

INQUIRY INTO REVIEW OF AUSTRALIA'S FUTURE TAX SYSTEM

SUBMISSION

PROPOSING

REPLACEMENT OF LAND TAX AND PURCHASER TRANSFER DUTY IN NSW

BY INTRODUCING

A NEW REVENUE NEUTRAL AND REVENUE ADEQUATE

PROPERTY OWNERS STATE TAX ("POST")

AND

ITS POSSIBLE ADOPTION IN OTHER STATES OF AUSTRALIA

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EXECUTIVE SUMMARY

- 1.1 This submission urges the Inquiry to recommend the introduction of a new Property Owners State Tax ('POST') in New South Wales to replace both land tax and purchaser transfer duty by adopting – after appropriate modelling - the proposal outlined in **Attachment 1** which is
- (i) Revenue neutral
 - (ii) Revenue adequate
- and is:
- (iii) More efficient
 - (iv) More equitable
 - (iv) Simpler
 - (vi) More transparent
 - (viii) Easier to administer and
 - (ix) Guarantees that the revenue budgeted for will actually be raised and not be subject to variation because of subsequent economic fluctuations

when compared to the existing systems currently used to collect land tax and purchaser transfer duty in NSW.

- 1.2 POST is flexible enough to be modelled to guarantee the Government its current revenue requirements raised from land tax and purchaser transfer duty, simple enough for taxpayers to understand and cuts through the red tape and bureaucratic processes, which exist in both the current systems.
- 1.3 POST uses council rates - not land values - to determine each taxpayer's liability.
- 1.4 POST allows differential rates to be applied for income producing properties (where POST is tax deductible) as against other forms of property where it is not, for properties in rural council areas as distinct from urban council areas or even for differing uses of properties as residential, farmland, mining or business as recorded in Council records.
- 1.5 POST offers certainty because it is based on finite amounts (council rates) already known to taxpayers and not unknown amounts (land values) resulting from the subjective opinion of one person – the Valuer General – who is currently administering a system for assessing land values that has been found sadly deficient by three Inquiries in the last eight years.

- 1.6 POST can (if thought desirable) have a threshold based on a finite figure (eg all properties are POST exempt if Council rates are below \$X per annum) The threshold can be increased annually by a readily understood and transparent formula (eg CPI) rather than the nebulous, unfair and highly questionable formula currently used to calculate the land tax threshold.
- 1.7 POST can be collected by Councils quarterly in conjunction with rate payments and then remitted to the State Government. The Councils can be paid a collection fee equivalent to the savings in OSR and Valuer General administrative costs, to enable cash strapped councils to earn additional revenue to improve their own local government areas.
- 1.8 POST will take advantage of a well- established council rating system to allow exemptions or concessions to pensioners and others currently enjoying such entitlements under the current rates regime.
- 1.9 The current land tax system has betrayed the public, discriminating unfairly and inequitably between both property owners and tenants and has resulted in severe financial hardship to taxpayers forced to pay far more in land tax than Government has represented in its Budgets.
- 1.10 The over-reliance on land tax and purchaser transfer duty based on questionable land values and a booming property market to fund 31.2% of the State's taxation revenue has been found seriously wanting with the decline in the economic environment leading to a reported shortfall in purchaser transfer duty of \$180 million in the first two months of the 2008-2009 financial year. POST will eliminate the possibility of this shortfall in revenue happening.
- 1.11 Public dissatisfaction with the existing mass system of land valuing in NSW has led to three Inquiries since 1998
- (a) The Nile Inquiry in July 1998
 - (b) The Walton Inquiry in October 1999 and a Supplementary Inquiry by Ms Walton in August 2003
 - (c) A special report to Parliament by the Ombudsman in October 2005
- 1.12 Recommendations by Nile, Walton and the Ombudsman to rectify the system were either ignored or have proved unsuccessful. In fact the system has deteriorated and lost any credibility as it generates ever-increasing amounts of land tax revenue above budget in a deteriorating property market.
- 1.13 The system still continues to be highly flawed leading to public disbelief and anger annually when land tax assessments issue with substantial increases in land tax bills based on large annual increases in land values which bear no relationship to movements in the market.
- 1.14 The system currently used to assess and collect land tax in NSW is
- (a) **inequitable** in that it
 - (i) Unfairly taxes only a small proportion of land in NSW
 - (ii) Is based on use of land not ownership of land.
 - (iii) Invites landowners to restructure their affairs to avoid paying land tax or to substantially reduce their liability
 - (iv) Can impose different tax liabilities on owners with the same net worth

- (v) Can impose different tax liabilities on owners and their tenants where identical land is owned next to each other because of the threshold and the aggregating provisions of the Act

(b) lacks simplicity in that it

- (vi) Is a complex tax creating opportunities for avoidance and evasion
- (vii) Is difficult to administer because of many exemptions and allowances, the way the annual threshold is required to be calculated and the objections process that can be set in train as highlighted by *Maurici's* case.
- (viii) Is caught up in complex and voluminous legislation and case law that would be unnecessary if a more simplified system of assessment was in place
- (ix) Involves wasting valuable court time in appeals and interpretation of the legislative provisions.
- (x) Prevents taxpayers being able to reasonably budget for their anticipated liability

(c) Lacks transparency as the system has been shown to be gravely deficient by both Walton and the Ombudsman despite repeated claims by the Valuer General that the increases in values and the values being produced were accurate and credible. The taxpayer simply cannot anticipate his land tax liability with any certainty.

(d) Is incapable of being accurately estimated or calculated by Government on an annual basis since it is based on increases in land values that are not known until six months after budget.

1.15 We believe the system for assessing land tax has become so systemically corrupted that any intended action to try and rectify it after 10 years of operation will not cure the deficiencies now built into the system. The possibility of manipulating land values by the use of component factors far in excess of market movements without proper accountability still permeates the system.

1.16 The system currently used to assess and collect purchaser transfer duty in NSW

(a) lacks simplicity in that it

- (i) Can be a complex tax creating opportunities for avoidance and evasion
- (ii) Is caught up in complex and voluminous legislation and case law that would be unnecessary if a more simplified system of assessment was in place
- (iii) Involves wasting valuable court time in appeals and interpretation of the legislative provisions.

(b) Is incapable of being accurately estimated or calculated by Government on an annual basis since it is based on real estate transactions - the number and quantum of which are not known until fourteen months after budget.

- (c) Is relatively inefficient as it adds significantly to the cost of real estate transactions
- (d) Has a rate far higher than it would be if applied to all properties.

(e) Is the most volatile source of State revenue

- 1.17 POST eliminates the risk of any shortfall in budget estimates due to downturns in the property market and removes any reliance on the state and health of the property market to fund Government services.
- 1.18 POST introduces honesty into Government budgeting guaranteeing the Government will collect the amount it budgets for whilst removing the possibility of windfall gains.
- 1.19 We believe POST can be applied successfully throughout other states in Australia to help stabilise and secure budget outcomes without the risk of shortfall whilst eliminating over-collections of land tax with subsequent financial hardship to those taxpayers forced to meet those overpayments.
- 1.20 Given the rapid deterioration in economic conditions in Australia it is essential that the States be able to budget with certainty and no longer rely on the vagaries of the property market to bring in the revenue they budget for on an annual basis. POST offers that certainty and should be introduced at the earliest possible date.

PART 2.

WHY REFORM OF THE CURRENT SYSTEM FOR ASSESSING LAND TAX HAS BECOME NECESSARY

- 2.1 Land tax as a proportion of State tax revenue has risen from 5.1% in 1996-1997 to an estimated 10.7% in 2008-2009 (Budget Statement 2008-2009 page 4-17).
- 2.2 This represents an increase in land tax revenue from \$576 million budgeted for in 1996-1997 to at least \$1968 million collected so far for 2007-2008 (Budget Statement 2008-2009 page 4-18). The final figure for 2007-2008 will not be known till the Half Year Budget Review is issued in November/December 2008.
- 2.3 There were approximately 260000 commercial, industrial or residential investment properties above the threshold in 2004. (“land tax affected properties”) (Report of General Purpose Standing Committee No. 1 Report 25 June 2004 Clause 3.16 page 16)
- 2.4 That so few properties (perhaps 300000 now) contribute almost 11% of NSW tax revenue whilst the rest of the State’s 2,232,000 properties contribute nothing for the provision of Government services (police, schools, roads, hospitals etc) that benefit them all is unfair, unjust and inequitable.
- 2.5 This amounts to a cross subsidy on a massive scale that is grossly discriminatory and needs to be taken into consideration when deciding whether to reform or replace the current system
- 2.6 The spectacular growth in land tax revenue has been achieved by the use of a system which contains three key elements
- (i) A rate
 - (ii) A threshold
 - (iii) Land values
- 2.7 The rate**
- (a) The problem with the current system is that the revenue is estimated in May or June using a rate that is applied to estimated increases in land values at 1 July, those actual increases in land values are not being known till the following November/December.
 - (b) When the actual increases in land values are finally known, the rate is not adjusted in December prior to issuing the land tax assessments in January/February.

- (c) If the rate was adjusted and applied to the known actual increases in land values then no more than the budgeted amount would be collected. By failing to adjust the rate, enormous windfall profits have resulted for the Government coffers at the expense of severe financial hardship for land tax payers.
- (d) The failure to adjust the rate in December is a gross betrayal of the public trust and has contributed markedly to the huge increase in land tax revenue over budget for nine of the last ten years.
- (f) We believe it is a dishonest practice, amounts to maladministration and should be no part of a fair and transparent taxation system.
- (g) Purchaser transfer duty is very difficult to estimate and allows Government the luxury to retain windfall receipts as it has done over previous years or to suffer a substantial shortfall as is presently occurring.

