

TRANSCRIPT

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 Copsy

Jacinta Ermacora

David Limbrick

Bev McArthur

Tom McIntosh

Evan Mulholland

PARTICIPATING MEMBERS

Gaelle Broad

Georgie Crozier

Sarah Mansfield

WITNESSES

Ms Cath Evans, Victorian Executive Director, Property Council of Australia,

Mr Sam Tarascio, Managing Director, Salta Properties, and former President, Victoria, Property Council of Australia, and

Mr Craig Whatman, Partner, Pitcher Partners, and Chair, Victorian Taxation Committee, Property Council of Australia.

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 go around briefly and introduce committee members.

Katherine COPSEY: Katherine Copsey, MP for Southern Metropolitan.

Evan MULHOLLAND: Evan Mulholland.

David DAVIS: David Davis, Southern Metro.

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: Thank you very much. Thank you for coming along today.

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, could you all please state your full name and the organisation you are appearing on behalf of.

Sam TARASCIO: Sam Tarascio, Managing Director of Salta Properties.

Cath EVANS: Cath Evans, Victorian Executive Director, Property Council of Australia.

Craig WHATMAN: Craig Whatman, Partner, Pitcher Partners, appearing for the Property Council of Australia.

The CHAIR: Great. Thank you very much. We now welcome your opening comments but ask that they be kept to around 10 to 15 minutes to allow plenty of time for discussion and questions.

Cath EVANS: Thank you, Chair and committee members, for the opportunity to appear at this inquiry. The Property Council of Australia is the leading advocate for Australia's property industry, the economy's largest sector and employer. Over the last decade the trend by the Victorian government has been to introduce new and increased taxes on property. Since 2014 eight new property taxes have been introduced, there have been 10 increases in the rate of existing taxes, four exemptions have been removed and three changes expanding the scope of a current tax have been implemented. As of yesterday, further increases in land tax have been introduced, this time on a 10-year basis. But at the same time, far more pleasingly, we have seen the intention to remove stamp duty from commercial and industrial transactions and to replace these with an annual land tax over a 10-year period. There are obviously details to be worked through in terms of implementation, and we will engage in this process going forward. We welcome what we hope will be the start of a reform agenda for the taxing environment overall, and along with other industry experts, we have long advocated for the abolition of stamp duty.

Removing the financial barrier to the buy-sell transaction is expected to incentivise the turnover of housing. Reforms should give buyers the freedom to make property purchase decisions based on their current needs and lifestyle choices, rather than compromising on their purchase decisions to minimise stamp duty. Wholesale reform could encompass replacement of stamp duties in a revenue-neutral way. Ideally this would be through a nationally coordinated approach, using the GST as replacement revenue, but we acknowledge the political realities of our federation make this unlikely at best.

There are some further themes we can explore which could tactically assist with the current market conditions, and I will hand over to Sam Tarascio who can explore some of these themes a bit further.

Sam TARASCIO: Thank you, Cath. In terms of some more targeted and localised opportunities to incentivise property transactions, we could look at the principal place of residence exemption from stamp duty, which currently has a maximum price of \$550,000 to achieve exemption. To enable more first home buyers to enter the market, the exemption for stamp duty for this group of prospective purchasers could be increased from, say, \$550,000 to \$750,000, given the lack of available stock at that pricepoint. This would be broadly in line with the reforms announced in New South Wales.

Another idea would be to investigate a stamp duty rebate scheme which is aimed at increasing the velocity of transactions and reducing the average cost of transactions. Such a scheme could enable a purchaser to seek a rebate of stamp duty paid on a previous purchase as part of the purchase of a subsequent property, if done within a specified time frame, to enable them to alter their housing needs to match their stage of life, the idea being that instead of an owner transacting once or twice in their lifetime, to increase that to, say, four or five times, so the overall tax take is the same, but the cost on average is lower. So for example, a home owner purchases a property for \$750,000, the stamp duty payable is \$40,000. If the property is sold at an earlier interval, they might get a percentage rebate off that previous stamp duty paid to put towards a stamp duty payable on their new home.

