T R A N S C R I P T

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

Inquiry into Land Transfer Duty Fees

Melbourne – Wednesday 24 May 2023

MEMBERS

Georgie Purcell – Chair
David Davis – Deputy Chair
John Berger
Katherine Copsey
Jacinta Ermacora
David Limbrick
Bev McArthur
Tom McIntosh
Evan Mulholland

PARTICIPATING MEMBERS

Gaelle Broad
Georgie Crozier
Sarah Mansfield

WITNESS *(via videoconference)*

Mr Robert Carling, Senior Fellow, Centre for Independent Studies.

The CHAIR: I declare open the Legislative Council Economy and Infrastructure Committee's public hearing for the Inquiry into Land Transfer Duty Fees. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings. I also welcome any other members of the public watching via the live broadcast.

We will just quickly introduce you to committee members. We do have some still coming into the room from a break. We will start from this end. I know you have the long view of the room, so members will raise their hands as they introduce themselves.

Katherine COPSEY: Katherine Copsey, Member for Southern Metropolitan.

Evan MULHOLLAND: Evan Mulholland, Northern Metropolitan.

John BERGER: John Berger, Southern Metropolitan.

The CHAIR: Georgie Purcell, Northern Victoria.

David LIMBRICK: David Limbrick, South-Eastern Metro.

Bev McARTHUR: Bev McArthur, Western Victoria Region.

Tom McINTOSH: Tom McIntosh, Eastern Victoria.

The CHAIR: All evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during the hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record, can you please state your full name and the organisation you are appearing on behalf of.

Robert CARLING: Robert Carling, the Centre for Independent Studies.

The CHAIR: Thank you very much. We now welcome your opening comments but ask they be kept to a maximum of 10 to 15 minutes to ensure we have plenty of time for questions and discussion.

Robert CARLING: Thank you. First of all, let me tell you a little bit about the CIS, which you may not know about. I am with the Centre for Independent Studies, which is an independent public policy think tank. It has been a strong advocate for free markets and limited government for more than 40 years, and that is the perspective that I bring to this presentation. I have also worked in the New South Wales Treasury on taxation policy – until 2006. I was there for eight years, all of that time on taxation policy, but that was quite a few years ago, and I was never involved in the development of the stamp duty–land tax switch mechanism that the Perrottet government implemented last year. For the Centre for Independent Studies I have written about land tax and stamp duty as part of wideranging work on taxation policy and reform.

Now, with the perspective of the CIS, let me begin by observing that Australia's total taxation of property is quite high by international standards if we include in that transfer duty, which the Australian Bureau of Statistics does not include. The classification that they follow puts transfer duty under another heading. But if we add that to the other property taxes, which are local government rates and land tax, then total property tax is about 10 per cent of total taxation in the country. I am not just talking about the state but all taxes across the nation. So we have local government rates, land tax and transfer duty.

Leaving local government rates aside, because we are not really talking about that today, land tax is a potentially economically neutral tax, but the way it is applied in Australia makes it quite distortionary, with large exemptions and progressive rates which make no sense – and I think it is becoming more and more complicated with the kind of change we saw announced in the Victorian budget yesterday. Transfer duty by its nature is not neutral but distorting, and the way it is applied in Australia makes it especially distorting, with high and progressive rates and very strong bracket creep. So we have a distorting land tax that is quite harsh for some but non-existent for most and a large distorting transfer duty that applies widely. Transfer duty is a transactions tax with a very high marginal debt weight cost – and we can talk about that later – and one that has been rising because of bracket creep. It is a tax that very much discourages turnover. So we face a clear opportunity here to shift the burden from transfer duty to land value tax without increasing overall property taxation.

