IPTI Xtracts

Property Tax and Assessment News from Around the World

AUSTRALIA – July 2021

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Sydney surges to blistering pace in global prime property price index

Sydney leads international property group Knight Frank's latest prime residential price forecast for 2021 with luxury prices in the city expected to rise 10% over the year.

The iconic Australian city is expected to outperform in 2022 too, although Australia's largest city will share the top spot with London, with both cities forecast to see prime prices accelerate 7% year-on-year.

This rise would represent prime central London's strongest annual price performance in almost seven years, Knight Frank said.

However, its award for most improved market goes to Sydney with its 2021 forecast rising from 3% in December 2020 to 10% in July 2021, a rise of 7%.

"Closed borders have seen wealthy Australians purchase at home instead of abroad. The first quarter of 2021 saw 1,429 prime sales recorded, the highest quarterly figure on record for Sydney and despite recent lockdowns momentum is being maintained."

Global Prime Price Forecast by city

As at June 2021, annual % change

	2021	2022
Sydney	10%	7%
Miami	6%	4%
Los Angeles	5%	5%
Hong Kong	5%	5%
New York	4%	3%
Paris	4%	4%
Geneva	4%	6%
Singapore	3%	5%
Auckland	3%	4%
Madrid	3%	6%
London	2%	7%

Hong Kong and New York aren't far behind Sydney with their 2021 forecasts shifting up by 5% and 4%

respectively between December 2020 and June 2021.

According to Knight frank's Martin Wong: "Despite four waves of the virus, Hong Kong's luxury residential market has proved resilient with several transactions of note taking place in The Peak and Mid-Levels in the first half of 2021. Economic forecasts have been revised upwards, 35% of the population has now had their first vaccination and sentiment is improving with capital flows from the Chinese mainland a key driver."

The outlook is even more upbeat in New York. As Liam Bailey, Knight Frank's Global Head of Research penned in his recent "New York is back, just ask Jerry Seinfeld", article, "restaurants are crowded, flights are packed, the Yankee Stadium is at full capacity and corporate America is calling its workers back."

Much like London, the 4% price growth we envisage in 2021 will mark New York's return to positive price growth for the first time since 2018 and its strongest performance since 2015.

Since the start of the pandemic Knight Frank's global research team has undertaken three prime price forecasts, with the average overall forecast tracking higher each time.

Back in May 2020, it envisaged prime prices climbing 1% on average in 2021, this changed to 3% in December 2020 and in July 2021 now sits at 4%.

Kate Everett-Allen, head of international residential research at Knight Frank, said: "Government fiscal stimulus measures have been revised upwards, protecting jobs and incomes via furlough schemes meaning few forced property sales.

Banks in key developed markets offered mortgage holidays to customers reducing repossessions/foreclosures

Accrued household savings during lockdowns now total over US$5 trillion globally, enabling some homeowners to undertake home improvements but others have opted to relocate, upsize, downsize or buy a second home/investment property."

Knight Frank also covered various factors behind the figures:

- From stamp duty holidays to relaxed loan-to-value ratios many householders took advantage of lower purchase costs and/or accessed mortgage finance with smaller deposits
- Construction rates slowed due to lockdowns and social distancing exacerbated the lack of new supply in several key cities putting upward pressure on prices.
- Changes to working patterns prompted some homeowners to rethink their lifestyles rendering the five-day commute obsolete for some industries and enabling a move to the suburbs or countryside.
- Prime markets have arguably operated against a more challenging backdrop during the pandemic than mainstream housing markets due to their strong international bias and the stringent travel bans put in place.

"For some cities this means it's likely to be 2022 before the effects of looser travel arrangements starts to be felt and prime sales gain traction, but for other cities such as Miami, Auckland, Hong Kong and Geneva their domestic prime buyers are compensating for the absence of non-residents."

Knight Frank concluded: "The outlook for prime residential markets will be closely tied to the ease with which cross-border transactions can start to normalise, and whilst virtual viewings and improved technology have assisted in this area, the reality is the resumption of commercial air travel will be key."

Australia: NSW property tax proposal: 8 things you should know (Part 1)

The release of the NSW 2021-22 State Budget did not announce many unexpected changes to NSW state taxes, with the exception of:

(a) a shift from duty being payable on electric vehicles to a road-user charge; and

(b) confirmation from NSW Treasurer Dominic Perrottet that "We're progressing our property tax proposal, because we know housing affordability is the challenge of a generation, and we want young people to get a foot in the door" (2021-22 Budget Speech on 22 June 2021).

On 11 June 2021, the NSW Government released their Property Tax Progress Paper (Progress Paper). The Progress Paper outlines updates since the initial consultation paper released in November 2020.

In Part 1 of our series, we set out the first 4 things you should know about the NSW Government's most recent property tax system proposal:

1. Once a property is opted into the property tax system, it stays in, and the next purchaser does not have a choice

The aim of the proposed changes to the NSW property tax system is to address housing affordability, which is characterised as the challenge of the generation, with home ownership in NSW declining.1 The objective of the reform is "not a tax grab and has not been designed to be one now, or in the future".2 The reform will reduce the NSW Government's revenue in the short term and would be revenue neutral in the longer term.

The new annual property tax is a broad 'land tax' that is based on the Unimproved Land Value (ULV). Currently, the Valuer-General determines value of land every year and issues an annual statement of land value on 1 July, which is available on its website.

A buyer (an individual, company, or trustee) will have a choice between paying:

(a) duty (and land tax where applicable). Continue to remain under the current system and have the benefit of the duty and land tax exemptions and concessions (exemptions)3; or

(b) property tax. Buyers that opt-in will no longer have the benefit of duty or land tax exemptions including the Principal Place of Residence (PPR) land tax exemption. Properties held by Charities and certain entities that are currently exempt from both duty and land tax will be exempt from paying property tax.

