IPTI Xtracts

Property Tax and Assessment News from Around the World

AUSTRALIA – July 2020

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How a second wave will hit Australia's property markets

Our property markets have been remarkably resilient so far.

But how would a significant second wave of coronavirus affect our housing markets?

If we look back there are a few lessons we can learn to help us better understand what's ahead.

Fact is, that in spite of the coronavirus-induced economic downturn, Australian property values didn't crash like some doomsayers predicted. Our economy rebounded more quickly than many expected on the back of the fact that Australia, other than Victoria, has done very well in containing the virus up to date.

Clearly the significant financial stimulus and support measures provided by our governments have kept the doors of many local business open and many people in their jobs.

At the same time rental relief packages have kept tenants in their homes and mortgage support has meant that there have been very few forced sales.

However, home buyers and sellers went on strike choosing to postpone their next move until more certainty returned to the market and this contributed to a 32.4 per cent drop in property sales volumes over April.

Then as social distancing measures eased and consumer confidence returned, property transaction numbers experienced a strong recovery in May and June.

Initially it looked like we were going to experience a deep, but short, economic recession and that our property markets would weather the storm defying the 10-20 per cent fall in values some had predicted.

But if Australia is hit by a significant 'second wave' of coronavirus cases that would postpone the economic recovery that many economists expect in the second half of 2020, unemployment would rise even further and consumer and business confidence would take a significant hit.

So what's ahead?

Of course, no one really knows what's going to happen to the economy and property values, so it's important to analyse and anticipate the possibilities and the probabilities.

How our real estate markets would be affected by a second wave would depend on how rapidly the health issues come under control, how quickly businesses resume normal trading, how soon our economy picks up and most importantly how quickly consumer confidence rebounds.

Not surprisingly there's a strong relationship between how people feel about their finances and job security and the financial decisions they make, and this in turn will flow through to how our economy recovers and our property markets will perform.

When we feel confident about your financial circumstances we're more likely to feel safe in making significant financial commitments like buying a new home or investing in property.

However, a significant second wave of coronavirus and a continuing barrage of negative news in the media about our health, unemployment and businesses going bust is likely to dampen consumer confidence further and have a negative impact on our property markets.

On the other hand, if a second wave of infection overtakes us we can expect further government support.

The government and the Reserve Bank have clearly stated that they will do anything and everything they can to support our economy and minimise the impact of the coronavirus on businesses and our economy.

I can't see the government which has spent so much time, money, effort and publicity building a 'bridge' to get us across to the other side, to allow us to fall off a cliff rather than to extend that bridge even further.

What about property prices?

If a second wave of coronavirus causes further lockdowns, or more social distancing restrictions, our property markets will slow down as they did in March and April.

Both buyers and sellers will go on strike till the picture becomes clearer.

But like earlier this year, property values won't plummet, because it's unlikely that there will be a flood of properties for sale.

Of course there isn't one property market, and during difficult times there is a flight to quality meaning A grade homes and investment grade properties in our major capital cities are likely to hold their values well or only fall around 5 per cent, while B grade properties (secondary properties) are likely to fall in value up to 10 per cent, and C grade properties will be difficult to move at any price.

But this will be on a on very low levels of transactions and the pace of recovery from that point will depend on the speed of the economic recovery.

At the moment I'm seeing three levels of buyer property sentiment out there.

There are the Negative Nellies who are worried that property prices are going to crash and all they can think of is doom and gloom. But they've always been out there and over the long term they're always been wrong.

There are those who are bunkering down, battening the hatches and just waiting for news that this is all over.

Then there are those with a positive outlook who have a secure job and a long-term focus who is seeing great buying opportunities in the market when there is less competition and interest rates are the lowest of ever been in history.

Interestingly while the number of investors in the market is currently at very low levels, first homebuyers are taking advantage of the government grants, the HomeBuilder allowances and the prevailing low interest rates and getting a foot into the property ladder. And this trend is likely to continue

Some property sectors are likely to suffer

The worst affected residential markets will be:

- Apartments in high-rise towers –these properties are likely to be out of favour for quite some time.
- Off the plan apartments and poor-quality investments stock (as opposed to investment-grade) apartments, particularly those close to universities. Many of those who bought a few years ago will find the values of their properties on completion today will be less than their contract price.
- Outer suburban new housing estates house and land packages, where young families are likely to have overextended themselves financially and where many people will find themselves underemployed.
- Properties in the blue-collar areas as many people living in these locations will find themselves underemployed.

What's going to happen to our economy?

Yes, the health crisis has led to an economic shutdown, and while some were concerned that this had the potential to create a major financial meltdown, clearly that hasn't happened.

Sure, there have been setbacks but as our economy reopens obstacles like the outbreak in suppressing the spread of COVID-19 in Melbourne can be expected.

Of course, a serious second wave of infection will delay our economic recovery, increase unemployment and dampen consumer and business confidence.

Unfortunately there is no roadmap to follow, so governments will need to quickly respond to changes in circumstances.

But most of the bright folks I've been following and talking with agree that Australia is better positioned than any other country in the world to work its way through the challenges ahead.

And these include the economists at all our major banks and institutions, as well as at the Reserve Bank and the International Monetary Fund.

They all agree that we're not going to have a V shape recovery like occurred following the Global Financial crisis.

This time round we don't have China out there taking all our exports, buying our real estate and supporting our economy.

It looks like we will have a step wise recovery as our economy opens up in stages.

The economic results for the June quarter will only be reported in September when we will learn that we experienced a severe recessionary period.

But by the time these results are reported it is likely that our economy will already be on the rebound, with more businesses opening and more jobs being created.

Of course the lock down in Melbourne will slow down our economic recovery and the spike in cases in Melbourne and Sydney have made Aussies more nervous.

This means they're like you to be more cautious about spending, especially on big ticket items.

However, to make up for our worries and the stresses we're experiencing, we're more likely to spend on entertainment and pleasure which should help our local retail markets.

And with our international borders closed for the foreseeable future, the millions of Australians who would have otherwise travelled overseas will vacation locally helping boost our tourism industry.

Now we know that some of our support mechanisms will be taken away at the end of September, with JobKeeper and mortgage holidays ending; but the government is going to replace these with other more targeted stimulus packages.

Our governments have a vested interest in keeping our real estate markets liquid and buoyant, recognising that consumer confidence is critical for our economic recovery.

They know that the quickest ways to see consumer confidence plummeting is for people to see the value of their homes dropping.

So it's likely we'll see a number of new targeted support packages rolled out over the rest of the year and some of these will be announced in the July 23rd mini Budget.

At the same time our banks have a vested interest in supporting our property markets.

Fortunately they are well financially sound and capitalised and they're not keen to turf their clients out on the street.

What else is likely to happen?

It has been said that up to 3million Australians have changed their living habits because of Covid-19, with many young people moving back with their parents.

And this trend will likely continue, meaning our rental markets will continue languishing with fewer people seeking rental accommodation at a time when vacancy rates, particularly in our CBD's and inner suburbs, remain high.

At the same time our banks will remain vigilant and continue to scrutinise all new loan applications carefully.

