercial Property Sector

- Business Council Australia
- Business NSW
- Caravan, Camping and Touring Industry and Manufactured Housing Industry Association
- Consult Australia
- Insurance Council of Australia
- Polygon Capital
- Property Council of Australia
- NSW Mining

Residential Developers

- Urban Development Institute Association NSW
- Urban Taskforce Australia

Community Representative Bodies

- BlueCHPLimited
- Bridge Housing
- Combined Pensioners Superannuants Association
- Community Housing Institute Australia
- Council on the Ageing NSW
- Homes North Community Housing
- Housing Industry Associations
- Housing Trust
- NSW Aboriginal Land Council
- National Seniors
- Property Investors Council of Australia (PICA)
- Property Owners Association of NSW
- PowerHousing Australia
- Ratepayers Association of the ACT
- Southern Youth and Family Services
- St Vincent de Paul Society
- Tenant’s Union NSW

Local Government and Political Parties

- Canberra Region Joint Organisation
- Local Government NSW
- NSW Young Liberals
- Queanbeyan-Palerang Regional Council
- Regional Cities NSW
- Tweed Shire Council

Economists and Think Tanks

- Australian Housing and Urban Research Institute (AHURI)
- Menzies Research Centre
- Prosper Australia
- The McKell Institute

Agriculture

- Cotton Australia
- NSW Farmers Association

Other

- Sympli

STAKEHOLDER CONSULTATION

A key part of the consultation approach was to provide a forum for national and state peak industry bodies, as well as wider industry stakeholders, to engage with the Property Reform Taskforce, provide their feedback and make suggestions for further enhancements.

Key sectors engaged include:

- Aged and community services.
- Energy.
- Farmers.
- Financial services (banks).
- Financial services (accounting, tax, advisory).
- Government bodies.
- Mining.
- Property development and construction.
- Retiree and pensioner advisory.
- Residential developers.
- Real estate industry.
- Small business owners.
- Think tanks and economist

IMPLEMENTATION STAKEHOLDERS

In additional to the stakeholders listed above, a property purchase is typically supported by a number of specialised professionals; real estate agents, conveyancers, financial institutions and other advisors e.g. tax and accountants. Behind the scenes, Revenue NSW, Service NSW and other third-party organisations and systems also connect together to enable a property purchase (and subsequent lodging of information and payment) to occur.

As part of the consultation process each of these implementation stakeholders have been consulted on the implications of this reform and readiness/change management activities that may be needed from their perspective should this reform progress.

WORKING GROUPS

Two working groups were established for specific areas to help with consultation by sharing and testing the concepts in more detail, and to help ensure that varying perspectives were understood and taken into account in design.

Several industry stakeholder groups encouraged NSW Treasury to bring together a working group to discuss key aspects of hardship provisions and build a robust and accessible hardship scheme. NSW Treasury adopted this recommendation and subsequently convened a Hardship Scheme and Tenancy Protections Working Group to work through considerations relating to these topics. Six organisations participated in this working group: St. Vincent de Paul Society; NSW Council of Social Service; Shelter NSW, Combined Pensioners and Superannuants Association; Tenant's Union and Aged and Community Services Australia.

Based on lessons from previous tax reforms, a working group focusing on commercial property investment was also established to help understand the reform from the view of industry stakeholders. This brought together members from the Property Council of Australia (PCA) and the Urban Development Institute of Australia (UDIA) to help test and review the concepts in more detail.

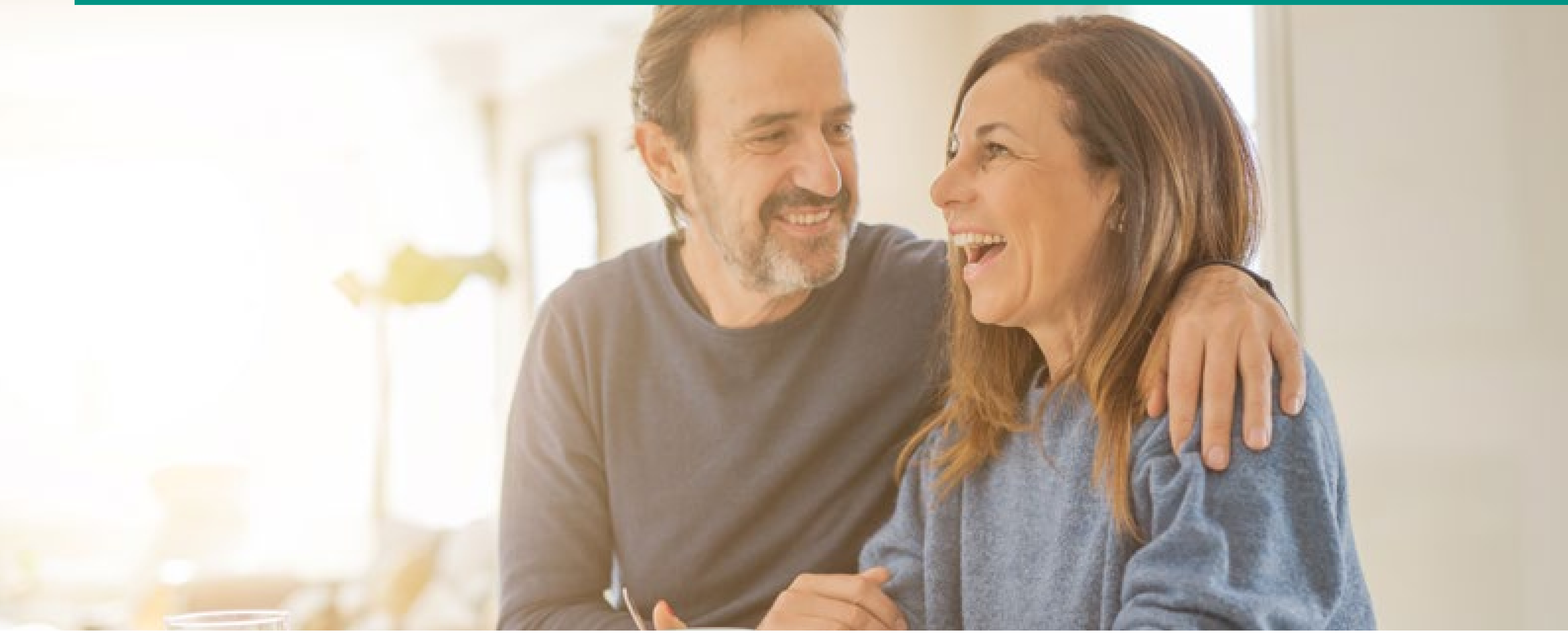
NSW Government would like to thank all members of the working groups for their time, passion and feedback.

SUMMARY OF FINDINGS

An overview of the consultation findings is provided below. The main themes of feedback and consultation are presented in the next section of this document, with the current status of the Government's proposal in relation to each theme.

The consultation period found there was strong support for the reform's goals.

- **Stamp duty reform is welcomed and needed**
- **The annual nature of the proposed tax created uncertainty over rate increases going forward**
- **The proposal resonated strongly with first home buyers**
- **Some retirees, farmers and residential investors** have questioned the benefits of the reform for them
- **Many expert groups responded positively to the proposal**
- **Some groups remain concerned regarding elements of the proposed policy**, including one-way choice, the ongoing nature of the charge, the future rates of property tax, retrospectivity and the impact on property prices
- **The more people learn about the reform, the more supportive they become**



03. Progress update and additional reform details

INTRODUCTION

This Progress Paper provides an update on the Government's proposal taking into consideration the feedback received through the consultation process.

It sets out a further iteration of the design and proposed features originally presented in November 2020.

This section provides reform updates on:

- revisions to the original proposal;
- more detail on certain elements of the proposed tax design and implementation;
- additional background material helping to explain some of the policy design choices to provide confidence in the overall design

The section is structured by key theme from the consultation process as follows:

A. Home ownership and the property tax rate structure

B. Keeping property tax affordable over time

C. Unimproved land value

D. Choice

E. Treatment of property types

F. Tenant protections

G. Hardship

H. Managing fiscal impacts

I. Retrospectivity

J. Implementation and the customer experience

A. HOME OWNERSHIP AND THE PROPERTY TAX RATE STRUCTURE

CONSULTATION FINDINGS

As highlighted in the case for change section above, home ownership in NSW has declined from around 70% in the 1990s to around 64% today.

Community feedback indicates strong support for policies that could promote higher levels of home ownership by lowering the upfront cost of home purchases. Stakeholders agreed that this proposed reform would remove a key barrier to home ownership which would assist with long-term access to the property market. More than half (53 per cent) of respondents to the Have Your Say survey said the proposed property tax changes would help them enter the housing market.

"The cost of Stamp duty is one of the barriers to downsizing, meaning older Australians are less likely to move to housing that is better suited as they age."

NATIONAL SENIORS AUSTRALIA SUBMISSION, 15 MARCH 2021

"This reform will remove a key barrier to home ownership and should make it easier for people to enter the property market by reducing up-front costs at the time of purchase. It will encourage both upsizing and downsizing and should release unused housing capacity for generations to come."

AUSTRALIAN BANKING ASSOCIATION SUBMISSION, 15 MARCH 2021

"Modelling by the AHURI institute confirmed that a transition from Stamp Duty to property tax would improve housing affordability."

ST. VINCENT DE PAUL SOCIETY SUBMISSION, 15 MARCH 2021

There were mixed views regarding how the property tax could impact the ongoing affordability of property in NSW. Some industry stakeholders and members of the community suggested that removing stamp duty would cause upward pressure on prices due to an increase in spending power.

Others noted that the taxation system is one of several factors that influence housing prices, with historic low interest rates being the major driver behind the current surge. Other influential factors include migration, delayed purchases during the pandemic in 2020, serviceability calculations, supply and demand.

"Removing stamp duty in favour of the annual property tax may in fact have the effect of increasing property prices in the short term.... Stamp duty was a potential cost calculated into the price of properties, the removal of such a cost would increase their borrowing power."

THE LAW SOCIETY OF NSW YOUNG LAWYERS SUBMISSION, 15 MARCH 2021

"The Society supports the proposal ... understanding that this will both place downward pressure on the long-term price of housing across NSW and provide Government with a more consistent source of revenue."