Land Tax however is the one tax that can be collected as budgeted, since the land values are known before the assessments are issued when the rate can then be adjusted to collect the Budget amount and no more.

2.8 The Threshold

- (a) The threshold is unfair being calculated according to a formula that is based on the annual increases in the values of all 2,232,000 properties in NSW rather than the annual increases in all industrial, commercial and residential investment properties.
- (b) This results in the annual increase in the threshold being much lower than it should be trapping more property owners in the land tax net than would occur if a fairer and more transparent basis for calculating the threshold was adopted.
- (c) This is exacerbated because the threshold is now averaged over three years.
- (d) For the 2008 tax year the averaged threshold will be \$359000 instead of the figure of \$369000 determined as the threshold for 2007/2008.
- (e) All current land tax affected properties will therefore pay \$160 more before the impact of any increases in land values is even factored into the land tax bill. This will impact more severely on those least able to afford it at the lower end of the tax scale.
- (f) Owners of properties between \$359000 and \$369000 will pay \$100 plus 1.6% x the taxable value over \$359000. They should be paying nothing.

2.9 Land Values

- (a) The real driver causing the huge increase in land tax revenue over the past 10 years has been the annual increases in land values (“component factors”) far in excess of Treasury estimates and far exceeding increases in market movements - resulting in increases in land tax revenue substantially in excess of Treasury estimates as indicated in the following Table 1.

TABLE 1:
LAND TAX BUDGETED v LAND TAX COLLECTED 1996-2007

LAND TAX YEAR	BUDGET \$m	ACTUAL \$m	SURPLUS \$m
1996-1997	576	625	49
1997-1998	786	908	122
1998-1999	945	948	-3
1999-2000	830	900	70
2000-2001	921	929	8
2001-2002	965	1001	36
2002-2003	1047	1136	89
2003-2004	1251	1355	104
2004-2005	1448	1646	198
2005-2006	1633	1717	84
2006-2007	1793	2042	253
2007-2008	1750	1968*	218*

* Final figures not known until November/December 2008

These over budget payments have been extracted from a relatively small number of taxpayers causing severe financial hardship and stress. They could have been prevented by adjusting the rate prior to the issue of the land tax assessments. It is time for this pernicious practice to be ended.

- (b) Treasury’s standard response to these windfall surpluses has been “higher increases in land values than anticipated at Budget time” [Budget Statement 2003-2004 page 3-18]

We believe such statements to have been grossly misleading. They have been used as a cloak to mask a grab for additional revenue without the Government taking political responsibility for the “windfall” that has fallen into its lap.

- (c) Changing the rate prior to the issue of assessments as we have indicated above could have stopped these windfall profits being collected. There has been systemic overcharging which if done in the private sector would result in restitution to those who were overcharged.
- (d) The Walton Report 1999 [p.66] – gives some examples of the serious financial hardship that results from this iniquitous practice:

“Mrs J Trevor focuses on the fact that her land tax liability went from \$6535 to \$14439.50 from 1997 to 1998 (the underlying valuation having increased from \$550000 to \$935000.”

“Your legislation has increased the land tax on my 1 unit of sandy soil from \$1558.60 to \$5132 an increase of 329% since last year and 987% since 1994 which is clearly unconscionable”

No Government should have allowed this appalling situation to continue when it could have been so easily prevented. If the Government needs more revenue let it state so openly in the Budget and not pull the wool over the taxpayers eyes as happens at present, pocket the windfall and escape any political blame for something that could be stopped.

- 2.10 We have lodged a number of complaints with the Ombudsman and ICAC and furnished reports to the Government indicating serious doubts about the credibility and accuracy of the annual land values being issued by the Valuer General and the component factors used to derive those values.
- 2.11 The Ombudsman and ICAC refused to investigate these complaints until we finally convinced the Ombudsman to do so following a complaint lodged by us on 30 January 2004.
- 2.12 This led to the Ombudsman’s special report to Parliament in October 2005 when he recommended all land values in NSW be “re-set” – a scathing indictment of a land valuation system that was supposed to be providing credible and realistic land values.
- 2.13 Both Walton and the Ombudsman believed the system could be fixed. If Walton had ordered a review of all land values at the time she issued her report, this might have been possible. But she didn’t and land tax receipts continue to escalate to record levels based on increasing land values whilst all indicators show the property market in NSW is in a slump.
- 2.14 Far from the Ombudsman’s recommendations rectifying the position there is a grave danger that land values will rise quite substantially - with consequent large increases in land tax bills - as the Valuer General plays “catch up” to ‘re-set’ and correct systemic undervaluation found by the Ombudsman to now exist in the system without a consequential reduction in the rate to ensure over-collections do not continue.
- 2.15 Surplus land tax receipts of \$218 million in 2007-2008 without any real corrective action other than a minimal reduction in the rate indicate this dishonest process is still rampant.
- 2.16 **The 2007-2008 budget estimating land tax receipts of \$1750 million compared to \$2042 million collected in 2006 –2007 was simply not credible requiring an adjustment to the rate in December 2007 prior to the issue of the 2008 land tax year assessments so as to ensure that only \$1750 million was collected and any over-collection was prevented.**

A letter was sent by us to the Treasurer The Hon Michael Costa on 31 October 2007 detailing our concerns and requesting this past practice be ended and reversed.

Our letter to Mr Costa is Attachment 2.

No response was received. As a result at least \$218 million has been over-collected from those property owners caught in the land tax net. Is this the standard of fiscal responsibility and honesty that Australia's tax system be it Federal or State should aspire to?

- 2.17 The systemic over-collection of at least \$218 million in land tax revenue for the 2008 land tax year might be great news for the Government but bad news for the taxpayers forced to meet these over budget payments which could have been avoided and not charged.
- 2.18 The fall out from this systemic overcollection has been manifold including the following:
- (i) Many retired people and superannuitants have been forced to sell older style investment properties in particular as their returns have dropped substantially as a result of these over-budget collections.. Such properties are usually acquired by developers who evict the low rental tenants who cannot then find other premises at comparable rents and so are forced on to the State's emergency housing lists.
 - (ii) Developers then increase the number of dwellings on these redeveloped sites creating environmental, traffic and density problems for local councils to deal with
 - (iii) Escalating annual land tax increases caused by systemic overcollection feed into rents as owners try to recoup the increases from their tenants. In the case of commercial tenants this is translated into higher prices to the public for goods and services they provide and help fuels inflation. Residential tenants' disposable income is materially reduced and causes great financial hardship particularly to lower income families.
 - (iv) The market demand for investment properties is lowered and any drop in activity or selling price leads to a corresponding reduction in stamp duty with loss of revenue to the State
- 2.19 The current system is very unfair and requires to, and can be replaced, by a system that:
- (i) Is simple to administer and allows the Government to accurately budget for and collect whatever amount it tells the taxpayers it intends to collect
 - (ii) Is easy for the taxpayer to understand and enables him to calculate his anticipated liability with reasonable certainty
 - (iii) Is transparent and virtually free from argument or dispute
 - (iv) Is broad based and removes the current inequities between owners who pay land tax and those who don't and between tenants who live or have their businesses in land tax affected properties and those who don't but use them for the same purpose.
 - (v) Removes the tax from the political arena or as a political football by quantifying precisely the amount of tax revenue the Government wants to raise from land tax each year which the Government clearly states in the budget, for which it then takes

political responsibility and which it can then reasonably assure taxpayers will not be exceeded

- (vi) Does not substantially rely for its operation on the subjective decisions of one person such as the Valuer General who effectively has become the sole person determining how much land tax will be collected each year applying a mass valuation system that is open to serious and continuing criticism.

2.20 For these reasons we urge serious consideration be given to our proposal contained in **Attachment 1** with a view to the Inquiry recommending that it be appropriately modelled and then implemented in the interests of fair, honest and good Government in NSW.

2.21 We believe our proposal could well be suited to being introduced in other States with benefits for Government and the taxpayers and without any loss to Government revenue.

**WHY THE MASS VALUATION SYSTEM OF LAND [MVSL] MUST BE REPLACED AS
THE BASIS FOR ASSESSING ANY TAXES IN NSW**

- 3.1 Land values have been a matter of public concern and incredulity and mired in political controversy since MVSL was first introduced in 1997.
- 3.2 The initial public outcry came at the beginning of 1998 following an increase in the tax rate from 1.65% to 1.85% and the introduction of land tax on the principal place of residence with a land value in excess of \$1 million.
- 3.3 Large unexpected increases in existing land tax bills caused by massive increases doubling in many cases the previous year's land values - coupled with the increased rate - led to demonstrations outside Parliament and protest meetings in many places throughout NSW.

Owners of principal places of residence caught in the land tax net for the first time were amazed to see their land values increased by 50% or more in one year.

- 3.4 An Upper House Inquiry – the Nile Inquiry - was established in March 1998 in answer to the public concern but it did not examine the methodology of MVSL in the detailed manner that the Walton Inquiry was later to do.
- 3.5 Nile received many similar submissions all showing large unexplained increases in land values and huge jumps in land tax bills.

One example was a home having had its value increased from \$800000 in 1993 to \$925000 in 1995 and then \$1640000 in 1997 (page 62)

Another was a jump in land tax from \$670 in 1995 to \$4105 in 1998 (page 17)

- 3.6 The Property Council gave evidence that CBD properties had been re-valued on average by 24.4% over the last year.(page 63). It alleged that for the first time in recent history there were significant differences of opinion between them and the Valuer General's estimate of land values in the CBD. (page 63)
- 3.7 The Valuer General denied any suggestion of political interference or that he had been acting on instruction from the NSW Government or Treasury (page 64)
- 3.8 In sworn evidence given on 4 May 1998 the Valuer General assured the Inquiry:
“Where we do make changes to the valuations as a result of the objection process, or as a result of the appeal process we will make the necessary consequential changes to ensure that people are not disadvantaged by the fact that they did not object or appeal” (page 40 Report of Proceedings)

At the time of the Nile Inquiry no data was available as to the results of any objections or appeals since the objection process was then only in its early stages.