So if you're looking to refinance your loans to the prevailing low interest rates or take on a new loan be prepared for long possessing delays and to answer many questions

The banks will also offer further extensions to the repayment holidays given to borrowers with cash flow issues.

The bottom line

In time of trouble it's important to retain a long term perspective.

Property is resilient – very different to share market.

Most property is lived in, which means people will do away with many other luxuries before someone will sell their property, much less their home.

One of the major lessons I have learned from previous downturns is the importance of taking a long-term perspective which always outsmarts short-term reactive thinking.

Of course, we all know the old saying, being fearful when others are greedy and be greedy when others are fearful…

But it's normal human nature to find it difficult to buy your new home or invest when everyone else is running around thinking the world is coming to an end.

However, now that I have invested through 8 property cycles, I have found that it is exactly these conditions the present the best opportunity.

That means now is the time to get prepared to take advantage of the opportunities that the market will offer.

After each global disruption, there has been an increase in property prices, and there is no reason to suggest this will be any different.

Adelaide property values rise during lockdown despite sales slump

Property values in more than two thirds of Adelaide suburbs have grown in the first six months of 2020, defying COVID-19 slumps in larger Australian cities.

According to PointData's Lay of the Land report, Adelaide metropolitan real estate values increased by 1.1 per cent for the three months to May 31 and 0.4 per cent for the month of May.

"South Australia seems to be faring better in both property prices and building activity compared to other states and that is good news," PointData CEO George Giannakodakis said.

"What we've seen across the board in other cities is a fall in property values but one of the key observations is during the COVID period values went up on average for the whole Adelaide metropolitan area.

"It could be because of a significant lack of listings in the marketplace but demand is still outstripping supply."

The PointData Winter Edition report, released this week, draws sales data from Land Services SA and uses machine learning to turn big data into insightful property information across hundreds of 400-person sized statistical areas.

Overall, 68 per cent of the statistical neighbourhoods in the report grew in value in the first half of this year with 20 per cent improving by more than. 2.5 per cent since December.

This is a significant improvement on the six months to October 2019 when 56 per cent of the statistical regions reported price declines.

Giannakodakis said this could reflect a lagging property price trend seen in the eastern states just before COVID-19.

“There are more areas in Adelaide now going up than down, which is different to the six months to October 2019 when there were more areas going down in value,” he said.

“Prior to COVID there was a positive rise in property values in the eastern states and Adelaide tends to follow the eastern states but it’s very hard to say.”

A PointData trend map for the three months to June – during the peak of the COVID-19 shutdown – shows an upward trend of prices in the majority of Adelaide suburbs.

The CBD, North Adelaide and inner-ring suburbs performed well except for a handful of postcodes on the southern edge of the city and the blue-ribbon suburbs of Gilberton and Medindie.

Parts of Mawson Lakes and Salisbury Heights that showed growth of more than 5 per cent in the previous period had falls of more than 2.5 per cent in the latest figures, indicating a correction in the local market.

Several coastal suburbs bounced back from sluggish performances in previous reports but West Beach, Christies Beach and the leafy seaside strip from Glenelg to Brighton continued to struggle.

“During the COVID period some of the inner-city areas have corrected and some of the higher value suburbs that were decreasing in value over the past 6-12 months have come back but some areas are still falling in value,” Giannakodakis said.

“Generally speaking, coastal area have been bouncing back but Brighton and Glenelg seem to be a bit slower off the mark.

“It’s probably a bit of a correction in the market but Brighton and Glenelg also have a high proportion of apartments and there could be an impact there.”

While prices have held, the total number of house, unit and apartment sales in Adelaide more than halved from 10,090 in the three months from March 1 to May 31, 2019 to just 4504 for the same period this year.

Giannakodakis said the fact that a fall in sales had not resulted in a fall in prices from March to May showed there was still demand despite a lack of supply in Adelaide and physical restrictions on the real estate industry.

“The data suggests there is a small window of opportunity to sell houses while there is a buoyant market but obviously it is still more of a seller’s market at the moment,” he said.

CoreLogic data showed the eight-capital average increase for the quarter was 0.5 per cent and -0.5 per cent for May with Melbourne the worst performer. Only Adelaide and the smaller cities of Hobart and Canberra showed growth during May.

Although CoreLogic's June figures showed Adelaide prices had reduced by 0.2 per cent for the month, it still performed significantly better than Melbourne, Sydney, Brisbane and Perth. Overall, the eight capital city price for June fell by 0.8 per cent.

"Melbourne in particular has shown a larger decrease in property value compared to other cities but it is the larger cities that are falling," Giannakodakis said.

In March, economists predicted a 7-10 per cent fall in property values over the next 12 months in Adelaide but falls of that magnitude are yet to materialise.

ABS data released last week also showed building approvals for private dwellings in South Australia increased by 7.1 per cent in May, bucking a downward national trend.

However, Giannakodakis said industry commentators were concerned about the potential impact in the coming months when macroeconomic stimulators such as JobKeeper and mortgage holidays were pared back or removed all together.

"It's not as bad as first thought and we may still see a correction but it won't be as severe as the 7-10 per cent fall they were predicting back in March," he said.

"We've come out of it fairly quickly but having said that, we don't know what's in store for us given what's happening in Victoria at the moment."

Memo to Australia's states: try renovating your tax system before asking for a new one

A major report commissioned by the NSW government has proposed lifting and expanding the goods and services tax and replacing stamp duty with a broad-based land tax.

Launched at the National Press Club on July 1 by NSW Treasurer Dominic Perrottet, panel chair David Thodey and panel member Jane Halton, the report said what has been said before – that these particular big bold changes will set Australia up for the future.

But they've fallen flat in the past.

Big bold proposals have losers as well as winners. When the losers are identified, it is hard to get traction, even if the winners want them.

NSW residential stamp duty is roughly equivalent to a tax on property of one and a half to twice the current municipal rates. Transitioning from one to the other might take 10 to 20 years.

The losers (people paying higher rates) are more numerous and likely to be more vocal than the winners (people finding it cheaper to move home).

And proposals involving the goods and services tax lead to finger pointing – towards the Commonwealth for waiting for the states, and towards the states for waiting for each other.

Proposing the Commonwealth fix state problems is attractive to everyone but the Commonwealth.

Thodey's report is an improvement on many past reports, but it too has shot for the big headlines. The states do have genuine problems with tax design and the current federal arrangements, but a more worthy strategy might be to focus on renovating the system they've got.

Renovation is slow, but effective

Repairing what states already have is simpler, less contentious and almost certainly just as effective as big bold programs, albeit less exciting.

A recent review I took part in, commissioned by the Australian Housing and Urban Research Institute, found it was best to start small, build each case, and move incrementally.

First, state governments should wind back the current array of tax concessions. Doing so in NSW could increase land tax collections by 27%, payroll tax collections by 19% and conveyancing stamp duty by 9%.

Second, in NSW there would be value in revisiting the failed 2017 proposal to replace insurance stamp duties with a property-based fire and emergency services levy applying to all homes needing fire protection, not just those that are insured, a proposal the new NSW review supports.