ST. VINCENT DE PAUL SOCIETY SUBMISSION, 15 MARCH 2021

Several financial institutions and the Tax Institute provided feedback that the annual property tax would need to be considered in determining a borrower's capacity ('loan serviceability') to repay a loan. Lenders would take property tax payments into account as part of their Household Expenditure Measure (HEM) when determining maximum lending limits, which will minimise the pricing impact of property reform on driving up bidding in auctions. Any savings made by opting-in to property tax will therefore be unlikely to translate to an increase in property prices.

"This is expected to reduce a person's borrowing capacity (due to the reduced after-tax income position resulting from the annual property tax cost), compared to their borrowing capacity in the case of a property liable to stamp duty. The overall effect of this should be that a stamp duty purchaser and a property tax purchaser should be able to borrow equivalent amounts with neither category of purchaser worse off in that regard."

TAX INSTITUTE SUBMISSION, 15 MARCH 2021

Key economists determined that this reform would result in a net positive effect on housing affordability.

"The introduction of the property tax may place upward pressure on house prices in the short term, but the reduction in stamp duty costs will still result in a net positive effect on housing affordability."

THE MCKELL INSTITUTE SUBMISSION, 15 MARCH 2021

Some industry stakeholders promoted the idea of applying one rate consistently across all land types. Although it was recognised that:

"there may be a rationale for differential rates (e.g. discounted rate for home purchasers) if the government was seeking to retain some degree of subsidy for home ownership."

AHURI SUBMISSION, 18 DECEMBER 2021

The lower rates for owner-occupiers aligns directly with NSW Government's objective to encourage home ownership.

"The REINSW considers the most important consideration for the proposed reforms is the taxation costs of acquiring and holding a home. If that means apply different property tax rates to different categories of purchasers, that in the REINSW's view is appropriate."

REAL ESTATE INSTITUTE OF NSW (REINSW) SUBMISSION, 8 MARCH 2021

There was significant feedback on the proposed tax rates. Many recognised that the indicative rates were broadly consistent with existing treatment of stamp duty and land tax. It was noted that the differential rates also reflected the different income tax treatment for different types of properties (like council rates and land tax, the annual property tax would be tax-deductible for owners of investment or commercial properties but not for owner-occupiers).

Some residential investors and commercial landowners provided feedback that the indicative tax rates are too high. It was thought that residential investors who seek to hold properties for short periods to redevelop or renovate may favour property tax and

"long term investor demand would shift to higher land value segment of the market."

PROSPER AUSTRALIA SUBMISSION, 15 MARCH 2021

This could result in less competition for homebuyers looking to enter the market and purchase a lower land value property.

There was some concern that reform could result in

"a disproportionate share of the tax burden resting with commercial property owners."

PROPERTY COUNCIL AUSTRALIA SUBMISSION, 15 MARCH 2021

Feedback on the uncertainty regarding the recoverability of property tax from tenants by commercial landowners contributed to the assessment of rates being too high. The extent to which the property tax is recoverable is discussed in Rental Protections (refer to Section 3f below).

REFORM UPDATE

A key desired outcome of the reform is a boost in home ownership, and in particular first home ownership.

The Government expects the proposed reform would significantly increase rates of home ownership and first home ownership, with the share of private dwellings that are owner-occupied increasing over time. The proposed reform would also lower average home prices in the long run, although this effect would be minor.

The rate structures proposed in November 2020 were designed to take into account the combined effect of existing stamp duty and land tax rates, which collect more tax from commercial property than residential property, and from investors than owner-occupiers. In addition to the clear change from a one-off payment of stamp duty to an annual tax, the proposed property tax rates incorporate some of the progressivity and distributional impacts of existing taxes into a single tax levied only on unimproved land values.

Following consultation, an updated rate structure is now under consideration. Revisions to the proposed rate structure are designed to assist in increasing home ownership.

These rates are lower for owner-occupied residential property, higher for commercial and residential investment properties and unchanged for farmland. The property tax surcharge on large landholdings balances investor tax rates in favour of smaller investors. This reflects the greater benefit that large landholders can receive from opting out of land tax.

PROPERTY CLASS	ANNUAL FIXED FEE PER PROPERTY	ANNUAL AD VALOREM RATE (BASED ON UNIMPROVED LAND VALUE)
Residential – owner-occupied	$400	0.3%
Residential – investor-owned	$1500	1.1%
Farmland	$0	0.3%
Commercial	$0	2.6%
Property tax surcharge on aggregate landholdings above $1.5 million of unimproved land (excluding principal place of residence and farmland)		0.3%

The rates preserve the present value of long-run property tax revenue and take into account income tax deductibility of the property tax for investors and business owners. Over the long run, this rate structure is expected to increase the owner-occupied share of private dwellings by around 6 per cent, driving up rates of home ownership and reversing the last 20 years of declining home ownership.

Higher rates of home ownership would be generated by several factors:

1. Up-front costs of home purchases would be lowered because there will be no obligation to pay stamp duty, and because home prices would be lower in the long run.
2. Lower up-front costs are expected to particularly benefit first homeowners who have typically had less time than other purchasers to save for a deposit.
3. The lower tax rates paid by owner-occupiers as compared with investors.
4. An expected increase in transaction volumes which would alter the holding periods of owner-occupiers and investors.

While removing stamp duty alone would cause upward pressure on home prices, that pressure would be counteracted under this proposal by the introduction of the property tax. The effective increase in housing supply would result in long-run downward pressure on home prices and rents.

Removing stamp duty would result in a better allocation of housing: when people can move home more easily, they will be less likely to live in homes with underutilised spare rooms. This would permit any given level of housing stock to accommodate more people, resulting in an increase in effective supply of housing, and exerting downward pressure on prices.

While the reduction in home prices would take time to realise, and the actual magnitude would depend on the final policy choices of the government, a reduction in home prices in the order of 3-4 per cent could reasonably be expected.

Shifting from stamp duty to a tax on unimproved land values would mean that some of the tax burden shifts away from capital (the structure(s) on the land). Lower taxation of capital would encourage investment in better quality homes (e.g., more floorspace, more homes in the most favoured locations and better fixtures). The increased expenditure on capital improvements would be less than the tax savings meaning that total expenditure on housing would go down.

B. KEEPING PROPERTY TAX AFFORDABLE OVER TIME

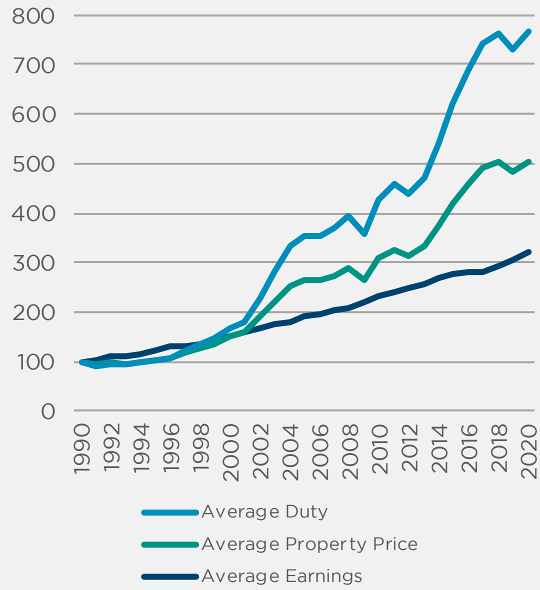
CONSULTATION FINDINGS

Stamp duty was introduced to NSW in 1865 when house prices were lower relative to income and moving around regularly was rare. The way we live, work and move has changed. In recent decades stamp duty payments have risen faster than home prices or incomes.

Consultation identified that many community and industry stakeholders were concerned that the proposed new annual property tax could increase unpredictably year on year. This was discussed as a possible impact of increasing land values or the potential for future governments to change the tax rates to resolve any revenue shortfalls. Furthermore, there was strong feedback around the need for certainty of 'year on year' tax bill increases to help with decision making around property purchases and the decision to opt-in or not.

With regard to unimproved land values, it is broadly understood that these can both increase and decrease. The design of the proposed property tax needs to factor in this complexity and have measures to help offset fluctuations where applicable.

STAMP DUTY, PROPERTY PRICES AND EARNINGS OVER TIME



"Land values go up faster than wages and forecasts show this has further to go. Therefore, the property tax is linked to something which is growing much faster than other taxes (especially those linked to income or consumption) and could see younger people paying more."

MENZIES RESEARCH CENTRE SUBMISSION, 19 MARCH 2021

A concern raised by some stakeholders was the potential for tax rates to be increased substantially in the future. Clarity and assurances were requested over indexation and if annual tax rate increases would have protections to prevent changes to formulas and rates.

"It is likely that a purchaser will be mindful of the likely increase in the property tax when deciding to opt-in or not. Accordingly, providing some certainty for tax calculation purposes in subsequent years would be of considerable value.... The key to confidence in the system is predictability."

REINSW SUBMISSION, 15 MARCH 2021

"We support further consideration on the ideas put forward in the Consultation Paper to cap the annual property tax revenue target in line with an appropriate measure, such as household income or nominal Gross State Product. We would need to understand the implications this would have across the different property categories and for individual properties."

PROPERTY COUNCIL OF AUSTRALIA SUBMISSION, 19 MARCH 2021 PG17

Other stakeholders were concerned that future governments may seek to make changes to tax rates as a 'tax grab'.

"We agree that a mechanism needs to be in place to put a 'brake' on future governments increasing the property tax rate, without proper consultation and enacting new legislation. Clearly, there will be a concern from consumers that future governments may seek to raise the rate of the property tax."

HOUSING INDUSTRY ASSOCIATION SUBMISSION, 15 MARCH 2021

"There is also the matter of future governments going about legislative changes to the rate (or other parameters) of the land tax, specifically to increase the level of taxation to meet budgetary needs."

MENZIES RESEARCH CENTRE SUBMISSION, 19 MARCH 2021

Please refer to Section 3h below on fiscal impacts for more information around these concerns.

