

EXPLANATORY MEMORANDUM

LAND TAX ASSESSMENT AMENDMENT BILL 2022

The Land Tax Assessment Amendment Bill 2022 seeks to amend the *Land Tax Assessment Act 2002* (LTA Act) to remove the current land tax caravan park (dwelling park) exemption and introduce an exemption for caravan parks and residential parks. The Bill will also introduce an exemption for home owners living in full-time care, and a notification requirement for owners receiving a reduction in land tax.

New exemption for caravan or residential parks

Current exemption

Land tax is payable for an assessment year (financial year) on all land in Western Australia that is not exempt.¹ An exemption applies to land used as a caravan park or camping ground.² The purpose of the exemption is to support low-cost holiday accommodation.³

A 2018 State Administrative Tribunal decision means this exemption cannot be applied to new caravan parks containing relocatable homes which are not vehicles.⁴ Non-vehicle relocatable homes are often used by permanent residents of a park, who purchase the home and use it as their primary residence.

Proposed exemption

On 30 June 2020, the Government announced amendments to the LTA Act to ensure people who own and occupy homes in residential parks are not disadvantaged by a change to the definition of a park home. This Bill delivers those amendments. The amendments will commence from 1 July 2020.

The Bill removes the current caravan park exemption and introduces a new exemption for caravan or residential parks. The effect of the new exemption is to provide a land tax exemption for parks which provide low-cost holiday accommodation (caravan and camp sites) or sites used as a person's primary residence (owner-occupied sites).

The provision creates an exemption for parks providing short-stay holiday accommodation, long-stay accommodation for permanent residents or a mixture of both.

If a park provides one of these types of accommodation, the exemption will apply to the park based on its number of exempt sites (caravan and camp sites, or owner-occupied sites). If at least 75 per cent of a park's sites are exempt sites, a full exemption will apply to the park. If less than 75 per cent of sites are exempt sites, a proportional exemption will apply.

¹ LTA Act section 5.

² LTA Act sections 39A and 39B.

³ Western Australia, *Parliamentary Debates*, Legislative Assembly, 31 May 2005, 2520b.

⁴ *Henville and City of Armadale* [2018] WASAT 108.

If a park provides a mix of short-stay and long-stay accommodation, the exemption is calculated for these parts of the park separately. The individual calculations are combined to provide a final exemption which applies to the park. This type of park is fully exempt if its short-stay sites comprise at least 75 per cent caravan and camp sites and its long-stay accommodation comprise at least 75 per cent owner-occupied sites. If one or both types of accommodation is less than 75 per cent, a proportional exemption will apply.

The Commissioner for State Revenue (the Commissioner) will calculate the exemption for a park using information provided by the park owner, such as the number of sites of each type and the uses of various areas in the park.

Exemption for home owners in full-time care

The LTA Act provides that private residential property is exempt from land tax if the owner uses it as their primary residence. When a person stops living in their home as a result of moving into full-time care, such as a nursing home or hospital, the exemption no longer applies.

The Bill introduces a general exemption that applies to residential property if the owner has moved into full-time care and the property is not rented. This will ensure people who can no longer use their home as their primary residence are not required to pay land tax on that property.

General notification requirement for land owners

A person liable to pay land tax is required to advise the Commissioner if their land tax assessment is incorrect.⁵ The LTA Act creates specific notification requirements linked to particular exemptions. Land owners are required to notify the Commissioner of any event or circumstance which could cause their exemption to no longer apply. There is no general obligation to notify the Commissioner which applies to all land owners receiving a land tax exemption or concession.

The Bill introduces a general notification requirement for land owners receiving a land tax exemption or concession. Owners will be required to advise the Commissioner of an event or circumstances which may affect their exemption or concession. The amendments require the Commissioner to notify the owner that an exemption or concession applies to their land and the events or circumstances which may affect it before a notification requirement can apply.

The Bill also deletes the specific notification requirements currently contained in the LTA Act. These amendments will create consistent notification requirements to ensure ineligible properties do not receive land tax reductions.

⁵ LTA Act section 9A.

Part 1 – Preliminary

Clause 1: Short title

This clause provides that the short title of this Act is the *Land Tax Assessment Amendment Act 2022*.

