

Property Taxation and Mass Appraisal Valuations in Australia – Adapting to a New Environment

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Abstract

- Outlines development of land tax systems in Australia and New Zealand
- Identifies contemporary problems of mass appraisal system
- Highlights difficulties with complex, specialist properties
- Makes practical proposals to improve the mass appraisal process

1. Introduction

A taxation system based on property ownership and use is one of the oldest forms of revenue generation for government. Even though tax systems have grown and expanded in both reach and complexity, these taxes, typically based on some derivative of property value, remain critically important across most OECD countries and represent a key source of revenue for government in Australia, particularly at state and regional/local authority level.

Property taxes are particularly valuable for developing countries. Provided that the property resources and their ownership can be identified, real property can provide one of the few bases for a reliable and broadly based taxation system. Practically all developed countries use land as a component part of their taxation base. Its relative importance varies, with newer forms of consumption taxing and traditional income and profit taxes becoming proportionally more significant in many areas. Since 1985, there has been a clear shift in the nature of property taxation in Australia. The emphasis has moved from taxes on ownership of, and services to, land per se (i.e. state and local authority based), to taxes on the generation of net income, capital gains and, since 2001, on goods and services pertaining to property (i.e. Commonwealth-based taxes).

In Australia, value-based taxes ('ad valorem' taxation) on property (e.g. land tax, general rates, stamp duties and a range of other specific levies) still represent a key source of government revenue, particularly for State Governments and Local Authorities. These taxes aggregate about 9.1% of total tax revenue in Australia (ABS 2007), a percentage that has varied little over the last decade.

For government and taxpayers alike, such taxes have an attractive simplicity. On the one hand, an equitable, relational base can be established by the assessment of value of all properties using an agreed methodology. On the other, the taxing authority has established a budget of funds that must be collected. With those two figures set, it is a relatively easy and transparent exercise to establish the necessary taxation level (as a percentage or 'cents in the dollar' of assessed value) that relates and balances the two aggregate figures.

Also, over more recent times, rapid advances in both computer modelling for mass appraisal valuations and of Geographic Information Systems (G.I.S.) have improved both the accuracy and integration of mass appraisal systems in both Australia and New Zealand, though some jurisdictions are more advanced than others.

Those advances aside, however, the size, complexity and diversity of contemporary property developments and markets make this task increasingly difficult. The continued confidence of the community in this type and basis of taxation is vital and new challenges that the market now presents need to be comprehensively addressed if the existing level of confidence and reliability is to be maintained.

This work considers the place and future of valuation-based property taxation systems within the wider taxation system in Australia, identifies and discusses a number of contemporary issues regarding its application in today's environment, and suggests some refinements that could assist its application further into the future.

2. A Good Tax?

The general public may well consider the term 'a good tax' as something of an oxymoron. Valuation-based property taxes could, however, be reasonably described in this manner, particularly when compared with many other revenue-raising options for government.

The criteria for an effective and efficient tax are reasonably agreed by economists. They are as follows:

- progressive, rather than regressive – i.e. structured and applied in ways that minimise adverse impacts, particularly on vulnerable groups or individual taxpayers;
- simple and easy for the taxing authority to collect, and convenient for the taxpayer to remit;

- providing as few exceptions or exclusions as possible;
- easy to understand and with demonstrable horizontal and vertical equity – i.e. a particular taxpayer should be reasonably able to observe that he/she is paid a comparable amount to others in the same taxation pool and, at the same time, being able to observe that others paying tax in different categories or for different purposes are paying not dissimilar, absolute levels of tax, all things considered;
- generally favours long-term investment over short-term, speculative gain;
- has limited adverse secondary impacts – in particular, a tax should not provide a burden to desirable economic outcomes such as sustainable job growth and investment, production or exports.

Clearly, no tax can perfectly fulfil all of these diverse objectives but a property taxation system, based on a sound and equitable valuation assessment, probably goes further than most other options in achieving them. The longevity of such taxes and their ability to adapt to changing circumstances over time probably proves that point.

