IPTI Xtracts
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CONTENTS

Australia's real estate market 'seems quite odd'. Even the experts are finding it hard to read

On the eve of Victoria's last lockdown, Peter Mares was feeling cautiously optimistic.

He was about to bid on behalf of a friend for a two-bedroom apartment in Princes Hill, in inner Melbourne.

Listed as an "impeccably maintained retro", Mares describes it as the best-situated flat in an ugly block of dark brown brick walk-ups dating from late 1960s.

When it came to price, he tells ABC RN's Saturday Extra, he had a buffer of $100,000 above the advised price range.

"I was authorised by my friend to bid up to $780,000, but I didn't get to put my hand up because it sailed past that and went to $845,000," he says.

A few streets away, another friend of his had just moved into a similar apartment to take advantage of falling rents. It was a lighter, better place than her previous house, and much cheaper.

"Theoretically rent is an indication of the value of housing," Mares, a journalist who has researched the Australian housing market, says.

"The rental return should rise with the value of housing. But if you see prices going up in one place and rents going down in another, it seems quite odd."

It may seem odd, but it's consistent with data showing rents for Melbourne and Sydney apartments fell steeply last year and remain low due to a lack of international students and the effects of the pandemic.

"It's a reminder that we don't have one housing market, we have numerous housing markets, not just between cities but within cities," Mares says.

Regional rentals disappearing

Then there are what Mares describes as the "boom conditions" in regional areas, particularly those close to the capital cities.

Chief economist at the Regional Australia Institute, Kim Houghton, researches the drivers of sale price growth, housing availability and rental shortages in regional Australia.

He says the recent boom is more complex than just an influx of people moving to regional Australia to take up new employment or work remotely.

"We've got investors, and owners and renters doing very different things in different parts of the country," Dr Houghton says.

ABS data confirms Australia's capital cities really have been losing people in record numbers during COVID. But will the sea changers stay?

Housing markets in the more popular coastal regions saw some of the biggest sale price rises in 2020, and some of the sharpest tightening in rental markets, from good availability to very little availability.

Dr Houghton says this contrasts with large inland markets like Dubbo, in western NSW.

There, house prices increased by just over ten per cent in 2020, but the always-competitive rental market tightened even further to around 30 listings a week in late 2020.

"It's been a long-standing challenge to get any investment in housing at all, to the extent that employers who are desperately trying to find workers are finding that workers aren't coming because they can't get decent accommodation," Dr Houghton says.

He describes the lack of quality housing stock in Dubbo as a glass ceiling on regional economic activity.

Houghton identifies investor behaviour as the critical factor.

"The number of places available for rent in places like Coffs Harbour dropped so much through 2020 – from over 150 per week to well under 50 per week," Dr Houghton says.

"We see the same pattern in places as diverse as Dubbo, Wodonga and Warrnambool.

"Why are investors taking their properties off the market? Are they selling up? Or converting to short term rental? Or are these places being bought as unoccupied second homes and taken off the rental market that way?"

Dr Houghton will lead research into rental shortages and housing supply in the regions over the next six months, which may lead to recommendations to ease the problem.

"Everybody wants regional growth. The best way is to have more people in higher skilled jobs, and we know that sheer availability and quality of housing is a problem," Dr Houghton says.

Housing 'an unproductive asset'

Sky high prices have become all too familiar to Hal Pawson, a Professor of Housing Research at University of New South Wales.

For decades he has analysed the plight of renters and potential buyers trying to raise a home deposit, and the growing wealth of homeowners.

Australia's 30-year housing affordability decline has been among the worst in the developed world.

Professor Pawson says the problem is structural, because Australian governments have effectively subsidised housing investment through tax incentives for home owners.

Combined with low interest rates, this has changed the way many of us think about our homes – they are an asset, a place to grow capital and transfer wealth to the next generation.

"It is a worldwide trend, this 'financialisation' of housing, but it's on steroids in Australia," Professor Pawson says.

This has consequences for the economy.

"There's a lot of drag on economy from the way our housing system operates," Professor Pawson says.

"We're talking about the relationship between incomes and the cost of housing — when you're paying too much for housing, you don't have as much left to spend on other forms of consumption, other goods and services that may be more may more employment generating than housing.

"The flip side of that is that we are over investing in our housing, which is essentially an unproductive asset."

Peter Mares and Professor Pawson both worry about falling home ownership rates and growing wealth inequality in Australia, and agree on the need for better policies.

Professor Pawson says the responsibly for housing needs to be elevated to Federal Cabinet — the housing portfolio currently sits in the outer ministry.

He also suggests a national agency to better integrate national policy.

The issue is unlikely to go away.

"Since 2007, every election bar one, housing has been a major flash point," he says.

"For the last decade we've been in an era where housing system is generating concern and controversy and that indicates that the problems have to be grappled with more effectively than they have been."