Clause 2: Commencement

Paragraph (a) of this clause provides that Part 1 of the Act comes into operation on the day on which Royal Assent is received (***assent day***).

Part 2 of the Act makes amendments relating to the caravan parks and residential parks exemption and introduces the exemption for owners in care. Paragraph (b) provides that Part 2 of the Act is deemed to have come into operation retrospectively from 1 July 2020.

Paragraph (c) provides that the rest of the Act comes into operation on the day after assent day. These provisions relate to the new exemption for owners in care, the notification requirement for owners receiving an exemption, minor amendments to remove gendered references in the Act, and transitional provisions.

Clause 3: Act amended

This clause provides that the amendments in this Act are to the *Land Tax Assessment Act 2002*.

Part 2 – Amendments deemed to have commenced on 1 July 2020

Clause 4: Section 15A amended

Section 15A provides that if ‘dwelling park land’ is subdivided and it was subject to a reduction in land tax for any of the past 10 financial years, land tax will retrospectively apply to a part of the land not used for dwelling park purposes after the subdivision.

The Bill retains this requirement and makes consequential amendments to section 15A to ensure the section functions properly with the new exemption for dwelling or residential parks in sections 39A to 39D.

These changes are required because the current exemption provides that a ‘portion of land’ is exempt under section 39B.

The new exemption does not exempt particular portions of a park. It exempts the entire land to the extent of the percentage calculated under section 39C. As a result all existing references to portions of a park must be removed.

Subsection (1) provides the circumstances when park land that is subdivided is retrospectively assessed for land tax.

The Bill makes consequential amendments to the subsection to remove the reference to 'a concession' under section 39B. The amended section 39B provides an exemption for eligible parks, not a concession. The difference is that an exemption reduces the taxable value of land, a concession reduces the rate of tax which applies to the land.

The consequential amendments also ensure the subsection applies to land that is partially exempt under the new exemption.

Subsection (2) provides the subdividing owner must pay the land tax assessed under section 15A. It also provides that land tax is payable for 10 years retrospectively from when the land is subdivided.

The consequential amendments remove a reference to the taxable portion of land.

Subsection (3) currently provides the retrospective assessment of land tax does not apply to the area of land that continues to be used as dwelling park land after the subdivision.

The Bill deletes this subsection and inserts a new subsection (3). The effect of the subsection is that retrospective land tax will only apply to the land which is not exempt as a dwelling or residential park after the subdivision.

Subsection (3)(a) specifies the percentage (**P%**) of the land that is exempt as a dwelling or residential park. This percentage is calculated under subsection (3A).

Subsection (3)(b) reduces the value of the land taxed under section 15A by the percentage of the land that is exempt. The retrospective land tax payable will be based on the remaining value of the land once the ongoing dwelling or residential park exemption has been applied.

Subsection (3A) is inserted by the Bill. This subsection provides the calculation for the percentage of exempt land for the purposes of working out the value of P% which is referred to in subsection (3).

The percentage is calculated by multiplying the percentage of the land that continues to be used as a dwelling or residential park and the percentage exemption that applies to the dwelling or residential park under sections 39C(2) to (8).

Consequential amendments are made to subsections (4) and (5) to remove references to the taxable portion of the land.

Subsection (6) provides the calculation for the value of the taxable portion of land assessed under section 15A.

The Bill removes this subsection as it has been replaced by the calculations at subsections (3) and (3A).

A consequential amendment is made to subsection (7) to remove the reference to taxable portion of the land.

Subsection (9) is inserted to provide that a reference to section 39B, in relation to a financial year beginning before 1 July 2020, is a reference to an exemption or concession under the previous section 39B, as that section was in force before 1 July 2020.

For retrospective land tax to apply, section 15A requires land to have received the caravan park exemption under section 39B. This transitional provision ensures the provision applies if the land received the current caravan park exemption, as well as the proposed exemption.

The section heading is also amended.

Clause 5: Section 20 amended

Section 20 provides the Commissioner may grant an exemption or concession for several types of land, on application by a taxpayer.