The need for certainty around any annual increase and the potential for changing tax rates due to property values changing creates a potential challenge for the way that the property tax is designed:

"While paying stamp duty upfront may not be in a buyer's interest, fear of future property tax increases and the uncertainty around the future value of their land (which determines the property tax), may lead some to mistrust the scheme and therefore reduces uptake."

THE MCKELL INSTITUTE SUBMISSION, 15 MARCH 2021

REFORM UPDATE

The Government understands that uncertainty around future tax rates could adversely affect take-up of the proposed property tax and that the way the tax is calculated needs to be transparent and shared with taxpayers to help provide certainty and trust.

There are two key points to note here:

1. The proposed reform is not designed to increase tax payments over time to raise additional revenue. Protections will be put in place to ensure that cannot happen;
2. There is a need to ensure that average tax payments adjust over time to reflect the overall economic changes of NSW.

On the first point, the reform is not a tax grab. As discussed below in section F, the reform would cost significant amounts of revenue over the first twenty years. Moreover, legislative protections would be put in place to restrain future governments from changing the tax rates or the indexation methodology.

On the second point, annual property tax payments would need to adjust over time, to ensure that State revenue grows in line with the economy and incomes. This is especially because individual taxpayers need to be assured that their tax payments will remain affordable. Simply setting tax rates as a percentage of unimproved land value could cause excessive volatility in annual property tax payments. Moreover, unimproved land values can grow faster than average incomes for extended periods.

INDEXATION SYSTEM

The Government is considering a system of indexation that would ensure average payments grow in line with average incomes. The system would be similar to the NSW 'cap' on council rates, by which council rates are regularly adjusted to ensure total payments do not grow too fast.

The indexation system would keep the average property tax payment changing in line with average incomes, instead of fluctuating with more volatile measures of average unimproved land values. This system would act as an effective 'cap' on the growth of property tax rates.

For an average property that had been opted-in to the property tax, the amount of tax payable would change each year in line with an index of the growth of "Gross State Product per Capita" (or GSP per capita). GSP per capita measures the size of the NSW economy per person.

The proposed formula for this is provided to the right.

PROPOSED INDEXATION FORMULA

Legislation would set out a formula by which property tax rates are automatically adjusted each year to minimise volatility and keep total payments in line with average income growth.

The rates would be adjusted each year taking into account the growth rate of nominal gross state product per capita (g), and the growth of land values (v).

Fixed annual charges (F), applied to each residential property, would grow from Year t to Year t+1 pursuant to the formula presently being considered:

$$F^{t+1} = F^t \times (1 + g)$$

Ad valorem tax rates (A), applied to the unimproved land value of each property, would grow by:

$$A^{t+1} = A^t \times \frac{(1 + g)}{(1 + v)}$$

The threshold for the property tax portfolio surcharge (Z) would be indexed by land values under the formula presently being considered:

$$Z^{t+1} = Z^t \times (1 + v)$$

The growth of GSP per capita is reported each year by the Australian Bureau of Statistics. The growth of land values would be calculated separately for each broad class of properties that are subject to the property tax, by the NSW Chief Commissioner of Revenue.

C. UNIMPROVED LAND VALUE

CONSULTATION FINDINGS

A range of feedback was received regarding the method of using unimproved land value as the primary input into the tax calculation. The range of feedback reflects the different levels of familiarity and knowledge of what ULV is, the current property taxation system and links to similar taxes such as council tax.

Economists and industry participants in the property market were typically very supportive of the proposal. This is because ULV is an established concept within existing state and local government taxation systems.

"Taxing the unimproved land value would be consistent with previous NSW state land tax and municipal rates approaches and would be appropriate in terms of incentivising development on land."

AHURI SUBMISSION, 18 DECEMBER 2020

Many industry stakeholders felt using ULV could be a more appropriate basis for the annual property tax than market value which could disincentivise capital improvements and development.

"Property taxes that are levied on market value tend to discourage capital investment as owners are aware they will be taxed on capital improvements to land."

PROPERTY OWNERS ASSOCIATION NSW SUBMISSION, 10 FEBRUARY 2021

"The replacement of an upfront, lump sum with an ongoing property tax based on the unimproved land value could incentivise more turnover and more efficiency in the use of housing stock."

URBAN TASKFORCE SUBMISSION, 15 MARCH 2021

"The use of market valuations would be against the policy proposed in the Consultation Paper to ensure that land is used in the most efficient way and, further, to ensure that barriers to home ownership are reduced."

THE LAW SOCIETY OF NSW YOUNG LAWYERS, 15 MARCH 2021

Despite the broad support for ULV, consultation revealed that some stakeholders desired greater clarity regarding what ULV is and how ULV is calculated.

“People require greater clarity on how ‘unimproved land value” is assessed at any given point in time, and over time... understanding likely annual increases will be critical to support people in their property decision making and their budgeting decisions.”

DOMAIN GROUP SUBMISSION, 2 MARCH

Some stakeholders were interested in how the shift to ULV could influence property development. Some stakeholders noted the use of ULV could potentially favour apartment development as it is likely apartment owners would pay less property tax than those that own houses due to the amount of land required for each dwelling.

“Land values are usually higher for house owners than apartment owners... Relative to stamp duty, it appears that the proposal is likely to provide a subsidy for apartment owners relative to an increased tax for homeowners.”

INDIVIDUAL SUBMISSION, 12 MARCH 2021

“The proposed calculation method on ‘unimproved land value’ would incentivise high-rise development by making low and medium density housing comparatively more expensive. Taxing land rather than capital will encourage substitution of capital for land. In other words, developers will use more capital (building materials, engineering etc.) per unit of land, build up rather than out.”

THE MCKELL INSTITUTE SUBMISSION, 15 MARCH 2021

“Because property tax is on the unimproved land value, low density homes will pay significantly more property tax than higher density homes in similar locations. This will encourage the construction of more medium density properties. This will be important for planning policies to support this shift, to maintain affordability.”

URBAN DEVELOPMENT INSTITUTE OF ASSOCIATION SUBMISSION, 15 MARCH 2021

REFORM UPDATE

The NSW Government recognises that using ULV is different to the current stamp duty approach for 'everyday' property purchasers where the market value is used. This change would require targeted information and education resources to be made available should the proposed reform progress. More detail on how a purchaser can find this information is provided below and in the Implementation section of this document (Section 3J).

This section provides detail about how the ULV is calculated and by whom and why this basis for calculation delivers on another key outcome of the proposed reform – productivity improvements.

HOW IS ULV CALCULATED?

The Valuer General already determines the value of land every year and issues an annual statement of land value on 1 July. Currently, these land valuations are calculated based on a variety of factors based on policies that are available on the Valuer General's website. Example criteria for assessment includes land size, location, and comparable vacant land sales. The ULV of land is available by a free search.

FINDING YOUR UNIMPROVED LAND VALUE

To find the unimproved land value of a property, you will first need the property number for that specific property. If you already know your property number, skip ahead to Finding the Unimproved Land Value of a Property.

FINDING THE PROPERTY NUMBER FOR A PROPERTY

Property Address Enquiry

If you know the address of the property you can conduct a property address enquiry.

1. Go to the Property Address Enquiry webpage using the link here: [Property Address Enquiry]
2. Enter the suburb, street and street number into the search field and complete the security challenge. Click 'search'.
3. A property number will be shown if the address was correct. Write down / copy the property number as you will need this number for the next step.

Title Reference Enquiry

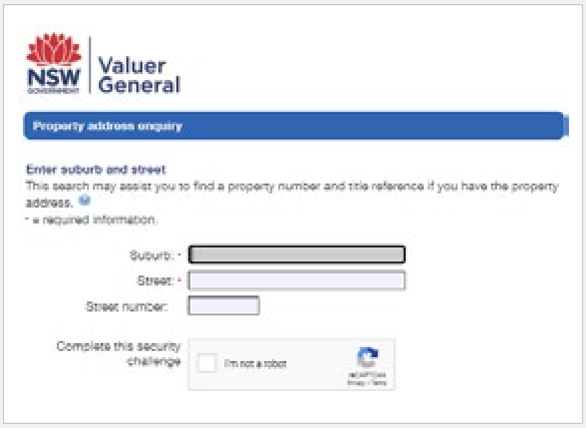
If you know the title reference of the property you can conduct a title reference enquiry.

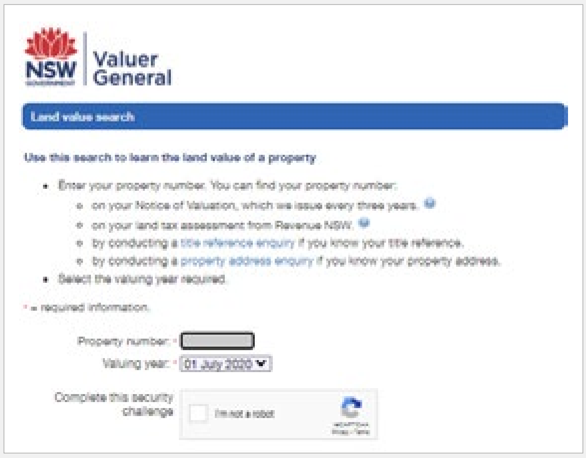
1. Go to the Title Reference Enquiry webpage using the link here: [Title Reference Enquiry]
2. Enter the title reference into the search field and complete the security challenge. Click 'search'.

A property number will be shown if the title reference was correct. Write down / copy the property number as you will need this number for the next step.