Most states have already done it. The levy would lay the foundations for property making a greater contribution to state revenue and build the architecture needed for a land tax for stamp duty swap.

Third, and very unexciting, states should renovate their tax administration. One initiative would be a national harmonised payroll tax administered by the Australian Tax Office.

Another would be publishing tax gap estimates. The tax office has found publishing estimates of what is not being collected compared to what could be collected is fundamental to identifying what is not working.

None of these ideas make for big headlines. But on the track record of ideas that attract big headlines so far, they are likely to achieve more than those that do.

Neil Warren, Emeritus Professor of Taxation, UNSW

Thodey report recommends land tax, not stamp duty

NSW stamp duty should be replaced by land tax, according to a recommendation of the Thodey Report, which was released today (copy attached).

Instigated in 2019 by NSW Treasurer Dominic Perrottet and chaired by former Telstra Boss David Thodey, one of the draft report's key recommendations is that broad-based land tax is more efficient and equitable than transfer duty.

"The transition should be managed with the support of detailed distributional and financial modelling and public communication and consultation, so that the transition is fair, efficient and minimises the amount of revenue foregone," the report noted.

"In consultation with other state Governments, the NSW Government should seek assurance from the Commonwealth that it will not be disadvantaged with a lower GST share as a result of undertaking major productivity-enhancing tax reforms such as replacing transfer duty with a broad-based land tax."

The land tax recommendation comes amidst further proposals that GST should be broadened and its rate lifted above 10 per cent.

On the issue of stamp duty, the report notes the transfer tax has provided an unreliable and unpredictable source of revenue in recent years.

“Since the last major cycle of tax reform two decades ago, property markets have boomed and transfer duty (stamp duty on conveyances) has assumed a new order of importance in state budgets,” the report notes.

“The NSW Government raised around $7 billion, or 24 per cent, of annual tax revenue from transfer duty in 2018-19, making it the state’s second largest source of tax revenue. Only Victoria raises more as a share of state taxation.

“But the volatility of revenue collections, alongside fast growth, has made it difficult for states to manage their budgets.

“At the height of the property market boom in 2017-18, New South Wales raised almost 28 per cent of taxation revenue from transfer duty – one third greater than a decade prior – before revenue dropped by 14 per cent the following year.

“Change has been rapid and unpredictable: a $7.2 billion write-down of four-year forecast revenue in the 2018-19 NSW Budget, for instance, was followed by a $4 billion upwards revision in late 2019 as the market recovered (before the COVID-19 pandemic).”

Meanwhile, the report also argues transfer duty is a tax footed by few for the benefit of many.

“There were 2.8 million properties in New South Wales in 2018-19, but less than 200,000 of their owners contributed to the funding of essential services via transfer duty. Only one in 20 carried the burden of paying for the schools, roads, hospitals and other services that gave all properties their value,” the report states.

It further notes some 26 per cent of owner-occupiers had remained in the same property for at least 20 years.

“Most of these people have benefitted not only from the services provided by the state over that time but also from a once-in-a-generation land price windfall.

“In exchange for these gains, they have contributed very little towards essential services and critical infrastructure via property taxation.

“Others who have moved to find a job, to be closer to schools, or to match housing size to their family situation – including young buyers without the financial means or parental support to buy their ‘once-and-forever’ house early in life – have picked up the tab. This approach just doesn’t seem fair.”

Instead, the report argues land tax would see the burden shared more widely, and could also improve housing affordability.

“The increase in purchasing power of prospective buyers from abolishing transfer duty would be offset by the new annual land tax bills, which would be capitalised into property values,” the report argues.

“In the long run, a better allocation of the housing stock may lead to lower prices. Abolishing transfer duty also removes some of the barriers to home ownership by lowering the deposit hurdle.”

Ultimately the report argued a shift to land tax would be useful in an era of recovery.

"Australia is likely to see significant economic restructuring, with themes of domestic resilience, diversification, reduced global integration, and new ways of working driving expansion of some sectors and contraction of others," the report stated.

"These transformations will require reshaping of land-use, which can be facilitated by removing the additional costs of moving or transferring property.

"A broad-based land tax is the best instrument for this task, and a transfer duty to land tax switch would establish the right settings for fiscal recovery and long-term growth. By committing to this now, states would provide lead time for design, consultation and implementation before the task of rebuilding budgets begins in earnest."

A welcome perspective

The Property Council of Australia has cautiously welcomed the Thodey Report, but notes it limits the prospect of meaningful reform by ruling out an enhanced GST as the mechanism to remove stamp duty and therefore boost the economy.

"Tax reform and how we fund the federation have always been important issues, but the impact of COVID-19 and the need for economic recovery brings a heightened sense of urgency to this conversation," Chief Executive of the Property Council of Australia, Ken Morrison said.

"The Property Council welcomes today's release of the Thodey Report on these issues and we congratulate NSW Treasurer Dominic Perrottet for commissioning this review and seeking to lead this debate.

"The report correctly singles out stamp duty on property transactions as a tax that is highly distortionary, harms the economy, worsens housing affordability and provides a roller coaster revenue stream for governments.

"Clearly the abolition of stamp duty – universally acknowledged as the most harmful tax within Australia – must be front and centre of any meaningful tax reform effort.

"However, the proposed remedy of replacing stamp duty with a broad-based land tax is potentially problematic and needs much more careful consideration.

"There is a compelling case for the GST to do much more of the heavy lifting in providing state and territory governments with the revenue they require, as well as enable the abolition of bad taxes such as stamp duty.

"This was one of the original intentions of the GST when it was introduced 20 years ago, with all state and territory governments promising to abolish commercial stamp duties in exchange for this revenue. Sadly, only South Australia has done so.

"The Henry Tax Review also recommended using an expanded or higher GST as one of two options to facilitate the abolition of all stamp duty, a fact that is not acknowledged in the Thodey Report.

"The Thodey Report explores many issues associated with its preferred model of replacing stamp duty with a larger and broader land tax, but it ignores the key question of how high a new land tax would need to be to offset lost stamp duty revenues.

"This is the key challenge with this reform proposal and we need only look to the ACT's experience to see why.

"After eight years of notionally working to abolish stamp duty, the ACT Government has only reduced stamp duty revenues by 1 per cent – hardly a successful model for abolishing this tax.

“Over the same period, the overall property tax revenues (stamp duty, land tax and general rates) have increased by 71 per cent.

“The ACT also demonstrates the risks for business in such a tax swap idea. In the ACT, even medium-sized business properties pay commercial rates of over 5 per cent annually. That’s a stamp duty-sized tax every year for owning a commercial property, as well as full stamp duty when a property is purchased.

“Business already pays high rates of land tax and is rightly weary of proposals that would see this increased further.

“There is no doubt that we need a reform pathway to retire stamp duty. A stronger GST should be kept on the table as a mechanism to deliver this outcome.

“The Thodey Report is a good conversation starter, but risks missing the opportunity for real reform by dismissing this option,” Mr Morrison said.