- 3.9 Significantly Recommendation 15 of the Nile Inquiry was not accepted by the Government. It called for the preparation of a comprehensive independent report to the Government by the Auditor General's Office and its tabling in Parliament on various issues including
- (i) the significant increases in estimated land values that had been based on data derived from very few actual sales and
 - (ii) the distortions that arose from the Valuer General attributing the full value of properties purchased for demolition, often described as "knock downs" to the site value of land located nearby.
- Had the Auditor General been asked to prepare that Report, taxpayers would almost certainly have been relieved of the financial hardship that has dogged them since.
- 3.10 The subsequent rejection of thousands of objections by the Valuer General led to continuing public anger as huge land tax bills had to be paid causing extreme financial hardship in many cases. The public were at a loss to understand how their land values had increased so substantially.
- 3.11 There was clearly something wrong with the system. One objector Mr Andrew Coroneo had six objections rejected by the Valuer General , but had the fortitude to take them on appeal to the Land and Environment Court and won them all without the aid of any legal assistance.
- 3.12 The component factors and land values determined by the Valuer General had been clearly too high for Mr Coroneo's properties and would have similarly impacted on the values of thousands of properties in the same component groups as Mr Coroneo's properties.
- 3.13 Mounting public pressure forced the Premier to give an undertaking prior to the 1999 election that he would hold another inquiry if returned to power which he duly established in May 1999 to be conducted by Ms. Julie Walton
- 3.14 The Auditor General was given certain information on 27 July 1999, which led him to believe that systemic overvaluation might have occurred in Woollahra.
- 3.15 He forwarded the material to the Ombudsman to consider but it was never dealt with by the Ombudsman (supposedly so as not to duplicate the Walton inquiry). This material was apparently given to Ms Walton by another person but was not apparently thought important enough by her to follow through.
- 3.16 The Walton Inquiry identified what it considered to be many problems in the system and Ms Walton concluded at p.46:
- "In my opinion , the pattern and results of objections and appeals demonstrates that unrealistic valuations were produced in 1996,1997 and 1998 in many cases. This can be attributed not to any single cause but to a combination of factors ..."
- 3.17 Ms Walton had examined the number of successful objections and appeals lodged in eight valuation districts and found that in relation to the 1 July 1997 land values for Woollahra
- (i) 279 objections had been allowed with the overvaluation averaging 13.15%
 - (ii) 53 appeals to the Land and Environment Court had been allowed with the overvaluation averaging 17.04%
- (See Walton Report page 43)

- 3.18 Ms Walton found a similar situation in each of the other 7 valuation districts she had examined (page 43). Ms Walton made a series of recommendations to improve the system but amazingly did not recommend any action to correct the systemic overvaluation she had uncovered from her investigation of the number of successful objections and appeals.
- 3.19 This in our view was an entirely inappropriate outcome ensuring the overvaluation built into the system would continue to distort the determination of future land values.
- 3.20 We were of the view that every land value in NSW had to be reviewed as a result of Walton's findings because every land value was now suspect.
- 3.21 This too would have accorded with the Valuer General's assurance to the Nile Inquiry. Reviewing the component codes applied to components where objections were successful would have resulted in the adjustment of the component code and the consequent reduction in the values of hundreds of thousands of properties situated in the same components.
- 3.22 The Government ignored our submissions to so review all land values in NSW as a result of the Walton Findings.
- 3.23 Reviewing the land values would have led to their being re-set with consequent reductions in land tax bills and refunds to taxpayers of some of the \$122 million in surplus land tax receipts collected over budget that year. The thought of refunding overpaid land tax was obviously too difficult a proposition for Government to contemplate – notwithstanding that it should never have been collected in the first place if the system had been properly administered.
- 3.24 Walton's findings had confirmed what the Auditor General had suspected – substantial systemic overvaluation.
- 3.25 The system might have been able to be successfully re-set if it had been adjusted in its base year of operation. The failure to do this has flawed the system ever since
- 3.26 In June 2001 we obtained certain documents under Freedom of Information from the Valuer General after a concerted attempt by him to withhold their production and only after we had successfully appealed to the Ombudsman who ordered their release.
- 3.27 These documents indicated that the 1 July 1997 land values for Waverley and Woollahra had been determined in August 1997 by the newly created State Valuation Office but were then substantially altered by that Office just one month later in September 1997
- 3.28 The August Reports had recommended increases to the values of some 26000 properties ranging between 20% and 50%.

The September Reports recommended increases to the values of the same properties ranging between 50% and 100% - double the August recommendations.

The Valuer General had then determined increases ranging between 40% and 80% - signalling a much larger collection of land tax than if the August recommendations had not been changed in September.

- 3.29 To achieve this remarkable turn around in just one month the values of a large number of benchmark properties were substantially increased -some of which are shown in the following Table 2- leading to increased component factors being recommended for the component groups in which the benchmark properties were located.

TABLE 2

WOOLLAHRA

ALTERATIONS TO LAND VALUES AT 1 JULY 1997

PROPERTY	COMPONENT CODE	VALUE DETERMINED IN AUGUST 1997 \$m	VALUE DETERMINED IN SEPTEMBER 1997 \$m
19 WUNULLA	AH	1.215	2.000
33 COOLONG	AH	5.480	6.500
10 CAMBRIDGE	RB	0.760	0.975
9 WENTWORTH	RL	1.580	2.500
126 EDGECLIFF	FH	0.950	1.250

- 3.30 This material had never been presented or disclosed to the Walton Inquiry by the Valuer General and we believed the failure to do so had effectively subverted the Inquiry.
- 3.31 We brought this matter to the Government and the Opposition's notice but the Government refused to take any action until the Premier announced shortly before the 2003 election that he would refer the material to Walton to examine if returned to power.
- 3.32 This the Premier did and in June 2003 after examining the documents Walton stated at page 8 of her supplementary inquiry:
 "It is impossible to establish precisely how the erroneous conclusions in the September Reports were arrived at without reopening the entire analysis and questioning the four valuers in the two agencies who seem to have been involved, five years after the event. I do not feel able to continue that line of inquiry, and it is beyond what I need to do to answer the Premier's question "

These highly controversial decisions by licensed valuers were now placed beyond investigation. Ms Walton interviewed many bureaucrats but the valuers involved were never asked to explain the basis on which they changed their valuations so substantially between August and September 1997 and why it was necessary to do so anyway.

- 3.33 Ms Walton nevertheless concluded that had such material been presented to the original Inquiry she would have made some changes to her recommendations, which she would regard as supplementing her report without affecting the thrust of her previous recommendations. (page 10).

She still did not say she would have ordered a full review of all land values had she been in possession of such information at the time of her original Inquiry - a decision we found quite extraordinary.

- 3.34 On 3 July 2003 the Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services and Minister Assisting the Minister for Natural Resources (Lands) the Hon Tony Kelly introduced a Bill to establish a Parliamentary Joint Committee to oversee the functions of the Office of the Valuer General.
- 3.35 The Minister informed the Parliament on that occasion:
- “This Government wishes to ensure the people of NSW that land valuations undertaken by the Valuer General are sound, well informed, quality valuations based on reliable information and expertise”
(LC: 03/07/2003:#51)
- 3.36 Further material continued to be obtained by us under FOI. We were finally able to convince the Ombudsman in 2004 to investigate the accuracy of land values being issued by the Valuer General. Our complaint was based on the fact that the component factors being issued by the Valuer General bore no relation to the component factors indicated by movements in value in the property market.
- 3.37 In October 2005 after an investigation extending over a year the Ombudsman found at page 93 that:
- “there is currently inadequate adherence to the controls employed by the Valuer General to ensure the accuracy of valuations derived from the component method of mass valuation in NSW and that the provision of information to potential and actual objectors is also inadequate. Such conduct is unreasonable in terms of Section 26(1) of the Ombudsman Act.”
- 3.38 The Ombudsman found that only 31% of sales on average met the strict 5% margin of error standard across the sample districts he surveyed and only 66% of sales across these 43 districts were within the 15% acceptable margin of error. A significant number (35%) were outside this latter standard. [page 59]
- 3.39 The land database was systemically undervalued. This was allowing annual increases in land values to be made which were greater than market movements yet prevented any successful objections being made because the values derived were still lower than the actual market value. These large annual increases in land values however spelt continuing large increases in land tax bills.
- 3.40 The extent to which the land database was undervalued can be gauged from the material contained in Section 4.6.6 of the Ombudsman’s report (page 54). We cite one example here

“Check of 11 commercial and retail valuations City of Sydney: The check of each property valued it higher than the valuation issued by the Valuer General – the increases were respectively 6%, 15%, 16%, 19%, 33% (two), 37%, 50%, 55%, 72% and 80%.”