One of the things that almost all economists in Australia would endorse is that this switch would be desirable and that a small annual tax on property value is more efficient than a much larger tax on property transactions. A transactions tax can strongly distort people's decisions on buying and selling, whereas an annual tax on property value, if well designed, will have no such effect. Moreover, because stamp duty is assessed according to a graduated scale and the brackets have mostly not been adjusted for rising values, the severity of stamp duty has increased massively over the decades through bracket creep, and I can give you the example of a median-priced house in Sydney back in the late 1980s. It had an overall transfer duty impost of 2 per cent – that is not the marginal rate, but the average rate was 2 per cent – and now for the median Sydney house it is 4.3 per cent, so you have seen more than a doubling of the severity of that tax in that period. Once a tax increases in size, the marginal deadweight cost becomes that much greater. A bad tax if it is at a very low rate does not do nearly as much damage as the same bad tax if it is levied at a higher rate. Governments could have made adjustments to duty rates and brackets to offset bracket creep, but they have preferred to receive the large revenue gain.

Now, if someone faces a one-off stamp duty of, say, 4 per cent on a property purchased, it will affect their decision on whether to stay put or move and some will choose not to move and perhaps to renovate instead. But if they face, say, a 0.2 per cent annual tax on property value wherever they live in the state, it will have no effect on their decision and they and the economy will benefit from this neutrality. That at least is the theory and thus a shift from transactions to value taxation would enhance household mobility and productivity and lower the up-front costs of purchasing a home, which is particularly important to first time buyers.

An annual tax on value is also a more stable source of revenue for state governments. Stamp duty revenue is notoriously volatile as it is driven by volatility in both prices and transaction volumes, which tend to reinforce each other. Such volatility makes budgeting more difficult as governments are tempted to lock in more expenditure when revenue is booming, leaving a structural deficit when the boom passes. However, the transition from stamp duty to a property value tax raises many difficult issues. It is politically risky because an annual tax on value is more visible than a one-off tax paid only at the time of purchase and often rolled into the overall purchase cost. The annual tax is a recurrent burden paid out of disposable income, like council rates, whereas stamp duty is more like a capital cost that gets factored into the overall cost of purchasing a property.

The land tax that already exists does not apply to the principal place of residence, but despite that, it has always been one of the most politically sensitive taxes – and I know that from my experience in the New South Wales Treasury.

The transition from transfer duty to value taxation also raises the question of double taxation. Recently purchased properties that have been subject to stamp duty would become subject to the property value tax as well.

So we now have three models of transition, the third one having been announced in Victoria yesterday. But the first one was the ACT model of keeping both taxes in place on all properties at the same time, but over 20 years phasing out the transfer duty and increasing the land tax, or rates as it is in the ACT. We have the New South Wales model, which was a very small start to such a transition, because it was confined to first home buyers, with a limit to the value of property that it could be applied to. It gave the buyer the choice of paying transfer duty or switching over to land value tax, as you know. The new government here intend to repeal that because they do not agree with it. They intend to repeal it and fall back on the traditional first home buyer exemption up to a limit – exemption on transfer duty, that is. Then, as announced in Victoria yesterday, there is the third model, which I do not need to tell you the details of. The transition problem is that you can end up with different properties being taxed in different ways, which is a distortion in itself which can last for many years, or you can end up with what has happened in the ACT, where properties are subject to both transfer duty and increasing land value tax. I think the way the ACT government has implemented it, the reductions in transfer duty have been quite slow, whereas the increases in rates have been more rapid. There are also issues here about the cost to government revenue of this transition, because under some of these models the revenue loss for quite a few years can be very substantial.

I think I have gone on for my 10 to 15 minutes, so I will leave it at that – also there is the impact on pensioners of a land value tax – and just conclude that stamp duty or transfer duty on property transactions is one of the glaring deficiencies of our tax system that is in need of reform. The switch to land value taxation is the obvious thing to do if we can overcome these transition problems. Thank you.

The CHAIR: Thank you very much, Mr Carling. We will now work around the room with questions for you from committee members, starting with Ms Copsey.

Katherine COPSEY: Thank you, Mr Carling, very much for your submission. I think you nailed it in your summing-up there that stamp duty is a tax that has few friends and that most of the devil is in the detail around transition arrangements that might be considered by government. You touched on this briefly, but it would appear, with some of the transition arrangements, having a longer time period can exacerbate risks of transition. I am thinking changes in government policy over a longer implementation period, as we have seen with New South Wales, but also the persistence of one form and another at the same time. Do you have a view on what governments that are considering this change should do in terms of a transition period?