For buyers who opt-in, the property tax would replace both duty and land tax:
"...once a property is subject to the property tax, subsequent owners will be required to pay the property tax".4

The following proposed rates are taken from the Progress Paper:

Property Class	Proposed Annual Property Tax Rate
Residential – owner-occupied	$400 fixed fee per property + 0.3% of unimproved land value
Residential – investor-owned	$1500 fixed fee per property + 1.1% of unimproved land value
Farmland	$0 fixed fee per property + 0.3% of unimproved land value
Commercial	$0 fixed fee per property + 2.6% of unimproved land value
Aggregate landholdings above $1.5 million of unimproved land (excluding principal place of residence and farmland)	Property tax surcharge of 0.3% applies

In their Productivity Commission White Paper 2021, the NSW Productivity Commission provides an example of how this choice works:5

"... consider a young family looking to buy a house for $700,000. Under the current tax system the family would pay around $23,200 in stamp duty at the time of purchase.

If the family wanted to avoid upfront stamp duty, it could instead opt to pay the property tax.

The house has a land value of $420,000, so the annual property tax would be $1,760 ($500 plus 0.3 per cent of $420,000). When the family sold the house, the next buyer would not have a choice, and would continue to pay the property tax."

Aggregation surcharge

It is proposed that a surcharge will apply on aggregate landholdings above $1.5 million of ULV. The aggregate landholdings will not include PPR and farmland.

2. NSW Property Tax Rates levied on property class

The NSW Government has not released definitions for each of the property classes and has yet to release an Exposure Draft Legislation for comment. It is unclear if it will be released before the proposed legislation is introduced into NSW Parliament. It is envisaged that the definitions would be imported from existing provisions under the Land Tax Management Act 1956 (NSW) (LTMA) for:

(a) "Residential owner-occupied" having the same or similar meaning as "Principal Place of Residence" in Schedule 1A.

(b) "Residential investor-owned" is likely to have a definition that is same or similar to "a property zoned residential, that is not residential owner- occupied".

(c) "Farmland" having the same or similar meaning as "primary production land" in section 10AA and/or as "land used for primary production" and other definitions under the "Transfers between Family Members" (previously the intergenerational transfers) in section 274 of the Duties Act 1997 (NSW).

(d) "Commercial" defined by reference to all other property that is neither "residential owner-occupied", "residential-investor owned" or "farmland".

Residential owner-occupied and farmland properties would pay lower rates compared to residential investment properties, which in turn would pay lower rates than commercial properties under the proposals.6

In the early stages of transition, a price threshold7 would be imposed to limit the number of properties eligible to transfer to the property tax system and overtime these thresholds would be lifted. Such a threshold system is seen as necessary to ensure the revenue and debt impact of removing duty on the NSW Government occurs at reasonable levels.

Mixed-Use Properties

The Progress Paper states that "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".8 The property tax that will apply to mixed-use properties would be based on an 'apportionment factor' as determined by the Valuer-General. The commercial price threshold would apply to mix-used properties to determine the acquirer's eligibility to opt-in. The Progress Paper does not specify what this commercial price threshold is.

3. Will there be an exemption for your owner-occupied home?

Currently, there are exemptions for PPR under the land tax regime. Based on the proposed rates set out in the Progress Paper, residential owner-occupied properties under the NSW property tax regime are subject to the proposed annual property tax, noting the residential owner-occupied property is the lowest rate.

Using the same example in point (1) above, if the young family anticipated to live in the home for 14 years or more, assuming a steady annual property tax rate of $1,760 per year (ignoring indexation)9. By year 14, the family would have paid a total of $24,640 in property tax, which is more than the upfront duty cost. The property will continue to be subject to property tax whereas under the current system, no annual land tax is payable for a residential owner-occupied home under the PPR exemption.

The decision to opt-in to the property tax system is likely to be more favourable to those who intend to hold the property for a shorter period of time, or wish to purchase a property sooner (as the upfront cost will be less).

4. Will any other exemptions apply to the property tax system?

Existing duty and land tax exemptions and concessions will apply to properties that are not opted-in to the property tax system and remain in the current duty and land tax system.

The Progress Paper indicates that "the Government is considering mapping existing exemptions from ... duty and land tax to the proposed property tax system using the following general guidelines."10 We have summarised these guidelines in the table below:

Under the duty and land tax system	Under the Proposed Property Tax system	Examples
Exempt from duty **and exempt** from land tax.	Exempt from property tax.	A property purchased by an exempt charitable body would not be subject to property tax while they own the property.
Exempt from duty but **not exempt** from land tax.	Required to pay property tax.	· Transfers under a will or from a deceased estate; and · Transfers resulting from a breakup of a relationship
Not exempt from duty but **exempt** from land tax.	Concessional rate of property tax payable.	Retirement Village Operators would be required to pay a concessional rate of property tax. The Progress Paper does not specify the concessional rate.

Most exemptions and concessions would dissipate over time as properties move into the property tax system.

Charities

Charities are currently exempt from paying duty and land tax. Under the proposed NSW property tax, properties held by charities and other entities entitled to both duty exemptions and land tax exemptions under the current regime will carry over and be exempt from property tax if they opt-in.

Farmland

Currently, certain primary production land is exempt from land tax under section 10AA of the LTMA and duty under section 274 of the Duties Act 1997 (NSW). The Progress Paper indicates that transferees of farmland that are eligible for duty (and land tax) exemption will not be given a choice to opt-in, as it is not expected to benefit them.11. However other buyers of farmland (that are not entitled to the section 274 exemption) will have a choice to opt-in.