3. Historical Background

It is trite to observe that land productivity as a taxation base is not new. There are records that land productivity was taxed over 3000 years ago (Daw 2002). Property, as a proxy for wealth, has traditionally been taxed. That tax base almost inevitably migrated to larger-scale, immobile real estate because it was easy to identify and, for a number of other reasons, its ownership had to be recorded accurately in any case (Nenne 2003).

The concepts of value and pricing were largely established by classical economic thinking through the writings of Smith (1721-1790) and particularly Ricardo (1772-1823) who related these theories to land, land quality and distance. Finally, the work of the 19th century neoclassical economist, Alfred Marshall (1822-1924) established highly relevant principles relating to marginal analysis in the assessment of value.

Land provides a logical basis for an *ad valorem* tax system; however, there have been many definitions of what constitutes 'land'. There is the initial differentiation between 'land only' (which is commonly referred to as 'Unimproved Value' or 'Unimproved Capital Value') and 'land plus improvement'. Where the added value of improvements is also considered several more options exist. Depending on the particular legislation, the assessment may be undertaken in terms of the land plus 'site' or 'ground' improvements or, in some jurisdictions, the total capital value – land, site improvements and structural improvements (i.e. buildings) – is

assessed as the basis for taxation. Then there is an alternative of a measure of productivity of the land, such as the income potential.

Eckart (1991) notes, however, that it is unlikely that any one property tax methodology – annual rental or market value, land and improvements, or only land – can be identified as clearly the best for all purposes. By way of example here, it might be observed that in Victoria and New Zealand, an improved value is applied as the basis for determination of local authority general rates. The reasoning here is that the concept is well understood by taxpayers and reasonably relates to the type of tax that is being collected and the purposes for which the revenue collected will be used. Nevertheless, to determine the land tax figures, valuations are carried out on the basis of unimproved or site value. In this case, it is reasonably argued that should an improved value be applied, it would represent a regressive tax on development.

Overall, therefore, it is erroneous to consider that there should be, or indeed could be, a ‘one-size-fits-all’ valuation methodology in these matters.

McCluskey *et al* (2006) summarise the overall situation as follows:

“The choice of a rating scheme is a complex issue. Whilst the annual value and capital value approaches are in many respects similar, there are significant and fundamental differences between these approaches and that of land value (Youngman and Malme, 1994). Classical economists...argued that a land tax creates few distortions in the economy and in economic terms is more efficient than a tax on improved value. Indeed, the land tax has often been described as the ‘perfect tax’ because the rent of land, which determines its value, is a pure surplus, not a consequence of any economic actions by the land owner (Netzer, 1994). The land value approach has received considerable attention over the years in relation to... [Such matters as allocation, efficiency arguments, neutrality and effects on development patterns]... Proponents of land value systems contend that this approach provides for a more equitable and fairer system of local taxation (Fischel, 1998). The exclusion of improvements on the one hand removes the disincentive to expend capital to improve properties but does create a narrower tax base on the other (Vourassa, 1987).”

(McCluskey *et al* 2006, pp 383-4)

In any event, property taxation has a very long history of successful application and, despite the various ways that it may be assessed – annualised ‘rental’ value, capital value, site value or unimproved value – it enjoys a certain simplicity, transparency and reliability.

This is based on the observations that:

- it is a progressive tax on wealth (which in turn may be balanced with user-pays service components);
- a certain base – identified through physical survey (and enhanced by contemporary geographic information systems) and by accurate title references;
- a reliable and independent assessment of value (and whatever definitional base/methodology that has been approved) that, with objection and appeal provisions, can establish consistency and vertical and horizontal comparability, relativity and equity;
- on the platform so created, the relatively simple application of levies from various taxing authorities – normally identified as percentage or rate in the dollar; and
- an overall understanding and general acceptance of the reliability, consistency and fairness of the system.

4. Property taxation in Australia and New Zealand

Direct property taxes in Australia (in the form of land tax and as a basis for local government) are state-based taxation and applied in all states and territories. In New Zealand, property taxes are effectively confined to revenue raising for local authorities and no land tax is applicable.

In Australia, both land tax and rates are payable by the registered owner at that point in time. Other taxes pertaining to the generation of net income from property and on capital gains are Commonwealth taxes that are outside the scope of this paper.