Robert CARLING: The reason for a long transition is to take care of the situation where people have recently paid transfer duty. If they are, not long after that, tipped into the land value tax regime, then this is very disadvantageous to them. I think that this is the main reason for long transitions or, in the New South Wales model, giving them the choice. So I think there is a lot to be said for choice, and the Centre for Independent Studies is all in favour of consumer choice, so we rather liked the New South Wales model. But the problem with it is the cost to government revenue because the people's choices will be to their advantage but not to the government's – the choices they make. So there would be a substantial loss of revenue from that approach. I think, you know, the New South Wales government approached the federal government for assistance on that – that was the federal coalition government – and of course the answer was no, and I suspect it will continue to be no to any state government that tries to go down that path. And I think in Victoria it is going to be 10 years but potentially much longer because the trigger is only the first transaction on existing properties. That may not happen for many properties for quite a few years, so it also is a very long transition.

And the problem with the New South Wales approach was that there was going to be a distinction in the marketplace between properties that were subject to transfer duty and properties that were subject only to land value taxation, and this was going to set up a distortion of its own kind. Whereas with the Victorian approach, eventually all properties would be treated the same way, but it would take a long, long time. I do not see any way out of the long transition period, frankly.

Katherine COPSEY: If it is set based on, rather than a fixed starting date, the date of the most recent transaction on the property or the next transaction.

Robert CARLING: Sorry, could you repeat that?

Katherine COPSEY: That is okay. If the trigger for the switch is a transaction relating to that property.

Robert CARLING: Yes, but you know, how long is it going to take for all properties in Victoria – well, I mean at this stage we are only talking about commercial of course not residential, but how long is it going to take for even all commercial properties to reach that trigger?

Katherine COPSEY: Thank you. And I just have one other question around other models that could be considered. Tax credit is one of the options that is frequently cited in this field to assist those who have recently paid a duty, and that credit can be scaled up or down – what is available can be scaled up or down – as the scheme progresses through an implementation period. Do you have a view on that option?

Robert CARLING: I am not aware of that model, and I have not studied it. It sounds interesting. I am sure there are many, many variations possible.

Katherine COPSEY: Thank you.

Robert CARLING: That particular one though –

The CHAIR: Thanks, Ms Copsey. Mr Mulholland.

Evan MULHOLLAND: Thank you. And thanks, Robert, for appearing for us. I will declare a conflict of interest. I am a subscriber to the Centre for Independent Studies. I think it does great work promoting free markets and choice, so thank you for appearing before us.

I wanted to talk about the idea of double taxation, which we have discussed and ask if you had any thoughts on how we can avoid that in a transition model?

Robert CARLING: For a start, do not go the way of the ACT transition, because that definitely involves double taxation. I think it needs to be either the New South Wales choice model or what Victoria has done with commercial property. I think it needs to be one of those. You still have double taxation in the sense that at the same time government will be collecting substantial revenue from both types of tax, transfer duty and land value tax, until the transition is completed, but at least each individual taxpayer will be only under one regime or the other, so you avoid double taxation in that sense.

Evan MULHOLLAND: I wanted to ask you about the broader issues of supply. I know it is something that the CIS has been very vocal on. It has been floated in the media down here that the government could kind of absorb local government planning powers due to a widely perceived view that local government is holding up supply of new housing into the market. Other witnesses have suggested that instead of doing that you could set housing targets with financial incentives for local government. What is your view on this sort of general issue and policy positions that this committee or government could take to increase the amount of supply?

Robert CARLING: That is getting off my patch a bit, but I do have a colleague here, Peter Tulip, who has written a great deal on this subject, and I am attracted to his ideas that it is best for state government not to take over local government planning powers but for the state government to set targets for local government areas, backed up by carrots and sticks, and leave local government themselves to determine the type of housing that is built in their areas. I would be happy to refer you to specific publications that Peter Tulip has put out.

