National Seniors AUSTRALIA

15 March 2021

NSW Treasury
52 Martin Place,
Sydney NSW 2000

Dear Treasury

BUYING IN NSW, BUILDING A FUTURE

National Seniors Australia welcomes the opportunity to provide feedback on the NSW Property Tax Proposal and has put forward this submission in collaboration with members of our state and territory Policy Advisory Groups.

National Seniors has been a vocal supporter of stamp duty concessions for seniors as a means of encouraging older Australians to downsize. 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.

In some circumstances, and annual property tax could be beneficial if it was well-designed and contained appropriate protections for vulnerable landowners and for landowners who have already paid significant stamp duty costs. Older Australians (retirees and pensioners) who are asset rich but income poor and living on low-fixed incomes would find the imposition of a property tax difficult and unfair. They would have limited means to pay an annual property tax charge on top of existing council rates, home insurance and other essential fixed costs. In some circumstances, it might force them to sell their homes when this is not in their best interests, which is a situation that should not occur.

While we appreciate the opportunity to contribute, National Seniors believes the proposal lacks sufficient information to make a fully informed opinion or decision. Most importantly, there is also no financial modelling to show the economic impact of these proposed changes on the wider economy, on individuals, households or businesses. Further, there is no discussion of the costs and benefits of alternative options, which is disappointing.

Our members have expressed a wariness of the proposal presented in the consultation paper. This is based largely on perceptions of government's past financial management. In particular, the failure to honour commitments to phase out taxes, such as stamp duty, as part of the introduction of the GST has been raised as a strong reason not to support the change from stamp duty to a property tax.

If the property tax was to be introduced, we are especially concerned that the proposed property tax might be more expensive than the current stamp duty in the long-term. This would disadvantage the poor and seniors on low fixed incomes. National Seniors is also wary the rate could be changed by successive governments to plug holes in revenue shortfalls leading to higher taxes and greater potential hardship.

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We agree that the issue of stamp duty should be examined as part of a wide range review of the efficacy of the tax system. However, it does not appear that alternatives to the proposed model are being considered at all.

In this regard, National Seniors would argue the NSW Government should consider a range of options beyond the current proposal and conduct cost benefit modelling of any options. Other possible options include:

- Adopt a property tax where all property becomes subject to a property tax but allow existing property owners the choice to either: opt-in to the property tax; or opt-out until they sell their property (at which point a land tax is then applied). Existing landowners could claim a refund for past payment of stamp duty.

- Proceed with a property tax, which is opt-in, but set a date in the future (possibly 20-25 years in the future) where all property becomes subject to the tax and compensation for past payment of stamp duty is available to avoid double payment.

- Retain stamp duty but allow landowners the option of paying this incrementally rather than as a lump sum. Property owners opting to pay incrementally would have any outstanding stamp duty balance erased when the property was sold, with a new stamp duty charge applied (as either lump sum or increment) for any subsequent purchase.

Regardless of which option was adopted, detailed cost benefit modelling needs to be carried out.

Attached, we provide a response to each of the questions outlined in the consultation paper.

Yours sincerely

Ian Henschke
Chief Advocate

National Seniors AUSTRALIA

1. Do you agree that stamp duty is out of date and is a handbrake on the economy?

National Seniors recognises that the high up-front cost of stamp duty can be a barrier for people moving into properties better suited to their changing families, changing lifestyles and changing needs.

Stamp duty can make it unaffordable for first home buyers to enter the property market, for growing families to upgrade (which can result in over-investment in home renovations) or for older families to 'right size' (which can result in over-investment in home modifications or older people living in homes that are unsuitable for their stage of life).

People often save for many years to purchase their next property. This need to save is reflected by inability to spend - essential to help stimulate and keep the economy functioning.

While the revenue collected from stamp duty is reinvested into the economy, it is an unreliable source of income as stamp duty is affected by both property value and the rate of property turnover, which is largely beyond government's control.

However, this largely relates to the way stamp duty imposes a large up-front cost. National Seniors believes that this could be mitigated by changing the way that stamp duty is collected.

Many private government bodies and businesses have payment models which break down the cost of fees and charges. For example, some state government's now offer the option of six or three-monthly car registration payments, council rates are collected on a quarterly basis. This principal could be readily applied to stamp duty, rather than upending the whole tax system.