Landlords left struggling amid the coronavirus pandemic are shunning WA land tax relief

When one of Julie Drago's commercial tenants was forced to temporarily shut their doors due to the COVID-19 pandemic, the Perth landlord says she was both keen and able to help.

Key points:

- Land tax waivers totalling $100 million are on offer for commercial landlords
- But figures show just $272,000 worth of payments have been made so far
- WA's Property Council says the viability of some landlords is under threat

Months' worth of rent waivers and deferrals were negotiated, making Ms Drago eligible for a WA Government assistance scheme designed to encourage landlords to help struggling tenants by reducing their costs.

After a lengthy application process for that scheme, Ms Drago was left seriously underwhelmed by the result.

She estimates she wrote off $50,000 worth of income from that tenant through the rent waivers and deferrals.

Through the assistance scheme, she will get back just $981.

And she is yet to get the money, four weeks after the application was finalised.

"It was an absolute waste of time," Ms Drago said.

"It is frustrating and it is just not helping us at all, we gave away about $50,000 worth of rent and we don't have a bottomless pit to be able to keep doing that forever."

Ms Drago is one of many landlords in WA claiming they have been left to carry far too much of the financial burden of COVID-19, warning the lack of help was impacting the amount of support they are able to offer tenants.

WA landlords were hoping the State Government's land tax grant scheme would help ease their financial headaches, as they faced falling income from tenants who could no longer pay rent while also confronting banks demanding continued repayment.

Rules introduced for the pandemic required landlords, whose tenants had suffered a 30 per cent reduction in turnover, to offer proportional rent relief, with at least 50 per cent having to be waived entirely.

But figures show Ms Drago is far from the only operator having difficulty accessing the scheme, which set aside $100 million for grants to commercial landlords — equating to a quarter of their land tax bill for 2019-20.

Grants dwarfed by landlord costs

The scheme opened on May 1, but the most recent figures from mid-June revealed just $272,000 worth of payments have been made so far.

Only 381 applications had been submitted, with a further 191 started but not yet lodged.

The design of the scheme means landlords must provide three months of rent relief and freeze outgoings, meaning that income waived will dwarf any grant.

Property Council executive director Sandra Brewer said WA's scheme was far more restrictive than similar measures in other states.

And Ms Brewer warned the lack of assistance for landlords in WA was threatening the future of many.

"We are concerned about the viability of some of those landlords so it would be a smart decision for the State Government to provide them some relief, that supports their ongoing viability," Ms Brewer said.

"The way the land tax relief system has been designed at the moment creates quite an unfair situation for WA landlords."

As the pandemic ramped up and scores of businesses were forced to close, Prime Minister Scott Morrison said the burden should be shared among banks, landlords and tenants.

But commercial landlord and property developer Gerard O'Brien said that was far from the reality in WA.

Mr O'Brien warned the impact on the property sector was significant and it would have lasting economic impacts.

"No developer in their right mind is now going to go and redevelop because they have no reliable income, they are concerned and scared," he said.

"The next big wave of unemployment is going to be the engineers, the architects and the builders and that will be a much bigger share of the population.

"We have a lot of pain coming in about four months' time."

We may not spend full $100m: Wyatt

Treasurer Ben Wyatt said he still expected applications to increase over time, but conceded the amount spent may be below $100 million — arguing WA's success containing the pandemic had also reduced the economic impact.

"If we do not spend the whole $100 million we have allocated, that is not in itself a bad thing. But those who have been impacted will get that support," he said.

"I think we have struck a balance but we're happy to tinker as we need to, to ensure the balance is achieved around sharing the burden.

"But the state just won't be writing cheques to anyone. You do have to make your case."

Why replacing stamp duty with a land tax is a bad idea

Federal and state budgets have been slaughtered by COVID-19, and the financial situation will look worse when the plunge in tax receipts is revealed after June 30. Of course, there are always a few people who believe that a dire situation is the perfect time for "structural reform" - one old chestnut going around at the moment is the idea of replacing stamp duty with a universal land tax.

The argument has been around for a decade, after ex Treasury chief Ken Henry claimed that stamp duty was an inefficient tax. According to him, it's a disincentive for people to move, and gives state governments an erratic income, because their coffers overflow when the property market is booming, but then revenue withers away when property slumps.

His suggestion was that we could simply remove stamp duty and replace it with a universal land tax paid by every home owner. Well, it's not quite that simple. State governments receive about $20 billion a year from stamp duty, so any transition would have to be a slow process. The proponents of this scheme claim that it could be easily achieved over a 20-year period, with stamp duty being gradually reduced, as land tax is gradually introduced.

But it's a seriously flawed proposal. Its proponents also claim that the property market would boom, because buyers could use the money now required for stamp duty to increase their deposit and qualify for bigger loans. Of course this begs the question, do we really want to encourage home buyers into even bigger loans? After all, interest rates are near bottom and must rise at some stage in the future. If you think mortgage stress is bad now - imagine what a 2 per cent rate rise would do!

It also fails a basic test of tax policy - the ability to pay. Think about a widow in Sydney who has lived in the same home for 50 years. Even though it's old and run down, the house is now worth over $1 million purely because of the general rise in property values in Sydney. She is on the single pension of $472 a week, and is already having trouble getting by. Does any government think it's fair to hit her with another $40 a week or more in land tax?

The proponents of the change argue there is no need for her to pay it - she can simply treat it like a HECS debt and let it accumulate, to be repaid when the property is sold. If so, will she pay interest at 8.89 per cent - the rate the NSW government currently charges on unpaid land tax? Or are they going to offer pensioners an exemption from land tax? If so, we would see a debacle similar to what happened when Labor threatened to withdraw franking credits from everybody except age pensioners. It incentivised retirees to change their focus from becoming self-sufficient to getting the pension, no matter what. A further complication is that investors already pay land tax on rental properties - and this cost is usually passed on to their tenants. It would be manifestly unfair if stamp duty was eventually waived on purchases for investors, while continuing to allow them to claim a tax deduction for the land tax which is indirectly passed on to the tenants.

But the worst sector to be hit by a universal land tax would be retirees. They are already facing minuscule interest rates, coupled with a volatile stock market. The last thing they need is another attack by any government on their financial security.

What Ken Henry really thinks about tax reform

"Just call me a 'has been'," jokes Ken Henry on the phone from his farm up near Port Macquarie, where he's spent lockdown with his wife, two adult children and their families.

I've just asked Australia's former Treasury Secretary, who stood down last year as chairman of NAB after the banking royal commission, for his current affiliations. Henry says he has a few irons still in the fire, including as chairman of Australian National University's Sir Roland Wilson Foundation.

But we agree mention of this will needlessly eat up too much of my word limit for my weekend feature on the future of tax reform.

We decide, instead, to play a game of "yes, no, maybe" on the top five recommendations of former Telstra boss, David Thodey's tax review, released this week.

OK, I decide we should play the game. But Henry obliges. He seems in a convivial mood. He only warns he must be a bit careful, because he is yet to provide his formal feedback to the review.