As well as other large-scale reform options, we would also like to bring your attention today to the successful role that targeted concessions and exemptions play in supporting access to housing. For example, off-the-plan stamp duty concessions were incredibly successful in not only helping people to acquire an apartment but in providing up-front finance to support projects to get out of the ground. And since this concession was abolished for investment properties in 2017, our apartment construction and commencement rate has declined year-on-year from close to 20,000 a year to just over 5000 per year. This is not the supply outcome our state needs, and we would urge the committee to look at the role of targeted concessions in supporting both access to housing but broader supply needs, especially the types of housing we need to be providing in the future. I will pass over to Craig now.

Craig WHATMAN: I think that is the end of the opening statement, is that correct?

The CHAIR: Great. Thank you very much. We will go to committee members for questions now, starting with Ms Copsey.

Katherine COPSEY: No questions.

The CHAIR: No questions. Mr Mulholland?

Evan MULHOLLAND: I just wanted to flesh out some comments on the land tax changes in the budget yesterday. I know you have been out in the media today. I just wanted to get your thoughts on the impact, particularly on renters, that that might have. I know there have been some comments from the government today to say that that increase can just be deducted. But in effect, what impact will it have on renters and broadly on supply as well?

Cath EVANS: Probably Craig and I can both answer that question. The majority of the rental stock on the market is owned by individual investors who might have a principal place of residence and one other property. That accounts, I think, for about 82 per cent of the available stock on the market. The profile of that investor is said to be a male, average age of 42, married and with an average income of around \$80,000 per annum.

So what we have seen occurring over the past 12 to 18 months has been a significant escalation in the cost to hold those properties. This is no secret to anyone in this room. We have all seen significant increases in costs of repairs and maintenance, both in terms of materials and labour costs; insurances across the board have increased; council rates have increased; body corporate fees have increased; and land tax has been a significant increase this year of up to about 50 per cent. So you add all of these hold costs together – and not to mention many of these investors have mortgages over those properties as well and therefore have got increased interest rate costs, which you have been travelling over the past 12 to 18 months as well – and for some of those investors to hold that property becomes increasingly difficult. So you do one of two things. You exit the market and sell the property, which is a negative outcome for renters because of the overall shortage of housing stock on the market. Someone who purchases that property may well then move into it themselves, because there are not a lot of available options for them out there. The other option of course is if you as an owner are under significant stress with all your combined outgoings, you increase the rental cost to your tenant. They are, in my mind, the two outcomes of increasing those hold costs.

So you might have an investor who is, on paper, asset rich given the increase in the value of that property, but the cost to maintain that property, or their cash flow to maintain that property, is pretty compromised when you look at those escalating costs to keep it available on the rental market. For many of those investors, this is setting them up for their future, for their retirement, so that they are not reliant on government to support them and they can self-fund their retirement. That is what the typical Australian investor has done.

In terms of, you know, the tax implications, there are people more technically capable in the room than me to comment on that issue. Perhaps, Craig, you might add something to the conversation about the taxation-related issues.

Craig WHATMAN: Well, it is certainly a significant holding cost, and I think this issue is relevant to both the land tax changes and also the annual property tax that is proposed to replace the stamp duty on commercial and industrial properties. Obviously there is a fair bit of detail to work through on that as yet, but one of the issues with that will be the ability of the landlord to pass that on to the renters. I think that is going to be an important consideration in that regard.

Evan MULHOLLAND: One more?

The CHAIR: Yes, of course.

Evan MULHOLLAND: There has been a lot of conversation recently around supply issues and a general consensus, even in an editorial from the *Age*, about the need for greater supply of housing and the fact that local government in particular has been a handbrake on that approval of new development and new supply into the market. There have been musings out there that there could be a sort of government takeover of all planning controls from local government. Other witnesses to this inquiry have suggested a better way might be housing targets for local government, with a carrot and a stick in term of incentives. What are your thoughts on the broader issue and also policy solutions for that?

Cath EVANS: The broader issues are clearly that we have a chronic undersupply of housing which is impacting renters, purchasers et cetera across the country. The property council has been advocating for a long period of time for planning reform to accelerate the process of delivering supply to the market. Certainly we believe there should be a clear pathway which is documented for delivery of supply throughout the course of each year that is understood and well managed to meet the increasing needs of our community, particularly with the growth in our population. What does that look like in terms of initiatives? There are many ways that

that could be done. We at the moment have a development facilitation program in Victoria where the state has oversight of significant projects and can review and manage those directly. There is no capacity at the moment for the state to have oversight of major residential developments, and we would advocate that that should change, given the crisis that we find ourselves in. We have a very fragmented system. That is no surprise to anyone in this room as well, given the nature of our local governments and how they are structured. We also have a real supply issue in the market with the technical capability to manage those projects efficiently, as well as all those local councils who may be trying to do so. It is a really tight market for labour. All of these issues are driving our lack of supply, not to mention of course the other macro issues to do with supply chain and construction costs generally both in terms of materials and labour. Sam can speak more to those issues as well.