Notice of Valuation

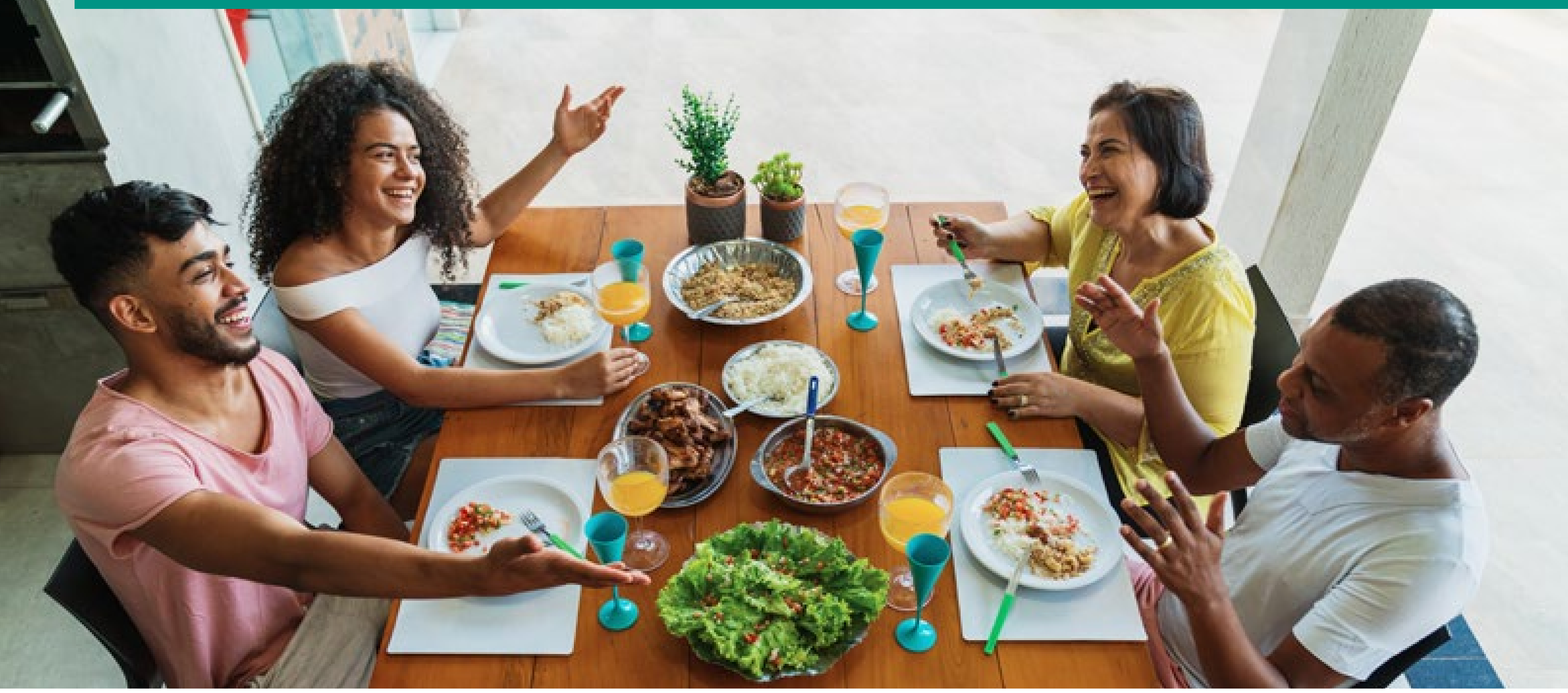
The NSW Valuer General posts property owners a Notice of Valuation every three years. This Notice of Valuation contains the property number and will also provide a value for how much the land is worth.





FINDING THE UNIMPROVED LAND VALUE OF A PROPERTY

1. Go to the NSW Government Valuer General webpage using the link here: [NSW Government Valuer General Land Value Search]
2. Enter your property number into the 'Property Number' search box and complete the security challenge. Click 'perform search'
3. A land value report will be generated. Along the left-hand side of the report, you will find 'NET LAND VALUE' for houses or 'STRATA UNIT LAND VALUE' for apartments and townhouses. The number next to this is the unimproved land value for that specific property.



The sale price of a property (the market value or ‘improved value of land’ - in economic terms) is the most commonly used term when referring to property value. Despite use and reference in Council taxes and valuations, few people have an accurate idea of their unimproved land value; most property owners and would-be purchasers have a rough idea of the market value.

The Government considered using the market value of property as it is easy to understand and is used today for stamp duty purposes. However, land tax and council rates are both based on ULV.

Using market values as the basis of the property tax would result in a tax on capital improvements, providing a disincentive for homeowners to invest in their property. In simpler terms, why would someone invest more if they had to pay more tax at the end of the process – it’s a clear disincentive. This would have particularly high economic costs for capital-intensive property, including much commercial property, apartments and regional properties.

Proposals to base the property tax on the market value at time of purchase would over time give rise to substantial inequity. Because market prices shift substantially over time, two identical properties could be subject to different tax payments, simply based on the date of their last transaction.

Shifting from stamp duty to a property tax based on unimproved land would encourage increased capital investment in all types of properties. In some cases, this could take the form of greater investment in apartments. In other cases, it could take the form of greater floorspace or better quality fittings. Lower taxation of capital would also help investment in regional homes, which are usually more capital-intensive than metropolitan houses because land is cheaper in regional NSW.

The property tax rate structure has been proposed taking into account concerns about the relative land values of houses and apartments. The fixed components ($400 for owner-occupiers and $1500 for investors) ensure a minimum contribution from all forms of housing, and permit a lower variable rate. The rate structure thus strikes a balance with the efficiency goal of encouraging capital investment across all types of property.

D. CHOICE

CONSULTATION FINDINGS

As part of the proposed model, and to help with the transition to the new tax, the Government is proposing to offer purchasers a choice between stamp duty (and land tax - where applicable) or an annual property tax. Making the new system 'opt-in' recognises the need for a fair and gradual transition, ensuring that those who have planned their property buying decisions around the existing system can stick with it if they prefer.

Overall support was given for providing choice, with 65% of respondents to the Have Your Say survey indicating they would opt-in to the property tax.

It was understood that the decision to opt-in would depend on an individual's personal/commercial circumstances, the nature of the property, any applicable current exemptions, and the amount of time they expect to hold the property. In particular, commercial landowners and primary production landowners felt there were circumstances where they would be better off paying stamp duty and land tax (where applicable). Choice provides flexibility to prospective property purchasers.

"This will ensure that older people that are purchasing a property and envisage that they will be residing there for a long period of time have the option of selecting the lump sum method."

COUNCIL OF THE AGEING NSW SUBMISSION, 17 MARCH 2021

"A gradual introduction can minimise impacts on prices, allow the design to be improved and maintain continuity with government finances. It also enables the Government to identify and address potentially unfair or inequitable outcomes as they emerge."

CPA AUSTRALIA SUBMISSION, 15 MARCH 2021

"76% of farmers surveyed indicated that given the choice, they would prefer to pay stamp duty."

NSW FARMERS ASSOCIATION SUBMISSION, 15 MARCH 2021

"For businesses where unimproved land makes up a bigger share of their property requirements, the new property tax structure appears unattractive. Given the choice not to opt-in to the new property tax arrangements, most would likely choose to remain in the current arrangements."

BUSINESS NSW SUBMISSION, 26 MARCH 2021, PG7

Some people thought that every purchaser of a property should have the right to choose whether to pay stamp duty or the property tax.

"Buyers should always have a choice to pay stamp duty upfront or to opt-in to pay an annual tax."

POWERHOUSING AUSTRALIA SUBMISSION, 15 MARCH 2021

"Each subsequent purchaser should also have the right to choose between stamp duty and an annual tax. Each purchaser will have their own business plan, and an expectation on how long they are likely to retain a property."

COTTON AUSTRALIA SUBMISSION, 15 MARCH 2021

Others, namely economists, think tanks and Professional Advisers, thought choice slowed the transition, costing more and complicating the system.

"Choice avoids double taxation but increases complexity and revenue cost."

CHARTERED ACCOUNTANTS AUSTRALIA NEW ZEALAND SUBMISSION, 17 MARCH 2021

"The potential risks with a policy implemented over decades include purchaser uncertainty, pricing distortions, dilution of the tax base and even failure, if low numbers of purchasers opt in."

CPA AUSTRALIA SUBMISSION, 15 MARCH 2021

"A dual scheme would retain the inefficiencies of the current scheme but be more costly to manage."

NATIONAL SENIORS SUBMISSION, 16 MARCH 2021

Some people suggested that the NSW Government should remove choice and implement a faster transition from the current stamp duty regime to the new annual property tax regime.

"We recommend a more immediate implementation of the new property tax to be applied across all properties, but with transition measures at implementation so that owners receive credit for stamp duty paid which is set against their property tax liability."

TENANT'S UNION OF NSW SUBMISSION, 15 MARCH 2021

"Simplify the structure requiring property tax to be paid by everyone (with grandfathering for those that have paid stamp duty)."

MORTGAGE AND FINANCE ASSOCIATION AUSTRALIA SUBMISSION, 14 MARCH 2021

REFORM UPDATE

The Government sees buyer choice as fundamental to managing a transition if the proposed property tax progresses. Under the proposal, once a property is subject to the property tax, subsequent owners will be required to pay the property tax.

The benefits of the proposed property tax will be different for each property and for each buyer. Decisions could vary depending on the capital-land ratio of the property, the expected duration of property ownership, and the income tax rate paid by the purchaser. Opt-in choice enables purchasers to make a decision based on their individual circumstances.

Maintaining a hybrid system forever, in which every purchaser could choose whether to pay stamp duty or property tax, would not be fiscally sustainable. The Government would collect around 20% per cent less revenue than it currently obtains through stamp duty and land tax (around $2.5 billion less per year).

A perpetual hybrid system would leave more than 40 per cent of properties outside the property tax system, reducing the long-run productivity benefits of the reform by an equivalent amount.

It is expected to take about 20 years for the property tax to cover half of all residential properties, with further take-up proceeding gradually in subsequent years. This gradual transition will ensure an extended period during which all property purchasers would have a choice of tax systems across a wide selection of properties.

While ownership duration varies widely, the median residential property is owned for around 18 years. If the proposed reform proceeds, it would typically take about that long for an owner-occupier's property tax to exceed the corresponding stamp duty.

Please see section 3h on implementation for further information on the customer experience, including the support that will be available to help NSW citizens choose whether to opt in to the proposed property tax.

E. TREATMENT OF SPECIFIC TYPES OF PROPERTY

The Consultation Paper proposed different tax rates for four groups of property uses: owner-occupied residential land; investor-owned residential land; primary production land; and commercial land.

Stakeholders wanted to understand how various special types of property would be mapped to each of these four use types. They also wanted to know how properties that are subject to existing stamp duty and land tax exemptions and concessions (referred to below as exemptions) would be treated. Further detail on specific consultation findings is provided below.