In the meantime, here it is:

1. Lift the rate of base of the goods and services tax

HENRY: YES (if not pursuing an alternative form of a consumption tax, like a business cash flow tax)

"I think that over time we're going to have to place more reliance on consumption taxes and that means both a higher rate and a broader base. Whether it's the GST we use, or an alternative like a cash flow tax or something of that sort, we are going to have to have a broader base and higher rates on consumption over time. If we don't find an alternative consumption tax, then it does mean a higher GST rate and broader base."

"I do think there's an opportunity to simplify the administration of the GST. Rather than have our invoice and credit method, I think we could have a direct subtraction method tax, which is effectively what a cash flow tax would deliver. I think there's an opportunity to do that. I think there would be benefits in doing that because it would be simpler, lower compliance costs and would give us an opportunity to rethink the appropriate base for the tax."

2. Abolish stamp duty and introduce a broad based land tax

HENRY: Yes

"Absolutely. Long overdue. Gotta happen. And that's the one that surely has the best chance of happening because everybody seems to understand the case for it."

3. Share federal income tax revenue with the states and abolish tied grants

HENRY: MAYBE to the first part, and YES to the second part

On the idea of the federal government giving some portion of income tax revenue to the states: "I think it's worth exploring, so it's a maybe." However, adds Henry: "It's been tried in the past and the states have shown little enthusiasm."

On abolishing grants to state governments tied to particular purposes: "We did this in 2008," he notes, with some frustration. "We had a huge reform of federal financial relations. We got rid of all this garbage. And things are even worse now than before we started in 2008. The problem that we've got in the Federation is that we're capable of occasionally having these big grand bargains that deliver massive reform and then, within a decade, we're back to where we were, or in a worse position. I think the story is that ministers with portfolio responsibility for various things cannot help themselves. If they see a problem that needs addressing, they'll just put a bandaid on it [a grant to the states]."

It is at this point that Henry somewhat casually drops the bombshell into our conversation that he would like to see the federal government stripped of all responsibility for education and health and states stripped of their ability to approve big mining projects.

"The big problem here - which the review points to - is that there is no clearly settled allocation of roles and responsibilities between the Commonwealth and the states. So, both states and the Commonwealth see every problem as their political problem, that they have to fix. And so they're always bending over backwards to come up with a new bright idea to fix a problem that is probably not really their responsibility at all, you know, constitutionally, but politically of course it is."

But how to divvy things up?

"You just take a portfolio and say: 'That's yours. That's not ours'," Henry explains. "Defence is pretty obvious. But that's the only easy one. Education I think yep, give it to the states completely. Health I think it has to be states. It has to be. Because it's too hard for a centralised - even for a country as small as Australia in terms of population - it's pretty hard to run a health system from Canberra. I would leave it to the states."

"The big one, the really tough one, is environment. There I can see the sense in leaving it to the states. But their record has been so bad, I would not. It's just terrible. And I think there has to be a national discipline when it comes to environmental matters. And I'm not just talking about climate change – obvious climate change - but the preservation of the continent has to be thought of in those terms: it has to be thought of as the continent of Australia. And that should be a national responsibility. Bizarrely, under the constitution, the Commonwealth doesn't actually have power, except in unusual circumstances."

So, would Henry strip state governments of the ability to approve mining projects?

"Yep."

Bombs away!

But getting back to Thodey's recommendations...

4. Harmonise state payroll taxes and remove exemptions

HENRY: YES

"But that's a second best. I would replace it with an alternative, like a cash flow tax. But if there's not going to be a cash flow tax, then yes, harmonisation and getting rid of the exemptions as much as possible makes sense."

5. Introduce road user charging to replace fuel excise, starting with electric vehicles

HENRY: YES

"I think it's all very sensible what they've recommended."

So, that's a 'thumbs up' from Henry for Thodey's recommendations, then. Which should come as no surprise, given most were also recommendations of Henry's 2010 review.

Henry says he remains committed to these and other ideas from that review, including cutting company and income taxes.

So what else would Henry do on tax reform?

On the need to cut company taxes, Henry says: “We have to. We don’t have a tax system that’s capable of generating sufficient business investment and that’s doing enormous economic damage."

And the only option is to cut the company tax rate?

“Or, a redesign, and this is where the other case for cash flow taxation comes in. But it gets really complicated. But the company tax - even with accelerated depreciation - does not provide as generous a treatment of business investment as cash flow taxation does. So...if you’re going to stick with our company tax system, then we are going to have to cut the company tax rate over time.”

“Of course, Jess,” Henry continues, “I don’t know how many of your readers would have figured this one out, but the principle reason the company tax rate has not been cut in Australia to date is because of the defeat of the resources super profits tax.”

Because we still just need the revenue?

“Correct,” replies Henry, “because the biggest payers of company tax are the miners and the banks. And if the miners were paying the alternative resources super profits tax, the company tax rate would have been cut by now.”

So, where to now for tax reform?

Does coronavirus provide politicians with the “burning platform” needed to embark on major reforms?

“We had a burning platform before the coronavirus hit, and it was that we had a tax system that was not capable of funding the goods and services that governments are committed to funding without doing enormous economic damage - without hampering productivity and growth... With the coronavirus, that means that now everybody should be able to see that it’s a burning platform because we have got governments needing to do more, with tax bases that have been damaged horrendously by the interventions that governments have had to take. So we had a burning platform and now the thing is shattered.”

What exactly should be done, though?

Should the Treasurer simply lift the GST to 15 per cent, as some commentators (ahem) have suggested?

“He’s not going to do that,” says Henry. “He would regard that as political suicide - and it may well be, if that’s all you did. But that would be a missed opportunity. There’s an opportunity here for national leadership in a national reform agenda that has tax at the top, but is not all about tax.”

And the last thing we need is another review, Henry concludes.

“We all know...huh.” Henry pauses. “Well,” he corrects himself, “we’ve all been told for long enough what needs to be done. We don’t need another review. We need agreement and political commitment. That’s all we need. And the national cabinet - that’s an appropriate body to be able to take those decisions. The question is whether there is a political will?

"But, as I said, it needs to go well beyond tax. We need to fix the climate policy mess. We need to fix the energy policy mess. We need a national approach to population. There's a huge number of policy issue that have been there, unresolved, for a very long time, and now's the opportunity to address them. Let's do it."

He's only been arguing for tax reform since he first took the helm of Treasury's tax policy division in 1984. But Henry's passion for the subject seems undiminished nearly four decades on - unshackled, even, by some time on the farm.

WA councils brace for millions in lost revenue as coronavirus economic measures take effect

Plunging property prices should see a drop in rates for many Perth residents this year for the first time in two decades, but councils are warning they will be forced to cut core services as this combines with the budgetary blow from coronavirus relief measures.

Key points:

- Most of Perth's councils committed to freeze rates this year
- There are concerns services or staff will be cut because of reduced revenue
- Councils are also concerned about the ability of ratepayers to pay bills

The State Government has chosen to go ahead with a scheduled revaluation of properties by Landgate, which occurs every three years and determines how rates are set.

For the first time in 20 years the average Gross Rental Value (GRV) of properties in Perth's metropolitan area has fallen, by an average of 13 per cent.

Treasurer Ben Wyatt said councils had resisted this change, arguing the earlier values from 2018 — when Perth property prices were far higher — should instead be used.