Evan MULHOLLAND: Excellent. Just one more quick question?

The CHAIR: Yes, sure. Go for it.

Evan MULHOLLAND: You mentioned the changes to stamp duty that were announced yesterday for industrial and commercial property. There was also another announcement about people with an investment property and reducing the threshold at which they are required to pay land tax down to $50,000 from $300,000. This will hit around 860,000 Victorians with about $1300 a year. What impact will this have on investment? And is it your view that a tax increase like this would be passed on to tenants?

Robert CARLING: Well, it depends on the market circumstances. In a very strong rental market where there is very strong demand and limited supply, such as we have at the moment, that is more likely to happen than in a more normal rental market.

Evan MULHOLLAND: No worries. Thank you.

The CHAIR: Thanks, Mr Mulholland. Mr Berger.

John BERGER: I do not have any questions.

The CHAIR: No questions from Mr Berger. Mr Davis.

David DAVIS: Thank you for your submission very much indeed, Robert. My question follows on from Mr Mulholland's and is about the risk of double taxation. Is there a mechanism that you are aware of that can be put in place that would stop a future government that was attempting to move stamp duty out, that would stop this risk of double taxation? Is there a mechanism that you are aware of that would prevent a future government having its cake and eating it too, if I can put it that way – having a double bite at the cherry?

Robert CARLING: I do not think so. There is no constitutional mechanism, and a current government or Parliament cannot bind a future government or Parliament, so there is no way of completely eliminating the risk. It is one of my fears about this switch – that we would in the long run end up with both, which is what you have in many other countries in fact. In the United States, for example, the property tax is very high. The context is different, because it is mostly a local government property tax financing schools and police and local services, which our local government here does not do, but there is a very high property tax by our standards. But there is also a small property transfer tax, usually administered by state government. So I do fear that the switch would not stick completely over the very long run. It might for a while, but over the very long run, no. I think one precedent in Australia in a different sphere is the GST. When the GST was introduced, there was an intergovernmental agreement between the commonwealth and the states to abolish certain state taxes completely, and the states' receipt of GST revenue was conditional on this, and that has stuck for 23 years now –

David DAVIS: Not in some states, I do not think. In Victoria it has.

Robert CARLING: But that is because taxes were eliminated completely. It is one thing to abolish something completely and another thing just to reduce it and leave it on the statute books.

David DAVIS: So, Robert, on to my second and very quick question. You have referred to the changes announced yesterday which go to commercial property, but there was a second change announced yesterday, and that is to put a land tax on or remove a land tax exemption from private schools. Do you have a view about broadening the tax arrangements to not-for-profit organisations?

Robert CARLING: Well, no, I do not really have a view on that, I am sorry. Ideally land value tax – sorry, we are talking about payroll tax, aren't we?

David DAVIS: We are talking about payroll tax, yes.

Robert CARLING: Yes. Ideally payroll tax would apply at a low rate across the board to everybody, but the model in Australia has become high rate and with a number of exemptions and thresholds and so on, and it seems that we are stuck with that. Given that, in that context there is a stronger case for exemptions for some organisations such as the ones that you have mentioned. That is about as much as I could say on them.

The CHAIR: Thank you very much, Mr Davis. Mr Limbrick.

David LIMBRICK: Thank you. And thank you, Mr Carling, for appearing today. I am also a fan of the CIS's work. I am quite interested in your experience from New South Wales. You mentioned how the incoming government have indicated that they will repeal the rather limited entry into stamp duty reform in New South Wales. That to me would seem to indicate that it has politically failed, at least, in New South Wales, even though it was a fairly limited reform. What do you think is the cause of that political failure? Because it must not have had broad buy-in, otherwise the incoming government would not have attempted to do this. So what is the cause of that failure, do you think?