Sam TARASCIO: Sure. I think, on that point, it is very easy for someone like me to say, ‘Separate politics from planning.’ We acknowledge that that is not really practical. But at which level should we separate the politics from planning? Definitely at the strategic level in terms of setting our targets, setting our strategic guidelines for planning, it is entirely appropriate that that is put through a rigorous process that has input from the wider community. But once those rules are set in place, decisions should be made against those planning objectives and those strategic objectives. All too often what we see, particularly at the local government level, is you go through a process of engagement and you go through a process of design and collaboration at the local government level with the expert planners who are there to implement the strategic planning policies and the planning rules that apply to a particular site and you get an endorsement from the planning officers, yet it gets knocked back once it goes up for approval. I do not know the exact figures, but a very high percentage of the time once that goes through the subsequent VCAT process you then get an approval. All you have done there is just waste time and money and delay supply, and one of the impacts at the moment in particular is, because of the rapidly escalating cost of construction and other costs, we are in a situation where a lot of projects that should have been approved 12 or 18 months ago that are now coming up for approval are actually no longer viable. Development is a very high risk activity. There are a lot of factors that go into a major development, and certainty of timing is one thing that would certainly assist in making projects (1) more viable and (2) a lot more efficient to deliver.

The CHAIR: Thanks, Mr Mulholland. Mr Davis.

David DAVIS: I have just got a couple of questions. But just picking up on the point made by my colleague and your response, there is no question in my mind – and certainly everyone who talks to me says – that the delays are causing problems, but they are not purely council delays. Often seeking planning changes, planning approvals, can take months, years and sometimes decades through the planning minister themselves. So some of these delays are – how can I say? – closer to home to government than the local council.

Sam TARASCIO: Yes, that would be true. I am not sure that the state planning department are immune from some of the delays. That is certainly the case, and there are examples out there that the politics has got involved of –

David DAVIS: It would make your hair curl.

Sam TARASCIO: Yes, it got in the way of what should be sensible planning outcomes. So as I say, it is not for me to determine where the politics and the – you know – should be separated, but there comes a point where that needs to happen, yes.

Cath EVANS: There are many brake points in the system. Certainly local councils play a very strong part in the delivery of planning outcomes, and we would not suggest for a moment that the problem rests with local councils in its entirety. We know that there are many hardworking councils across Victoria who are working very hard –

David DAVIS: Trying to move stuff through quickly.

Cath EVANS: to move things through. So I want to make that very clear.

Secondly, as I said earlier, despite people’s best efforts, we have such a shortage of skilled labour in a highly technical area, which is adding to the conditions that many find themselves in to move things forward harder and faster. But councils are one aspect. Of course we have processes through VCAT. We have wait times at VCAT. We have issues with referral agencies. There are many moving parts to a planning outcome, and so all

of those, that whole ecosystem, requires thoughtful consideration of where those brake points are and how to bring those forward in a more effective and efficient way.

David DAVIS: But if I distil my general point down, if you were the planning minister today, one of the things you could do immediately is to improve processes within your department and within sections of government. That would be an early step.

Cath EVANS: For anyone involved in planning outcomes in the current environment, that is their obligation – for anyone involved in it. Whether you are a referral agency, whether you are a local council, whether you are the state, whether you are VCAT, the community expects all of those enterprises to work very efficiently to get to appropriate planning outcomes in the shortest possible time frame so that we can get moving on what is obviously a critical issue at the moment, the supply of housing.

David DAVIS: I actually did want to talk through this chart that you have put here. This is a property acquisition and development structure, and as I read this, this is a series, a cascade, of layers of additional taxes that are feeding one on top of the other – I think I am characterising this clearly – and leading to maybe 17 or 18 per cent of the purchase price being just through this cascade of taxes and charges.

Cath EVANS: I will hand to Craig to step you through this piece of work.

The CHAIR: That would be great.