Both land tax and general rates are applied as a percentage (or ‘cents in the dollar’) against an assessed value. Whilst the basic tenet of such taxes is similar across all jurisdictions, each has evolved in its own way over many decades and as a result of numerous inquiries and changing political philosophies. Consequently, there are now quite distinct differences in the valuation base and key definitions from state to state.

A key difference relates to the basis upon which properties are to be assessed.

In Queensland, for example, the assessment is carried out on a definition of ‘Unimproved Value’ which has effectively not changed since the value legislation, the Valuation of Land Act, was first enacted in 1944. In effect, this requires the valuer to consider the property for taxation purposes on the basis that all

surrounding development and infrastructure and services to the subject property in place as at the date of valuation exist but the property itself has none of its existing improvements nor ground improvements such as clearing, levelling, drainage etc. Consequently, the site is, in effect, valued as 'standing bush' with all of its surrounding up to its boundary as the valuer sees it at the date of assessment.

In most other jurisdictions – South Australia, New South Wales and Western Australia – this Unimproved Value approach has been replaced with the concept of 'Site Value'. Whilst there are slight definitional differences between the various states, the Site Value approach again presumes all the existing surrounding development, infrastructure, services etc around the subject land at the date of valuation, but now also including, as part of the assessed value, the ground improvements which have been undertaken on the land (clearing, levelling, drainage, filling, reclamation, retaining works, stone picking etc) and which now, in effect, merge with that land. In some jurisdictions, an allowance is made to exclude the site works undertaken by the current owner, for a period of 15 years, so that the approach could not be viewed as a disincentive to development.

Supporters of this approach would claim that it is more realistic and easy to comprehend than the Unimproved Value approach and avoids the need for sometimes protracted and hypothetical legal debates attempting to establish what the original natural state of the land may have been. It also avoids anomalies that arise from reclamation works etc. Whilst there is occasional litigation relating to certain improvements that are in part ground improvements and in part building improvements, the transition from Unimproved Value to Site Value appears to have been successful and well accepted in jurisdictions when it has been adopted.

An Unimproved Value approach is still used with rural land on the reasonable observation that a much larger proportion of the improvements to land for rural production do, indeed, merge with the property and farmers should receive recognition for those additional works. Such an approach also parallels the different dealings for depreciation purposes of Commonwealth tax provisions for rural and urban pursuits.

A more recent innovation has been the introduction of net annual value as a basis for assessment. Typically, this is assessed by applying a particular percentage to the assessed capital value of the particular property. This approach has been implemented in Victoria where, under the overall control of the Valuer-General, local authorities have the choice of using either site value or net annual value as a valuation base for rating purposes. It is interesting to note that, over time, practically all local authorities have opted for the net annual value approach. Proponents of these arrangements see the advantage in the fact that, unlike site or unimproved value, the assessed capital value is well understood

and recognised by the taxpayer. Similar approaches are also used for rating valuation purposes in New Zealand. Transitional and maintenance costs of these more sophisticated approaches are higher but greatly improved GIS, land information and photographic data bases have facilitated such systems. The Victorian and New Zealand systems, both accompanied with outsourcing initiatives and delegation of considerable authority to local authorities, are now well established in those jurisdictions and appear to be well supported by all stakeholders.

Whilst the option to apply a capital value approach exists in New South Wales, it has never been applied and a site value approach has been preferred, not least of all because of the cost of transition to such a system.

5. Operational processes and techniques

Though there are varying organisational and administrative arrangements for the carrying out of statutory valuations across Australia and New Zealand all seem to have evolved into reasonably efficient systems suitable for the specific needs of each region. In Victoria and in New Zealand, the valuations are carried out normally by private sector valuers administered by the local authorities but under the supervision, standards and quality control of the respective Valuers-General. In the other states, the work is largely undertaken by public sector valuers supplemented with resources from the private sector for highly specialised or remote work. In a number of jurisdictions also, where a matter goes past original objection, the government will retain a third party valuer to re-assess the matter and handle any subsequent hearings or appeals.