I. EXEMPTIONS

Consultation findings

Stakeholders from a variety of different industry groups raised concerns about the treatment of exemptions under the property tax, seeking further clarity on how existing exemptions would be treated under the new tax.

"Settling issues around the continuation of existing exemptions under the duty and land tax scheme, as well as whether any other exemptions will exist in relation to the property tax, is an essential task…"

LAW SOCIETY OF NSW SUBMISSION, 15 MARCH 2021

"Exemptions and concessions need to be outlined for every sector."

POWERHOUSING AUSTRALIA SUBMISSION, 15 MARCH 2021

In particular, key concerns about the need for the continuation of existing exemptions for charities and not-for-profits was raised. These exemptions support taxpayers who provide housing for vulnerable members of society.

"The Consultation Paper was silent on the topic of the continuation of stamp duty and land tax exemptions and concessions for non-profit organisations."

HOUSING TRUST SUBMISSION, 11 MARCH 2021

The possible complexity of carrying over existing exemptions to the property tax scheme was also raised.

"Some [exemptions] might be more easily mirrored in the property tax scheme, such as an exemption for charitable organisations. Others may not be as simple to apply."

LAW SOCIETY OF NSW SUBMISSION, 15 MARCH 2021

There was a concern that any increase in property costs would impact the retirement living and aged care sector's ability to service the needs of Australia's aging population. As such, stakeholders expressed a desire for close consideration to be given to retirement villages and aged care facilities.

"As the NSW population ages, retirement living is more important to deliver the aging in place and community benefits we desire... Property tax may impact adversely on new retirement living developments for properties that have previously elected to opt-in, as it may increase the annual expense payable by residents."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

"Retirement villages are subject to extensive state-based legislation... [It is imperative] to ensure the reform does not result in any increase in operating costs which would have significant detrimental impacts on the market."

PROPERTY COUNCIL OF AUSTRALIA SUBMISSION, 19 MARCH 2021

Reform update

The Government is considering mapping existing exemptions from stamp duty and land tax to the proposed property tax system using the following general guidelines:

- If a person (a person, for legal purposes, is broader than a natural person and generally also includes a corporation) would currently be exempt from stamp duty at the time of purchase and exempt from land tax during ownership (e.g. charity), that person would be exempt from property tax in respect of that property while ever they own the property.
- If a person would currently be exempt from stamp duty at the time of purchase, but not exempt from land tax during ownership (e.g. a person who inherits property through a will or becomes the owner as a result of certain relationship breakdowns) and they purchase a property that is already subject to the property tax, they would be required to pay the property tax.
- If a person would pay stamp duty at the time of purchase, but would be exempt from land tax during ownership (for e.g. Aged Care providers and Retirement Village operators), that person would be required to pay a concessional rate of property tax (recognising that property tax replaces stamp duty and land tax, but this person is not subject to land tax).
- Existing stamp duty and land tax exemptions would remain for any properties that are not opted into the property tax.

II. FARMLAND

Consultation findings

The NSW Farmers Association shared during consultation that they were concerned an annual property tax payment would place additional pressure on an industry that already experiences inconsistent cash flow. The NSW Farmers Association suggested the cyclical nature of farmer income would create challenges to the ongoing affordability of the property tax.

"Environmental conditions have an ongoing and significant role in farm businesses. Farm incomes can vary widely across multiple years and many farm businesses therefore carry significant debt as a consequence."

NSW FARMERS ASSOCIATION SUBMISSION, 15 MARCH 2021

The NSW Farmers Association have suggested that their long holding periods and variability of unimproved land value make the proposed changes a less appealing option than the current system.

"There is a significant concern that the annual property tax liability for farmland will rise substantially over time. For long-term owners of primary production land there is a real concern that the proposed property tax will result in a higher tax liability than the choice of stamp duty over the medium to long term."

NSW FARMERS ASSOCIATION SUBMISSION, 15 MARCH 2021

There were also concerns raised around intergenerational transfers and how these would be treated under the property tax.

Reform update

Primary production land is exempt from land tax, and intergenerational transfers of farms are exempt from stamp duty. Under a choice-based transition, it is unlikely that a person who is the transferee of an inter-generational transfer would choose to pay the property tax if the choice was available. Under the proposed reform, such transactions would not be provided with an opt-in choice as it is not expected to benefit any taxpayers.

Despite the existing tax concessions, sales of farmland currently generate about $200 million of stamp duty each year. The Government is considering whether people paying this stamp duty should be given the same choice of whether to pay stamp duty or the property tax that owners of other land will receive, and would welcome further stakeholder engagement in this regard. The proposed property tax rate for farmland has been calculated to provide the same present value of revenue as is currently paid by owners of farms, but the impact during the initial years of the reform would be a tax cut for the sector.

The special eligibility rules for the hardship scheme (discussed below) acknowledge the exposure to extreme weather events by allowing automatic eligibility for the hardship scheme in the case of drought, floods or bushfires.

III. FOREIGN INVESTORS

Consultation findings

Peak industry bodies suggested a review of foreign investor surcharges to determine whether they could be eliminated or incorporated into the proposed property tax. Stakeholders have highlighted the change in the economic and housing landscape since the introduction of foreign surcharges.

"If foreign investors can opt-in to Property Tax, removing the need to pay Stamp Duty could reduce a barrier to them investing."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

Stakeholders suggested that foreign developers and investors should not be disadvantaged or penalised under the property tax as they are critical to the supply of housing.

"… now is the time to remove counter-productive foreign tax surcharges on residential property."

PROPERTY COUNCIL AUSTRALIA SUBMISSION, 19 MARCH 2021

Reform update

There would be no change to the existing stamp duty and land tax surcharges for foreign investors. Foreign investors would still need to pay surcharge stamp duty and surcharge land tax, in addition to any property tax.

Foreign purchasers would not be eligible to opt-in a residential property to property tax. This is to ensure the maximum amount of choice for domestic buyers.

A foreign person could acquire a property that is already paying property tax and would then be required to pay the annual property tax in addition to any foreign investor surcharges.

IV. BUILD TO RENT

Consultation findings

Stakeholders were concerned that the recently announced special land tax treatment for build to rent properties could be disrupted by the introduction of a property tax. Furthermore, stakeholders suggested that an additional property tax category be included within the reform policy for build to rent housing to ensure the same or similar stimulatory tax outcomes that currently exist for these properties were able to be achieved.

"Purpose built Built-to-Rent housing delivers much needed housing supply, increases diversity of housing choice, is good for renters and keeps jobs in construction. However, the emergence of Build-to-Rent housing in Australia has been impeded by significant policy barriers and disincentives... An additional property tax category would be the preferred approach for Build-to-Rent housing to ensure the same or similar stimulatory tax outcomes are to be achieved."

PROPERTY COUNCIL AUSTRALIA SUBMISSION, 19 MARCH 2021

Reform update

New land tax concessions for build to rent developments were introduced in 2020. Time is needed to determine how the market responds to this initiative before any further changes are introduced.

As with all other types of property, build to rent developers would initially be able to choose between property tax or stamp duty and land tax. If a build-to-rent project is undertaken on a property tax property, once the development is complete the fixed charge would be applied to each dwelling on the site. The existing treatment of foreign build to rent developers would be maintained.

V. DEVELOPERS

Consultation findings

Developers were engaged throughout the consultation period and sought clarification on how the property tax would apply under different development scenarios. Developers acknowledged that a variety of factors, including holding periods and property tax rates, would influence whether stamp duty or property tax would be the preferable option.

Developers sought to ensure that there would be no increase in the costs of housing development or reduction in housing diversity or choice.

"The setting of the property tax rate that applies for residential developers should not increase the cost of housing development or reduce housing diversity and choice – this would be counter to the objective of improving housing affordability and mobility."

PROPERTY COUNCIL AUSTRALIA SUBMISSION, 19 MARCH 2021

Consultation revealed that developers were largely supportive of the reform and recommended that property tax thresholds should allow most development projects the ability to opt-in.

"To make this a practicable option, thresholds need to be set at an appropriate level."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

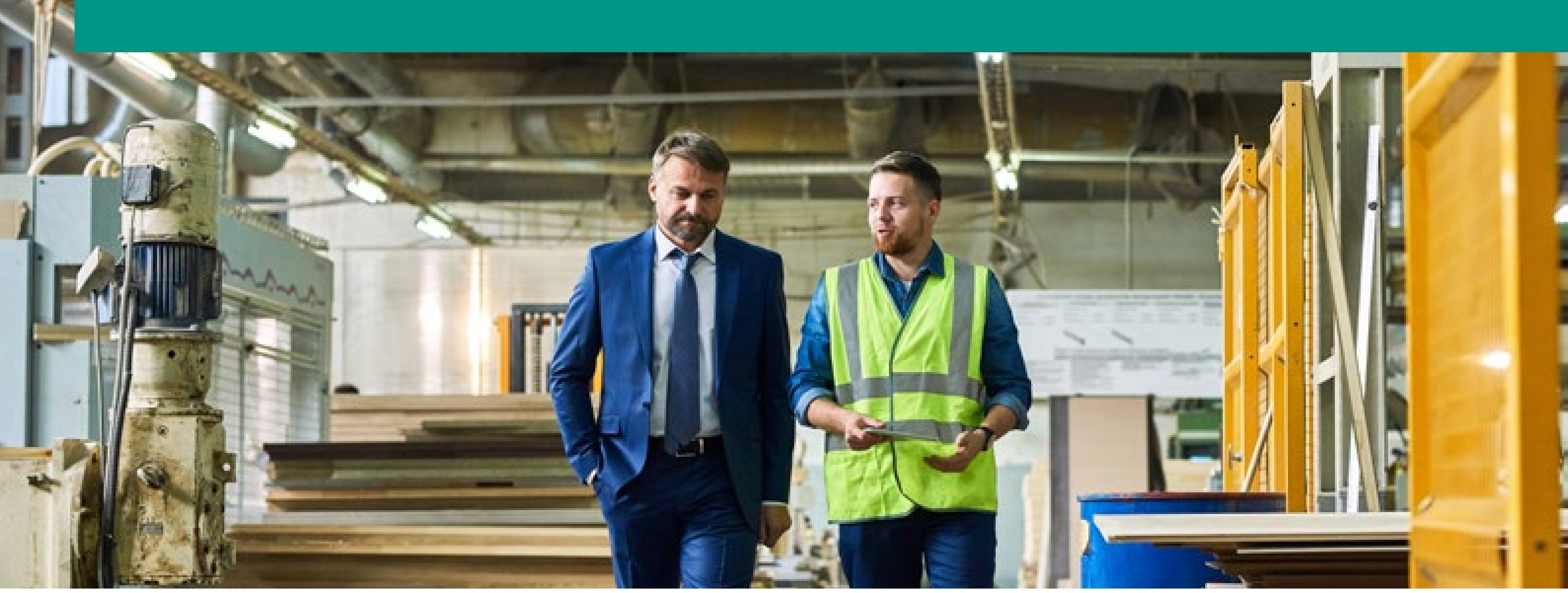
"Government should adopt an 'open to all' model with no price threshold to ensure all purchasers have real choice..."