Craig WHATMAN: Thanks, Cath. Yes, we are referring to the diagram that was handed out to the committee. So the point of this diagram is really just to illustrate the multiple points of duty that can apply in relation to a relatively standard property acquisition and development structure. There is nothing particularly unusual about this structure. It is a vanilla structure. We have a landowner unit trust entering into a contract of sale to acquire property for development purposes. There is a holding unit trust above that, then there is a development agreement off to the side with the developer and associated with that a development management or project management agreement in respect of some of the works that are undertaken. So in terms of the imposition of duty or potential imposition of duty on this structure, the first thing that we need to worry about here is the sub-sale duty rules. Whenever you have a nomination scenario in Victoria you can get caught with a double duty scenario, where there is either land development or additional considerations that arise. We have had a number of scenarios where an application for a planning permit has been made between the date the contract is entered into and the date that the ultimate purchaser is nominated into that contract, and that can cause two lots of full duty. So that is two rounds of duty of \$630,000 based on our assumed purchase price here of \$10 million, which is 6.3 per cent of the price. We have then got potential landholders –

David DAVIS: This is double dipping, in effect, and triple dipping that we are seeing, yes.

Craig WHATMAN: Double duty, yes. Including within the same economic group – so not even different economic groups, just the fact that somebody has signed a contract and then they nominate a trust or a company, or whatever the appropriate structure is, into that contract as the ultimate purchaser – that can give rise to two lots of full duty in that scenario.

The next imposition could be landholder duty, and that is where the investors are coming into the holding trust on top. It is very common for the investors to come in once the contract has been signed. Obviously you sign the contract, then you are looking for investment into the structure. And once the nomination is done, then that landowner unit trust is a landholder for landholder duty purposes. So if we were to change the ownership of that trust by 20 per cent or more, that gives rise to landholder duty. I have assumed a 50 per cent change of ownership here – that is another duty on 50 per cent of the property at the time those investors come into the structure, and that is really an impediment to getting investment into these types of structures in Victoria for a standard ownership and development structure.

Beyond that, the development agreement can give rise to economic entitlement duty, where you have got some kind of profit-sharing or proceeds-sharing arrangement between the developer and the landowner. So if we assume a 25 per cent profit-share arrangement here, that is another \$142,000 of duty at the time the contract is signed. We have not even got to the transfer date yet, and yet we have got all these different points of duty potentially being imposed.

And finally, we can have further economic entitlement duty on the arrangement with the development manager or the project manager where they are taking a small percentage of the proceeds, which is relatively common in the property development industry. If you add all of that together, that is up to five rounds of duty, equal to 17.5 per cent of the purchase price, so a significant impost if all of those duty points were to arise.

David DAVIS: And this does not include the windfall gains tax.

Craig WHATMAN: No, not the windfall gains.

David DAVIS: That is on top.

Sam TARASCIO: We can talk about that, but just from a practical point of view as a property developer, quite often when you identify a site the site is on the market for, say, a marketing period of four, five weeks. You have a very short period of time to act. Quite often you will identify the site as an opportunity, you will do some preliminary work and you will bid and hopefully be successful, but that has not given you enough time to determine the structure of capital that is going to be used to fund that project.

David DAVIS: Partners might not be brought in yet.

Sam TARASCIO: You may not have partners, exactly. We have been caught out by these rules. Our golden rule, just for some practical observations, is once we have signed a contract, we do not make a phone call to a planning authority, we do not pick up the phone and talk to a consultant – we do not do anything – until such time as we have got our capital stack organised. What that does is that seriously delays the project. Quite honestly, we are, as a developer, fearful of the economic entitlement rules, because you can very easily trip up on them. And this is pre settlement. We have had one example where we actually commenced demolition of a building, we had not lodged any plans other than a demolition application, and when we brought our partners in – in fact it was the same ownership structure, it was just that it was bought ‘and/or nominee’ – and we formed the formal joint venture, we had a second lot of duty, which was completely unexpected.

David DAVIS: And is this the case elsewhere around Australia, or is this unique to Victoria? Is there a better model that we could look at somewhere else?

Craig WHATMAN: Certainly other states in Australia do not have the economic entitlement rules. Other states do have different versions of what we call the sub-sale rules. I would say that they are not as harsh in the way that they are administered, perhaps, by the State Revenue Office, particularly where it is a nomination situation within the same economic group. As Sam says, you have discussed with the local council, you have made a planning permit application – you are really just doing what you need to do to further that process.