Relevant statute sets down the basis for, and the frequency of, re-valuations. Revaluations are at a maximum interval of normally three to five years, but with the provision for up to yearly re-assessments in the case of rapidly changing markets. Some latitude in the frequency of such re-valuations is important to the operation of the system. In areas of rapid change, frequent valuations are important to ensure that relativity is being maintained. However, in small and remote areas where little market activity occurs, desktop analysis should indicate whether or not the costs of a full re-valuation are justified.

Basic methodologies employed are fairly consistent. Revaluations are typically based on the original valuation data and roles now applied using specialised software. In any location, the valuer will normally identify a number of homogeneous 'sub-market' areas within specific use categories. Each sub-market is then analysed using sound sales evidence to assess and monitor any change from the previous review. That level of change is related to the benchmark of the previous review (normally identified as '1.0') and the model then applies that, in relativity, to all properties in the sub-market.

It is then the role of the valuer to review and, as necessary, over-ride the model to ensure that individual issues and characteristics of property can be properly accommodated. Also, such a 'sub-market' approach will almost invariably create 'sharp edges' on the boundaries of the identified sub-districts and these will need to be 'smoothed' by the valuer, thus allowing for transitions between these distinct areas.

Valuation notices are then issued to owners who typically have objection rights and appeals to specialist courts and tribunals.

It is relevant here that objection rates across Australia are well below the internationally accepted 2% with many jurisdictions encountering less than 1% objections. This again would reinforce earlier observations in this paper of the overall reliability of this form of assessment and taxation and the community's general confidence in it.

6. Emerging issues in mass appraisal methodology and practice

A number of related issues have emerged over recent times which challenge the perceived benefits of an *ad valorem* method of property taxation and particularly its justified historical claim to relative simplicity, consistency and relativity.

A recent detailed analysis of a number of these issues has been carried out by the authors on behalf of the Queensland Department of Natural Resources. Recent Land Appeal Court cases in that state highlight a number of difficulties in applying traditional mass valuation techniques into the complexities of the contemporary property market.

As noted earlier in this paper, the history of valuation-based property taxation extends back many decades and, in fact, centuries. In the Australian examples, it needs to be noted that the entire system was established in much simpler and more predictable times where relatively few land use categories existed and differences between individual properties could be identified and quantified relatively easily. Given the volume of mass appraisal assessments to be done, such simplicity is essential.

Contemporary geographic information systems and overlays and increasingly sophisticated computer assisted valuation techniques have, in fact, worked to assist with uniformity and consistency in recent years. However, at the same time, several important complications have emerged which have had the opposite effect.

These are as follows:

6.1 Complex, infrequently traded properties

Contemporary urban design and development has seen the emergence of a range of large, highly specialised and infrequently traded assets. Iconic regional shopping centres are an obvious example but there is a range of others, including complex, multi-use developments, theme parks, port lands, airports, power station and utility sites, golf courses and the like.

Every piece of real property is, by definition, unique. However, highly specialised properties such as those identified above represent one-off developments in diverse locations and certainly no local, closely comparable sale will be available. Such issues can be resolved. Often, such properties do have national markets, others have alternate uses. In most cases too, there will be at least some sales evidence that provide some guide or parameters, albeit fairly wide, thus requiring particular acumen on behalf of the assessing valuer. The key issue here is not simply the complexity of these assessments *per se* but rather the difficulty experienced in attempting to accurately incorporate such complex, one-off assessments into a mass appraisal system. The need for expediency and efficiency can never be accepted as a basis for inaccuracy, particularly given that such high-value, commercial properties are the most likely to attract the greatest scrutiny and potential litigation.

6.2 Determining highest and best use – complexities in contemporary planning

A basic tenet of market-based valuations is to assess that value by comparison with comparable sales and at its highest and best (ie most probable highest and best) use. Simple and expeditious ways in determining both a valuation base and the 'benchmark' of highest and best use are particularly important in mass appraisal techniques.