PROPERTY COUNCIL OF AUSTRALIA SUBMISSION, 19 MARCH 2021

The reform was identified as being attractive for apartment developers and an important stimulus, as purchasers would be more likely to choose the property tax over stamp duty due to the lower land values per dwelling.

"The apartment market is going through a major slump in NSW...The purchasers of apartments will benefit from the reform by not paying Stamp Duty upfront and because Property Tax is calculated on the unimproved land value and apartments require less land, they will pay significantly less Property Tax. This is likely to increase relative demand for apartments."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021



Greenfield developers were less inclined towards the property tax as purchasers often pay stamp duty only on the land they acquire, then engage their own builder, so the potential stamp duty saving is lower.

"Consumers often purchase land and then build the house separately. Consequently, they pay Stamp Duty on the land purchase only, reducing their Stamp Duty costs compared to existing properties. This reduces the incentive to opt-out of Stamp Duty..."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

Stakeholders also indicated that the proposed reform may interact with the reforms proposed by the Productivity Commission's Review of Developer Contributions Final Report published in December 2020. Feedback suggested that NSW Treasury should ensure the property tax is harmonious with the implementation of any new development contributions regime.

"This reform will have an interaction with the reforms proposed by the Productivity Commissions review of Developer Contributions final report in December 2020. For example, where a new piece of transport infrastructure is being constructed that will increase land values, a developer in Property Tax could potentially be asked to pay more through a higher Property Tax and also be hit with higher developer contributions or a separate value capture charge."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

Reform update

Like other purchasers, the proposed reform would initially give developers the choice to pay property tax or stamp duty (provided the land is not already subject to the property tax). Properties that are being developed for residential use would be subject to commercial rates of the property tax. Residential rates would be available when a property is capable of being used as a dwelling (a home vacated for renovation purposes by an owner-occupier can continue to be treated as an owner-occupied dwelling, consistent with the principal place of residence land tax exemption which allows the continuation of the exemption in certain circumstances).

In some cases, a development site may be sub-divided. In that situation, each new property created as a result of the sub-division will remain in the same tax system as the property before the sub-division.

VI. COMMERCIAL PROPERTIES WITH A RESIDENTIAL USE

Consultation findings

Stakeholders were eager to understand the proposed treatment for commercial properties with a residential component. Examples of such types of properties include hotels, serviced apartments, retirement villages, aged care, residential parks, land lease schemes and boarding houses.

"[It is recommended] that Governments should work with industry to assess how the property tax regime would apply to property types that do not fit clearly within the four categories..."

PROPERTY COUNCIL OF AUSTRALIA SUBMISSION, 19 MARCH 2021

Reform update

Some assets exhibit qualities of both commercial and residential properties. These are sometimes referred to as commercial residential properties.

For purposes of the property tax, the decision about whether these asset classes are residential or not would be made using the same legal tests that are used for purposes of stamp duty and land tax surcharges for foreign purchasers and owners.

Asset classes that constitute dwellings under the existing rules would be subject to one of the residential rates. Asset classes that do not constitute dwellings (e.g. hotels) would be subject to the commercial rate, unless they are eligible for a land tax exemption in which case a lower rate of property tax would be available.

VII. MIXED USE PROPERTIES

Consultation findings

Stakeholders sought clarification on how the property tax would apply for mixed use properties.

"There needs to be some consideration given to a 'mixed use' definition, given that in more and more situations, commercial and residential uses may be combined in the same title."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

Reform update

Where a property is partly used for one purpose and partly used for another purpose, some special rules would apply. The mixed-use special rules would generally apply where there is a mixed commercial and residential use. For example, where there is an apartment above a shop, on a single property title.

Most mixed-use properties have an "apportionment factor" recorded by the Valuer-General. This specifies how much of the property is commercial and how much is residential. The property tax for these properties would be apportioned, based on this apportionment factor.

If there is no apportionment factor for a mixed-use property, Revenue NSW would refer the property to the Valuer-General so that an apportionment factor could be created.

When acquiring a mixed-use property, the commercial price threshold would apply to determine eligibility to opt-in.

F. TENANT PROTECTIONS

CONSULTATION FINDINGS

Throughout consultation, industry and community stakeholders noted concerns that the property tax may be passed through to residential and commercial tenants.

Despite the Residential Tenancies Act (2010), which prohibits residential landlords from passing taxes directly on to tenants, stakeholders provided feedback that it would be difficult for tenants to challenge any rental increases that are unfair or excessive, resulting from the property tax, as rental dispute pathways do not favour tenants.

"The Consultation Paper glosses over the significant power imbalances that exist within the landlord-tenant relation... Tenants are not in a position to negotiate fair and equitable housing outcomes with property owners...the property tax has the potential to worsen this situation."

SOUTHERN YOUTH AND FAMILY SERVICES SUBMISSION ON 19 MARCH 2021

Stakeholders highlighted that periodic tenancy agreements are more flexible than fixed tenancy agreements and that rent negotiations under a periodic tenancy agreement can occur at any point (at a cap of once per year). As such, feedback was provided that the property tax may have a greater impact on periodic renters than on fixed-term renters.

"It is possible for landlords to immediately increase rents of renters if they are in a periodic agreement. This is a particular concern in NSW, as they are a higher number of tenants on periodic leases than in other states."

TENANTS UNION [HARDSHIP SCHEME & TENANCY PROTECTIONS WORKING GROUP, 11 MAY, 2021

Furthermore, there were some concerns raised by stakeholders that increased property transactions may result in increased tenant evictions, as there may be a preference for owners to sell the property with vacant possession.

"Presently, landlords can and do use the 'no grounds' evictions clause from the Residential Tenancies Act (2010) to evict tenants so as to be able to market properties as untenanted."

ST VINCENT DE PAUL SOCIETY SUBMISSION, 15 MARCH 2021

"Given the higher turnover of property there is also a need to reform to ensure greater protections against evictions and a fair process for renters in the lead up to a sale."

TENANTS UNION SUBMISSION, 15 MARCH 2021

During consultation the Hardship Scheme and Tenancy Protections working group tested the idea to have IPART monitor residential rents following an introduction of the proposed property tax– with the purpose to help monitor/ determine effects on the rental market. Stakeholders were supportive of an independent review of residential rental market conducted by IPART to monitor the impacts of the proposed property tax on residential rents.

"The Government must be equipped with the power to challenge landlords passing-on the cost of the property tax."

THE MCKELL INSTITUTE SUBMISSION, 15 MARCH 2021

Stakeholders in the Hardship Scheme and Tenancy Protections working group acknowledged that (a) only a small percentage of residential rental properties would transact and opt-in to the property tax in the early years of the reform and (b) rent is set by the market and this would influence the amount of rent property tax landlords can charge.

Commercial tenants were concerned about potential increases in outgoings resulting from the property tax. Stakeholders flagged that the property tax could inflate occupancy costs and add to existing financial distress for small business owners who are unable to make rent payments due to COVID-19.

"Typical non-residential leases allow for a pass through of outgoings, including taxes levied in respect of land, by the landlord to tenants. If a new property tax comes into effect, what is likely to follow is a pass through of that extra cost to tenants."

THE TAX INSTITUTE SUBMISSION, 15 MARCH 2021

"Landlords would most likely pass on additional costs in the form of increased rent."

MARCH 2021, BUSINESS CONDITIONS SURVEY, BUSINESS NSW SUBMISSION, 26 MARCH 2021

Conversely, commercial landlords expressed concern about opting-in to the property tax, noting that if their outgoings were to increase, they would need to be able to recover this cost.

"Under a property tax regime recoverability from occupiers will become important for commercial, retail and industrial development feasibilities and there is some variability to be considered for each asset class."

URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA SUBMISSION, 15 MARCH 2021

"For non-residential tenancies, there are no legislative restrictions on the ability of landlords and tenants to reach agreement on which party will bear the cost of outgoings such as land tax. This forms part of the commercially negotiated terms between a landlord and a tenant."

PROPERTY COUNCIL OF AUSTRALIA SUBMISSION, 19 MARCH 2021

"A wholesale ban on passing on increases in outgoings to tenants is likely to place some property owners and tenants in commercial buildings immediately into breach of their lease agreements."

PROPERTY OWNERS ASSOCIATION NSW SUBMISSION, 10 FEBRUARY 2021

REFORM UPDATE

The reform is not expected to change rents for residential properties in the near term. In the longer term, the reform would exert downward pressure on rents for the same reasons that prices are expected to be lower.

Residential landlords are legally required to pay State taxes and may not directly pass them on to tenants except to the extent that they are embodied in the rent agreed by the tenant.

To provide additional reassurance that residential rents would not be affected by the reform, the Government would request quarterly monitoring reports by the Independent Pricing and Regulatory Tribunal (IPART). IPART would be asked to consider a cross-section of rental properties, including periodic and fixed tenancies. The Government would consider IPART's analysis and respond as appropriate. If a tenant were to dispute a rental increase associated with a landlord opting-in to the property tax, existing mechanisms with NSW Fair Trading and the NSW Civil and Administrative Tribunal would be available.