Robert CARLING: Look, I do not know about the dynamics of the election campaign and the then opposition's desire to differentiate itself from the government – I really do not know. They called it the land tax alternative. The then opposition called it the forever tax, and I think that this resonates with the public. That is why land tax is unpopular. As I said in my introductory remarks, it is something that people have to pay every year out of their disposable income, and that is why it is so politically unpopular. I can tell you when I was in the New South Wales Treasury we dealt with vastly more correspondence on land tax than we ever did on transfer duty, even though the transfer duty was much larger in revenue terms. So I think that the then opposition probably decided to tap into that well-known unpopularity of land tax with the public. We are not talking about the business sector so much but the household public.

David LIMBRICK: Thank you. One of our previous witnesses put forward a submission which urged the committee to recommend starting by lowering stamp duty, and they contested, as you said in your opening remarks, that stamp duty overall revenue is a function not only of property values but also the number of transactions. They suggested that if the current high rates of stamp duty were lowered, it could incentivise transactions and potentially have a neutral effect or even increase stamp duty revenue effectively. She was suggesting that it is possible that we are on the wrong side of the Laffer Curve, I expect, and that we should test lowering that. Do you think that is a possibility – that it could actually incentivise more transactions and therefore not have as big an impact on revenue as what we might otherwise suggest?

Robert CARLING: I think it would certainly lead to a higher turnover, more transactions. It is a transactions tax. If you tax something, you get less of it – and I have seen some econometric work on this suggesting that it reduces the volume of transactions by a certain percentage – so no doubt about it. Referring to the Laffer Curve, no, I do not think it would lead to more revenue overall, but there would be an offset to the loss of revenue from the reduction in the rate. There would be an offset from higher turnover, definitely. Exactly how much I could not say, but conceptually I think you are on very strong ground there.

David LIMBRICK: Have you seen any modelling on this? Because it is something that I have not seen a lot of. Let us say that we halved the stamp duty rate in Victoria, what sort of effect on transaction volumes would that have? I have not seen any sort of modelling that does this. Are you aware of any modelling that looks at that?

Robert CARLING: I did see something recently, but I will have to go away and look for it again. So I will take the question on notice and come back to you.

David LIMBRICK: Thank you very much.

The CHAIR: Thanks very much, Mr Limbrick. Mrs McArthur.

Bev McARTHUR: Thank you, Chair. Like Mr Mulholland and Mr Limbrick, I will declare a very – no, it is not a conflict of interest, it is a conflict –

David DAVIS: It is an association.

Bev McARTHUR: It is an association of being involved in a wonderful organisation, so thank you for all your work. I am actually personally attracted to a once-famous comment that said: ‘I’d be happy to pay more tax if I could be assured that the government was spending it wisely.’ So I just want to go to this piecemeal approach to tax reform. We currently have got 45 new or increased taxes in Victoria, but after yesterday – Mr Davis, am I correct to think we are probably up to 47? Would we be better to have a holistic approach to tax reform in this country so that we can be guaranteed that all Australians, whether they are individuals, families, property owners or businesses, are paying the minimum amount of taxation, not the maximum, that we are getting value for money and that the tax system is fair and equitable across the board? It seems to me we tinker around the edges, with one state or another applying different aspects to tax reform, and yet we are one nation. It would seem to be a much more efficient approach if we looked at the whole area of tax reform holistically.

Robert CARLING: It is easy to say yes to that, to tax reform certainly. It is a long time since we have had a genuine tax reform in this country, and I think that the GST package of 2000, involving the states, really left what we are talking about today as unfinished business. As far as yesterday’s announcements in Victoria are concerned, I think it was a mixture of just sheer revenue raising and some element of tax reform in the commercial and industrial transfer duty area. But the rest of it was just revenue raising in the circumstances of a very difficult budget with high debt, so it was that mixture.

Bev McARTHUR: So what would be an efficient and effective area of tax reform that we could better look at? Would it be in the area of income tax, capital gains tax, the GST or all these taxes that the states apply when they are actually not meant to be applying taxes because they get GST revenue?

