

8 March 2013

The Chair
Mr Matt Kean, MP
Joint Committee on the Office of the Valuer General
Parliament House
Macquarie St
Sydney NSW 2000

Dear Mr Kean,

Re: Inquiry into the Land Valuation System

The Urban Taskforce is supportive of the Joint Standing Committee on the Office of the Valuer General inquiry into the Land Valuation System. We have been urging the Government to investigate a number of state taxation policies that are working against planning reforms targeted at increasing housing supply. For example, the Minister for Planning and Infrastructure is focusing his Department on working towards the reduction of red tape, facilitating the rezoning and supply of land for urban development.

The previous Government took positive steps to cap the rate of developer contributions as a means of increasing the supply of land for residential purposes. These initiatives were welcomed by the development industry; however, the supply of land, particularly in greenfield locations continues to be hampered due to unrealistic land valuations that are then used as a basis to set punitive land taxes. This in the end discourages investment and supply of developable land. **This is a clear example of one arm of Government introducing useful policy targeted at increasing land supply, while another arm of Government continues to focus on revenue raising without consideration of the impact this will have on the success of land supply policy.** It demonstrates one arm of Government working against another.

The Urban Taskforce concerns with the valuation system relates primarily to the:

- unrealistic broad-brush land values being applied to greenfield land based on land zoning without due consideration of:
 - actual land use;
 - development capability of the land;
 - need and cost of provision of essential infrastructure;
- requirement for land owners to pay land tax upfront based on land valuations in dispute and/or subject to legal challenge;
- costs not being awarded to the appellant when land valuations are determined by the courts.

A number of members of the Urban Taskforce have provided real examples of where the Land Valuation System is not delivering a fair valuation of land and this unfair valuation being used to impose excessive rates of land tax. Furthermore, these examples demonstrate the appeal process to be heavily weighted in the Government's favour, where those who object to the land valuation applied to their properties are required to pay the inflated land tax up front and then engage in lengthy and costly court action to seek an equitable result. Even when court action is successful, the objector is not compensated for the cost of legal action required to reach a satisfactory settlement, nor are they able to seek compensation for the loss of income due to finds being held by the Government, not available to be used by the appellant for income generating purposes.

We are further advised that there are instances where the same inappropriate land values are applied to the same land the following year, even after successful court action on behalf of the land owner has shown that the land value sought to be applied is inappropriate.

The Urban Taskforce knows of cases where land is valued on the basis of zoning without proper consideration of the significant development limitations that may apply. For example, a large parcel of greenfield land may enjoy an urban zoning, however, there may exist numerous constraints that prevent urban development from occurring across all or part of the land.

We know of a case where non-urban land that enjoyed an urban zoning and development consent but was inappropriately valued, primarily due to zoning and unrealistic understanding of development capability. The affected land owner was able to demonstrate that they were unable to develop the land. That is, though there were planning approvals in place, development required a collector road to be built over neighbouring properties over which the land owner had no agreement in place, hence development was not possible. In this case, the land valuation incorrectly assumed that urban development was permissible and a higher land value applied. A lower value was negotiated between the Office of State Revenue and the land owner.

The Joint Committee should be aware that currently the valuation system requires that if a land owner does not agree with the Valuer General's assessment on land value, the land owner must still pay Land Tax on the assessed amount and then go through an appeal process. This can take up to twelve months. To make matters worse for the appellant there is no compensation for costs when an appeal is successful.

A member of the Urban Taskforce has advised that they are regularly forced to dispute unrealistic Valuer General determinations of land value. Recently this member of the Urban Taskforce took twelve individual valuations to the Land and Environment Court and negotiated reductions of up to 50% in the agreed values. Unfortunately, in order to get a negotiated resolution this land owner was forced to commence court proceedings to have their objections to the original values properly considered.

The Joint Standing Committee would understand that court action is not a cheap exercise and not worthwhile for many smaller land owners as the expense can outweigh the gain. Members of the Urban Taskforce advise that they are forced to spend over \$100,000.00 per annum on legal advice on land valuation and land tax matters.

A fair and equitable system would be one that suspends payments of tax obligations until a matter has been negotiated or determined in the courts.

We argue that the land value should properly reflect the actual use of the land. For instance, for land to be regarded as being used for urban purposes, zoning should not be the determining factor, actual development of the land should be the key determinant. That is, ***once the development consent and construction certificate are issued with subsequent works commenced, then an urban land value should be applied.*** It is not equitable to consider rezoning or development consent alone as a signal to apply an urban land value to the land because neither necessarily reflects either's intention or capability to develop. Even after development consents are granted it can be many years before works can commence due to the lack of supporting infrastructure or market conditions. It can take decades before a site is completely developed for residential purposes.