This would require a system to allow landowners to opt-in to pay stamp duty on an incremental basis – either annually, six-monthly, quarterly or some other time frame. The payment could be collected via council rate payments or other existing means. Upon sale of the property the outstanding balance would be expunged. This would allow greater flexibility and choice enabling those who are longer term investors the opportunity to pay an up-front lump sum and those who are likely to be buy and sell over a shorter-term to do so in a way similar to a property tax. The higher cost of collecting stamp duty incrementally would be built into the stamp duty price to ensure it was fair and that it operated on a cost recovery basis.

Is there merit in replacing it with a broad-based annual property tax?

National Seniors believes if the concerns outlined in this submission were adequately addressed there could be some merit in replacing stamp study with a broad-based annual property tax.

The broader the base, the more efficient, equitable and fairer the tax. It should be applied at the lowest possible rate, to the broadest possible amount of land. However, a reduced rate for residential property could be offered in recognition that residential property does not generate income (e.g. owner-occupied residential property).

This would be in line with treatment of owner-occupied property within the tax and transfer system e.g. capital gains tax exemption, exemption of the family home from the pension means test, and not dissimilar to the proposal for a lower rate for residential property in the consultation paper.

The implications of a lower rate for residential property would have to be modelled and carefully analysed.

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

The primary concern for landowners is the amount charged. In this regard, the rate must be in-line with household income and capacity to pay.

Under a property tax model, there is an assumption that as land prices increase that landowner's income increases. However, this is not the case for residential property where land value has little relationship to income in the short-term.

An annual property tax would be a continual tax on ownership of property, constantly increasing with increasing land value. It could undermine the security of ownership for those with limited means and be a constant financial burden for seniors whose income is often decreasing in real terms, over time.

It also assumes that landowners will naturally seek to reap the benefits of increased land value, by 'developing' the property to increase income. However, because residential properties do not generate regular income, this could necessitate some landowners to sell their property to meet these costs.

Yet, asset rich and cash poor landowners may not wish to sell their property. This can occur because of understandable attachment to the family home/community and because there aren't suitable alternative housing options available.

The impact of any increases to the property tax rate, especially on those who are asset rich and cash poor is a concern. Once established, the rate would have to be set with limited opportunities for adjustment to ensure the cost burden on vulnerable landowners did not increase.

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

National Seniors agrees that choosing to pay an annual property tax as opposed to an up-front lump-sum tax could be attractive to some buyers, particularly for new buyers and seniors wishing to downsize. However, that depends on the comparative cost of stamp duty to property tax.

Stamp duty is an impost on buyers when they can least afford it – at a time when they are saving for a deposit, negotiating purchase price and navigating interest rates. It is another barrier to home ownership that can force buyers into further debt. An annual property tax is a much smaller amount that would be predictable and able to be budgeted for, amongst other expenses.

However, it should be noted that because stamp duty is generally factored into a mortgage and because mortgages are paid back in increments over time, this provides a landowner with a means to smooth out and make predictable the cost of this tax on a weekly, fortnightly or monthly basis (depending on the terms of their loan).

There is an obvious question about the capacity of a household to budget for the annual cost of a property tax. Compared to a weekly, fortnightly or monthly payment as part of a mortgage payment, property tax appears more unpalatable. In this regard, a property tax must include the facility for a household to pay the tax incrementally without incurring a financial penalty.

This proposed option could be viewed cynically as an attempt by the NSW Government to take advantage of current financial hardship surrounding the housing market to bolster future tax revenue.

NSW Treasury admits the proposed property tax would reduce revenue in the short-term but increase it in the long-term. While it argues the average net result will be revenue neutral, the impact on individuals will not. Without modelling there is no evidence to suggest that this would be revenue neutral or impact neutral.

There is also no guarantee government wouldn't simply bank any additional revenue above what is forecast or that future state governments wouldn't change the rate if revenue projections were too low.

A property tax rate must be set based on adequate modelling with limited opportunity to adjust without significant evidence or justification.

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

On face value, the proposed opt-in approach has merits, especially for those who have recently paid significant stamp duty as they will be able to avoid being double taxed. The proposal to allow people to opt-out will clearly be supported among landowners with little intention to sell their property, many of whom are seniors or retirees.

However, concern has been raised about the complexities and inefficiencies of operating a dual taxation system over a long period of time.

Firstly, it would create a confusing property market for buyers in which some properties had the option of stamp duty or property tax and others only property tax. This could cause supply and demand imbalances for property that still holds the stamp duty option leading to price rises for these properties that outweigh the potential tax savings.