David DAVIS: Expeditiously. Really what you are saying here is that this cascade of steps actually allows multiple layers of taxation to occur, which just feeds into the costs. You could have some arrangement where there was recognition that it was the same group or substantially the same group, and you could have a fairer arrangement where you paid the right tax – all your entitlements, but not cascade, cascade, cascade on top.

Sam TARASCIO: Definitely we would support that. If it is the same economic group and all you are doing is changing your entity or putting in place an entity, there should not be any additional tax. I would acknowledge that if you brought new partners in, there may be some argument for some charges on the actual uplift in value. This is the problem. It is not on just the uplift in value, the cost you might incur. It is on the full contract price. It is a double dip, and it is a handbrake.

David DAVIS: Or a triple or quadruple dip.

Sam TARASCIO: Yes, and it is a handbrake on getting development done expeditiously.

The CHAIR: Mr Davis, we might need to go to Mr Limbrick, and we will come back to you.

David DAVIS: I just want to understand this: windfall gains tax would then be much later on top of that?

The CHAIR: We will make sure we get to all members, and then we will come back if time permits.
Mr Limbrick.

David LIMBRICK: Thank you for coming in today and for your submission. Your submission touches on one aspect of stamp duty that we actually have not discussed much yet in this committee and we probably should: the foreign purchaser additional duty, so effectively a higher stamp duty rate for foreign investors. What is your view on the effect that that has had in the market, considering that effectively it is making foreign investment less attractive in Victoria? Has there been a big impact here?

Sam TARASCIO: The foreign investor additional duty came in around about 2017 or 2018, or it might have been 2016. It was around the same time as the off-the-plan stamp duty rules changed as well, and at the time I recall there was a lot of discussion around foreign buyers pushing local buyers out of the market.

David LIMBRICK: But they would be providing rental properties as well.

Sam TARASCIO: Yes, so there might have been some merit in the suggestion for established housing, standalone housing, but certainly from a point of view of getting large-scale apartment developments up, the model was that you would use foreign buyers to get you to enough presales to achieve financial close – that is, get your funding. You would then commence the project and then have the balance of the project available for sale to local buyers. The ability to sell off the plan really came to a grinding halt, firstly, with the implementation of the foreign buyer additional duty, because it really did impact fairly immediately the appetite of foreign buyers to come into the market and buy off the plan. Then of course the other significant impact was the removal of off-the-plan duty, which in essence was intended to level up the playing field with a greenfield, where you buy a piece of land and then you contract for your builder to put the building on the land. What the off-the-plan duty effectively did was level the playing field, because you were buying based on the underlying land value or the stage of completion of the project at the time and then contracting for the balance. So those two things did significantly impact the ability to get the relevant presales required to get projects off the ground, and what we are seeing now, which is a very significant drop-off in the supply of at-scale apartment projects, is largely as a result of those two factors.

David LIMBRICK: That is very interesting. Just for clarification, to make sure that we are not misunderstanding here: you are saying that because a project will have many investors, or unit holders in the project, you need to reach a certain level before you go to a final investment decision, and the effect of disincentivising foreign purchasers has not only stopped the foreign purchasers, it has stopped local purchasers as well because the pool is not big enough to get a final investment decision. Is that what you are saying?

Sam TARASCIO: Yes. If you have got a project of 300 apartments, generally speaking in order to get a project financially closed you need enough sales for debt cover. You might be borrowing 50 per cent of the cost of that project, and let us say the cost is \$150 million, so you need \$150 million of sales off the plan in order to get your financial close. What has happened in the last six or so years is that the ability to sell off the plan has become almost impossible, and that is why you are not seeing as many project launches. Unless you have the ability to effectively equity-fund your projects or convince your bank to fund without presales, which is very hard to do, it is very difficult, almost impossible, to get an at-scale project under construction.

David LIMBRICK: I think you are right. You characterise this foreign purchaser duty as to stop foreign investors outbidding local people, but you also make the good point that for new properties that is not really –

Sam TARASCIO: Well, for new properties it was actually facilitating access to the market for locals.

David LIMBRICK: Yes. Would you think that a recommendation of this committee should be that that foreign purchaser additional duty should be exempted from new developments?

Sam TARASCIO: I think that that would be a very good development, yes.