- 3.41 38 recommendations to fix the system were made by the Ombudsman. - a system that Minister Kelly had told Parliament was producing sound well informed quality valuations after it had been supposedly fixed by the Government’s acceptance of Walton’s recommendations.
- 3.42 All values are now in the course of being re-set as ordered by the Ombudsman How this can be possibly achieved remains to be seen. The system is in one big systemic mess and the credibility and competency of the Valuer General to issue accurate and reliable values continues to be in grave doubt.
- 3.43 Documents in our possession indicate that the Valuer General made substantial increases in land values at 1.7.2006 despite all market indications that very little (if any) increases occurred in market values in the previous 12 months. These increases have brought with them substantial increases in land tax revenue and little scope to object because the values are still probably below market values. The information in our possession is summarised in **Table 3**

TABLE 3

INCREASES IN 1.7.2006 LAND VALUES OVER 1.7.2005 LAND VALUES

CLASS OF PROPERTY	TOTAL NUMBER OF PROPERTIES	NUMBER INCREASED BY 10-15%	%	NUMBER INCREASED BY 15% OR MORE	%
RESIDENTIAL	2095010	163310	7.8	159029	7.6
COMMERCIAL	70071	9059	12.9	13146	18.8
INDUSTRIAL	40082	4349	10.9	9179	22.9
RURAL RESIDENTIAL	26635	3439	13	7069	26.5

It is scandalous that these kind of increases in values can still be made in a climate of little market movement after two Inquiries that are supposed to have fixed the system, without any consequential reduction in the rate at which land tax is being assessed.

- 3.44 Although the Ombudsman had finally vindicated our stance we do not believe he went far enough in just giving the bureaucracy a gentle slap on the wrist for producing inaccurate and non-credible values for the previous eight years.
- 3.45 The extent to which MVSL has unfairly impacted on land tax payers and to the Government's financial benefit can be better understood by looking at Treasury's forward estimates of land tax set out in successive Budget Papers and the actual amount of land tax collected as shown in the following **Table 4**

TABLE 4
FORWARD ESTIMATES v ACTUAL LAND TAX COLLECTED

LAND TAX YEAR	FORWARD ESTIMATE \$m	BUDGET PAPERS	ACTUAL \$m
2000-2001	844	1999-2000	929
2001-2002	867	1999-2000	1001
2002-2003	891	1999-2000	1136
2003-2004	991	2000-2001	1355
2004-2005	1095	2001-2002	1646*
2005-2006	1199	2002-2003	1717*
2006-2007	1452	2003-2004	2042*

* Changes to rate and threshold were not known at time of estimates

- 3.46 Little can be gained from going into the intricacies and inner workings of why MVSL has turned out to be such a disaster but from the public perspective there can be no confidence in this fault ridden system being maintained as the basis for determining any tax liabilities.
- 3.47 We have recently obtained documents under FOI relating to the land values base at 1 July 2007 for Woollahra and the City of Sydney. They clearly indicate the number of values outside the acceptable margin of error has worsened since the Ombudsman's investigation – notwithstanding any changes that might have been put in place by the Valuer General as recommended by the Ombudsman's report .
- 3.48 The following Table shows the number of sales inspected by us and the number of values within and outside the 15% acceptable margin of error in Woollahra and the City of Sydney at 1 July 2007:

VALUATION DISTRICT	NUMBER OF SALES INSPECTED	NUMBER WITHIN ACCEPTABLE MARGIN OF ERROR	NUMBER OUTSIDE ACCEPTABLE MARGIN OF ERROR
WOOLLAHRA	117	66 (56.4%)	51 (44.6%)
CITY OF SYDNEY	276	124 (44.9%)	152 (55.1%)

These truly staggering statistics confirm the unreliability of the land values still being issued. What is also significant is the fact that these two valuation districts are two of the most wealthy land tax catchment areas in NSW.

- 3.49 The above statistics help to understand what is driving the real growth in land tax revenue – the adoption of annual increases in land values that have no relationship whatsoever to annual market increases monitored by independent agencies such as the Real Estate Institute.

The Treasurer coyly – and I would strongly suggest dishonestly - described this phenomenon in the 2007-2008 Half Yearly Budget Review as “faster than expected land value growth” (page 12).

This growth has nothing to do with market movements. It only occurred because the land values base was systemically and substantially allowed to become undervalued for years.

Annual increases in these undervalues over and above monitored market movements creates additional land tax revenue yet still allows properties to remain systemically undervalued for similar treatment the following year.

The following Table shows the annual increases in some land values that the Valuer General supposedly says occurred between 1 July 2006 and 1 July 2007:

VALUATION DISTRICT	NUMBER OF PROPERTIES	INCREASE IN VALUE BETWEEN 1.7. 2006 AND 1.7. 2007
SYDNEY	5744	25% or more
WOOLLAHRA	5017	16% or more

These increases are clearly not related to real movements in property values during the year so the 1 July 2006 land values themselves must have been substantially inaccurate to allow increases of this size to be applied.

Even an annual increase of 10% to an undervalued land values base which has increased in real terms by only 5% can bring in a lot of extra land tax revenue yet still leave properties substantially undervalued to be similarly increased in following years.

Land tax has become a growth tax because of the reliance of the system on an undervalued land database and the ability to apply virtually whatever annual increases one wishes without owners having any chances of successfully appealing.

The inaccuracy of the land values database cannot surely be disputed nor can its retention to assess any tax be countenanced by the Committee in the interests of maintaining an efficient transparent and simple system of assessment.

The Committee is the appropriate body to recommend replacement of the land values database to assess land tax in the interests of restoring budget honesty and integrity.

The Committee also needs to highlight the unjustness of the current system as materially contributing to the doubling of the growth of land tax in the State's own source tax revenue in the last 10 years as a result of the operation of a system of assessment that should be consigned to the garbage bin.

I am sure Treasury would like to retain the present system. It is a license to print money. But it is also deceptive and misleading if not dishonest.

The Committee can protect both the revenue and also the public interest by introducing POST and ending these dishonest practices.

A tax system built on this foundation should not be tolerated any longer.

Recommending the replacement of the land values database by using the local council rate database will end this rort and will not result in any loss of land tax revenue.

3.50 Use of the land values data base should also be terminated because of the following practice:

When the Valuing Contractor finds that the value determined by the mass valuation methodology is outside the acceptable margin of error he then merely changes the value of that property to more closely accord with his own valuation and bring the value within the acceptable margin of error.

It is that valuation which then appears on the Register of Land Values as the value of the property and not the value determined by the mass valuation system.

The following Table shows what has occurred at 1 July 2007 with properties undervalued by the mass valuation system outside the acceptable margin of error.

VALUATION DISTRICT	ADDRESS	VALUING CONTRACTOR'S VALUATION	VALUE DETERMINED BY MASS VALUATION METHODOLOGY	VALUE ENTERED IN REGISTER OF LAND VALUES
		(\$ million)	(\$ million)	(\$ million)
SYDNEY	262 CASTLEREAGH	2.500	1.296	2.300
SYDNEY	130 ELIZABETH	12.800	9.889	11.700
SYDNEY	219 ELIZABETH	24.200	18.683	21.800
SYDNEY	70 DRUITT	0.512	0.328	0.515
SYDNEY	331 GEORGE	3.350	1.584	3.000
WOOLLAHRA	17 DRUMALBYN	4.170	3.220	3.650
WOOLLAHRA	25 HOPETOUN	2.750	2.109	2.360
WOOLLAHRA	15 WENTWORTH	4.460	3.780	3.930
WOOLLAHRA	94 FLETCHER	0.975	0.750	0.834

3.51 Why are these alterations being made and what amount of extra land tax revenue is being generated as a result of such action? What is the reasoning that makes the valuer choose a value that is still below his own and why is the percentage difference not the same in each case where this is happening?

Have all the other properties within the same component been likewise increased since they are all supposed to increase in consonance? Who is to say the Valuer's valuation is correct?

3.52 The same practice is occurring with properties valued by the mass value system above the valuer's value. They have been adjusted downwards in like manner in some instances but not others in the City of Sydney.

Have all the other properties within the same component been likewise decreased since they are all supposed to increase in consonance? Some examples of this likewise repugnant practice appear in the following Table:

VALUATION DISTRICT	ADDRESS	VALUING CONTRACTOR'S VALUATION (\$ million)	VALUE DETERMINED BY MASS VALUATION METHODOLOGY (\$ million)	VALUE ENTERED IN REGISTER OF LAND VALUES (\$ million)
SYDNEY	400 PITT	42.800	49.000	41.000
SYDNEY	118 SUSSEX	11.250	12.077	11.250
SYDNEY	165 MACQUARIE	30.000	31.320	30.000
SYDNEY	41 BOURKE	19.000	21.500	19.000
SYDNEY	377 GLEBE POINT	0.775	0.886	0.775
WOOLLAHRA	84 BORONIA	1.263	1.525	1.200
WOOLLAHRA	3 KAMBALA	2.105	2.147	2.050
WOOLLAHRA	256 OLD SOUTH	1.490	1.728	1.410
WOOLLAHRA	16 VILLAGE HIGH	2.530	2.664	2.500

3.53 The picture however gets even murkier.

Not content with this value changing to properties outside the acceptable margin of error to bring them within the acceptable margin of error, the contract valuers are even changing values that fall within the acceptable margin of error. The following Table contains some examples of this conduct:

VALUATION DISTRICT	ADDRESS	VALUING CONTRACTOR'S VALUATION (\$ million)	VALUE DETERMINED BY MASS VALUATION METHODOLOGY (\$ million)	VALUE ENTERED IN REGISTER OF LAND VALUES (\$ million)
SYDNEY	58 KING	5.350	4.944	5.500
SYDNEY	710 GEORGE	31.00	29.570	31.000
SYDNEY	98 GOULBURN	1.490	1.335	1.450
SYDNEY	205 CLARENCE	0.630	0.553	0.630
SYDNEY	160 SUSSEX	8.500	8.398	8.500
WOOLLAHRA	12A TRELWANEY	3.270	2.852	3.130
WOOLLAHRA	38 COOLONG	5.080	4.928	5.020
WOOLLAHRA	88A BELLEVUE	2.130	1.865	2.000
WOOLLAHRA	15 WENTWORTH	4.460	3.780	3.980

3.54 The following Table shows how many values determined by the mass valuation methodology at 1 July 2007 in Woollahra and the City of Sydney were found by us to have been changed as set out in paragraphs 3.50 – 3.53

VALUATION DISTRICT	NUMBER OF VALUES INSPECTED	NUMBER OF VALUES CHANGED
WOOLLAHRA	117	74 (63.2%)
CITY OF SYDNEY	276	102 (36.95%) *

*(i) This figure is an estimate but we believe it to be substantially accurate.