But he said councils had willingly passed on the increases in previous years — so they should be passing on the decrease as property values fall.

Rates are calculated using the value of a property and the rate in the dollar charged, which can vary from council to council.

A majority of the 31 metropolitan councils have committed to or already adopted a zero per cent change to their calculation formula — a move which will now bite a sizeable chunk out of their operating budgets given the property prices falls in Perth in the past three years.

Library opening hours reduced, job cuts under review

In Perth's south the City of Kwinana is grappling with a $1.68 million budget black hole, having to remove the 2.5 per cent rate increase it had previously factored in.

Mayor Carol Adams said while council supported the move to freeze the rates yield, the decision was not taken lightly.

"The City … had factored in a 2.5 per cent increase of rates, so the impact of freezing any rates revenue increase amounted to a $1.68 million reduction in expected income," she said.

"Other forecast reductions in income include $518,000 due to the freeze on fees and charges, and $793,000 due to the reduction of expected interest income."

Ms Adams said services would need to be reduced to absorb the cuts and the City could not rule out job cuts.

"In the City of Kwinana, unemployment is a key challenge that we are determined to tackle," she said.

"To this end we are also committed to keeping as much of our City's workforce employed as possible."

Kwinana has delayed the recruitment of vacant positions, forgone an increase in staff salaries, reduced its events program and reduced the hours of its rangers and libraries.

In neighbouring Rockingham, the City recently adopted its 2020-21 budget which included $840,000 worth of concessions to the 29 per cent of residents whose rates would have increased under the GRV change.

"Council's decision is aimed at ensuring no residential ratepayer will pay more than what would have applied in the previous financial year," mayor Barry Sammels said.

The City of Melville offered flat $200 concessions to its ratepayers, as part of a $15 million community stimulus package.

In the north, the City of Wanneroo said one of the highest increases in GRV was 86 per cent, which it said would not be passed on.

Concerns over ability to pay bills

WA Local Government Association (WALGA) president Tracey Roberts said while councils did everything they could to minimise the impact, cuts would likely be on the cards.

"Councils are certainly hoping not to, but unfortunately given the budget requirements and what they're trying to do to support their communities, this may well have an impact on operations," she said.

"It might be that some services in some areas are cut back, and it might well be that it could impact on the staffing."

WA's unemployment rate currently sits at 8.1 per cent.

Ms Roberts said councils were concerned about the consequences of more residents facing financial hardship, and not being able to pay their bills.

"Certainly budgets that were developed up until April this year, literally many have had to be thrown out the door and restarted," she said.

"So I liken it to a road train doing full tilt down the Nullarbor and having to do a handbrake turn without losing control.

'[Councils] are certainly looking at financial hardship policies, but that's something we do have to be very mindful of — and that's the ability for people to pay.

"And that's what we'll be factoring in to our decision making."

'Rate in the dollar' could increase

Councils set what is known as a 'rate in the dollar' to meet their budgetary needs, by which a property's GRV is multiplied to ultimately determine the final rates figure.

This means that an average decrease in GRVs across Perth would not necessarily mean lower rates, because the rate in the dollar could be increased.

"[Councils] made a commitment in April that we would freeze our income based on the budget from last year, and a lot of councils are trying to do that," Ms Roberts said.

"The GRV has impacted the rate in the dollar, the thing is though these are not the only components that make up the rates.

"So councils are trying to identify what opportunities they have to try and reduce the impact on ratepayers so they do maintain that same amount they achieved last year.

"So it's the same, but how we go about it is different."

Councils willingly passed on rate hikes: Minister

Lands Minister Ben Wyatt said GRV revaluation would potentially lead to lower costs for ratepayers.

"Historically, as GRVs have risen, councils have willingly accepted those increases and passed them on to ratepayers through higher rates," he said.

"This year, councils have requested that the State Government freeze the GRV to last year's values.

"This means that, while Councils were previously happy to accept higher GRVs, they did not want the State Government to pass on lower GRVs, despite these reductions potentially delivering reduced rates to ratepayers.

"The State Government has made the decision to pass along the reduction to GRV-related fees and charges.

"This has resulted in the total household basket of fees and charges decreasing in 2020-21, saving households up to $63.52."

Mr Wyatt said the State Government had provided a new $100 million lending facility to support local governments impacted by reduced revenue due to the pandemic.

Ms Roberts said there was an opportunity for growth out of the hardship faced by the community during the crisis.

"What's been heart-warming is the response of the community, really looking out for one another, making sure their neighbours are ok, making sure there's some communication over the front fence," she said.

"That strong sense of community spirit is well and truly shining through."

Melbourne's property values plunge during COVID-19 pandemic

Melbourne's property prices have been the hardest hit during the COVID-19 pandemic, dropping more than 2 per cent and $5500 in value on average.

New data from property research firm CoreLogic shows that as of June 30 this year, Melbourne's median value – which includes both apartments and homes – stood at $683,529.

Prior to the pandemic in January that figure stood at $689,088. For the quarter that represents a 2.3 per cent downswing in value, marking Melbourne as the biggest loss leader in the country.

Property values across Australia did not fare much better.

Each of the five largest capital cities recorded a decline in home values over the past month with just Hobart, Canberra and Darwin recording an increase in value throughout June.

In just 30 days, Sydney dropped 0.8 per cent, Melbourne plunged 1.1 per cent, Brisbane fell 0.4 per cent, Adelaide dropped 0.2 per cent and Perth also lost 1.1 per cent of value.

Sydney remains the most expensive market in the country with a median value of $875,749.

Conversely Darwin remains the cheapest market, with the median home selling for $387,914.

CoreLogic's Head of Research Tim Lawless said despite wide-ranging restrictions due to COVID-19, the fall in values has been relatively timid.

"The downwards pressure on home values has remained mild to-date, with capital city dwelling values falling a cumulative 1.3 per cent over the past two months," Mr Lawless said.

"A variety of factors have helped to protect home values from more significant declines, including persistently low advertised stock levels and significant government stimulus.

"Additionally, low interest rates and forbearance policies from lenders have helped to keep urgent sales off the market, providing further insulation to housing values."

Mr Lawless has warned property values may slide further once government economic lifelines like JobKeeper and banking initiatives like mortgage holidays end later this year.

"While it is encouraging to see lenders have recently hinted at an extension in their repayment leniency policies, the government stimulus will eventually taper and banks will require borrowers to repay their loans," Mr Lawless said.

"The longer term outlook for the housing market is largely dependent on how well the economy is tracking when these support measures are removed."

Australia's median property values in June 2020

City:	Monthly change:	Quarterly change:	Median Value:
Sydney	- 0.8 per cent	- 0.8 per cent	$875,749
Melbourne	- 1.1 per cent	- 2.3 per cent	$683,539
Brisbane	- 0.4 per cent	- 0.2 per cent	$503,148
Adelaide	- 0.2 per cent	+ 0.7 per cent	$440,267
Perth	- 1.1 per cent	- 1.4 per cent	$441,977
Hobart	+ 0.3 per cent	+ 1.0 per cent	$487,827
Darwin	+ 0.3 per cent	+ 0.4 per cent	$387,914
Canberra	+ 0.1 per cent	+ 0.7 per cent	$639,965
National	- 0.7 per cent	- 0.8 per cent	$554,741

Tax review calls for end of stamp duty

A review of the tax system has resulted in recommendations to abolish stamp duty and raise the GST rate.