As noted in 6.1 above, securing that comparable sales base has been increasingly difficult for certain, more specialised property types. Of wider impact on mass appraisal, however, has been the difficulty presented by contemporary, integrated planning regimes that are now in place. Town planning schemes were introduced more than 50 years ago in Australia and, for most of that period, were based on highly prescriptive Tables of Zones. These established, for the statutory valuer, a fairly definitive highest and best use for the property (i.e. the 'as of rights').

For sound planning and urban development reasons, more contemporary integrated planning legislation is much less prescriptive. These changes have little effect on the large majority of properties – an unimproved lot within a dormitory suburb, for example, will still have a highest and best use of a single unit dwelling or whatever else is prescribed within that locality. However, in more complex precincts such as commercial, retail or industrial, a large number of potential uses may be contemplated and, indeed, accepted (under a ‘Material Change of Use’ application) by the planning authority.

In such cases, the assessing valuer will need to come to some reasonable and defensible opinion as to the most likely highest and best use but again, this represents another overlay of complexity and uncertainty across the regime.

6.3 The availability of sales evidence

With the increasing complexity and scale of development, use and ownership of property come much more sophisticated property transactions.

Again, in the mainstream of, say residential properties, most sales settle in a relatively short period of time, have few complications and therefore, on the face of it, present the valuer with fairly straightforward, easy accessible evidence. In fact, the situation has improved for these types of properties with the advent of GIS and other data systems, including photographic evidence and accurate, web-based ownership and development information. It is in the more sophisticated and complex properties where challenges arise in the application of mass valuation assessments.

Typically, in any sales investigation, the valuer will need to secure accurate information on the legal parameters of the property, details of the buyer and seller, specific conditions pertaining to the sale, its timing, details of ground and physical improvements, details of development approvals in place or pending and, finally, any particular knowledge or special considerations that the purchaser had in mind for the acquisition. In complex properties such as development sites or major investment proposals, much of this information will be commercial-in-confidence and difficult for the valuer to secure. Further, many sales are protracted and include conditions that may not be fulfilled for several years. This not only dates the evidence that the final sale represents but will almost certainly affect (positively or negatively) the sale price secured.

Also, many such sales are transacted through syndications, part company transfers and/or the establishment of unit trusts. All of these have the effect of making the exact property dealing represented by the sale more

difficult to establish, as do the tax treatments that are employed in particular cases.

6.4 Concessions and varying tax rates

Typically in the past, property taxes were based on a defined valuation assessment with a specific percentage or rate in the dollar applied for land tax, general rates or whatever. As taxing systems have become more complex over time, the single taxation rate applied across an area has become less and less common.

For a number of quite sound reasons, a taxing authority may wish to apply a different taxation rate to one type of property use over another or to treat certain categories of taxpayers differently. There are now numerous examples of exceptions and allowances of this type – ranging from special recognition of principal place of residence over highest and best use considerations, dealings with welfare recipients, recognition of the effects of heritage classifications and other areas of cultural significance, special levies for benefited areas with a town or region, and so forth. Current administrative dealings for such allowances in jurisdictions across Australia are often quite confusing where certain allowances are made by the valuing authority whilst other (and in some cases similar) allowances are made by the taxing authority.

As a general principle, characteristics to be assessed as part of the valuations should be those which attach to the land, regardless of ownership at a particular point in time. Therefore, matters pertaining to heritage registration or contaminated land exist regardless of ownership at any point in time and therefore need to be considered in the assessment of valuation – for any purpose, including valuation for taxation assessment. Any other allowances pertaining to ability to pay, the owner at any point in time, or special benefits derived from specific government/council activities should be determined and levied by the taxing authority at the point of taxation. In this way, the taxing authority can be held responsible (either positively or negatively) for their actions, and the integrity of the valuation system is not compromised.

6.5 Dealing with Development Approvals (DA's)

The existence or otherwise of Development Approvals (DA) on land represent another contemporary complication to the inherent simplicity of ad valorem taxation systems.

The value that potentially attaches to a development or subdivisional approval has emerged as a key component to the assessment of any land with further development potential or *en globo* lands. The question arises whether such approvals should be taken into account in assessing value for taxation purposes. Clearly they are included where an improved capital or rental value is the basis of valuation. In such cases, all approvals are inherently part of the whole value of the land plus improvements. The issue is far less certain in assessments based on Site Value or Unimproved Value. It is significant that most legislation in Australia is silent on this important point.