Property Developers

All developers will be offered the choice between opting in to pay property tax or pay duty (and land tax) subject to exemptions (including duty partitions and build to rent land tax exemption). If the development is opted into the property tax system, once the development is complete, each dwelling on the site would be subject to a fixed property tax charge (usually apportioned to the unit entitlement). When a residential owner-occupied property is vacated for renovation purposes, it can continue to be treated as an owner-occupied home. The progress report suggests that this is "consistent with the PPR land tax exemption which allows the continuation of the exemption in certain circumstances."12 This indicates that the lower rate for residential owner-occupied properties (compared to residential investor owned properties) is treated as an exemption.

Foreign residents

Foreign residents will continue to be liable for duty and land tax surcharges on residential land. Under the current proposal, foreign purchasers are not eligible to opt-in a residential property to the property tax system. In the event the foreign person acquires a property that is already paying property tax, the foreign person in addition to paying the annual property tax will be liable for foreign purchaser duty surcharge and land tax surcharge (subject to exemptions).13

Landholder
The Progress Paper is silent on how a person with an interest in shares or units in a landholder (interest holder) can opt-in. This will be a challenge in circumstances where multiple interest holders in a single landholder do not unanimously opt-in to the property tax system.

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The NSW Government is still accepting feedback on the Progress Paper until 30 July 2021 which will refine the final model to be implemented.

Footnotes

1 Page 25 of the Progress Paper.
2 Page 53 of the Progress Paper
3 Page 38 of the Progress Paper.
4 Page 37 of the Progress Paper.
5 Page 252 of the Productivity Commission White Paper 2021.
6 Page 15 of the Progress Paper.
7 Page 15 of the Progress Paper.
8 Page 44 of the Progress Paper.
9 Page 39 of the Progress Paper.
10 Page 39 of the Progress Paper

11 Page 40 of the Progress Paper.
12 Page 44 of the Progress Paper.
13 Page 41 of the Progress Paper.

NSW Government announces 2021 COVID-19 package for commercial, retail and residential tenancies

The NSW Government announced on 13 July 2021 a comprehensive economic support package to apply through the current COVID-19 lockdown which began at 11:59 pm on Friday 25 June 2021.

Source: NSW Government Media Release

According to the Media Release, the following commercial, retail and residential tenants will be entitled to rent relief and relief against evictions, and in return, landlords will be entitled to land tax relief or a grant. This is to apply during the current COVID-19 lockdown:

Land Tax Relief equal to rent relief or Grant

“Land tax relief equal to the value of rent reductions provided by commercial, retail and residential landlords to financially distressed tenants, up to 100 per cent of the 2021 land tax year liability”

“A capped grant of up to $1,500 for residential landlords who are not liable to pay land tax who reduce rent for tenants estimated at $210 million”

Notes:

1. The relief appears to be $1 for $1 in terms of rent relief given, to be offset against land tax liability or if land tax is not payable, a grant.
2. No details of criteria for relief are provided. But if commercial or retail premises are prohibited from trading except on a take-away basis or at all, rent relief is obvious.
3. Initially, the lockdown (stay-at-home orders) under the Public Health Orders applied to the City of Sydney, Waverley, Woollahra and Randwick Local Government Areas. Subsequently the lockdown has been extended to all of Greater Sydney, the Central Coast, the Blue Mountains, Wollongong and Shellharbour Local Government Areas.

Moratorium upon evictions for rental arrears

“Introduction of legislative amendments to ensure a short-term eviction moratorium for rental arrears where a residential tenant suffers loss of income of 25 per cent due to COVID-19 [Public Health Order] and meets a range of criteria”

“No recovery of security bonds, or lockouts or evictions of impacted retail and commercial tenants prior to mediation”

Notes:

1. For residential tenancies, a moratorium upon evictions for rent arears applies where a tenant’s income reduces by 25% or more.
2. For retail and commercial tenancies, mediation is required before arrears are recoverable against security bonds, or lockouts or evictions are contemplated. So it’s back to the rules which applied up to 28 March 2021 in that respect.

Presumably a version No. 4 of the Retail and Other Commercial Leases (COVID-19) Regulation (No 3) 2020 will be introduced to flesh out the details, which will apply not only to retail leases but also to commercial and residential leases.

Fear mongering over property taxes helps nobody: developers and the community can both win

A windfall gains tax is simply taxing the unearned land value generated by a rezoning. As far as taxes go, this is about as fair as they come.

In the recent State Budget, the Victorian Treasurer announced a raft of new tax measures designed to protect the revenue base and invest in the post-Covid economic recovery. Among the big-ticket items are an additional land tax on holdings over $1.8 million, a premium stamp duty rate on property sales over $2 million, and a windfall gains tax of 50 per cent on rezonings.

Despite its relatively modest price tag of around $40 million a year, the windfall gains tax has attracted special ire from the property lobby. The fear mongering has commenced, with claims of unfairly targeting of the development sector, rising home prices, reducing supply and dashed hopes for infill development. These claims are unhelpful and plain wrong.

Duties and land tax amendments pass

Legislation giving effect to expanded stamp duty concessions for first home buyers in Tasmania and other state tax amendments has been passed and awaits assent.

The Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Bill 2021 implements the following amendments:

- dutiable value of property eligible for the First Home Buyer and Pensioner Duty concessions increased from $400,000 to $500,000 (applies retrospectively from 16 March 2021)
- first home owner grant increased from $20,000 to $30,000 until 30 June 2022 (applies retrospectively from 1 April 2021)
- 2-year waiver of duty on the purchase of new and second hand electric and hydrogen fuel cell vehicles
- land tax bills of more than $500 may be paid in 3 instalments
- land tax rate thresholds revised. The tax-free threshold for land tax increased from $24,999 to $49,999, the middle tax band threshold to start from $50,000 and the top tax band threshold increased from $350,000 to $400,000, and
- premium rate of interest charged on unpaid tax reduced from 8% to 4%.