*(ii) No changes were made to reduce the values of any overvalued residential properties. There were 55 overvalued residential properties in the 276 values inspected. Apparently the Valuer General is happy to allow systemic over-valuation to go uncorrected but more than happy to correct systemic undervaluation below the acceptable margin of error

3.55 It is also worth noting that different valuers were engaged by the Valuer General as contract valuers in Woollahra and the City of Sydney.

This similar conduct by two different valuers in two different districts indicates the possible existence of some directive from the Valuer General that is being systemically applied across all valuation districts.

A beautiful set of figures showing how well the mass valuation system is working is one outcome of this outrageous conduct. However it is deceptive and meaningless when the incidence of land values outside the acceptable margin of error has actually increased since 2005 instead of being substantially reduced as the Ombudsman's recommendations were supposed to achieve.

Only an audit of each valuation district in NSW can determine if these systemic malpractices uncovered in Sydney and Woollahra are occurring anywhere else.

The evidence clearly establishes however that the retention of the land values database to determine land tax liabilities in NSW is very questionable and should be replaced.

- 3.56 Reliance by Treasury on these shonky values to tax property owners with \$2 billion in land tax and to double the state's own source tax revenue over the last 10 years as a result is not something that this Committee should regard as being allowed to continue once this practice is brought to its notice.
- 3.57 The uncertainty of the reliability of the land values base is sufficient justification for its replacement with the local council rate database, which is enduring and well established, and transparent and incapable of being tampered with as the above evidence indicates.

This Committee should be motivated to protect the interest of the taxpayers by adopting a simpler and more transparent system of assessment

- 3.58 Taxpayers are entitled to feel they have been ripped off by a system that has brought the Government **\$1.138 billion more than it ever budgeted or estimated to receive over the last 11 years (\$555 million in the last three years alone)** by the use of a fundamentally flawed system that has been found by two Inquiries to have produced inaccurate and unreliable land values upon which land tax liabilities were assessed and calculated.
- 3.59 We strongly feel in the circumstances that it is in the public and the Government's interest to replace the current system with a fairer, more transparent and simpler system that will ensure that land tax budgeted for by the Government is collected and not substantially exceeded, as is currently still occurring with monotonous and we would say obscene regularity
- 3.60 Land values have long been discarded entirely when determining liability for water rates and to a great degree when determining liability for council rates. It is time they were now done away with to calculate land tax liabilities.

PART 4**BROADENING THE TAX BASE**

- 4.1 The land tax property base and purchasers property base is very small compared to the number of properties in NSW. Broadening the tax base to include all properties when introducing POST will substantially reduce the cross subsidy being currently enjoyed by property owners paying no land tax and also spread the replacement of current purchaser transfer duty more equitably among all properties.
- 4.2 NSW is very vocal in criticising the cross subsidisation given to the other States (excluding Victoria and Western Australia) of around \$2.5 billion in 2007/2008 in regard to GST receipts. NSW has little credibility to complain about this cross subsidy whilst it allows the cross subsidy to continue in the land tax arena and if it did not spread the replacement of purchaser transfer duty among all the State's properties.
- 4.3 The NSW Government briefly attempted to broaden the base for the 2005 land tax year by removing the threshold but then reinstated it for the 2006 tax year freeing 350000 taxpayers after just one year in the land tax net.
- 4.4 That reversal of policy followed widespread criticism by property owners who had been asked to pay land tax for the first time and also coincided with the introduction of the Vendor Tax, which has also now been eliminated.

However the Government broadened the base to raise more revenue – not to distribute the then current revenue more equitably among all commercial, industrial and residential investment properties, which is what we believe should have been the primary objective.

Had this been done, the new taxpayers would have paid a lot less and we believe would have been more likely to have accepted the broadening of the base.

- 4.5 We see this Inquiry as the opportunity to remove land tax from the heat of the political arena by broadening the taxpayer base so as to distribute the existing land tax revenue and the replacement of purchaser transfer duty more equitably between preferably all properties.
- 4.6 POST should be embraced on a bipartisan basis in the interests of honest and fair public administration with neither side having to fear any backlash against it for jointly adopting the Inquiry's independent recommendations – especially since the changes are revenue neutral and do provide the mechanism to meet future revenue demands with certainty by spreading any proposed increases among preferably all properties.
- 4.7 The case for broadening the base is overwhelming in our opinion for the following reasons:
- (i) Most landowners pay council rates to fund the cost of providing local Government services. They should also reasonably expect to pay POST to fund the cost of providing State Government services, which benefit all land owners and not just those now paying land tax.

- (ii) A large cross subsidy has been given by land tax affected properties to non-land tax affected properties for the last ten years and it is more than time to right that injustice given the greatly increased proportion of State tax revenue that land tax revenue now represents.
- (iii) The elimination of this cross subsidy is equitable and fair so as to ease the severe financial hardship suffered by those few who have been forced to pay substantial amounts of land tax far in excess of what the Government budgeted to collect.
- (iv) The principal beneficiaries of growth in land values have been persons living in their own homes, yet they pay no land tax, whilst tenants living in rented accommodation are contributing to paying land tax, which is factored into their rent as landlords seek to recoup all or part of their land tax bill from their tenants.
- (v) As all properties will benefit from the elimination of Purchaser Transfer Duty under POST, it is equitable that all properties should contribute to meeting the tax that replaces it.

4.9 Gary Moore the former Director of ACOSS has stated:

“Land Tax applied broadly and progressively is an efficient and equitable way in the long term for the NSW Government to raise necessary revenue to fund its host of responsibilities.”

NCOSS supports both the broadening of the Land Tax base and the lessening of the Land tax load on investors who own lower cost housing and who may well already be providing affordable private rental accommodation.”

(Don't wind back land tax –23 February 2005)

4.10 The Greens supported the broadening of land tax in the Parliament on 12 May 2004

Ms Lee Rhiannon spoke of Professor Frank Stilwell's work in this area on that occasion in the following terms:

“He notes that rising land values cause wealth to accrue to the private owners of the land. But this wealth is not typically the result of any action by landowners. In fact, rising land values are often the product of social processes. For example, land values might increase when new public works or amenities, such as new rail link or a shopping centre, are built nearby. ...

...In fact, values also rise due to the very process of urban growth, in which demand for urban land always outstrips supply. In light of this, Professor Stillwell concludes that if these social dividends to property owners are not taxed, the higher property prices resulting from the community's productive efforts are captured solely by the individual landowner. At the same time, those who are unable to afford land are further excluded from the market. This increases social and economic inequality.”

4.11 POST is structured to allow broadening the tax base with the retention of such threshold as modelling might consider appropriate. We believe however it is both equitable and in the interests of NSW to eliminate any threshold when introducing POST to ensure that all properties contribute fairly and equitably to the cost of providing Government services enjoyed by them all.

PART 5**OUR PROPOSAL****TO USE****THE COUNCIL RATES DATABASE****INSTEAD OF****THE LAND VALUES DATABASE****TO ASSESS AND COLLECT****LAND TAX AND PURCHASER TRANSFER DUTY**

- 5.1 The idea of using council rates rather than land values to assess land tax liabilities was first formulated by the author of this submission and a property investor Mr Sam Spitzer. It was submitted to the Nile Inquiry in 1998 at the suggestion of an advisor to the Minister for Local Government to whom it was first submitted as an answer to the problems then plaguing the Government.
- 5.2 Mr Spitzer had been influential in 1993 in getting the then Premier Mr Greiner to request IPART's predecessor the Government Pricing Tribunal to conduct an inquiry into water rates and related services because the system was operating unfairly and inequitably and was then based on the assessed annual land values determined by the Valuer General.
- 5.3 The Tribunal found that an unacceptably high cross subsidy burden was imposed on the business sector in favour of the residential sector and made the first major move to reduce that cross subsidy
- 5.4 The Tribunal Chairman Professor Parry stated at page 39
- “In recent years increasing weight has been placed on the user-pays principle as a relevant equity consideration for pricing policy. It is considered equitable that people pay for the cost of the services they consume”
- 5.5 At page iv of the forward Professor Parry said:
- “Cross subsidies should be eliminated as rapidly as possible, with any social objectives accommodated via explicit transfer payments by government. Price setting must be transparent.”
- 5.6 It was the expression of these principles that guided Mr Spitzer and myself in coming up with our proposal to the Nile Inquiry that would be revenue neutral and in our opinion

- (i) Eliminate the cross subsidy enjoyed by properties then not paying land tax— particularly freestanding houses (other than premium properties that were then liable) occupied as principal places of residence – so that they would also meet their fair and equitable share of the cost of providing Government services such as schools, police, roads, public works and hospitals.
- (ii) Be transparent, simple and easy to budget for
- (iii) Be based on council rates, which were finite and known and not on land values that were highly questionable and were being determined by just one man – the Valuer General –whose decisions no one properly understood or was able to verify. We knew nothing at that time about the flawed system that was driving these land values – only that the values being derived were claimed by owners to be too high..
- (iv) Allow the Government to accurately budget for and collect virtually to the cent
- (v) Have a built in concessional scheme for pensioners and designated other property owners

5.7 The Nile Inquiry looked at our proposal and made only two comments – at page 54 - which we feel were of minor import only and are easily addressed

- (i) The Report suggested that the annual land ratings for land tax purposes would result in increased costs to councils in updating records for new values annually rather than on average once every three years.