The Joint Standing Committee must also understand that rezoning land is often Government initiated (State or Local) and therefore cannot be held to represent the intent of the land owner. An owner initiated rezoning does not necessarily mean the owner intends to develop or is physically capable of developing the land. There may be no immediate market, the land may not be physically accessible, development may be reliant on the supply of infrastructure services, control of which is out of the land owners reach.

There is a myriad of economic reasons that rezoned land does not get developed and it would obviously be inappropriate to consider the land to be urban in nature, hence attracting a higher land valuation without proper consideration of development limitations and ability. The North West Growth Centres experience is an excellent example of where land has been rezoned by the Government for urban purposes, yet little development is actually occurring due to the fragmented

ownership in large portions of the Growth Centre. In this case, as non-urban uses continue the application of a higher land value would be inappropriate.

The cost of over estimation of land value, based on land zoning will create an unsustainable demand on the land owner's cash flow and impact heavily on the cost base for future housing supply, the effects of which will increase the cost of land to the first purchaser of a housing lot.

As you would appreciate, there is a chronic shortage of land for urban development. This is making existing land available for residential development more expensive, which in the end is making housing in NSW less affordable. The problem of housing affordability in Australia is a function of strong demand and limited supply.¹

To make housing more affordable, we need to get more houses built and onto the market. Unfortunately, unless significant initiatives are put in place so that there are improvements on the cost and availability of land, housing prices will continue to escalate. In this regard, the Joint Standing Committee must be mindful of the impact that elevated land valuations and the ensuing application of high land tax will have on land and housing affordability. If the Government is really concerned with housing affordability it must look at the cumulative total of land taxes and developer fees, charges and costs and their impact on land value.

The Joint Standing Committee must recognise that if it applies an inappropriate land value that results in higher land taxes, it will make land too expensive to develop. This means that developers will simply look for an alternative market. Without an appreciable increase in development, housing affordability will continue to be a challenge in NSW.

Those in Government who believe that the land valuation system is fair and equitable and taxes imposed on urban zoned land are appropriate are mistaken if they believe that the developer ultimately bears the costs of taxes applied to the land. It is the home buyer who must pay. This is because modern capital is mobile. It flows to wherever it gets the best return. A local developer will not be able to secure equity for a development unless the rate of return that is available for investments of a similar risk profile in other states or countries can be offered. In order to ensure that a market rate of return is achieved, a developer will either reduce the amount of money paid for undeveloped land, or increase the price paid by the home buyer. However, often the home buyer cannot afford an increase in land price due to a new or increased levy or tax because there is a ceiling on the price that home buyers are able to pay, i.e. their borrowing capacity. As a result, any project, which cannot be delivered at a price home buyers currently can afford, simply doesn't get built.

That's why, in part, the supply of new houses in NSW has almost completely dried up. State, federal and local council taxes and charges cannot be afforded by anyone – land owners, developers or home buyers. So the homes simply don't get built.

The consequences of inappropriate and unrealistic land valuation 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 and an inappropriate land value is applied due to the zoning. 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 value applied is not a true reflection of land value or the dominant use of the land is primary production, they may be subject to a higher tax. 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 for housing production.

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.

¹ Commonwealth of Australia (2008) A good house is hard to find: Housing affordability in Australia, June 2008.

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 (additional 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 greenfield land is being valued and land tax applied suggests that the benefit of land for housing to the whole community is not being recognised. Furthermore, the way that land is being valued and land tax is being applied does not support the other arms of Government focused on increasing the supply of housing. There is obviously a need for review and reform. In this regard, we urge the Joint Standing Committee to consider the following in its review of the Land Valuation System.

Policy solution

Clearly the Government believes that there is value in primary production and that land used for such purposes needs to be valued as primary production land and should be afforded an exemption from land tax, 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, land to support this form of production should also be valued appropriately and should be exempt from land tax. In this regard, there is an urgent need to reform the way in which this land is being valued and the way that the NSW Land Tax Management Act is being applied so that greenfield land that has been rezoned for urban purposes, but not converted to housing lots is appropriately valued and taxed. ***Land that has been rezoned from non-urban to urban should not be valued as urban land until such time as the land has actually been converted to housing lots.***

Furthermore when:

- land is being valued, due consideration must be given to the actual land use, development capability of the land and the cost to provide essential infrastructure to enable the land to be used for an urban purpose (housing);
- a land valuation is subject to appeal land owners should not be required to pay the land tax based on land valuations in dispute and/or subject to legal challenge upfront. The requirement to pay the tax should be suspended until the appeal has been determined; and,
- an appeal against a land valuation has been successful, costs should be awarded to the appellant.

Should you require any further clarification of the content of this correspondence, please feel free to contact me on telephone number 9238 3927.

Yours sincerely
Urban Taskforce Australia



Chris Johnson AM
Chief Executive Officer