For commercial tenants, it is common for leases to include provisions that permit the pass-through of landlords' 'outgoings' including State taxes related to land values. Where a landlord had opted into the property tax with such a lease in place, the property tax legislation would permit the landlord to continue to pass-through the amount of any land tax that would have been payable if the property had not been opted into the property tax. The landlord would not be permitted to pass through the property tax if it exceeds the amount of any land tax that would have been payable. This arrangement for outgoings could be altered by written agreement between landlord and tenant, including a new rental agreement, or a rent renegotiation agreed by the tenant.

G. HARDSHIP

CONSULTATION FINDINGS

Both industry and community stakeholders highlighted the need for a hardship protection scheme to be embedded into the proposed property tax reform to support those experiencing financial distress. Stakeholder consultation and submissions indicated high levels of support for the implementation of a hardship scheme designed to prevent people from being evicted and having to sell their homes due to an inability to meet the proposed property tax payments.

"What should happen for people who have chosen the property tax, but then can't afford it? This is a critical issue..."

AHURI SUBMISSION, 18 DECEMBER 2020

"Fair and equitable hardship measures must be clearly defined and implemented to ensure that those who cannot afford to pay are adequately supported."

THE TAX INSTITUTE SUBMISSION, 15 MARCH 2021

"The transition to property tax [will be] contingent upon the introduction and availability of robust hardship provisions to protect low-income earners and other households experiencing disadvantage, against having to sell their home to pay property tax."

ST VINCENT DE PAUL SOCIETY SUBMISSION, 15 MARCH 2021

Stakeholders highlighted that financial status and income can change across a person's lifetime, such that they may be able to afford the property tax at the time they choose to opt-in, but not at a later date. This may be particularly relevant to pensioners and retirees who tend to be asset rich and cash poor, often with limited incomes.

"This tax will simply accrue in retirement..."

COMMUNITY SUBMISSION

"Noting that the efficacy of hardship programs can vary, we recommend that Treasury convene a working group with representations from key service providers, peak bodies and consumer advocates to inform the development of a best practice hardship policy."

ST VINCENT DE PAUL SOCIETY SUBMISSION, 15 MARCH 2021

As described in Section 2 of this paper, a Hardship Scheme and Tenancy Protections Working Group was established and raised a number of valuable considerations relating to hardship. The Working Group indicated that a key barrier to accessing hardship schemes is a lack of awareness around the scheme's existence and challenges during the application process. The Working Group recommended that a public awareness campaign could be developed to ensure those facing financial difficulty would understand that a scheme is available to support them.

"Targeted awareness is key to the success of this scheme. You want to make it clear who this scheme is designed for and then proactively communicate awareness of the hardship scheme."

NCOSS HARDSHIP SCHEME WORKING GROUP, 11 MAY 2021

The Working Group suggested a review of the hardship scheme after an initial 12 months, and then at select intervals thereafter. This would enable NSW Treasury to monitor the successes and limitations of the scheme and adapt, be agile and respond to the direct requirements of those who need the hardship scheme.

"The Chief Commissioner could potentially report to Parliament on the scheme to adapt any hardship regulations and guidelines as necessary."

NCOSS HARDSHIP SCHEME WORKING GROUP, 26 APRIL 2021

The Hardship Scheme and Tenancy Protections Working Group built on the components of the NSW Treasury Hardship Scheme to ensure it is a comprehensive and robust scheme to support financially distressed households.

REFORM UPDATE

The Government would legislate to ensure that no-one would be required to sell their home or small business premises (including primary production land) because they cannot afford to pay the proposed property tax.

Households who are suffering from hardship and are not able to meet their property tax payments would be permitted to defer those payments until the property is sold.

Deferral of property tax would be available for an entity that is a natural person, a small business or a primary producer. The Chief Commissioner would have discretion to defer up to 100 per cent of the applicant's outstanding property tax liability, where the payment would leave an applicant unable to meet reasonable expenses for food, shelter, clothing, medical treatment or other essential expenses. The Chief Commissioner would reach this decision, taking into account:

- the applicant's income and expenses in providing for the immediate family or people under their care;
- the applicant's ability to rearrange current commitments and/or finances;
- whether the applicant has disposed of any assets since their property tax liability was last deferred or the most recent property tax bill became payable;
- whether the applicant's ability to manage their financial affairs is impaired because of ill health including a mental illness, intellectual disability, or cognitive impairment; and
- any other circumstance deemed reasonable by the Chief Commissioner.

Primary producers would also be eligible to defer the property tax where their land has been adversely affected by floods, bushfires or droughts. Primary producer eligibility under this category would not require a demonstration of inability to meet reasonable expenses.

Property tax that is deferred would accrue a modest rate of interest (e.g. discounted owner-occupier variable mortgage rate). The total accrued amount would be payable out of the property proceeds the next time the property is sold, up to a maximum of 75 per cent of the market value of the property.

The operation of hardship deferral would be reviewed after 12 months, and periodically thereafter.

Hardship deferral would not be the only recourse for people who could not afford to pay the property tax. 'Time to pay' arrangements would be available with Revenue NSW for short term cash flow impacts. The Hardship Review Board would be an available channel for taxpayers who were deemed not eligible for the Hardship Scheme, or where the Hardship Scheme had not provided a sufficient outcome.

H. FISCAL IMPACTS

CONSULTATION FINDINGS

Some industry stakeholders and economists provided feedback that the reform would increase government debt. The feedback recognised the case for economic stimulus but stressed it should be managed carefully to ensure it remains affordable.

“The Consultation Paper estimates that, based on the proposed settings, revenue forgone would be limited to $2 billion in any given year. This is less than 3 per cent of government revenue from transactions.”

CPA AUSTRALIA SUBMISSION, 15 MARCH 2021

Of particular concern for some stakeholders was the impact increasing debt could have on the provision of services, particularly social services. In their submission St Vincent de Paul Society NSW indicated the importance of maintaining services:

“In the short-term, we seek assurances that the temporary decline in Government tax receipts will not be accompanied by a commensurate reduction in investment in the social services and infrastructure relied on by so many low-income earners and households experiencing disadvantage across NSW.”

ST VINCENT DE PAUL SOCIETY NSW SUBMISSION, 15 MARCH 2021

A further concern raised was the pressure that the increasing debt could place on future generations

“Generating substantial budget deficits creates concerns about inter-generational equity if current generations benefit from the debt but leave the repayment of debt to future generations.”

CHARTERED ACCOUNTANTS AUSTRALIA NEW ZEALAND SUBMISSION, 17 MARCH 2021

Stakeholders recognised the need for thresholds to help manage fiscal impacts.

“There will be foregone revenue from stamp duty in the short term, and land tax would need to make up for that loss over time. The principle of revenue neutrality is in general a good one for policy proposals in this area but there is a high initial cost and potential opposition to property taxes.”

AHURI SUBMISSION, 18 DECEMBER 2020

REFORM UPDATE

The reform is not a tax grab and has not been designed to be one now, or in the future. If implemented, the new property tax system would cost the Government large amounts of revenue for about twenty years. Over time, as more properties move to paying property tax, the annual revenue stream from the property tax would replace the annual stamp duty and land tax forgone. There is no requirement to change other aspects of the Government's spending and revenue plans to fund the reform.

The proposal indicated that price thresholds would be used to restrict the number of residential and commercial properties that would initially be eligible to opt into the property tax. Over time, these thresholds would be lifted, as fiscal space allows. By initially focusing on the least valuable properties, this measure maximises the number of people who would be eligible to opt-in, while preserving stamp duty on the most valuable properties. Lower thresholds would provide a means of limiting the cost of the reform, although it would also delay the economic benefits. In principle, zero price thresholds could be used to exclude whole sectors in the initial stages of the reform.

For a revenue neutral reform, such as the NSW property tax proposal, the Commonwealth would gain more revenue than NSW as a result of the productivity benefits flowing through the general economy. NSW has proposed that the Commonwealth establish a Productivity Fund, which would reward states that engage in reforms that boost productivity. The Fund would use a part of the Commonwealth's fiscal gains from State reform, to incentivise all states to engage in productivity-enhancing reform.

NSW is also engaging through the Council on Federal Financial Relations on measures to ensure that the State is not penalised through the Commonwealth Grant Commission's system of allocating GST revenue. Without progress in this area NSW stands to lose up to $1 billion of GST revenue per year in the long run, which would materially affect the Government's capacity to proceed with the reform.

I. RETROSPECTIVITY

CONSULTATION FINDINGS

Part of the initial design framework was the concept of retrospective applications to ensure that the property market would not be adversely impacted by delays caused by buyers or sellers waiting for the reform to occur.

Consultation revealed overwhelming support for the concept of retrospective application from both individuals and industry organisations.

Some buyers reported a decision to delay their purchase to avoid paying stamp duty and wait for the property tax to be introduced.

Some industry groups were concerned that the potential for such delays could disrupt the property market.

"A retrospective period will contribute to a fair transition to the new regime for customers and may mitigate possible market distortions from people delaying transactions while they wait for the change to commence."

AUSTRALIAN BANKING ASSOCIATION SUBMISSION, 15 MARCH 2021

"It should be available as an option for those who have purchased and paid stamp duty within a previous time-period who would prefer to pay a property tax."

NATIONAL SENIORS SUBMISSION, 16 MARCH 2021

"The deepest concern for industry is moving through this transition period – with an exceptionally long consultation process – which could see potential homebuyers holding off on their purchase until changes are introduced."

STEVE MANN, CEO URBAN DEVELOPMENT INSTITUTE OF AUSTRALIA

"The modelling evidence by AHURI suggests there is likely to be significant upfront financial benefit for (especially first) home purchasers in paying property tax and not paying stamp duty, potentially enough to justify delaying purchase.... A scheme for retrospective opt-in might reduce any adverse impact on short term demand."

AHURI SUBMISSION, 18 DECEMBER 2020

REFORM UPDATE

The NSW Government will continue to work with lenders and financial regulators to understand how a period of retrospective application could be managed, noting concerns that mortgage brokers will have:

"assessed the loan on the basis that stamp duty has been paid and that the borrower's ability to service the loan is not reduced by ongoing property tax."