Overall, there would appear to be a strong case for development and other approvals not to be included in site or unimproved assessments because of the individual nature of each approval and valuing this 'potential'. It needs to be realised that, whilst it would be hoped that a town plan would be uniformly applied across a particular local authority area, the nature and value of a DA will vary from site to site and with movements in the development market over time. The additional work involved in the site-by-site consideration of the value add of such approvals greatly increases the workload of valuing authorities.

Again, the key point here is that, for the application of mass valuation operations, this represents a further complication and unique feature that may need consideration and, in fact, arbitration on a block-by-block basis.

It needs to be observed that, even if it is agreed that DA's and other approvals are not to be considered in site or unimproved value (with the associated negative impact on taxable property base), the issue with such approvals is not fully resolved. Many of the sales that will be used for such a basis for revaluation within a town centre or commercial area will have such approvals related to the sale (or alternatively extended terms to allow those approvals to be put into place). Consequently, though easier than a case-by-case deliberation, the value or otherwise of those approvals will at least have to be considered in arriving at a reliable sales base. Associated with these deliberations will be the assessment of infrastructure contributions which, in monetary terms, may well be more significant to the viability of a project and the underlying land value than will be the securing of the approval itself.

7. Proposals to improve mass appraisal accuracy

This paper has emphasised the inherent positive characteristics of *ad valorem* taxation systems but also emphasises the difficulties that are presented by the complexities of the contemporary property environment. These challenges do not imply that such a taxation system is, in some way, fundamentally flawed and,

to the contrary, computer-based geographic and data systems have, in fact, enhanced the speed and accuracy of assessment of the vast majority of properties to be assessed under a mass valuation system.

It highlights, however, that, for some properties, the use of traditional mass appraisal techniques becomes increasingly problematic. Whilst comparatively small in number, these represent critical, high-value assets which must be accommodated efficiently and accurately if the system is to maintain validity and public confidence.

Under a six month investigation commissioned by the Queensland Department of Natural Resources and Water, the authors of this paper have undertaken a series of structured interviews and workshops with key stakeholders involved in statutory valuations in that state. These have included State Valuation Service policy and operational staff, senior representatives of the Property Council and the Shopping Centre Association of Australia, practising private sector valuers, the Australian Property Institute and other interested parties.

Reasonable consensus exists across that diverse group that supports the validity and relevance of an *ad valorem* based taxation system but recognises current issues with complex property categories as identified earlier in this paper.

The comparative approach must be accepted as the pre-eminent valuation approach to be used – even though it is accepted that, for certain specialist properties, closely comparable sales may be difficult to secure. As recommended in a range of precedent cases, the extent of the sales search must be extended as widely as possible to secure comparable evidence and compliment this data with the professional acumen of the valuer to arrive at a value for the subject property. It is not suggested that this task is necessarily easy or simple but it is to be preferred to the contrivance of other valuation models or methodologies that, in effect, are not based on like-with-like comparisons.

Based on these investigations, there would appear to be a number of relatively inexpensive but highly practical initiatives that could be put into place and that could improve current systems and operations so that even complex properties could be accommodated within a mass appraisal regime.

These proposals are as follows:

7.1 Focus on the basics of good valuation practice

The issues identified above represent new challenges for mass appraisal methodologies. As difficult and frustrating as they may be, it needs to be accepted that property types and ownership structures are becoming more individualistic and complex. Whilst there are a number of specialist methods of valuation (such as normative modelling) that might be

contemplated in the assessment of more complex properties, their application within a mass appraisal process is often inappropriate.

Whenever possible the use of comparable sales evidence based on the most probable highest and best use should be used. Further proposals below will recommend ways to improve access to sales evidence and draw inferences from the sales data. In some circumstances rules of thumb and ratio studies can assist the valuation process but the focus should still be on comparative analysis. Residual valuation exercises should only be used as supportive material.

It is essential to keep the valuation methodology as simple as reasonably possible and avoid complex exercises which encourage debate, uncertainty and foster legal argument.