Unless otherwise specified, the amendments apply from 1 July 2021.

The first claim is that the tax is an unfair grab from an industry that already pays more than its fair share to state coffers. However, a windfall gains tax is simply taxing the unearned land value generated by a rezoning. As far as taxes go, this is about as fair as they come.

Zoning laws give property rights to develop land and they directly dictate the value of development sites. Land holders can make millions on the stroke of a planner's pen when places are rezoned from low value uses to dense residential uses.

These property rights for land development are not earned, they are given. It is fair and economically efficient to charge for them, just like for mining rights, access to telecommunications bandwidth, or quotas in commercial fisheries.

Giving property rights away for free when it's time to rezone, as was the case in Fishermans Bend nearly a decade ago, is akin to letting mining companies dig up minerals without paying any royalties. From this perspective, making landowners pay for only half of the property rights is a bargain.

It's true that not all rezonings come from planning departments, and developers do put time and money into some proponent-led rezonings for planning, engineering and design work. Fair enough, the tax leaves 50 per cent on the table specifically for that purpose.

The second big claim of the property lobby is that home prices will get pushed up. This is a well-worn myth. Developers operate in a competitive market, they are already charging the highest prices they can get. This means they start with what they can charge for housing and work backwards. They must build all their project costs into the price they are willing to pay for land. The "economic incidence" of expected taxes and charges falls on landholders in the form of lower bids for development sites, not on home buyers.

The final claim is that development will grind to a halt.

You just need to look at the booming ACT to see this is unfounded – they have had a windfall gains tax of 75 per cent in place for 40 years. Meanwhile, the Growth Area Infrastructure Contribution, a form of rezoning windfalls tax, hasn't slowed development in Wyndham or Casey.

As it stands, Victoria has over 15 years of land already zoned for development in both metropolitan and regional areas. If zoned supply does not hit the market as retail lots, the problem resides with private land bankers. A rezoning windfall gains tax can actually reduce the incentive for leapfrog development.

Planners have raised concerns that urban renewal will suffer. Infill development is highly desirable, but is riskier and appropriate sites less abundant. Projects could fall over because developers have already paid high prices where rezonings are expected.

Developers may respond by banking sites until apartment prices rise, retaining them in their current use. Government has a role in minimising those risks and the Treasurer has flagged transitional arrangements that should avoid major pain in the short term.

Landowners stand to lose a state-funded property rights handout they've been quietly accepting from time immemorial.

In the longer term, the tax will hopefully encourage communities to welcome infill development, which faces frequent local opposition. It puts benefits back into the community and reduces incentives for corruption, like last year's scandal at the City of Casey, which casts a devastating public image for rezoning.

Planners, developers and the community will be able to find more common ground when the windfall gains also go towards infrastructure and services for a growing population.

While the facts about the windfall gains tax are clear, the property lobby rolls out the same myths time and time again. It's easy to see why. Landowners stand to lose a state-funded property rights handout they've been quietly accepting from time immemorial.

But this fear mongering is a short-sighted tactic that will only serve to get in the way of big opportunities to develop our cities. Developers and the community can both win when they share the windfalls. Developers can build more and earn more. The community can get denser, more affordable housing, close to jobs and transport – along with the tax base to fund much needed infrastructure and services.

Just like the minerals within the earth, the property rights in our most productive cities are a precious commodity. We should properly value this scarce resource and share the spoils when we make it more valuable as we rezone, densify and grow our cities.

Council rates revenue to rise with population growth

The Independent Pricing and Regulatory Tribunal (IPART) is reviewing the current system for setting council rates revenue (the 'rate pegging system') to include population growth.

The rate peg determines the maximum percentage amount by which a council may increase its general income for the year.

The amount councils currently receive in rates is usually not enough to cover the increased costs associated with population growth, according to IPART.

NSW currently caps the total amount of rates each council can collect through the rate peg. For councils with growing populations, this can result in a reduction in service levels or deteriorating assets because councils currently do not collect enough revenue as their population increases, IPART says.

When councils' populations grow their costs increase at about the same rate. IPART say they have looked at a way of incorporating population growth into the rate peg that balances the need to ensure councils are financially sustainable, while protecting ratepayers from excessive rate rises.

"The methodology we have proposed will ensure councils maintain their rates income on a per capita basis as their population grows. This will enable councils to provide services to their growing communities," said Acting IPART Chair Deborah Cope.

To estimate the impact of their approach, IPART modelled its effect based on data.

"We estimate that our proposed methodology would have increased the funding to local governments in NSW by approximately $115.9 million dollars over the past four years," said Ms Cope.

This is to support the NSW Government's commitment to allow councils to align their rates revenue with population growth.

Minister for Local Government Shelley Hancock said the NSW Government is committed to bringing into line rating income with population growth to provide much-needed additional revenue to councils to fund key community infrastructure.

"Local councils across NSW need to be in a position where they can provide the infrastructure their growing communities want and need, and in our response to the IPART rating review, the NSW Government has stated it will allow for rating incomes to align with population growth to generate additional revenue for this purpose," Mrs Hancock said.

"This revenue injection will be pivotal in helping local councils overcome growing pains with a reliable and sustainable revenue stream."

IPART's review of the rate peg is looking at population growth in rural and regional NSW, as well as Sydney and other metropolitan areas.