Accommodating the rise of Airbnb: Queensland councils can increase rates for short-term accommodation

In the past ten years, cities around the world have had to come to terms with a significant shift in the way people use accommodation on their holidays. Services such as Airbnb offer travellers the opportunity to experience a city in a more ‘local’ setting, while allowing local residents to gain an alternative source of revenue from their own home.

Uses of residential properties for ‘tourism’ purposes may place additional strain on local government infrastructure where that infrastructure was not designed to accommodate that extra demand generated by tourists.

Meanwhile, landowner 'hosts' may have been able to benefit from the additional revenue of these services without having to provide a fair contribution for the additional burden placed on local government infrastructure.

One means to address these issues may be through levying higher rates for residential properties used for tourism purposes. A recent decision of the Queensland Court of Appeal, *Island Resorts (Apartments) Pty Ltd v Gold Coast City Council* [2021] QCA 19, has confirmed that local governments have the power to levy differential rates for properties depending on whether the land is used for permanent or itinerant accommodation.

Key points

- Island Resorts (Apartments) Pty Ltd (Island Resorts) owns 70 residential properties on South Stradbroke Island, used primarily as tourist accommodation.
- Island Resorts challenged Gold City Council's (Council) decision to levy differential rates based on whether properties were rented to 'permanent residents' or 'itinerants', but was unsuccessful in the Supreme Court of Queensland.
- On appeal, Island Resorts again contended that Council was not entitled to levy rates based on the 'personal characteristics' of occupants, i.e. whether they were permanent residents or itinerants.
- However, the Court of Appeal confirmed the Supreme Court's decision, explaining that the Local Government Act 2009 (Qld) (LGA) does not restrict local governments from having regard to these characteristics, meaning the Council's decision was valid.

Background to appeal

Council's Revenue Statement and Resolution of Rates and Charges levied differential rates for residential properties. Rates levied on properties used for permanent rental accommodation for residents were lower than the rates levied on properties used for rental accommodation for itinerants.

Appeal to the Queensland Court of Appeal

After unsuccessfully challenging Council's decision in the Supreme Court, Island Resorts appealed to the Queensland Court of Appeal.

Island Resorts argued that the Supreme Court made an error, and should have concluded that the levying of differential rates based on the status of the occupants was unrelated to a characteristic of the land.

Island Resorts contended that Council instead had regard to an 'irrelevant consideration', being the personal characteristics of the occupier – meaning its decision was invalid.

This argument relied on the earlier Court of Appeal decision of *Xstrata Coal Qld Pty Ltd v Council of the Shire of Bowen*, which Island Resorts said was authority for the proposition that Council could only have regard to a characteristic of the land (not the occupier).

Island Resorts also pointed to the case of *Paton v Mackay Regional Council*, in which the Supreme Court overturned a decision to impose differential rates based on whether land was occupied by the owner or an investor.

The Court of Appeal rejected Island Resorts' arguments. The Court held that the LGA gives local governments a broad and general power to levy rates, without requiring a connection to a characteristic of the land. In particular, Section 94(1A) expressly permits rates to be levied based on whether land is the owner's principle place of residence – but does not otherwise limit a local government's power. The Court did not accept that the *Xstrata* decision meant that a local government could only levy rates by reference to a characteristic of the land.

The Court also explained that the use of the land is a relevant consideration. It noted that Section 81 of the Local Government Regulation 2012 (Qld) provides for examples of differential rates, most of which are defined by reference to the use of that land.

The Court of Appeal confirmed Council's decision to levy these differential rates and dismissed the Island Resorts' appeal.

Lessons for local government

This decision confirms that Queensland local governments' powers to levy rates are broad, and they may have regard to land use in deciding the appropriate amount of rates.

The power to levy differential rates depending on the use of the land is appropriate, as different uses will generate different demand on local government services. To require local governments to levy equal rates for different uses would therefore fail to equitably distribute the rate burden.

The decision also offers an option for local governments to regulate the use of residential properties for tourism purposes, outside of the development assessment process.

The use of residential properties for tourism purposes may not trigger any requirement for development assessment, and the development assessment process may not always be the best means of regulating the impacts of service providers such as Airbnb. Instead, local governments may decide instead that the extra demand on local infrastructure from such services should be regulated by levying differential rates, with a higher rate applying to those properties used for tourism purposes.

The difficulty will be determining which properties should be subject to a different rating category, without trawling through the accommodation offerings of service providers on a regular basis to determine which properties are being offered for short-term accommodation.

Another complicating factor will be the extent to which the property is actually used for tourism purposes. For example, if a property is used as a permanent place of residence for most of the year, but rented out through Airbnb for only a couple of weeks each year, that will likely not be sufficient for a local government to rate the property for tourism purposes. But where is the threshold and how would local governments 'regulate' the extent of the short-term accommodation?

Sydney property prices reach new record high

Sydney property prices have recovered from a slump in 2019 and during the COVID-19 crisis to reach a new record high, according to CoreLogic.