Secondly, it would create a system where some landowners would be forever exempt from paying property tax, undermining the broadness of the tax base. Buyers who intend to sell relatively soon after purchasing would naturally opt-in and pay the lesser tax. Buyers who intend to live in the property for decades to come (especially those who had paid stamp duty a long-time ago), would likely opt-out. Some might choose stamp duty with a view of holding the property for a significant length of time to reduce their lifetime tax costs, which is a less than ideal situation.

While we understand the intent is to protect those who have already paid stamp study, many of whom will be seniors or retirees, there are negative consequences of this approach. It could create a disincentive for some older people to sell their home or downsize and/or lead to over-capitalisation in the family home.

A dual scheme would retain the inefficiencies of the current scheme but be more costly to manage. For example, it would require dual administrative mechanisms to collect and process stamp duty and property tax payments potentially for a long-time to come. Under a dual system, government revenue might be less predictable, raising the spectre of changes to tax rates in the future.

In this regard, buyers who have more recently paid stamp duty and want to opt-in to the property tax system must be refunded for the scheme to work, possibly using a sliding scale to ensure fairness.

There are two alternatives to the proposed opt-in property tax model which could be considered.

- The first is to introduce a property tax where all property becomes subject to a property tax from the date of implementation but allow existing property owners the choice to either:
    - opt-in to the property tax; or

    - opt-out until they sell their property (at which point a land tax is then applied).

  Existing landowners would be able to claim a refund for past payment of stamp duty on a sliding scale regardless of which option they choose.

- The second alternative is to set a time frame for full implementation (possibly 20-25 years) at which point all property becomes subject to property tax. By setting a clear cut off date in the future landowners would have a degree of certainty from which to plan their affairs. It would protect those who have already paid stamp duty, while leaving open the option to opt-in to property tax if this is desired at any stage. Compensation would have to be available for anyone choosing to opt-in to stamp duty before the cut-off date and applied on a sliding scale.

The implications of these, or any other alternative option, would need to be modelled and carefully considered before any decision to proceed.

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

If buyers had the option to avoid the upfront stamp duty charge, they may well delay a purchase, but only if they were buying for the short term as this would offer the potential to save as well as flexibility if they choose or need to move. If buyers were purchasing for the long-term and planned to remain in their homes for decades, they may well opt-out and pay stamp duty.

Retrospective opt-in should only be available during the phase-in of a property tax. 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.

As noted above, those wishing to opt-in after previously paying stamp duty should be offered a sliding scale refund.

6. Should there be different property tax rates for residential owner-occupied properties, residential investment properties, farmland, and commercial properties?

National Seniors believes that different categories would add unnecessary complexities to a property tax system.

Land generates value from its natural amenity (fertility for farmland), the public services it receives, its proximity to surroundings and services that people value. Higher valued land will pay more tax; lesser valued land will pay less. National Seniors believes this is a natural adjustment for fairness.

However, there is a strong argument that owner-occupied residential property should attract a lower rate in recognition that such property does not generate income. This would give some protection to homeowners who are asset rich and cash poor.

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

National Seniors believes that it is worth reviewing stamp duty but we are not convinced the current proposal is likely fair or the most efficient. There simply hasn't been enough evidence or modelling provided to make such an assessment.

A property tax might increase the capability for first home buyers to enter the property market, enable people to move more readily as their circumstances and needs change; while at the same time allow the government greater certainty when raising revenue to finance future needs and services.

However, as it was noted above, this could be done in other ways – and each should be considered if government is serious about reform. These include: keeping stamp duty but allowing landowners opt-in to pay stamp duty over time, rather than as a one-off up-front payment; introducing an property tax which is opt-in during an initial 20-25 year period but with a set date at which all property must shift to land tax; or making all property liable for property tax but allowing existing property owners to choose to opt-out until their property sells.

While some of these have subtle differences to the model proposed in the consultation paper, they would each have different outcomes and should be carefully considered.

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

Properties of greater value will have high land values, resulting in higher property tax revenue on that land. It is a naturally progressive system.

National Seniors believes the success of the property tax relies on its application to the broadest possible amount of land, at the lowest possible rate. Price thresholds would limit the number of properties initially eligible for transition risking its success.

While we acknowledge price thresholds might soften the financial impact from government loss of revenue as a result of the transition, ideally everyone should be subject to the same rules.

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

While NSW Treasury has argued that 'Protections would apply so that the property tax does not result in rent increases without a tenant's agreement', this is largely meaningless.

A property tax, just like stamp duty, is a cost of ownership that will ultimately be included in calculations of rental return and will be subject to market forces and competition from other landlords.

The key issue at stake under the proposed model is whether there will be a disparity between the cost of stamp duty compared to the cost of a property tax for an individual landholding.