However no change to issuing land values every three years would be necessary.

The Government would simply advise the Council of the rate to be applied to assess POST annually based on the council rates then current, the council would apply that rate and generate the tax assessment by simple data entry.

- (ii) The Report stated that rates collected overall would be higher as they would increase more regularly, albeit more gradually.

This need not happen. Council rates could continue to be assessed as currently occurs on a two or three year cycle. The annual collection of POST need not affect that practice continuing.

5.8 Some submissions to the Nile Inquiry were opposed to the notion that land tax be calculated as a percentage of council rates since council rates are a charge for services provided and consequently vary between Councils and so the proposal could be seen to be discriminatory and inequitable by some (page 54)

Any perceived inequities would be negligible when spread over the total council rate revenue base in NSW - \$2.493 billion in 2005/2006.

[http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Comparatives/Comparatives_2005-06.pdf page 25]

Certainly the benefits in doing away with the gross inequities existing in the current system by those who currently pay no land tax at all far outweigh this perceived inequity.

- 5.9 The Nile Inquiry acknowledged the advantages of a broad based land tax but accepted there was a long held commitment to include a tax free threshold in the tax rate scale (page 54). We would advocate for no threshold to make POST transparent, fair and equitable.

POST however allows for the inclusion of a tax-free threshold if the Government so desires - eg by exempting all properties which pay \$X or less in council rates.

Any threshold can be increased annually by CPI or some other transparent and easily calculated formula in distinct contrast to what is now happening when calculating the threshold under the current land tax system.

- 5.10 POST also allows for differing rates to be applied to properties used as commercial, industrial or residential investment properties where the POST paid is tax deductible as distinguished from the remainder of properties where no tax deduction is allowed.
- 5.11 POST allows differing rates to be applied for different local Government areas enabling rural properties to be taxed at a lower rate than properties in urban areas if this was thought desirable.
- 5.12 POST is flexible enough to accommodate any form of economic modelling to guarantee that the Government will always raise the revenue to replace land tax and purchaser transfer duty in a fairer and more equitable manner.
- 5.13 Applying a rate or rates to a known finite amount – total council general rate revenue raised in NSW for the year – is a transparent and easily understood process.
- 5.14 Applying a rate to estimated land values that are not actually known until six months after the budget is delivered then failing to adjust the rate when the total land values are known is, in our opinion, dishonest and is a practice that needs to be eradicated.
- 5.15 The current system and the way it is administered has cost taxpayers hundreds of millions of dollars in land tax payments surplus to the Government's budget. It might be smart to pocket the surplus but justice and equity demand a better deal for land tax payers.
- 5.16 Our proposal having been scrutinised by the Nile Inquiry without any serious objections or criticism encourages us to believe that POST can replace the current flawed system, is revenue neutral and revenue adequate and is in contrast to the current system
- (i) fair
 - (ii) equitable
 - (iii) efficient
 - (iv) easy to administer
 - (v) transparent
 - (vi) makes NSW a far more attractive place to invest in,
 - (vii) enables the Government to collect whatever amount it budgets for to replace land tax and purchaser transfer duty
 - (viii) creates certainty and credibility throughout the system where none presently exists and will finally end the annual public outcries witnessed for the last ten years.

PART 6**OUR PROPOSAL FOR A NEW SYSTEM****TO REPLACE****THE CURRENT SYSTEM OF ASSESSING AND COLLECTING****LAND TAX AND PURCHASER TRANSFER DUTY**

- 6.1 Our proposal is set out in **Attachment 1**.
- 6.2 It was submitted to NSW Treasury in June 2006. Nothing further has been heard since then.
- 6.3 This proposal would enable both purchaser transfer duty and land tax to be replaced with one property tax called POST paid by quarterly instalments at the same time as owners pay their council rates.
- 6.4 The Productivity Commission in its First Home Ownership Report No. 28 March 2004 expressed the following views about eliminating purchaser transfer duty:
- (i) Depending on its provisions a land tax regime could deliver more equitable outcomes than stamp duties (page 100)
 - (ii) Broadening the land tax base by removing or reducing existing exemptions and concessions could provide a means to fund reduced reliance on stamp duties (page 101)
 - (iii) As a revenue neutral change within the housing sector, replacement of some element of stamp duties with land taxes should have little overall effect on housing prices in the short term. That is, the stimulus to demand from the removal of stamp duty would be offset by the reduction in demand resulting from the obligation of homeowners to pay the ongoing land tax (page 101)
 - (iv) Under the scenario in (iii) the concerns expressed by the NSW Government that by boosting demand, abolishing stamp duties would push up house prices, would not arise. Moreover there could be some improvement in housing accessibility if stamp duties were reduced, as upfront purchase costs would accordingly decline (page 101)
- 6.5 The Productivity Commission said there could be significant cash flow implications for asset rich but income poor homeowners.

The NSW Government commented that an estimated average annual tax bill of \$1800 for the average household in addition to council rates would place a relatively high burden on low income families.

- 6.6 Our proposal indicates this average annual tax bill of \$1800 is far too high – especially as it related to replacing purchaser transfer duty only and did not include any land tax component.

We estimate that a uniform rate of **2.075 x council rates** paid the owner of each property liable to pay council rates would yield the Government the total of land tax and stamp duty on conveyances budgeted for 2007/2008 - \$5.46 billion – based on total council rate revenue estimated by us to be \$2.640 billion for 2007/2008. (\$2.493 billion in 2005/2006)

The average residential rate per property levied by urban councils in 2005/2006 was \$688 and by rural councils \$387. The overall state average for residential properties was \$666. [http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Comparatives/Comparatives_2005-06.pdf – page 25]

Based on the above figures and allowing for a 6% increase in the state average since 2005/2006 the overall state average for residential properties for 2007/2008 would be \$1465.00 [$\$666 \times 1.06 \times 2.075$], \$1513 per urban property and \$851 per rural property (which includes a component for land tax).

This is a far cry from the \$1800.00 predicated by the NSW Government in 2004 (which excluded a component for land tax) and which by now would be \$2016 [based on an annual increase of 3%].

- 6.7 A Hardship Board could be established to deal with applications to postpone liability from persons unable to meet their annual commitment such as currently exists for land tax payers
- 6.8 Our proposal needs to be modelled and Treasury's failure to even look at is regrettable.
- 6.9 The Productivity Commission discussed such a reform based on the comprehensive taxation of the unimproved value of land. Given the flawed manner in which land values are determined, our revenue neutral suggestion would be far easier and simpler to implement.
- 6.10 Government would not then be dependent on the vagaries of the property market. Whilst this has a capacity to bring windfall stamp duty receipts it can also lead to very large shortfalls as NSW's precarious state of finances now establish.
- 6.11 Budgeting should try to accurately predict the revenue that Government requires. It is time to put in place transparent and simple systems to ensure this can be achieved .
- 6.13 **For persons buying property, the POST they pay would be offset by the interest they do not now have to pay on money they would have borrowed to pay the stamp duty OR the interest now earned on money no longer used by them to pay the stamp duty.**
- 6.14 Exemptions from paying POST could still be given to First Home Owners, housing affordability would be within the grasp of more people and mobility in changing homes would be facilitated.

PART 7**IPART'S CONSIDERATION OF OUR PROPOSAL**

- 7.1 The NSW Independent Pricing and Regulatory Tribunal (IPART) has recently conducted a review of State taxes to which our proposal was submitted for consideration with a view as to its implementation in NSW.
- 7.2 IPART has issued a draft report in which it referred to some aspects of our proposal and failed to comment on other aspects - to which a response was lodged by us the material points of which we set out in this Part 7.
- 7.3 IPART has issued a final report but it has not been made public at the time of lodging this submission so we are unaware of IPART's final view on POST.
- 7.4 The comments or lack thereof by IPART in the draft report and our responses are:

REPLACING THE LAND VALUES DATABASE TO ASSESS LAND TAX

1. The draft report does not appear to have given any serious consideration to our submission calling for the replacement of the land values database to assess land tax.
2. It would appear that the statistical evidence contained in our submission to support replacing the land values database has apparently not been examined or critically evaluated by the Tribunal. I find this hard to understand given the expertise of the Tribunal in statistical analysis and in drawing conclusions based on such analysis - especially where the desirability of retaining the land values database has been specifically put in issue.
3. The draft report has ignored the following material facts:
 - (i) 3 Inquiries were held in the space of 6 years into the valuing system in NSW as a result of grave public concern as to the values being produced
 - (ii) Claims by the Government and the Valuer General that the values being produced were accurate were conclusively rejected by both the Walton and Ombudsman's Inquiries and by check valuations carried out by independent valuers and
 - (iii) The Ombudsman found there was inadequate adherence to controls employed by the Valuer General to ensure the accuracy of valuations derived from the component method of mass valuation in NSW and that such conduct was unreasonable under section 26(1) of the Ombudsman Act (page 93 Ombudsman's Report).
4. The Tribunal appears to have seriously erred in summarising the Ombudsman's findings in the one and only sentence appearing at page 176 of the entire draft report:

“The methodology employed to produce land valuations in New South Wales, the component system of mass valuation, was generally sound. A component system of valuation examines a “benchmark” property with comparable property values all expected to move together. The consistency of the comparables with the

“benchmarks” need to adjust for the time since the particular comparable sale. The report indicates in many cases this has not been done.”

The Ombudsman’s findings cannot be so easily glossed over or ignored when considering the retention of the land values database to assess land tax liabilities.