IPART is seeking feedback on the Draft Report until August 6. The Draft Report is available at www.ipart.nsw.gov.au.

IPART is conducting a public hearing on July 20. Stakeholders can register to attend the public hearing on their website.

Changes ahead for property tax in Australia

As announced in Victoria's State Budget on May 21 2021, Victoria will be introducing a new 50% windfall gains tax' for rezoned land and also increasing land tax and stamp duty rates. These tax changes will significantly impact the real estate sector in Victoria.

Windfall gains tax for rezoned properties

A new windfall gains tax will be introduced from July 1 2022. This new windfall gains tax will impose tax at 50% for increases in value above AU$500,000 (approximately $377,993) which result from a rezoning decision from the local council. Lower taxation rates will apply to value increases of between AU$100,000 to AU$500,000.

This new tax is targeted at developers and landholders who benefit from the increased value of land from a rezoning decision, but the scope of the tax will ultimately depend on the drafting of the legislation, which is yet to be issued. This windfall gains is effectively a new capital gains tax that is being applied at a state level, which could have a material financial impact on property developments in Victoria.

Increased stamp duty rates

A new top rate of duty will be introduced for properties valued at AU$2 million or more. The current top rate is a flat 5.5% for properties over AU$1 million. Thus, for contracts entered into from July 1 2021, the land transfer duty rate will increase to AU$110,000 plus 6.5% of the dutiable value exceeding AU$2 million.

Increased land tax rates

From January 1 2022, the land tax rate for taxpayers with property holdings will increase by;

- 0.25% for taxable landholding exceeding AU$1.8 million; and
- 0.3% for taxable landholdings exceeding AU$3 million.

Increased payroll tax

A new mental health and wellbeing levy will apply in the form of a payroll tax surcharge at a rate of 0.5% on wages paid in Victoria by businesses with national payrolls above AU$10 million a year. Businesses with national payrolls above AU$100 million will pay a further additional surcharge of 0.5% (total increase of 1%).

New draft ATO guidelines for dealings in intangibles

The Australian Taxation Office (ATO) has released draft Practical Compliance Guide PCG 2021/D4 (PCG). The PCG discusses what the ATO will review in order to assess the risk of transactions that involve dealings with intangibles.

In particular, it focuses on cross-border arrangements connected with the development, enhancement, maintenance, protection and exploitation (DEMPE) of intangible assets and/or particularly involving a migration of intangible assets out of Australia.

The PCG sets out the key factors that the ATO will consider when assessing the compliance risks, and likelihood of ATO audit or review, associated with such dealings in intangible assets.

Key issues explored include the retrospective operation of the PCG, whether intangible assets are ‘properly identified’ for tax purposes, whether the transactions are appropriately priced for transfer pricing purposes and whether withholding obligations have been satisfied. The PCG also focuses on the types and content of documents and related evidence that multinationals should maintain.

There has been a significant increase in ATO activity in relation to the above issues in recent years and the PCG makes it clear that this will continue, with the potential to disturb past ATO positions that taxpayers’ thoughts were settled. Thus, taxpayers involved with intangible asset transactions should carefully review the guidelines in the PCG to assess the ATO’s likely approach to their arrangements.

Capital gains and discretionary trusts

The Full Federal Court of Australia has dismissed the taxpayer’s appeal in the *Peter Greensill Family Co Pty Ltd (trustee) v. FCT* case (FCAFC 99 – June 10 2021). As such, the court affirmed that the Australian trustee of the Australian discretionary trust was subject to capital gains tax in relation to the disposal of shares, even though the relevant beneficiary of the trust was a foreign resident.

The case is an important warning to foreign investors that invest in Australian assets via a discretionary trust.

Foreign investors who directly invest in Australian assets would normally expect to avoid paying Australian capital gains tax on any profit on disposal of ‘non-taxable Australian property’ assets. Broadly, these are assets that are not real estate or interests in real estate.

Taxpayers generally view trusts as a disregarded entity for Australian tax purposes. However, in this case, the court upheld the decision of the lower court that the interaction of Australia’s capital gains tax rules and trust rules meant that the beneficiary did not obtain the benefit of the exemption that directly investing non-resident would have.

It is important to note that in *Greensill*, the trust was discretionary, with the trustee having the power to decide to whom the income of the trust was to be allocated. If the trust were a fixed trust (e.g. a unit trust), with the beneficiary’s entitlement fixed and known in advance, a different outcome is likely.

NSW property prices to peak, will other states follow suit?

The non-stop rise in house prices may hit its apex this year, according to the latest expert predictions.
The Finder RBA Cash Rate Survey revealed the majority of economists (68 per cent) believe prices in NSW will hit their peak this year while the remainder believe it will come in 2022.

"Many feel that these increases can’t keep going indefinitely and our panel tends to agree. Expect the current rise in prices and activity to peter out by 2022,” Graham Cooke, head of consumer research at Finder said.
“For first time buyers, this means that the bottom rung of the housing ladder should stop becoming steeper within the next six months.”

Australian house prices ticked up 1.9 per cent in the month of June, bringing annual growth in the 2020 financial year to an eye-watering 13.5 per cent, according to figures released by CoreLogic.

Dwelling values in every single capital city grew over the blockbuster year, with Darwin marking the most meteoric growth at 21 per cent, followed by the nation's capital of Canberra at 18.1 per cent.

Even property prices in Perth – which marked the lowest annual growth of all the cities – rose by 2.1 per cent.

Housing 'unaffordable' for the average Aussie
Cooke explained that the rising property prices have led to unprecedented borrowing.
ABS data shows that Aussies borrowed $75 billion in the first four months of 2020, compared to a record $48 billion in the first four months of 2020.