NSW Treasurer Dominic Perrottet ordered the review last year after calling for changes to the way states received revenue.

Recommendations from the review, led by businessman David Thodey, include replacing stamp duty with a "broad-based" land tax, despite stamp duty being the second-largest revenue stream for the State Government.

It was recommended that during the transition between the two schemes homeowners should be allowed to "voluntarily opt in" to land tax or pay the upfront stamp duty when they bought their next property.

It also recommended lifting the GST rate from 10 per cent to "offset" a decline in the GST base, as well as boosting the state coffers to allow it to get rid of other taxes.

The review says some of the revenue gained by the raising of the GST should filter through to lower-income households.

Land tax relief for Queensland businesses extended for four months

The application deadline for the Queensland Government's land tax rebate has been extended for a further four months to assist local businesses.

Queensland Treasurer Cameron Dick says the decision was made following consultation with the Property Council of Australia.

"As restrictions ease further in the week ahead, we know more businesses can look forward to increasing their trade, but for many small businesses the road ahead remains very challenging," says Dick.

"In order to enable landlords to better support their tenants, keeping businesses trading and supporting Queensland jobs, we will extend the rebate application deadline to 31 October 2020.

"This will give landowners more time to finalise relief agreements with their tenants and apply for the rebate."

Since the Queensland Government first announced relief measures to support landowners and tenants through the COVID-19 pandemic, more than $91 million in land tax relief has been approved, benefitting around 7,000 taxpayers.

Land Categorisation for Rating Purposes: When is the dominant use ‘mining’?

The Land and Environment Court has recently considered whether land surrounding an open cut mine and in the same ownership as the mine but used for grazing and cropping activities and as an offset for the coal mine was properly categorised as mining for rating purposes.
In *Mangoola Coal Operations Pty Ltd v Muswellbrook Shire Council* [2020] NSWLEC 66, the Court determined that when all the activities on the land were considered, the dominant use of land was a mine, despite the particular parcels not actually being physically mined. The Court distinguished the facts from earlier decisions which

indicated that land held for mining did not have the dominant purpose of mining. Consequently, it is a decision which could significantly raise the rating liability of mining companies that 'hold' land for mining purposes.

Background
Under the *Local Government Act 1993* ('**LG Act**'), all land must be categorised before any rates are levied. There are 4 rating categories: farmland, residential, business or mining: s514 of the LG Act.
The proceedings involved a challenge by Mangoola Coal Operations Pty Ltd (the '**Applicant**') in respect of the rating categorisation of two parcels of land owned by it, 18km to the west of Muswellbrook, for the 2016/17 rating year and the 2017/18 rating year.

These two parcels were:
- 727 ha for the 2016/2017 rating year and 578 ha for the 2017/18 rating year ('**Small Parcel**'), and
- approximately 6,617 ha for the 2016/17 rating year and 6,581 ha for the 2017/18 rating year ('**Large Parcel**').

The Applicant had entered into an access licence agreement over both parcels of land with a company called Colinta Holdings Pty Ltd, a cattle grazing enterprise. The parent company to both entities is Glencore.
The issue before the court was whether each of the parcels should be categorised as 'farmland' or 'mining' during the 2016/17 and 2017/18 rating years. If, as the Applicant contended, the rating categorisation was 'farmland', a lower rate would apply.

Dominant Use of the Land under the LG Act
Under s515(1) of the LG Act, land is to be categorised as 'farmland', '…*its dominant use is for farming (that is, the business or industry of grazing, …., the growing of crops of any kind, forestry or …a, or any combination of those businesses or industries)* which'-
(a) has a significant and substantial commercial purpose or character, and
(b) is engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).

Land is to be categorised as 'mining' 'i*f it is a parcel of rateable land valued as one assessment and its dominant use is for a coal mine or metalliferous mine*' (s517(1) of the LG Act).

To determine the 'dominant use', the Court took the view that the analysis required was both quantitative and qualitative and adopted the following approach (at [121] – [124]):
- 'dominant in its ordinary meaning connotes ruling, prevailing, or most influential. The statute's reference to a dominant use presupposes that land may be used for more than one purpose and requires a determination of which use of the land is the main, chief or paramount use': *Leda Manorstead Pty Ltd v Chief Commissioner of State Revenue (2010)* 79 NSWLR 724; [2010] NSWSC 867, [69]
- dominant use 'is a question of fact and degree that may, in the end, be determined as an objective matter of impression having regard to the facts': *Leda Manorstead* [70], cited at [123] of the judgment,
- the task required by s517 is to identify the use of land for a purpose, in this case, 'for a coal mine'. Similarly, s515 requires identification of the dominant use 'for farming'. The word 'for' introduces a purposive element. It requires identification of the objective purpose of the existing activities on the land. It does not mean the purpose for which land has been acquired: *Bayside Council v Karimbla Properties (No 3) Pty Ltd* [2018] NSWCA 257 at [109] (Emmett AJA with whom McColl JA agreed),
- use in the sense used in s517 and s515 requires the identification of the actual physical activities carried out on that land and characterisation of the use.

The Court then asked:
- what were the nature and extent of the uses on the relevant assessment parcels during each of the relevant years? and

- of those uses, which was the dominant one and what purpose was served by it?

The Court's Decision
Justice Moore held that the dominant use of both parcels of land for both rating years was 'mining'.
The Large Parcel was assessed as three different sections. In the 2017/18 year, farming was the dominant use in one of the three sections in the Large Parcel. However, when adding the uses in the other two sections of the Large Parcel for that year, the dominant use of the whole of the Large Parcel was for the purpose of the coal mine: see [464] and [471] of the judgment.

In determining the dominant use the following factors were significant:

- the existence of a pipeline easement and electricity supply line on both the Small Parcel and the Large Parcel, which supplied water and electricity to the coal mine. The electricity supply line, and the pumping station and water pipeline, were essential to permit the mine to function,
- grazing activities in accordance with the access licence agreement, were intermittent at best in some areas in the Small Parcel,
- there were no grazing activities in some areas of the Large Parcel due to drought,
- there were a number of environmental monitoring infrastructure items installed on both the Small Parcel and the Large Parcel, which operated constantly during the relevant years. This infrastructure was required to be located on the land pursuant to the project approval conditions for the coal mine. However, without this infrastructure, the mine could not operate in compliance with the project approval conditions. The Applicant's own published reports indicated that the monitors formed part of the mining operations,
- mining personnel were required to access the mining monitoring infrastructure, and did so on both clearly marked tracks and across paddocks to the mining monitoring infrastructure, and
- both the Small Parcel and the Large Parcel included land that was held by the Applicant to offset the impacts of the parcel of land used as a coal mine. Some of these areas were fenced off from the areas available to be grazed under the access licence and grazing of livestock in these areas was only permitted with the prior written approval of the Applicant.