5. What the Ombudsman actually said is contained in the introduction to his report on page ii:

“The investigation found that the methodology employed to produce land valuations in NSW, the component system of mass valuation, was generally sound. However, weaknesses in the implementation of the quality assurance framework means the system is producing an uncertain number of values that have unacceptable margins of error. More needs to be done to fine tune the process to encourage a greater level of accuracy and confidence in the valuations entered into the Register of Land Values.”

6. The Ombudsman gave the following specific details of the number of land values with unacceptable margins of error uncovered by him at page 59 of his report:

“The above table indicates that only 31% of sales on average met the strict 5% margin of error standard across the sample districts and only 66% of sales across these 43 districts were within the 15% acceptable margin of error. A significant number (35%) were outside the latter standard”

7. The Ombudsman in amplification of the meaning of “acceptable margin of error” stated at page 63 of his Report:

“Originally, the standard set in the 2003 edition of the procedure manual was 85% - 110% but the Valuer General deemed it unacceptable to have values above the market level and from 2004 the standard has been set at 85%-100%. That is, a margin of error of 15% is acceptable as long as assigned land values are not above the actual land value evidenced by the sale.”

8. We then supplied IPART with additional material subsequently obtained by us under FOI which is more fully set out in Paragraphs 3.47 – 3.57 of this submission to support our contention that the land values database be replaced by the council rates database in any new system of assessment.

USING THE LOCAL COUNCIL RATE BASE TO ASSESS LAND TAX AND ANSWERING IPART'S RESERVATIONS IN THE DRAFT REPORT TO THAT PROPOSAL

9. The draft report acknowledges the relative tax efficiency of the local council rate base and further notes that council rates are relatively efficient property-based taxes derived from a broad base (page 98).
10. The draft report has no reservation in recommending that the local council rate base be used to collect \$184 million arising from removal of the payroll tax exemption for local councils and for the collection of \$534 million in fire insurance levies shifted from insurance companies on to ratepayers pursuant to Recommendations 2 and 7.
11. Yet when it comes to recommending use of the local council rate base to collect land tax, the draft report suddenly raises three issues that it says need to be carefully addressed before any such proposal could be recommended.
12. This inconsistent and discriminatory treatment of land tax is unexplained and needs explanation or justification if it is to be maintained in the final report.
13. The Tribunal's expressed reservations are:
 - (i) Rates can be applied differentially
 - (ii) They vary between different councils
 - (iii) They are subject to rate pegging

Whilst these statements are factually correct, they have little impact or bearing on the use of the local council rate base to assess or collect any tax or charge – be it land tax, the newly created payroll tax liability arising from removal of Councils' payroll tax exemption or a substitute charge to replace the fire service levies.

14. Firstly the term "local council rate base" needs to be defined. By the use of that term I am referring to the general rate that all councils apply when declaring each parcel of rateable land to be within one of the following four categories:
 - (i) Farmland
 - (ii) Residential
 - (iii) Mining
 - (iv) Business

It is this general rate (either ad valorem or base charge +ad valorem) once determined by each council that would be the basis for calculating the owner's land tax liability. No other amounts appearing on the rate notice such as domestic waste management, environmental levy infrastructure levy etc would be used in determining land tax liability.

15. I believe the total of the general rate raised annually in NSW is \$3 billion. However it does not matter what the total is. The factor to be applied to the total of the general rates paid in NSW will enable the Government to recoup the land tax it budgets to collect.

16. Limiting the local council rate base to the total of the general rates in all council areas will remove any differential treatment by councils of other items that may or may not appear on rate notices. Applying a factor to the total of the general rates to collect the Government's budgeted land tax revenue involves an open, simple and transparent process as compared to the inequities arising from the use of the land values database.
17. The following Table shows the land tax that would be paid by ratepayers in three different municipalities based on the general rates levied by each respective council in 2007-2008 assuming the following:
- (i) Each block of land is rated as residential and each has a rateable value of \$300000
 - (ii) One is in Waverley where the general rate in the \$ is 0.001345 with a minimum charge of \$354.71,
 - (iii) One is in Woollahra where the general rate in the \$ is 0.00052870 plus a base charge of \$432.80
 - (iv) One is in Ryde where the general rate in the \$ is 0.00151843 with a minimum charge of \$392.00
 - (v) Total general rates in NSW are \$3 billion
 - (v) The Government has budgeted to raise \$2 billion in land tax and therefore the factor to be applied to the total of the general rates to raise this revenue is 0.67 - (\$3 billion x 0.67 = \$2 billion)

Each owner would pay the following land tax based on the general rates charged to him:

	GENERAL RATES COMPONENT	LAND TAX
Waverley	\$403.50	\$270.35
Woollahra	\$605.61	\$405.75
Ryde	\$455.53	\$305.20

18. I do not believe that variations of this nature in money terms would be a matter for public outcry or protest and that the Tribunal's concern is unwarranted and unjustified.

Indeed many would applaud the equity of the system that saw landowners in Woollahra paying more in land tax for the same value property than those in Waverley and Ryde.

19. Rate pegging too is a non- issue.

If the Government were to remove rate pegging or to allow an increase in the general rates to enable the Tribunal's own recommendations in relation to fire levies and payroll tax to be implemented, then the total collected in general rates would increase and the factor to be applied to collect the amount budgeted for land tax would be lowered. The Government would still collect the land tax it had provided for in the State Budget.

20. Pensioners entitled to a rebate would only have the land tax calculated on the rebated general rate.
21. Any properties exempt from payment of rates would not pay land tax.
22. This is a simple easily understood proposal that the draft report has failed to discredit in any substantive manner .
23. This reform will guarantee Treasury raises the revenue it represents it wants to collect in the Budget.
24. Compared to the existing system using the land values data base it wins hands down for transparency, equity, simplicity and predictability. Ratepayers can budget for the amount of land tax they will have to pay with reasonable certainty and not receive a bill far in excess of anything they could ever contemplate.
25. The Tribunal in its 1993 decision on water charges replaced an unfair and inefficient system of levying water rates based on the land values base with a simpler and more efficient system based on water usage.
26. I urge the Tribunal in its role as an independent authority to again show the lead and have the vision and wisdom in the final report to recommend the use of the local council rate base to replace the land values data base to assess land tax in NSW.

RECONSIDERING THE TRIBUNAL'S CONCLUSION THAT EXTENSION OF THE LAND BASE TO OWNER OCCUPIERS, FARMERS AND OWNERS OF PROPERTIES BELOW THE CURRENT TAX FREE THRESHOLD WOULD CONSTITUTE A SUBSTANTIAL SHIFT IN THE TAX BURDEN WITH RELATIVELY LARGE INCREASES IN TAX PAYABLE BY A LARGE NUMBER OF INDIVIDUALS

27. The Tribunal has itself recommended that ratepayers meet \$822 million to fund its short and medium term recommendations made up as follows:

(i) Removal of payroll exemption granted to local councils	\$184 million
(ii) Removal of stamp duty exemption for third party insurance	\$104 million
(iii) Shifting fire services levy from policyholders to ratepayers	<u>\$534 million</u>
	\$822 million
28. The Tribunal has apparently concluded that the payment of \$822 million by ratepayers is not substantial and would not lead to relatively large increases in rates payable by them.
29. The use of the local council rate base to shift part of the land tax burden on to 2000000 rate payers would not total anything like \$822 million (41% of land tax revenue) under any modelling of my suggested reform called the Property Owners State Tax – POST - for the following reasons:

- (i) Differential factors would be applied to the municipal rates paid by properties depending on whether they were rated as residential, mining, farmland or business
- (ii) The factor would be higher for business rated properties since payment of POST by businesses is tax deductible (which answers the Tribunal's criticism on page 111 of the draft Report)
- (iii) The shift in the tax burden would therefore be relatively small since business rated properties would still bear the largest proportion of land tax revenue as they currently do.
- (iv) The design model could also include exemptions from paying POST where the council rates do not exceed a minimum amount.

30. The following Table shows the average amount of land tax that would have to be paid by 2000000 ratepayers depending on the amount of the tax burden shifted on to them:

SHIFT IN TAX BURDEN (\$million)	AVERAGE LAND TAX PAYABLE BY 2,000,000 RATEPAYERS (\$)
400	200
500	250
600	300

31. I urge the Tribunal for these reasons to amend this part of the draft report to confirm that the use of the local council rate base to extend land tax payments to all ratepayers will not constitute substantial shift in the tax burden nor result in relatively large increases in tax being paid by a large number of individuals.

**REBUTTING THE TRIBUNAL'S CONCLUSION THAT THE ECONOMIC EFFICIENCY
ADVANTAGE OF THE SIMPLE BASE BROADENING /RATE REDUCTION OPTION IS
OUTWEIGHED BY THE HIGHLY REGRESSIVE REDISTRIBUTIVE IMPACTS OF THIS
OPTION**

32. I think it is fair to say that every stakeholder taking part in the Tribunal's workshop and an overwhelming majority of submissions lodged relating to land tax called for the base to be broadened.
33. Yet the Tribunal now asserts that such a reform will have a "highly regressive redistributive impact" without presenting one bit of statistical evidence to back up that statement or even define when the economic efficiency advantage is outweighed by the redistributive impact of reform.
34. Lowering the threshold to collect \$145 million in lost land tax revenue pursuant to Recommendation 10 is clearly not regarded by the Tribunal as having a highly regressive

redistributive impact under the current system outweighing the efficiency advantage. So when do the scales get tipped? The Tribunal needs to provide an answer.