7.2 A National, Complex Property Sales Data Base

Because of the paucity of sales of complex properties it is essential that all sales are accurately recorded and available nationally. Complex properties (such as golf courses, theme parks or super regional shopping centres) are spread nationally and Australian state boundaries should not be a restriction to these sales data. New Zealand sales could also be relevant in Australia.

There would appear to be an opportunity for Valuer Generals of Australia and New Zealand to assist in capturing this information and disseminating it to interested parties.

7.3 Public and Private Sector Valuer Cooperation

Most senior valuers in the public and private sector in Australia are members of the Australian Property Institute (API) and are bound by the ethics and regulations of this professional association.

Unfortunately, there appears to have been limited professional cooperation in some of these matters in recent years and professional bodies, such as the Australian Property Institute, have an important role to play in upskilling their members in these complex tasks and to provide cooperation and professional behaviour in these matters, on which the public, government, courts and business depends.

7.4 Maintaining relativity to market

A case can be mounted that a reasonably conservative approach to assessed values within a mass appraisal process, given the volatility of markets and the levels of accuracy that can be achieved. Nevertheless,

there are inherent dangers in attempting to contrive some 'less-than-market' relativity level which may in the short term avoid controversy but will almost certainly create more complications and distortions over time. Sound audit procedures will avoid these understandable but undesirable trends and will ensure as accurate reflection as possible of the market.

7.5 Evolution of the legislation

The current changes and challenges cannot be seen as static. As urban development becomes more complex and concentrated, more challenges will emerge that will need to be accommodated by innovative means – in terms of availability of data, analysis and, particularly dispute resolution processes. In this environment, the approach needs to be iterative and evolutionary rather than radical.

Legislation should be used to simplify the valuation process for complex properties. The simplification could permit various shortcuts, such as simplified comparative analysis, and allow for the application of market-based rules of thumb. Potentially, DAs could be ignored in the mass valuation process because of the difficulty of assessing each individual DA approval.

7.6 The use of mediation in the objection process

As with many other contemporary property and Government legislation, it would appear worthwhile to make some form of alternate dispute resolution (ADR) compulsory prior to hearings before the land court on objections to mass appraisal values. The use of a professional, independent mediator (preferably also a qualified valuer) could greatly assist the resolutions of objections and minimise the cost for objectors/appellants. There are several good examples of the mediation process in other courts in Australia.

8. Conclusions

Property based, 'ad valorem' taxation systems represent one of the oldest and certainly most widely applied, resilient and accepted forms securing government revenue and remain critical to government in Australia, New Zealand and most OECD countries.

Many property types and their ownership structures are becoming increasingly sophisticated and present challenges in providing an accurate, mass appraisal valuation base. This paper recognises the difficulty presented by such complications but considers that existing valuation methods can still work well for

the vast majority of properties. Rather than considering change to the underlying fundamentals, such as the use of comparable sales evidence, the focus should be on improvements in data and analysis to accommodate these new issues whilst also maintaining the consistency, accuracy and cost effectiveness of the entire assessment system. Such changes need not be radical but they are essential. They can be as simple as improving access to market information, better cooperation within the valuation profession and the enhancement of expeditious, inexpensive and fair dispute resolution procedures.

The changes should not be construed as an ad hoc approach but rather the evolution of what remains a sound and robust system to meet contemporary challenges.

[Note: The research and opinions contained in this paper are solely those of the joint authors (and specifically quoted sources). They are presented as generalised research observations only and are not to be taken as relevant to other, more specific research undertaken in the area by the authors.]