MORTGAGE AND FINANCE ASSOCIATION AUSTRALIA SUBMISSION, 14 MARCH 2021

If the Government proceeds with the reform, people who purchase between the date of that announcement and the commencement of the legislation would be able to opt-in to the property tax. The announcement would make clear the date from which this retrospective application would commence, as well as the intended eligibility criteria. Retrospectivity is expected to significantly diminish market disruption during the period between the announcement that the reform would be proceeding and commencement of the legislation.

People who purchase during this period would still be required to pay stamp duty within the normal period (because they would have purchased before any change in legislation excusing them from the obligation) but would be able to receive a refund of the stamp duty paid upon lodgement of an application to opt-in to the property tax retrospectively.

Applications for retrospective opt-in to the property tax would be open for six months from the date of commencement of the property tax legislation.

People who plan to retrospectively opt-in to the property tax would need to understand that until the reform legislation is passed by Parliament, there is a risk that the reform will not eventuate. This means they will still need to factor in stamp duty as an upfront cost until legislation is passed.

J. IMPLEMENTATION AND THE CUSTOMER EXPERIENCE

CONSULTATION FINDINGS

There was significant feedback and interest around how the property tax would be implemented and what the customer experience would involve. As highlighted earlier in this section and in section 2, the reform would introduce changes and new concepts, and these would need to be carefully planned and managed. A strong focus was on the need for good communications and awareness, the need for an easy way to find out more about a property and tax, and where to go for advice.

Good communications will be needed

Individuals and industry stakeholders noted that while choice is a good thing, it introduces complexity for buyers who may struggle with making property and financial decisions.

Stakeholders provided clear feedback that the implementation of the proposed property tax would result in new terms, concepts and calculations that purchasers and prospective purchasers may not be familiar with.

Community and industry stakeholders identified the need for information and education from trusted sources including Government websites, call centres and a variety of professionals in the property purchasing journey and for those who may be concerned about the potential impact (perceived and/or actual) of the change e.g. renters.

Feedback confirmed that information needs to be easy to find, clear and consistent.

"Education for potential purchasers and practitioners advising such purchasers will be critical to ensuring the successful implementation and administration of the proposed system."

THE TAX INSTITUTE SUBMISSION
15 MARCH 2021

Where to go to find out more about a Property

Some stakeholders highlighted the need to be able to find specific information about a property, including, for example, the unimproved land value and whether or not a property has been "opted-in".

"From a conveyancing perspective, a critical element of the policy design is the way in which a prospective purchaser would be able to reliably ascertain whether a property has moved across to the property tax scheme."

THE LAW SOCIETY OF NEW SOUTH WALES,
11 MARCH 2021

Provision of advice

Professionals recognise their role in providing information and facts, but there was some concern regarding who is best placed to provide bespoke property tax advice. Chartered Accountants ANZ explained the concern this way,

"Parties requiring "one stop shop" advice may struggle to find a professional capable of advising them on the broad issues noted above. For example, it is important to remember that many law firms, even mid-tier firms have a policy of not giving tax advice."

CA ANZ SUBMISSION 17 MARCH 2021

CA ANZ submitted that there could be an opportunity for Tax Agents to provide property tax advice, and this would potentially require legislative changes.

REFORM UPDATE

In parallel with customer and stakeholder consultation, much work has been undertaken so that stakeholders involved in running the property transaction eco-system understand the implications of the proposed property tax. This has included closely working with key stakeholders such as Revenue NSW, Service NSW and third parties to ensure that the reform is not designed in isolation and is designed with the customer at the heart.

Putting the customer at the heart

NSW Government has six customer commitments that will be at the heart of the implementation of this reform, these are:

Awareness and reassurance would be critical to success

The six elements above have been themed into the customer work completed to date and it is clear that communication and information would be vital to the success of the reform. Should the reform progress, there would be plans for advertising to occur to provide reassurance and awareness for customers and stakeholders regarding the reform and where to go for more information.

In addition, information specifically targeted for industry professionals would be developed to ensure their awareness and understanding. Industry systems and software would also need to be adjusted to account for property tax and the NSW Government would continue to work closely with key stakeholders and the industry to ensure they were supported sufficiently, to enable them to provide information in the most appropriate manner to their customers. In addition, for complex queries Revenue NSW has channels where industry professionals could go for help and support as per existing processes.

A customer viewpoint

The ‘customer view’ diagram below breaks down the customer considerations based on the current design features of the reform.

PRE-PURCHASE

1. Should I choose Property Tax?
2. Is the property already opted in?
3. How much can I borrow?

PURCHASE OR TRANSFER

4. I will need to know the land value of my intended purchase/ Transfer and the associated property tax payment
5. I will need to indicate that I chose to opt in to property tax

ONGOING PAYMENTS

6. I will need to make regular payments, check up on any outstanding payments/refunds due and make RNSW aware of any changes in circumstance

SALE OF PROPERTY

7. I need to make a final pro-rata payment of property tax before i complete the sale of my property

Step 1: Pre-purchase

In order to help customers understand the proposed property tax, what it means for them and to support an informed choice, it is proposed that information would be provided on webpages dedicated to the property tax. Service NSW would provide support to customers both through face-to-face service centres and via their call centre services.

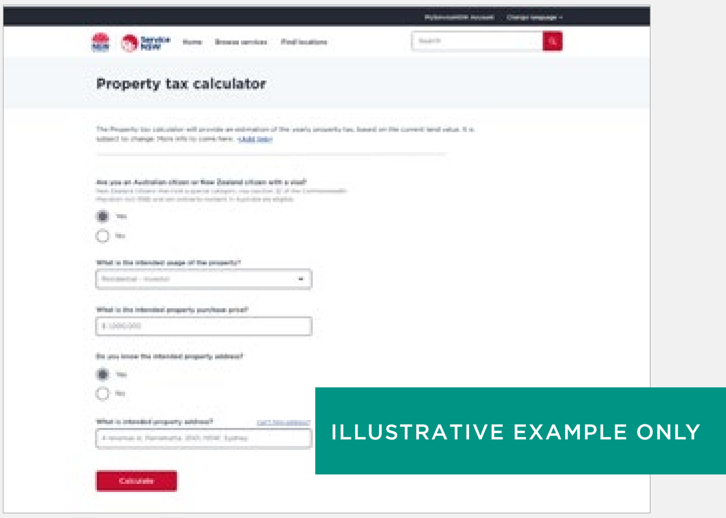
In addition, to support an announcement of property tax and the launch of property tax, it is envisaged that a number of tools would be used – including an estimator tool, advertising and websites.

Estimator Tool

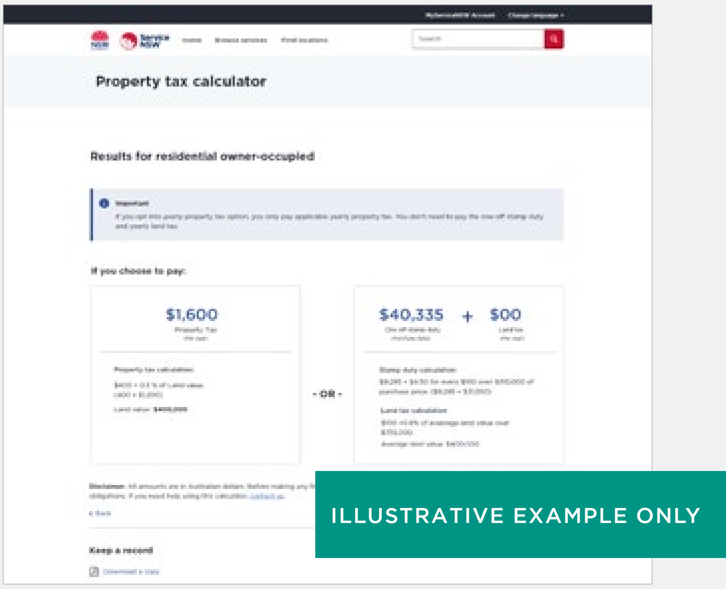
The estimator tool would allow purchasers to easily look up the property tax amount for a particular property for the current year based on the address of that property and compare this with the stamp duty that would be charged based on an estimated sale price.

This information would help buyers or sellers understand the difference between the two options, and to also assist purchasers to have informed conversations with potential lenders about the amount they need to borrow (which may include stamp duty) or their outgoings (potentially including property tax if they opt for this).

The image below shows a draft of what the estimator tool could look like



This is how the results could be presented:



Step 2: Purchase or Transfer

Should the reform be successful, it is envisaged that when anyone seeks to buy a property, they would need to know whether it has already been opted in to pay property tax and how much the property tax would be.

It is anticipated that the property listing and contract of sale would include details such as the property tax status, the unimproved land value for the property that would be used to calculate property tax, and an indication of the property tax for that property for the current year.

During the purchase process a customer would indicate that they wish to opt into property tax. This would result in the property tax assessment being undertaken by Revenue NSW and a request for payment.

Property tax would be an annual tax, so assessments would be similar to council rates. When a property is purchased and opted into property tax, a pro rata assessment would be issued aligned with the number of days in the year to which the property tax applies, i.e. from the point of settlement to the end of the year.

Step 3: Ongoing Payments

Similar to other payments made to NSW Government – Service NSW would act as the front door for all customers whether they are individuals, companies, trusts etc.

Customers would be able to opt to pay their annual property tax bill in one annual payment or in monthly, quarterly or even weekly instalments depending on what suits them and their circumstances . Customers would be able to access this through their Service NSW account. Customers would have the option to pay their property tax through a number of different methods similar to any other payments made to the Government.

Step 4: Sale of property

If a property were to be purchased that had already been opted into the property tax, the parties could agree to a pro-rata settlement in the same way that council rates are shared between buying and selling parties. This process would be supported by the professionals that currently support customers with their property purchases.

04. Next Steps

This Progress Paper builds on community feedback and provides another level of policy detail.

The NSW Government continues to seek feedback on this policy detail over the next seven weeks through to Friday 30th July.

Comments on the additional information presented in this document can be sent to TaxReformTaskforce@treasury.nsw.gov.au.

NSW GOVERNMENT

CREATING JOBS *and*
SECURING OUR FUTURE