35. Using the local council rate base to collect \$822 million to fund its other short and medium term recommendations is also seen by the Tribunal as not having a highly regressive redistributive impact outweighing the economic efficiency advantage.
36. Presumably then the Tribunal would not consider use of the local council rate base to collect far less than \$822 million in land tax (the amount to be determined by modelling) to be a highly regressive redistributive impact outweighing the economic efficiency argument.
37. The Tribunal also claims at page 112 without producing any statistical or other supporting evidence that
 - (i) using the proceeds of base broadening to fund a reduction in the rate of land tax would result in a “substantial gain” for those liable for land tax
 - (ii) taxpayers might benefit by windfall gains in the market values of their properties
38. As I have pointed out above, the adoption of POST would ensure that business properties would still bear the largest proportion of land tax. There would be some gains but they would not be substantial. In any event it would be a small recompense for the financial hardship land tax payers have endured for the last 10 years cross subsidising the remaining property owners who did not pay land tax.
39. POST offers an economically efficient, easy to understand, transparent and equitable reform to broaden the land tax base whose redistributive impact is less than that arising from the Tribunal’s own recommendations for short and medium term reform.
40. The Tribunal should reconsider its stated position on this issue in the final report and conclude that the use of the local council rate base to assess land tax would not have a highly regressive redistributive impact that would outweigh the economic efficiency advantage arising from its introduction.

ATTACHMENT 1

PROPOSAL FOR PROPERTY OWNERS STATE TAX (POST)

TO REPLACE THE CURRENT SYSTEM FOR

THE COLLECTION OF

LAND TAX

AND

PURCHASER TRANSFER DUTY

IN

NEW SOUTH WALES

1. Basic outline of how POST will work

Budgeted land tax revenue 2007/2008:	\$1.75 billion
Budgeted purchaser transfer duty 2007/2008:	<u>\$3.71 billion</u>
Total	\$5.46 billion

Current total NSW council rate revenue (estimated): \$2. 64 billion
[See paragraph 6.6]

If every property owner paid POST equal to 2.075 times his council rates, this would replace the lost revenue arising from the abolition of stamp duty and land tax.

2. Modelling the proposal:

The rate of 2.075 would be varied up or down to take into account the following:

- (i) The rate would be higher than 2.075 for investment properties because POST is tax deductible but lower for owner occupied properties that are not.
- (ii) Properties located in rural council areas might pay a lesser rate than properties in urban council areas to reflect the lesser cost, access and availability of government services
- (iii) Exemptions and concessions from POST for properties owned by public institutions, diplomatic corps, the Commonwealth and pensioners already built into the current council rates system would be applied
- (iv) A threshold could be applied exempting properties paying less than say \$300.00 per annum in council rates from paying POST although it would be preferable to broaden the base to include all properties in NSW.

3. Information available to assist in the modelling:

The NSW Department of Local Government maintains full and detailed comparative records that would greatly assist in the modelling. The following Tables show some of the relevant statistics for 2005/2006 being the latest year I was able to access. No doubt figures for the last two years could be obtained.

	Total Revenue (\$ mill)	% annual rates and charges *	%total ordinary revenue
Residential rates	1.68	48%	28%
Farmland rates	0.177	5%	3%
Business rates	0.636	18%	11%

* excluding mining rates

Average rate per assessment	NSW Mean \$	NSW High \$	NSW Low \$	NSW Median \$
Residential	666	1085	86	546
Farmland	1496	4906	427	1473
Business	3619	8460	108	1716

Average urban residential rates	Average rural residential rates	Overall state average
\$688	\$387	\$666

Average rates per assessment are also available for grouped council areas

http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Comparatives/Comparatives_2005-06.pdf - pages 32-41

4. Collection of POST

- (i) POST would be collected quarterly by each local council simultaneously with payment of council rates and then remitted to Treasury.
- (ii) Each council would be paid a collection fee to cover administration costs and services rendered which would give councils net additional revenue to spend on local needs. The amount would equate to the savings on administration costs currently incurred by the OSR and the Valuer General.

5. Why should land tax and stamp duty be abolished and replaced with POST?

- (i) It would remove the cross subsidy being given to 2000000 properties paying no land tax by 300000 properties currently paying \$2 billion in land tax.
- (ii) It would replace a land tax system that is complicated, not readily understood and not transparent with a system that is simple equitable, transparent and easily understood.
- (iii) It would replace stamp duties - an inefficient tax which generates the greatest distortions - with a simple and efficient tax
- (iv) The proposal is revenue neutral and revenue adequate and will restore public confidence in the credibility integrity and honesty of public administration in NSW
- (v) Owners would be able to budget for POST with certainty and not be hit with huge unbudgeted annual increases as currently occurs with their land tax bills

- (iv) The unrelenting assault on the State's current land tax payers would be ended. They are now contributing 11% of the State's taxation revenue, up from 8.1% in 2002/03. This is unfair intolerable and discriminatory and it is time that load was more equitably shared among all property owners.
- (vi) Savings estimated to be at least \$40 million dollars per annum in administration costs could be achieved that could be paid to local councils as a fee for collecting POST and to help improve local area services.
- (vii) Tax avoidance would not be worth the effort.
- (viii) Court time would be freed up with the removal of land tax appeals and applications seeking the interpretation of both Acts.
- (ix) Properties would be retained for investment, not sold for demolition and redevelopment providing a greater stock of rental accommodation at reasonable rents thereby removing some pressure from the State's emergency housing lists.
- (x) **POST would probably not amount for Purchasers to much more than the interest that would have been paid or foregone by them on stamp duty borrowed for, or paid on, purchase.**
- (xi) The flagging property market in NSW would be rejuvenated and housing affordability would be that much easier if stamp duty was eliminated
- (xii) Rents would become stabilised and not be subjected to continuing upward pressure because of rapidly escalating tax increases.
- (xiii) Businesses would find it attractive to move to or set up in NSW if the tax regime was more friendlier than currently exists.
- (xiv) Mobility in moving from one property to another would be much easier if no stamp duty has to be paid.
- (xv) POST would have an inbuilt growth factor based on the annual increase in total NSW council general rate revenue without having to change the rates at which the tax is levied..
- (xvi) Elimination of risk of loss of revenue following downturns in the property market
- (xvii) It would end the annual outcry and public outrage at the large increases in land tax bills.
- (xviii) Government can confidently expect to collect the amount budgeted for without windfall gains and end the questionable operation of the land tax system over the last 10 years.

6. The disadvantages of introducing POST

- (i) Property owners paying no land tax or existing owners who have already paid stamp duty will be very vocal in complaining about the new tax now imposed on them. No one likes paying a new tax as the GST showed, but eventually a new tax becomes an accepted fact.

However any such negative reaction should be neutralised by a clear exposition of why a new tax is proposed to replace two existing taxes and the benefits that can be expected to flow as a result with the property market being revolutionised with flow on economic benefits to vendors, purchasers tenants and trades and businesses associated with real estate

Expected support should be forthcoming from eminent persons, political parties and trade and interest groups that have already publicly espoused the need to introduce a broad based tax or replace or reform the current flawed system such as

- Professor Frank Stillwell
- Professor Julian Disney
- NCOSS
- The Greens
- The Productivity Commission
- The Real Estate Institute
- The Property Council of Australia
- The Housing Industry Association

Support for POST will be guaranteed by 160000 current land tax payers and their tenants and all prospective buyers and sellers of real estate

Recognition that all properties who now contribute to the cost of local government services should do likewise for state government services is a fair and equitable principle that few property owners could argue with.

- (ii) Loss of jobs in OSR, Treasury and Valuer General's Office.

Since it is policy of both the Government and Opposition to reduce employment in the Public Service, this outcome could be seen as more of a plus than a minus. All redundancies would be implemented in accordance with existing procedures. No doubt many would find replacement roles within the current Public Service sector.

ATTACHMENT 2

LETTER FROM DAVID LANDA STEWART LAWYERS

TO

THE TREASURER THE HON. MICHAEL COSTA

DATED

31 OCTOBER 2007

31 October 2007

The Hon. Michael Costa
Treasurer
FAX 9228 5699

Dear Mr Costa

Land Tax Assessments for the 2007-2008-tax year are due to issue in January/February 2008.

If previous years are any guide the 2007-2008 Budget figure of \$1750 million is set to be substantially exceeded especially since land tax collected in 2006-2007 was at least \$2042 million.

We note that the lower estimate was based on:

- (i) A reduction in the rate to 1.6%
- (ii) An unwinding of the one off boost to revenue in 2006-2007 from clearing assessments related to 2006 and earlier land tax years
- (iii) Average land values across the State growing by 2.4% over the year to 1 July 2007

Windfall gains earned from land tax in excess of Budget in the last three years were:

(i)	2004-2005	\$198 million
(ii)	2005-2006	\$ 84 million
(iii)	2006-2007	<u>\$253 million</u>
	TOTAL	\$535 million

These windfall gains were achieved due to one administrative error – the failure to adjust the rate when the actual taxable land values at 1 July were known in November/December.

The threshold has been determined at \$359000.

The OSR has details of the 2006 taxable land values for land tax affected properties. It should soon be in possession of the 2007 taxable land values for those properties.

The OSR should be able to estimate the 2007 taxable land values for properties caught in the land tax net for the first time. The amount would be relatively insignificant.

Treasury can then determine the amount of revenue that will be raised if the rate of 1.6% is retained.

If the Budget figure of \$1750 million is likely to be exceeded, then the rate should be adjusted to ensure this does not occur.

This is a relatively simple exercise that should be carried out and implemented in the interests of open and honest Government.

Land Tax payers have had to cope with paying windfall gains for too long. They can be avoided by this one simple administrative act.

We believe the collection of windfall receipts when they can be knowingly prevented or substantially diminished is simply dishonest.

We hope the new Government agrees.

We urge you to take immediate action to review the rate and would appreciate your confirmation as soon as possible that this will be done.

Yours faithfully
David Landa Stewart

David Singer