

25 July 2012

The Hon. Michael Baird, MP
Treasurer
Level 36 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister,

Re: Review of Land Tax

The Urban Taskforce represents Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment to engage in constructive dialogue with government and the community.

As you would be aware, nationally we have a chronic shortage of housing. This shortage has resulted in housing becoming increasingly unaffordable and unfortunately the undersupply of housing is most critical in New South Wales. Compared to Queensland and Victoria, New South Wales produce less housing per capita. While there are a number of reasons for this underperformance in housing, including an outdated and cumbersome planning system and a demand for excessive developer contributions, I write to you to highlight a Treasury matter that also has a significant impact on housing production.

The matter to which I refer is land tax, particularly the ability for land owners to qualify for a primary production exemption to land tax. I understand this to be a matter for Treasury and that land tax is under review.

Our recent meeting with the Office of State Revenue confirmed that a discussion paper on land tax had been prepared, but there was no indication of when it will be released. Nevertheless we were encouraged at the meeting with the Office of State Revenue to confirm our land tax concerns with Treasury and in this regard, our concerns are outlined below for your consideration.

1. Primary production exemption must be applied

It is clear that the NSW Government recognises that there is a drastic undersupply of land for residential purposes. Government has previously announced initiatives to encourage the supply of serviced greenfield land. Most notable has been the introduction of a cap of developer levies and the postponement of the 50% increase in Special Infrastructure Contribution levies. Nevertheless, the production of serviced lots has been slow. We argue that the planning system remains complex and infrastructure levies are still too high, making the production of serviced land not economically viable in many instances.

However, while the Planning Ministers, past and present are developing planning policy targeted at increasing land and housing supply, there are other areas of Government that could be limiting the success of these policies, particularly in the areas of land acquisition and assembly of developable parcels of greenfield land. A primary example is the manner in which land tax is now being applied. The Land Tax Management Act provides that land that has been zoned urban is exempt from land tax if:

- the "dominant use" of the land is for primary production;
- it has a significant and substantial commercial purpose or character; and

- it is engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).

The policy position for the exemption seems clear. The Government recognises the value of primary production and the contribution that such production such makes to the community. Unfortunately, the need for housing and the contribution that land development makes to the local economy and community is not given equal consideration. That is, if we value affordable housing we should recognise and support its provision by providing tax exemptions similar to those provided for land used for primary production. Until recent court decisions, land developers were able to own land that may be zoned urban but because primary production was the dominate land use, a land tax exemption was enjoyed. This meant that land could be acquired over a period of time to form a developable parcel that could be prepared for urban land uses to meet market demand.

Unfortunately, the recent decisions of the NSW Supreme Court and Court of Appeal related to whether certain land used for primary production qualified for the primary production land tax exemption means that land, if zoned for urban purposes could be subject to a higher land tax rate. The consequences of this decision for the development industry, particularly with respect to the conversion of greenfield land to serviced residential lots is clear.

Firstly, owners of land will be penalised if their land is rezoned. For instance, where Government decides that an area, currently used for primary production should be rezoned to permit residential development, unless the owners are able to demonstrate that the dominant use of the land is primary production, they may not enjoy a land tax exemption. This could mean that land owners will object to the rezoning of their land for urban purposes, further frustrating the planning process and introducing further delay in the delivery of greenfield land.

Secondly, property developers will not commence preliminary work, such as earthworks, unless they are prepared to proceed with the whole project immediately. This outcome encourages developers to defer expenditure (and therefore postpone jobs and economic activity) and will ultimately extend the time it takes to complete development, again delaying the delivery of serviced land for housing.

Thirdly, property developers will seek to scale back rezoning requests and development applications, so that only small areas of land are rezoned (or subject to development approval) at any given point in time. The additional embedded cost of red tape (extra legal, town planning, engineering, consultancies, etc) for each dwelling will impact on housing affordability. This more complicated regulatory approach is also likely to take longer and dampen housing supply.

Essentially, the way that land tax has been applied suggests that the benefit of land for housing to the whole community is not being recognised. Furthermore, the way that land tax is being applied does not support the other arms of Government that are focused on increasing the supply of housing. There is obviously a need for review and reform. In this regard, we urge the Treasury to consider the following in its review of land tax.

2. Policy solution

Clearly the Government believes that there should be an exemption from land tax for the purpose of primary production, presumably for the benefit of the whole community. It logically follows that housing production and housing affordability is also a significant benefit of the whole community. Therefore, if the Government seeks to encourage more housing for the benefit of the whole community this form of production should also be exempt from land tax. In this regard there is an urgent need to reform of the NSW Land Tax Management Act.

Notwithstanding the above, while the Land Tax Management Act is under review, as an interim measure the Government should at least make allowance for a partial exemption to land tax. This is particularly relevant where large areas of greenfield land is earmarked for urban development, but only a portion of the land is being actually prepared for an urban purpose.

That is, where only a portion of greenfield land is prepared for residential development, surely the loss of the exemption to land tax should only apply to that portion of land actually being prepared for development. Currently, where only a portion of a larger lot is prepared for urban purposes the loss of exemption to land tax is applied to the entire site.

The Urban Taskforce urges Treasury to consider the wider policy implications of land tax, particularly on the delivery of greenfield housing lots. Other arms of Government are actively taking steps to encourage the conversion of greenfield land to housing lots to meet our drastic undersupply problem, yet the way that land tax is being applied in the greenfield land context is actually working against the other initiatives of Government. I look forward to hearing from you on this important matter and the urgent release of the land tax discussion paper.

Should you wish to discuss any of the above in more detail, please feel free to contact me on telephone number 9238 3927.

Yours sincerely

Urban Taskforce Australia



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