According to the Finder survey, the vast majority of economists agree that housing is becoming unaffordable for the average Aussie, with some experts blaming wage growth and extremely low home loan rates.
Noel Whittaker from QUT pointed out that said you only need to look at the average wage numbers against the average house price to understand why housing is getting more and more unaffordable.

In fact, Tony Makin of Griffith University warned that a real estate bubble is emerging due to extremely low interest rates.

Outlook for property prices
But despite predictions that property prices may reach their peak in the short term, experts expect we'll have to wait until 2022 to see more affordable property come onto the market.

"Positivity around housing affordability is still low, but if expert predictions of prices peaking later this year are true, 2022 could prove a much better year for housing affordability," Cooke said.

"Anyone saving for a deposit now could start to target a purchase next year."

Property prices keep surging but the pace is easing, slowing 'mansion' value growth points to momentum loss

Property prices surged at the highest annual rate of growth in 17 years in 2020-21, and while there are signs the latest boom is slowing down, one city keeps climbing.

Australian property prices rose at the highest annual rate in 17 years over 2020-21, with one city now charging an average equal to almost 12 times the median income.

The latest monthly CoreLogic national home values report released on Thursday showed Sydney had a 15 per cent rise over the past 12 months, with the city's median house price now sitting at $994,298.

Australian Bureau of Statistics figures released on Wednesday showed the national median private income - not including pensions and allowances - was $84,812 per year.

The report showed an overall 1.9 per cent national increase in property prices in June, taking annual growth to 13.5 per cent for the financial year.

"This is the highest annual rate of growth seen across the Australian residential property market since April 2004, when the early 2000s housing boom was winding down after a period of exceptional growth," head of research for Australia Eliza Owen said.

Prices rose in each of the capital cities last month, ranging from three per cent in Hobart to a more subdued 0.2 per cent in Perth.

Over the year, Darwin was the winner, jumping 21 per cent, followed by Hobart (19.6 per cent), Canberra (18.1 per cent), Sydney (15 per cent), Adelaide (13.9 per cent), Brisbane (13.2 per cent), Perth (9.8 per cent) and lockdown-hit Melbourne (7.7 per cent).

The combined regions outperformed the big smoke over the financial year, leaping 17.7 per cent compared to 12.4 per cent.

The national median property price is now $645,454, with the combined value in capital cities climbing to $727,427, while the combined regional median reached $478,212.

Ms Owen reaffirmed the strong demand factors that were underlying growth before the recent uncertainty of growing Covid-19 case numbers – falling unemployment and underutilisation rates, elevated consumer confidence and savings accumulated during restrictions last year – all against a backdrop of continued low mortgage rates.

Total advertised stock remains relatively low, staying at 24.4 per cent below the five-year average in June.

"This dynamic of strong consumer demand and low housing supply continues to create some urgency among buyers," Ms Owen said.

There are signs some heat is coming out of the market, however, with the monthly rate of price growth easing from a peak in March.

The only capital city to have a further increase in the monthly growth rate was Canberra, while the loss of momentum was most evident across Perth and Darwin.

Softer growth rates were also emerging at the "high end" of the market, another clear sign of a shift in momentum, Ms Owen said.

"The rest of the market tends to follow movements at the high end, and this is the first time in nine months that the high-tier growth rate has not accelerated," she said.

Social and affordable housing advocacy group Everybody's Home noted the price boom data came a day after Australian Institute of Health and Welfare figures showed the proportion of social housing households fell from 4.6 to 4.2 per cent from 2014 to 2020.

The two sets of numbers were "a recipe for more housing stress, more homelessness and deepening inequality", spokeswoman Kate Colvin said.

"As more and more people on low to middle incomes are being left behind by rising rents and house prices, the need for social housing in Australia has never been greater," Ms Colvin said.

"We need the proportion of social housing to grow, not decline."

The lesson for Australia out of Victoria's property tax hikes: two out of three ain't bad

Victorian treasurer Tim Pallas's three-pronged strategy to raise an extra A$2.7 billion in property taxes over the next four years is a case of two out of three ain't bad.

Land tax ✅

First, Pallas will raise $1.5 billion over four years by lifting land taxes on landholdings worth between $1.8 and $3 million by 0.25%, and by 0.3 percentage points on landholdings worth more than $3 million.

This is a good move. Taxes levied on the value of landholdings are among the most efficient states can impose. And land taxes offer a more sustainable and less-volatile tax base than stamp duties on property transactions.

Windfall gains levy ✅

Second, developers and landowners who reap windfall gains when their property is rezoned will be hit with a 50% levy if the gain is $500,000 or more, with the tax phasing in from windfalls above $100,000. The new levy will not apply to growth-zone land where developers already pay the Growth Areas Infrastructure Contribution charge.

Again, this is a good move. It should reduce incentives for corruption when planning applications are decided.

As a tax, collecting unearned windfall gains is extraordinarily efficient, so efficient it shouldn't even be called a tax but a charge for a change in allowable land use, which is what it is.

The new re-zoning charge won't raise much in the short term: just $124 million over four years.

But the next time there is a major rezoning — think of the bonanzas that have flowed to land holders from previous rezonings in Melbourne's Fisherman's Bend and the Docklands — it will deliver taxpayers hundreds of millions if not billions.

The property lobby has been quick to claim that charging for rezoning windfalls will deter higher-density development in Melbourne, or increase prices. Both claims should be ignored.

Capturing a share of rezoning windfalls won't deter developers. Instead it could make it easier to solve Melbourne's housing crisis while reducing incentives for corruption in planning decisions.

Planning rules make it hard to build more housing in inner suburbs. Zoning for higher density is necessary, but unpopular. Local residents partly object because they think developers are getting a free kick.