If there is significant differences then this will result in circumstances where there are winners and losers. Yet, there has not been any modelling provided to show a comparison of tax outcomes between stamp duty and property tax to provide any guidance on this, which is disappointing.

Unless all properties are required to eventually pay property tax within a set timeframe, there will be situations in which some landlords holding on to a property gain a tax/cost advantage. Markets being markets, this will result in greater profitability or market distortions.

It is therefore imperative that any transition from stamp duty to property tax minimises distortions between in the cost to landowners, however it is likely that there will be differences in the short term under the proposed model because it creates a dual system.

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

There will always be people who are facing financial hardship.

National Seniors believes these people must be protected, as much as possible. No one should be forced out of their home because of the imposition of a property tax.

We welcome the NSW Treasury's comments that:

'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.'

If a property tax was adopted, there must be a hardship scheme to enable owners to defer their liabilities until their financial circumstances improve, or until the property is sold or ownership is transferred. However, there is scepticism around how such a scheme would work and be enforced. Much work would need to be undertaken before any property tax was introduced, to allay the fears of landowners.

The government could also consider offering an equity release scheme (much like the Commonwealth Pension Loans Scheme) for landowners who are income poor to recoup unpaid property taxes from the sale of the property or from a landowner's estate.

To ensure it is targeted at need, the scheme should not be available to those owning a residential property with *significant* market value or with substantial assets outside of the family home. This would need to be defined in consultation with the wider community.

We maintain no-one facing hardship should have to sell their home to meet property tax liabilities from a property tax.

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

As noted earlier, property tax must have a broad base to be sustainable. This will ensure that the tax rate is as low as possible.

However, as also noted earlier, the rate for owner-occupied residential property could be set lower than for property types which attract regular income (e.g. investor residential, primary production and commercial) to protect those with limited income generating capacity.

There are several other options available to reduce the cost for disadvantaged landowners:

- The property tax could be capped in-line with household income (please see question two)
- There could be provisions for those in financial hardship to defer the charges (please see question 10). This will be especially applicable to pensioners who should be able to continue to live in their house until death, with any outstanding taxes payable from the estate.

- A property tax concession could be offered for those holding a specific concession card (e.g. Pensioner Concession Card)

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

One alternative to the current proposal would be to set a 20 to 25-year transition period after which all property is liable for property tax, with:

A second alternative is to make all properties for property tax, but with the option to opt-out until the property is sold. Existing landowners could opt-in at any stage without selling but would be compensated for this to avoid double taxation.

Regardless, both should have the following protections:

a. stamp duty refunds available on a sliding scale for recent property purchasers choosing to opt-in
b. provisions to recoup unpaid taxes from those in hardship or limited income using the equity in the home, and/or
c. concessions for those holding an appropriate concession card

A possible alternative to abolishing stamp duty is to simply keep stamp duty but allow purchasers the ability to opt-in and pay stamp duty on an incremental basis (annually, six-monthly, quarterly or otherwise). Under this option any outstanding balance would be erased when the property is sold. But because most people sell a property and then buy another, a new stamp duty would apply, which again could be paid as either an upfront or incremental amount. People paying incrementally would effectively be paying a defacto land tax but with the benefit that once sold, any outstanding liability is erased giving property owners the flexibility associated with a property tax. Those looking to make a longer-term purchase might choose to pay stamp duty and those wanting flexibility might opt to use an incremental payment. Additional administration and budgets costs from offering an incremental stamp duty option would need to be factored into the rate.

Property should be taxed on the same basis with the only exemption being for owner-occupied residential property, which should be taxed at a lower rate in recognition it is not an income generating asset.

While it is proposed that the current low interest rate environment is an ideal time to proceed with these reforms (assuming the property market would boom because buyers could put their money for stamp duty towards increased deposits for bigger home loan), National Seniors wonders if it is wise to introduce this reform now when interest rates are so low and can only rise, resulting in eventual mortgage stress and inability to pay.

Generally, our impression of the proposal is that although it may suit some individual purchasers of property in the short-term, it has long-term implications for individual property owners and the property market that are likely to disadvantage many long settled landowners while advantaging others.

Our primary concern would be that the less well-off especially those on fixed incomes and those with limited financial literacy who would be negatively impacted. We have seen in the retirement village area, for example, that seniors often do not fully understand their legal obligations or ask for professional, or even family advice, before undertaking changes in housing.

There is a need for more information and modelling to understand the implications of the proposal and for analysis and comparison of alternative tax arrangements be undertaken to fully understand the benefits and costs of any change to the tax system.