David LIMBRICK: And that would potentially make it more attractive for foreign capital to get new supply off the ground in conjunction with local investors, as you say –

Sam TARASCIO: Yes.

David LIMBRICK: and to get a project that required equity. Yes. Okay. Thank you.

The CHAIR: Thanks, Mr Limbrick. Mrs McArthur.

Bev McARTHUR: Thank you. Maybe a question to Sam. Can you estimate, Sam, how the windfall gains tax that will be coming in, current changes to land tax and the 185 regulations that a landlord has to comply with to make sure a rental property is up to scratch will affect the ability of new homes to come onto the market for home owners but also rental properties?

Sam TARASCIO: Thank you. Look, that is a very broad question. Obviously there are a number of components to it. There are the tenant regulations, the windfall gains tax and the land tax.

Perhaps starting with the windfall gains tax, one of the very clear objectives of the government is to get the 70/30 rule under *Plan Melbourne* underway, which is to have 70 per cent of new development being delivered within the established suburbs and 30 per cent in the greenfields. What that does mean is that there is a lot of rezoning required in the established suburbs, and all of those sites that will now be rezoned will be subject to the windfall gains tax. What I can do is give you an idea of just how we think about the windfall gains tax in terms of trying to assess a project.

There are a number of issues we see with the windfall gains tax. The first is the rate – 50 per cent of the gain. You do have to understand that rezoning land is a highly capital intensive, highly risky activity. The risk–reward equation needs to make sense, and the removal of 50 per cent of the gain is a very significant impost on your willingness to do that. But the other issue is that the tax is assessed based on the valuer-general’s assessment of the pre-rezoning value and the valuer-general’s assessment of the post-rezoning value. It is not related to what you might have paid to acquire the site nor what you have paid in order to facilitate the rezoning. That means in some examples the tax could exceed the total gain that you achieve as a result of the rezoning, thereby making it absolutely untenable to go down the path of getting a rezoning done.

There are a lot of other issues with the windfall gains tax, but from a developer’s point of view the uncertainty about the quantum of the tax, because we do not know how it is going to be assessed pre and post, and the lack of deductibility of costs in getting there mean that we have a big hole in the feasibility and we do not know what number to plug in, so it makes it very difficult to actually go down the path of getting a rezoning.

Bev McARTHUR: So you might think twice about actually investing?

Sam TARASCIO: Well, we as a business have made a rule. We are not looking at any sites that require rezoning, because the uncertainty is too great.

Bev McARTHUR: There you go.

Sam TARASCIO: Now, there are other ways of achieving profit sharing, but under the current system it creates a lot of uncertainty. In terms of the other two items –

Bev McARTHUR: The land tax and the regulations applying to rental properties.

Sam TARASCIO: Yes. Look, as Cath mentioned earlier, the regulations for landlords are becoming more and more onerous. We accept that tenants are entitled to a properly maintained property, but it is becoming more and more costly and more and more difficult for landlords to administer residential rental properties. This is one of the reasons why we are seeing a big push towards the build-to-rent sector, because larger professional landlords probably have a better ability to administer the intricacies of the *Residential Tenancies Act* than a one-time landlord –

Bev McARTHUR: Mum-and-dad investors.

Sam TARASCIO: a mum-and-dad investor. And on the land tax issue, I think Cath has covered that well in her previous response. If you have a \$500,000 loan on your investment property, over the last 12 months you have seen your interest costs probably increase by \$20,000 – 4 per cent – and on top of that now to have a land tax impost is just another cost that unfortunately, in my view, will end up being passed through to the tenant.

Bev McARTHUR: Going to the issue of the complication of going through the planning process, let alone the rezoning process, with the numerous quangos that are involved in the system that you have got to weave your way through, in other parts of the world I notice there is a concierge system often operating that facilitates development and investment in property and even industrial developments so that you have, as a developer or an investor, a one-stop shop to get through the planning process, whereas here you have to individually go

through the EPA, the CFA, the water catchment authority, the water board and so on, as well as dealing with the local municipality and then the state planning requirements. So would that be a way of facilitating a better approach to housing development and industrial development?