The Victorian treasurer's decision to make the winners pay for some of their winnings will make the process fairer and less divisive.

It's a myth that charges for changes in land use raise home prices. Australian evidence suggests those lucky enough to own land before it is rezoned pay the charges rather than pass them on to eventual homebuyers, which might be why they object.

And future developers will pay less for their land, because the expectation of windfall gains won't be built into the price.

The ACT Government has charged 75% for land value uplift for three decades without scaring away developers.

But the third prong of the Pallas plan — lifting stamp duty from 5.5% to 6.5% on properties that sell for more than $2 million — is a step in the wrong direction.

More stamp duty ✕

Stamp duties are among the most inefficient and inequitable taxes Australia has.

They discourage people from moving to housing and cities that better suit their needs, and they are inequitable discourage people from moving to better jobs.

And the revenue they provide is volatile: any slowdown in property sales — as happened during COVID took hold – punches a big hole in state budgets.

Few Victorians will be affected by this tax hike: less than 5% of all Melbourne homes (and just 0.5% of regional Victorian homes) went for $2 million or more last year, according to Corelogic.

Someone buying a $2.5 million home will pay just an extra $5,000 in stamp duty.

But Pallas should be looking to replace stamp duty with broad-based land taxes, as NSW is planning to do.

Tax hikes are rarely popular. But they will become increasingly necessary as states try to repair their budgets after the COVID crisis.

In the quest for a better tax system, Pallas has just taken two steps forward, and one step back.

Sydney and Melbourne property prices slow after record-breaking boom

Buying a house in Sydney and Melbourne is now tens of thousands of dollars more expensive than it was just a month ago but there are signs the strongest property boom in decades is slowing.

Property prices increased 1.8 per cent nationally in April with every capital city and region recording growth, CoreLogic data released on Monday morning shows. This was down from a three-decade high 2.8 per cent price increase in March.

Sydney's median house price increased to $1,147,352 in April, up from $1,112,671 in March, while Melbourne's median house price surged to $869,676 from $859,097 over the same period. This time last year Sydney's median house price was $1,026,418 and Melbourne's was $818,806.

The rapid rise in property prices has prompted warnings about housing affordability from economists and MPs. Last week, federal Housing Minister Michael Sukkar said the state governments needed their "feet held to the fire" to address rising house prices and it was not up to the Commonwealth to fix the issue although he acknowledged it was a problem.

The slowing growth rate may help relieve some of these concerns. The latest data from the Australian Bureau of Statistics shows first home buyer borrowing activity has started to decline.

CoreLogic research director Tim Lawless is expecting the slowdown to continue.

"The slowdown in housing value appreciation is unsurprising given the rapid rate of growth seen over the past six months, especially in the context of subdued wages growth," Mr Lawless said. "With housing prices rising faster than incomes, it's likely price sensitive sectors of the market, such as first home buyers and lower income households, are finding it harder to save for a deposit and transactional costs."

Sydney house prices increased 2.8 per cent over April, while apartment prices edged 1.3 per cent higher. Melbourne house and apartment prices increased 1.4 per cent and 1 per cent respectively.

In March, Sydney's house prices surged 4.3 per cent while Melbourne recorded 2.6 per cent house price growth. CoreLogic now expects property values to continue rising this year and in early 2022 but at a slower pace.

Brisbane house prices increased 1.8 per cent over April, Canberra increased 2.1 per cent and Adelaide increased 2.2 per cent. Darwin, Hobart and Perth house prices increased 2.7 per cent, 1.1 per cent and 0.9 per cent respectively.

Coalition backbenchers have become more vocal over the past 12 months about the issue of rising property prices, prompting Liberal MP Tim Wilson to launch a campaign proposing first-home buyers should be able to withdraw tens of thousands of dollars from their super funds to fund a deposit.

Labor spokesman for housing Jason Clare told the ABC on Saturday there was "no one single thing" causing the problem of housing affordability. He said land supply, planning and tax policy were all part of the mix of issues and if the opposition won government he would organise a meeting between federal, state and local governments to tackle the issue.

"What we need to do is make sure that homes are more accessible," he said. "So we do need to see more supply being opened up."

Hobart and Sydney markets lead the way as property values climb higher in March

Property values across the country continued on their upward trajectory last month according to the latest figures from Corelogic, and it was the Hobart and Sydney markets leading the surge.

During March Corelogic's *national home value index* rose by a considerable 2.8% which, the property data provider says, is the 'fastest rate of appreciation' recorded since October 1988.

Home values increased across every capital city by at least 1.5% during the month, though Hobart and Sydney recorded the largest gains. The harbour city led the way with a 3.7% increase in March, while values in Hobart rose by 3.3%.

That increase added $32,000 to the median home value in Sydney compared to the February figure, with the median value now sitting at $928,028."The last time Sydney housing values recorded a quarterly trend this strong was in June/July 2015. Following this brief surge, the pace of growth rapidly slowed as limits on investor lending kicked in to slow the market," said CoreLogic research director, Tim Lawless.

Australian home value changes - Corelogic Home Value Index (March 2021)

	Month	**Quarter**	**Median value**

Sydney	3.7%	6.7%	$928,028
Melbourne	2.4%	4.9%	$736,620
Brisbane	2.4%	4.8%	$548,260
Adelaide	1.5%	3.2%	$486,555
Perth	1.8%	5.0%	$505.850
Hobart	3.3%	7.6%	$548,686
Darwin	2.3%	5.4%	$451,408
Canberra	2.8%	6.0%	$727,032
Combined regional	2.5%	6.3%	$448,819
National	2.8%	5.8%	$614,768

With the market booming, questions are once again being raised about housing affordability though.
New research released last week by the National Housing Finance and Investment Corporation (NHFIC) revealed that of potential first home buyers in Hobart and Sydney, the bottom 60% of income earners would only be able to afford 10-20% of properties in their respective market.
Likely compounding this further is the fact that the research is based on data from June 2020 - well before the latest round of price rises.