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BIBLIOGRAPHY

- API, 2007, *Valuation Principles and Practice*, 2nd ed., API, Deakin, ACT.
- API and Appraisal Institute, 2007, *The Valuation of Real Estate*, API, Deakin, ACT.
- API, 1996, *Specialist Valuations in Australia and New Zealand*, API, Deakin, ACT.
- Birks, S, *The Shadow of the Law*, 2000
- Black, D, *The Behaviour of Law*, 1976
- Boulle, L, *Mediation: Principles, Process, Practice*, Butterworths, 1996
- Boyd, T.P., 2008, *Study Guide for Advanced Property Valuation*, CQ University, Rockhampton.
- Boyd, T.P., 1993, *A Contemporary Exposition of Market Value of Investment Real Estate*, Ph D Thesis, QUT, Brisbane.
- Boyd, T.P. and Irons, J., 2002, *Valuation Variance and Negligence: The importance of reasonable care*, Pacific Rim Property Research Journal, 8:2, pp. 107-126.
- Byrne, R., 1999, *Completing valuations of infrastructure assets cost effectively*, Australian Property Journal, November, pp. 641-646.
- Cain, M, *Where Are the Disputes? A Study of a First Instance Civil Court in the U.K.*, in Cain, M and Kulcsar, K (Eds), *Disputes and the Law*, (1983),
- Cowley, M, 2006, *Review of Statutory Valuation Processes in Australia*, Research report prepared for DNRM&W, July.
- Cranston, R, *What do Courts Do?*, Civil Justice Quarterly, 5, 1986
- D'Amato, M., 2004, *A Comparison between MRA and Rough Set Theory for Mass Appraisal. A case in Bari*, International Journal of Strategic Property Management, 8:4, pp 205-218.
- Davies, GL, *The reality of civil justice reform: why we must abandon the essential elements of our system*, A paper delivered at the 20th Australian Institute of Judicial Administration Annual Conference, Brisbane, 13 July 2002

Davies, I and Clarke, G, *ADR – Argument for and against use of the Mediation Process*, QUTLJ, Vol 7, 1991

Daw, C.A., 2002, *Land Taxation: an ancient concept*, Australian Property journal, February, pp. 20-25.

Des Rosiers, F, Lagana, A, Theriault, M and Beaudoin, M., 1996, *Shopping Centres and House Values: an empirical investigation*, Journal of Property Valuation and Investment, 14:4, pp. 41-62.

Folberg, J and Taylor, A, *Mediation*, Jossey-Bass Publishers, 1988

Fromm, B, *Bringing Settlement out of the Shadows: Information About Settlement in an Age of Confidentiality*, 48 UCLA L. Rev. 663, 2001.

Gonzalez, M. A. S., 2006, *Mass appraisal with genetic fuzzy rule-based systems*, property Management, 24:1, pp 20-31.

Hayne, [Justice] K M, *Dispute Resolution and the Rule of Law*, 2002

Hyam, A., 2004, *The Law affecting Valuation of Land in Australia*, 3rd ed., Federation press, NSW.

IAAO, 1990, *Property Appraisal and Assessment Administration*, Ed. by J.K. Eckert, IAAO, USA

IAAO, 1999, *Mass Appraisal of Real Property*, ed. by R.J. Gloudemans, IAAO, USA.

McCluskey, W, 1999, *Property Tax: An International Comparative Review*, Ed by McCluskey, Ashgate, England.

McCluskey, W, Grimes, A, Aitken, A, Kerr, S and Timmins, J., 2006, *Rating Systems in New Zealand: An Empirical Investigation into Local Choice*, Journal of Real Estate Literature, 14:3, pp. 381-398.

Main, GM and Peacock, A, *What price civil justice?*, 1998

Menkel-Meadow, C, *For and Against Settlement: Uses and Abuses of the Mandatory Settlement Conference*, University of California Los Angeles Law Review, Vol 33, 1985/86

Moore, CW, *The Mediation Process*, Jossey-Bass Publishers, 1992

Ogunba, OA and Boyd, TP, 2005, *How suitable are contingent valuation techniques for valuing properties in non- market situations*, QUT Research Week International Conference, 4-5 July, Brisbane, Australia.

Plimmer, F, McCluskey, W and Connellan, O, 2002, *Valuation Banding – an international property tax solution?* Journal of Property Investment and Finance, 20:1, pp 68-83.

Renne, J. S., 2003, *Valuation methodologies for the Assessment Function, Current and Past practices*, Assessment Journal, Fall, 10:4, pp. 103-109.

Whipple, R.T.W., 2006, *Property Valuation and Analysis*, 2nd Ed., Thomson Lawbook Co, NSW.