Sam TARASCIO: Yes. Planning does not stop once you have your planning permit. There are a number of post-planning tasks that you have to carry out in order to get to a stage where you can start construction. The authority referrals are a significant part of that, and there are gridlocks in some of the authorities. Achieving a building permit also involves getting endorsed plans, and quite often what we are now seeing is that the time frame to get endorsed plans is actually not too dissimilar to the time frame involved in getting to a planning approval. Getting endorsed plans is really a technical process. A technical assessor ought to be able to look at the planning approval and ensure that the plans put up for endorsement are compliant with the planning approval. And it should not take a year, it should take three months. So there are certainly areas for improvement that I would say should be relatively easy to do, but there is an investment involved in obviously delivering that.

Bev McARTHUR: Maybe Cath might want to answer: what about the VCAT system in Victoria? How does that compare with other states in terms of slowing down the process for development and investment?

Cath EVANS: For the purpose of this inquiry I have not reviewed wait times in administrative appeals tribunals in the planning divisions across each state and territory. Clearly all courts and tribunals were impacted significantly through COVID, trying to adjust to virtual hearings and the like. So, no, I cannot comment on how it compares with other states.

Bev McARTHUR: Does Sam have a view? It is pretty easy to take you to VCAT, isn't it?

Sam TARASCIO: Look, my point earlier around the disconnect between working with the planning experts within council or within the state planning department and getting endorsement and then, in a council sense, not following through approval does mean that there is probably a backlog at VCAT that ought not be there. Because if you are compliant with the planning scheme and you have collaborated in the right way with planning officers within councils, those applications should not end up at VCAT, and simply just ensuring that those proposals that have endorsement through the planning departments do not go to VCAT will free up a lot of time at VCAT.

Bev McARTHUR: Well, if the planning officers make recommendations, should there be something done about the local councillors totally rejecting them?

Sam TARASCIO: Well, I think ultimately what we are saying is that there is a lot of politics in planning, and we accept that it is a sensitive activity, but there are also clear rules that, if you comply with those rules, you should expect an efficient process.

Bev McARTHUR: Sure. Thank you very much.

The CHAIR: Thanks, Mrs McArthur. Mr McIntosh on the screen?

Tom McINTOSH: No questions from me, but thanks for the submission. There is a lot of detail in it, and I appreciate that. Thank you.

The CHAIR: Great. Thanks, Mr McIntosh. I think we have some other questions from members. Ms Copey? Mr Mulholland?

Evan MULHOLLAND: Just one last question. I know there were some comments from the Treasurer today, but more broadly there has been a debate play out in the media and the Parliament about a public policy proposal of a rental freeze. I am just wanting to get your thoughts on your view on that particular policy but the effect of that policy in real terms on supply and housing more broadly.

Cath EVANS: We need to attract investment in large-scale residential development. Build to rent is obviously an emerging asset class, and Melbourne so far has been leading the country in terms of projects which are currently in development or under construction. We would like to encourage more of that asset class in Melbourne, for obvious reasons: it brings accommodation to the market on a large scale rather than, you know, properties which are developing five, 10, 15 homes. But the financial model for build to rent to be a

viable asset class is built very much around occupancy levels and the ability to meet current market conditions with the rental costs. So if we moved to a rent-capping environment, that would be a huge disincentive for investment into that asset class. We also want to encourage large institutions like superannuation funds to enter our residential market here as well, and they need certainty for their members about their return on investment. So rental capping would be a complete disincentive for us to attract investment capital into Victoria.

Do you have anything else to add around that?

Sam TARASCIO: Well, I think that, from our point of view, if rental capping was to become real, we would no longer be in the residential development space. And I say that because rental capping would need to come along with capping of our land tax and our council rates and – how you would do it, I have no idea – your cost of interest. So you cannot cap the revenue side and leave the cost side uncapped. Basically it is a recipe for going bankrupt, and so why would you invest in that category?

Evan MULHOLLAND: I agree.

The CHAIR: Thanks, Mr Mulholland. Mr Davis.

David DAVIS: Just following up on Mr Limbrick's points about foreign investor duties, the government announced the increase yesterday of foreign investor special charges. I just wonder what effect that will have on the sector.

Sam TARASCIO: That is the foreign investor absentee – yes. Look, it is just another reason why a foreign investor might not consider investing in Victoria. They are subject to – and it depends on which type of investor you are talking about, but if you are talking about a foreign investor buying a residential investment property, which we desperately need, that is just another cost that makes it very difficult for them to justify buying a residential investment property. The returns on residential investment properties are very thin. They do not have a lot of scope to absorb additional cost, so –

David DAVIS: Why would you do it?