So what could take the heat out of the market?

According to Lawless a number of factors have caused hot property markets to cool in years past, including rising interest rates, worsening economic conditions and tighter credit conditions. Though it's the latter, he says, that is most likely to have an impact this time around.

"Looking at each of these factors, we aren't expecting a lift in short term mortgage rates any time soon, and the economy has some positive momentum, so the most likely factor that will slow housing conditions is a new round of credit tightening along with housing affordability becoming more of a challenge, especially for first home buyers," he said.

"While a new round of macroprudential policies is looking increasingly a matter of when not if, the catalyst for such a policy intervention is more likely to be based on a worsening in the quality of lending standards or increase in mortgage related household debt, rather than as a response to heat in the housing market.

"Tighter credit conditions would probably have an immediate dampening effect on housing market activity, while continuing to let record low interest rates support the ongoing economic recovery."

House prices rising at fastest pace in 32 years as listings can't keep up with demand

Australian house prices are rising at the fastest pace in 32 years, as the Sydney and Melbourne property markets stage a full recovery from the short-lived COVID downturn.

Key points:

- Home values in Sydney, Melbourne, Hobart, Canberra and Brisbane are at record highs
- Capital city price rises outpaced regional markets for the first time in a year
- Some economists expect regulators to introduce restrictions as risky lending increases

CoreLogic's monthly home value index rose 2.8 per cent in March — the biggest monthly growth since October 1988.

"It's just quite remarkable to see this rate of increase across Australia," CoreLogic's head of Australian research Eliza Owen said.

Sydney prices had the most rapid rise, up 3.7 per cent in the month and 6.7 per cent over the first quarter of the year — the strongest quarterly growth since mid-2015.

"That was a time when the property market was rising very rapidly off the back of a boom in investor lending," Ms Owen said.

"It's a little different this time around with a greater owner-occupier presence in the market."
Prices in Sydney, Melbourne, Hobart, Canberra and Brisbane are all at record highs.

For the first time in the year, growth in capital city markets outpaced regional areas, which performed strongly as people moved outside the major cities during the pandemic.

"Housing values in regional areas are 11.4 per cent higher over the past year, demonstrating the earlier stronger growth trend," CoreLogic's research director Tim Lawless said.

Capital city house price growth outpaced regional areas in March

Listings can't keep up with buyer FOMO
Buyer demand has been spurred by record low interest rates, which have increased people's borrowing capacity and encouraged first home buyers to enter the market.
But listing numbers remain low, with advertised housing stock over the month more than 25 per cent below the five-year average.

The high demand and lack of supply means new listings are being snapped up rapidly — for every new listing added, 1.1 homes are sold.

"Such a rapid rate of absorption is keeping overall inventory levels low and adding to a sense of FOMO [fear of missing out] amongst buyers," Mr Lawless said.

Ms Owen said listings were particularly low in regional areas, with fewer people moving away to the capitals during the pandemic.

What would slow things down?
In recent months, attention has turned to what measures regulators may take to remove some heat from the housing market and slow the lending boom.

In March, Reserve Bank governor Philip Lowe said that while low interest rates were certainly contributing to higher housing prices, the central bank wouldn't raise rates to explicitly target lower house prices.

"There are various tools, other than higher interest rates, to address these concerns, leaving monetary policy to maintain its strong focus on the recovery in the economy, jobs and wages," Dr Lowe said.

One of those tools would be limits on lending, imposed by the banking regulator APRA, which a number of economists are now predicting could be introduced this year.

APRA chair Wayne Byres this week said that while he was watching developments closely, there was not "cause of immediate alarm".

"At this stage, I think it's unlikely that we're going to see any regulatory intervention, that might be something that happens in the longer-term if lending conditions deteriorate," CoreLogic's Eliza Owen said.
However, AMP Capital chief economist Shane Oliver thinks regulators will step in soon.
"Past experience indicates that surging house prices leads to a deterioration in lending standards and increasing financial stability risks," he said.

Dr Oliver notes there has been an increasing share of lending at high loan-to-value ratios, and an increase in interest-only loans, although off a low base.

"The first thing to do would be to increase interest rate buffers but limits on high loan-to-valuation-ratio lending and high debt-to-income-ratio lending may make sense too."

Other potential changes Ms Owen thinks would put the brakes on property prices include banks lifting mortgage rates and an increase in listings.

Housing currently being built with support of the government's HomeBuilder scheme will also add to supply over the coming months and years.

"The other factor that we'd need to look out for is just affordability constraints.
"An asset price can't continue to rise at an accelerating rate if people can't afford to buy them."

Change in dwelling values	**Month**	**Quarter**	**Annual**
Sydney	3.7pc	6.7pc	5.4pc
Melbourne	2.4pc	4.9pc	0.7pc
Brisbane	2.4pc	4.8pc	6.8pc
Adelaide	1.5pc	3.2pc	8.6pc
Perth	1.8pc	5pc	6pc
Hobart	3.3pc	7.6pc	12.5pc
Darwin	2.3pc	5.4pc	14.2pc
Canberra	2.8pc	6pc	12.1pc
Combined capitals	2.8pc	5.6pc	4.8pc
Combined regionals	2.5pc	6.3pc	11.4pc
National	2.8pc	5.8pc	6.2pc

Source: CoreLogic, March 2021

,” he said.