The property research group's daily hedonic home value index has shown that since "finding a floor" in October 2020, Sydney property values have risen by 5.7 per cent, while the index reached a new record high last week.

Property values had plummeted by 15.3 per cent between July 2017 and May 2019 in Sydney, but the market was on a path to recovery thereafter.

However, the coronavirus pandemic interrupted this recovery, with housing values falling again through the worst phase of the pandemic in 2020 by 3.0 per cent, CoreLogic figures showed.

However, according to CoreLogic, Sydney property values have not only recovered from its COVID-19-induced slump, but surpassed the peak recorded in 2017.

Median property value figures in Sydney provided to The Adviser by CoreLogic show that both “all dwelling” and “only houses” are at record highs, at $895,933 and $1,061,229, respectively.

However, CoreLogic said the median value of “only units” did not reach record highs, and is at $738,254.

Meanwhile, according to CoreLogic’s daily hedonic home value index, Melbourne dwelling values have remained 1.3 per cent below their pre-COVID-19 high, while Perth values have remained 16.9 per cent lower relative to the 2014 peak.

The index for Sydney is a number adjusted to reflect changes in the value of the entire Sydney dwelling market.

Commenting on the trends in Sydney, CoreLogic executive research director Tim Lawless said he is not surprised by the recent strong capital gains in housing values, which he added had led “another capital city to move to new record highs”.

“The fresh record high is great news for Sydney home owners, but highlights the challenges for non-home owners looking to participate in the housing market as values rise faster than incomes,” Mr Lawless said.

The latest figures have followed recent data from CoreLogic, which showed that February marked the largest month-on-month spike in home values since August 2003, with home values rising by 2.1 per cent in February, the largest monthly increase in 17 years.

Sydney and Melbourne were found to be the strongest-performing markets, recording a 2.5 per cent and 2.1 per cent rise in home values over February, respectively.

Meanwhile, data from the Housing Industry Association (HIA) showed that housing affordability has deteriorated at a greater rate in the regional areas of Australia, with the HIA Affordability Index for regional Australia falling by 3.7 per cent in the December 2020 quarter.

While housing affordability also declined in the capital cities of Australia, it was not as sharp as in the regional areas, with the index dropping by 2.5 per cent in December 2020 quarter.

NSW greenlights infrastructure contribution reforms

The state government says changes to the infrastructure contributions system will ensure communities across NSW have the services and facilities they need.

The NSW government has accepted all of the NSW Productivity Commission's recommendations for an overhaul of the infrastructure contributions system and says it will work with local government to implement the reforms.

But councils have baulked at some of the recommendations, saying they could leave local government struggling to recoup the costs of infrastructure upgrades and rob the sector of land value dollars.

The Productivity Commission in December 2020 released its final report containing 29 recommendations for change to the way public facilities and services are funded through the planning system, including legislative, policy and operational reform.

Key recommendations include tying council rates to population growth, adopting benchmark costs, developing infrastructure contribution plans upfront as part of the zoning process and increasing digital tools.

Major shake up

Planning minister Rob Stokes says the reforms represent the biggest shake-up of the system in three decades and will build a more timely, transparent and certain planning system and help local communities proactively plan for growth.

"Solving the uncertainty of infrastructure contributions was one of four pillars of our Planning Reform Action Plan," the minister said in a statement.

"That's why we're adopting the Productivity Commission's recommendations in full."

Treasurer Dominic Perrottet says the reforms will unlock up to $12 billion in productivity benefits.

They will also help drive COVID recovery by providing local jobs on smaller projects and encouraging investment in new housing, he says.

Red flags for councils

The peak body for NSW Councils has welcomed the review but says a number of recommendations the government has agreed to should raise red flags for local government.

President Linda Scott says LGNSW strongly opposes the deferment of payment of contributions until a building is ready for occupation.

"This means councils will either be unable to recoup the costs of improving infrastructure until late in the game or will be forced to delay provision of this infrastructure until the contributions have been received," she told Government News on Monday.

Councils are also deeply concerned about a recommendation to restrict value capture and the use of planning agreements, Cr Scott says.

“Value capture … is an important funding mechanism and councils have invested a good deal of time, expertise and resources to applying these principles.

“Unfortunately, the government’s reforms water down the application of value capture to future development, meaning that where there is significant land value uplift from a rezoning, communities will miss out on receiving a portion of that uplift, while the landowner receives a windfall gain.”

Win for developers

However, Urban Taskforce CEO Tom Forrest says the reforms will ban councils and state governments from ‘gold-plating” infrastructure and hold councils accountable for levies and infrastructure expenditure.

“Infrastructure contributions will not be paid until the new building is completed and ready for occupation,” Mr Forrest said. “This is a major change from the current requirement to pay s.7.11 fees up front and free-up cash to get projects going.”

The government will publish a blueprint for implementing the recommendations over the next 18 months and introduce changes to the Environmental Planning and Assessment Act in coming months, and DPIE is planning establishing consultation groups representing local government, industry and the community.