Robert CARLING: Some of those that you mentioned, certainly income tax, company tax and the GST, would be I think numbers one, two and three, and property taxation of the states probably is number four. But I do not think it is quite correct to say that the states have not lived up to their side of the GST bargain. I think everything that was specifically listed for abolition in that agreement has happened. There is a popular misconception that transfer duty on housing was meant to be abolished also – some people even say payroll tax – but that was not part of the agreement at the time, and I was involved in that agreement in 2000. Some people may wish that transfer duty would be abolished; there is a good case for it. But the amount of revenue available was not nearly enough to cover that as well as the financial transactions taxes that were abolished at the time.

Bev McARTHUR: Thank you.

The CHAIR: Thank you, Mrs McArthur. Mr McIntosh, you are there. Do you have any questions?

Tom McINTOSH: No questions from me. Thanks for your time, Robert.

The CHAIR: Thank you very much. Does anyone have secondary questions? Mr Limbrick has a follow-up question.

David LIMBRICK: One of the proposed models for stamp duty reform which has been suggested by a number of submissions is probably politically quite complex to manage but does involve cooperation with the federal government – tweaking the GST rates to replace lost revenue and effectively adding it to the GST agreement, like what you were talking about. I think there was one estimate that we need to increase GST by something in the order of 1.5 per cent. What are your views on this type of model, which would effectively immediately abolish it and replace it with some sort of tweak to the GST, noting that it would require national cooperation and is not something a state can do by itself?

Robert CARLING: I think that would be worth looking at. At the same time, it should be a broad package that also would include the states cleaning up the mess that they have made of land tax, so not just abolishing transfer duty but also cleaning up that whole mess that they created with land tax.

David LIMBRICK: How about the equity with that model, though? Some people have just objected to this type of model because they say it is effectively a free kick to property owners at the expense of consumers, who pay GST. Do you think that there are equity issues with moving to that type of model?

Robert CARLING: Most consumers are also property owners or buyers at some stage, so I do not think that is a problem. The bigger problem is with pensioners and other social security benefit recipients, who would have to be compensated for the increase in the GST, so there would be some leakage of the extra revenue for that purpose. It would also be using up some of the scope that might be there to use higher GST to reduce income tax. The more scope you use to increase GST to reduce property taxation, the less there is for those other purposes. It could potentially be useful.

David LIMBRICK: Thank you.

The CHAIR: Thanks, Mr Limbrick. Mrs McArthur.

Bev McARTHUR: Just following on from Mr Limbrick's question and the issue of the GST, is it not the case that the GST is only applied to about 40 per cent of goods and services and I understand that is declining? So rather than increasing the rate, wouldn't you expand the base?

Robert CARLING: Yes, I am not sure exactly what the percentage is now, but it is somewhere around 40 or 50 per cent and is, as you say, declining as health and education expenses increase as a percentage of the household budget. So broadening the base as well as increasing the rate – in fact broadening the base would be the first thing to go to before you talk about increasing the rate. The most obvious item to broaden it to first is food. Food, whether it is bought at the supermarket or prepared in a restaurant, would be taxed the same way. But again that raises the issue of compensation for social benefit recipients and low-income households.

Bev McARTHUR: Thank you.

The CHAIR: Thanks, Mrs McArthur. Mr Davis.

David DAVIS: I just want to put on record my concern that in that sort of model we would actually see increased taxation – there has been no sign that the government can hold itself from collecting more. But particularly with the GST, the risk is that states like Victoria are net donor states, so under a model where the GST is increased, we would see more money collected from Victoria and distributed all around to the other mendicant states. That is a problem with that sort of tax reform, I think you might concede.

The CHAIR: Mr Mulholland.

Evan MULHOLLAND: Just a quick one, and it goes to the investment and supply issues that we were talking about before as well: there has been a policy proposal floated around recently and in the media about a rental freeze. What do you think of that policy, and what do you think a policy like that would do to investment in housing?

Robert CARLING: I think it would be very damaging. That is another thing – probably the second thing that most economists could agree on is that rental freezes are not the right way to solve the rental affordability problem. They just damage supply, and it is supply that we need.

Evan MULHOLLAND: Thank you.

The CHAIR: Unless any members on the screen have further questions – no. Thank you very much, Mr Carling, for coming along and answering our questions today. That concludes the hearing.

Witness withdrew.