In relation to the final point, the Court considered at some length, Chief Justice Preston's judgment in *Peabody Pastoral Holdings Pty Limited v Mid-Western Regional Council* [2013] NSWLEC 86; (2013) 211 LGERA 337 ('***Peabody***'), noting that the Court of Appeal's decision in that case was not antipathetic to Chief Justice Preston's decision at first instance. In *Peabody,* the Chief Justice observed in [85], '*land cannot have its dominant use for a coal mine or metalliferous mine if it is not used, but is only held, for a coal mine or metalliferous mine. This is a further indicator that land held for coal mine is not within the ambit of the concept of dominant use of land for a coalmine in section 517(1)*.'

In that case the Court was considering whether land which was not physically used for mining, but had been acquired under conditions of a project approval due to the impact of noise from the mine on the land, could be regarded as being used for mining purposes. Adverse impacts from a mine were not sufficient to result in land being used for that purpose.

Justice Moore applied Chief Justice Preston's reasoning to the present case, but held that in this case the offset land was being used in an *active* sense, for purposes required of the coal mine and not merely held for a coal mine in a *passive* sense (see [341] and [363]). The purpose served by the offset land was to satisfy the conditions of the Applicant's approval to operate the coal mine. For example, the approval required the creation and management of the biodiversity offset areas (see [332]), and the re-establishment of some plant species and plant communities on the offset land (see [342]-[344]).
Furthermore, Justice Moore distinguished his earlier decision in *Ulan Coal Mines Pty Limited v Mid-Western Regional Council* [2013] NSWLEC 1167, where he held at [143] that '[areas]*…that are… merely vegetated or have no active use on them, are to be disregarded*' and that evidence of *'some positive use'* will '*displace any non-use*'.

Unlike *Ulan, 'there is no other use on the offset land…The only relevant use of those lands is that which is mandated by the relevant conditions and incorporated documents from the Company's consent to conduct its coal mine*' (at [361]).

The purpose served by the use of the land to offset the impacts of the coal mines clearly characterised the land as being for the purpose of a coal mine, as the impacts of the coal mine would otherwise be unacceptable: '*The purpose that those offset activities (uses) therefore serve is to permit the Company to undertake its mining activities, including activities that would otherwise have unacceptable impacts. The purpose served of the use (and only use) of the offset areas is, therefore, that of a coal mine (at [365]).*

Conclusion
The 'dominant use' of the land is a question of fact and degree. Under s523 of the LG Act, a council may review a declaration that a parcel of land is within a particular category, if it has reason to believe that a parcel of land should be differently categorised. In light of the findings of this case, councils may wish to review the rating categorisation of land owned by mining operators and investigate whether land which has not previously been categorised as mining because it was considered to be 'held' for future mining purposes should be categorised as 'mining ' because it is nevertheless being actively used to service a mine, including being used to satisfy project approval conditions.
A copy of the decision is available via the link below:
https://www.caselaw.nsw.gov.au/decision/172a147ef48b7290ec18acf2

Australian property price falls are accelerating as the country hurtles towards a 'fiscal cliff'

Australian house prices have dropped for the second month running, according to the latest CoreLogic data.

- Prices fell 0.7% nationally in June, after a 0.4% drop in May, with Melbourne the worst affected.

- While the worst case forecasts of 10% falls appear to have been overblown, Victoria's partial return to lockdown and the expiry of key support measures could see the market fall further.

While the real estate market has held up relatively well so far, there are some rough seas ahead as price falls pick up.

Property prices fell 0.7% nationally in the month of June, almost twice the 0.4% fall recorded for May, according to the latest CoreLogic data.

It's far from the 10% drops forecast by the Commonwealth Bank and others at the outset of the COVID-19 crisis, with CoreLogic head of research Tim Lawless noting an abundance of support had so far constrained cumulative falls in the capitals to 1.3%.

"A variety of factors have helped to protect home values from more significant declines, including persistently low advertised stock levels and significant government stimulus," Lawless said.

"Additionally, low-interest rates and forbearance policies from lenders have helped to keep urgent sales off the market, providing further insulation to housing values."

Nor is further stimulus guaranteed, with support measures set to end in the coming months.

"While it is encouraging to see lenders have recently hinted at an extension in their repayment leniency policies, the government stimulus will eventually taper and banks will require borrowers to repay their loans," Lawless said.

"The longer-term outlook for the housing market is largely dependent on how well the economy is tracking when these support measures are removed," he added.

While Sydney and Melbourne's prices remain 13.3% and 10.2% higher over the last 12 months, they're both now witnessing the sharpest falls, with the upper end of the market proving the weakest.

"Higher value markets tend to be more reactive to changes in the environment, having led both the upswing and the downturn over previous cycles," Lawless said, noting the top market quartile had fallen 1.7% across the capital cities in three months.

Melbourne, smacked by another 1.1% drop in June, has seen 2.3% wiped off prices this quarter. Perth fell by the same margin in June, while Sydney prices fell 0.8%.

Elsewhere, it's been a mixed bag. Brisbane, Adelaide and the regions declined modestly over the month, while Hobart, Darwin and Canberra all posted slim growth.

A second wave of infections and the 'fiscal cliff' still remain key risks to the market

The results are despite a resurgence in market activity, with live auctions and inspections back on the agenda and new listings returning as Australia's containment of COVID-19 appears to be working.

Except in Victoria, that is. The state moved this week to reinstate level three restrictions on ten Melbourne postcodes after discovering "unacceptably high" rates of coronavirus transmission.

The possibility that the city and state could be again locked down may hamper the economic recovery effort more broadly.

"Even though Melbourne is going to be most affected, if it shuts down it is going to affect the whole country as well," Domain economist Trent Wiltshire told Business Insider Australia.

But as government and bank support measures approach their September expiry date, there are still larger concerns the market could be headed for a so-called fiscal cliff.

"The key thing that potentially will push prices down is if people are forced to sell their properties," Wiltshire said.

"If we have people losing JobKeeper or the higher JobSeeker payment and then to need to start repaying their mortgage again, then that's a really big hit to them, the economy and that will likely see a big rise in forced sales."

However, he remains of the opinion that such a situation is unlikely, saying the federal government would be "crazy" to remove the economic safety net in its entirety. Nor is it in the interest of the banks to foreclose.

"If they can avoid it the banks don't want to make people sell," Wiltshire said. "The good news is we've seen around 20% of people who have deferred on their home loan begin making repayments again."

While initial forecasts may have been overblown, the risks that make them possible haven't yet disappeared However, while Commonwealth Bank economists say it looks likely actual price falls will undershoot their 10% forecast, they expect there is more to come.

"For the record, we have not revised our forecast for a 10% fall in dwelling prices nationally. There are a number of dynamics that are still playing out and it’s still early days in terms of the big shock to the economy," head of Australian economics Gareth Aird said.

"In addition, the house price expectations index from the Westpac [consumer sentiment survey] remains in pessimistic territory."

Given the relationship between price movements and sentiment, that doesn't bode too well either.