Sam TARASCIO: Why would you do it.

Craig WHATMAN: Perhaps if I could just add, part of the issue with the current foreign charges, particularly the FPAD, the foreign purchaser additional duty, is that it is not just limited to foreign purchases at all, so it affects domestic purchases. And the reason for that is if you have got your ownership structure in a discretionary trust, unless you have excluded all foreign beneficiaries from that trust deed you are actually deemed to be a foreign trust under Victoria's rules. So a lot of our domestic clients that are not foreign owners have to go through the exemption process, which means making a lengthy submission to the State Revenue Office and waiting a number of months for an outcome of that decision. That holds up the commercial decision; it holds up the acquisition, the development timetable. So they are quite expansive in their application. They are not just affecting what in this room we would regard as a foreign purchaser. They are affecting large, commercial resident developers and purchasers as well.

David DAVIS: Did you cover that in your submission? I am just not sure whether –

Sam TARASCIO: It was probably in the previous submission in 2019.

David DAVIS: You might want to replicate that so that we have got that on record. And has the organisation assessed or begun the process of assessing the decisions yesterday? And if so, would you?

Cath EVANS: Land tax increases – in what sense? We are aware of, obviously – yes, we are aware of it.

David DAVIS: The announcement that was made yesterday, are you intending to examine how that will impact on the sector overall?

Sam TARASCIO: Are you talking about the stamp duty to land tax transition or the land tax changes?

David DAVIS: I am talking about the actual, announced changes.

Cath EVANS: We are in the process of evaluating that impact now, but you know, we are considering how we can analyse the impact. But that is, you know, yesterday.

David DAVIS: Yes, I understand. I am just in a sense saying if you are doing that, we would be interested to know what that means.

The CHAIR: Thanks, Mr Davis. And Mrs McArthur with one more question.

Bev McARTHUR: Yes, one more question for Craig, perhaps. You have just started to touch on it – the difficulties for property owners and developers in complying with the various tax requirements, especially those introduced in recent years. How is that impacting your clients to go into the market?

Craig WHATMAN: So, a very good example of that would be the economic entitlement duty rules. So our understanding is that they were designed to aim squarely at a typical development agreement, where a developer would be taking a significant share of the profit from the development of the land. The problem is that the legislation itself was drafted very broadly, so broadly in fact that a simple real estate agent's commission is technically caught by the legislation. So it has taken SRO website guidance to carve out all of the standard service fee arrangements, or a number of the standard service fee arrangements, like real estate agents' arrangements with their clients, where they are entitled to a commission, a share of the proceeds on the successful sale of a property. So we are now left with the situation where effectively the parameters of the legislation are being defined by administration instead of by the lawmakers. They are being defined by the administrator themselves.

And so where that leaves our client – to answer your question – is in a fair degree of uncertainty as to how those rules and rules like them are going to apply. And there are other examples in the *Duties Act* and other state taxes Acts within Victoria where the client is left in the unenviable position that they just do not have any certainty, and I as an adviser cannot give them that certainty because I do not know what the outcome is going to be. So my advice may well be, 'You need to seek a ruling from the State Revenue Office.' Again, that takes months, that holds up commercial decisions, that is an impediment against the investment, the transaction et cetera. So it creates a lot of uncertainty in the marketplace. Uncertainty in tax outcomes is a very bad thing for commercial decisions.

Bev McARTHUR: So this is all going to add exponentially to the cost of housing and development. We did hear earlier on that the cost of a house actually comprises 40 per cent of government taxes, charges and regulatory processes –

David DAVIS: Or more.

Bev McARTHUR: Or more, Mr Davis. Would you agree that this is a very significant cost in the whole process of housing?

Sam TARASCIO: Well, of course 40 per cent is a large number as a component of the total cost of housing, and I think where taxes are levied we need to make sure that they are as efficient as possible and they are appropriate. One of the other imposts that is not included in that figure is the delay cost – it is not a tax, but it is an additional cost. So the more we can limit those things through sensible policy and through having sensible decision-making processes, then the more we can assist with ensuring that the affordability of housing is as good as it can be.

Bev McARTHUR: Okay. Thank you very much, Chair.

The CHAIR: Thank you, Mrs McArthur. Were there any further questions from committee members? No. Thank you so much for coming along today and sharing your submission with the committee and answering our questions. That concludes the public hearing.

Witnesses withdrew.