Proposed section 26B (inserted by clause 7) introduces an exemption for a private residential property owned by a person who has entered full-time care. The exemption does not apply if income or rent is derived from the property.

This clause amends section 20 to allow the Commissioner to grant an exemption for a property that was not exempt under section 26B because income was derived from the property.

This provides the Commissioner a discretion to grant an exemption for the property of an owner in full-time care for situations where a nominal income is derived from the property.

Clause 6: Section 23 amended

Section 23 provides that private residential property owned by the executor or administrator of a person's estate is exempt from land tax for one year if the property was used as the deceased's primary residence when they died.

This clause amends section 23 to provide the exemption also applies if the property was exempt because the deceased was in full-time care when they died.

Clause 7: Section 26B inserted

Section 21 provides that private residential property (except property held in trust) is exempt if the owner uses it as their primary residence. If an owner moves into full-time care, such as a nursing home or hospital, their property no longer qualifies for the exemption as it is not their primary residence.

This clause inserts an exemption for home owners who enter full-time care.

26B. Exemption for property owned by individuals in care

Subsection (1) defines the terms used in section 26B.

aged care facility means any building or part of a building used for the provision of a residential care service that is certified under the Commonwealth *Aged Care Act 1997*.

care commencement date means the day on which the period of full-time care began for the individual.

Subsection (2) defines when an individual is in ***full-time care*** for the purposes of the exemption.

In subsection (2)(a) this includes being cared for by a qualified carer.

Subsection (2)(b) lists a broad range of care facilities that can be a person's primary residence. The subsection includes the power to prescribe a place for the purposes of this subsection, if necessary.

Subsection (3) provides a property is exempt for an assessment year if:

- (a) the individual was in full-time care on 30 June before the start of the assessment year; and
- (b) the person was using the property as their primary residence immediately before they entered full-time care.

Subsection 3(a) aligns with the calculation of land tax liability on 30 June in the financial year before the assessment year. Subsection 3(b) ensures the exemption can only apply to the property the individual was living in before entering care.

Subsection (4) specifies how the exempt property may be owned by the individual. The property may be owned solely by the individual, or jointly with the individual's spouse, de facto partner, or former de facto partner. It may also be owned jointly with a person that is only an owner because of the requirement of a financial institution for a guarantee of money advanced on the security of the property.

This allows the exemption to apply when the individual owns the property with other persons, in those circumstances.

These ownership provisions align with those in the section 21 for the primary residence exemption.

Subsection (5)(a) provides the exemption does not apply if any income is derived from the property, such as rent. If an owner chooses to rent their home it will be taxable.

Subsection (5)(b) provides the exemption does not apply if a different property owned by the individual is exempt from land tax because it is used as the individual's primary residence. This ensures that a person who owns more than one residence cannot receive both a section 21 primary residence exemption and a section 26B owner in care exemption.

Clause 8: Part 3 Division 4A replaced

Part 3 Division 4A contains the current caravan park (dwelling park) exemption. This clause deletes Part 3 Division 4A and inserts a new exemption for caravan or residential parks.

Terms Used

The Bill uses the term 'dwelling park' to refer to a park containing short-stay accommodation rented to people for short-term use (also referred to as 'short-stay parks' or 'caravan parks')

Short-stay accommodation includes sites such as caravan sites, camp sites, holiday cabins and chalets (also referred to as 'short-stay sites').

The Bill uses the term 'residential park' to refer to a park containing sites rented to people as their primary residence (also referred to as 'long-stay parks').

The terms 'long-stay accommodation' and 'long-stay sites' are used to refer to these types of sites.

A resident of a long-stay site may own the relocatable home on the site (owner-occupied) or may rent both the site and the home from the park owner (long-stay tenant).

The term 'mixed-use park' refers to a park containing both short-stay sites and long-stay sites.

Exemption function

The exemption is designed to apply to long-stay, short-stay or mixed-use parks. A park will either be fully or proportionally exempt. The number of exempt sites (caravan, camp and owner-occupied) are considered as a proportion of the total number of sites, and the park is exempt in that proportion.

When land tax is payable, it is calculated on the unimproved value of the land. When the land in the park is partially exempt, for the purpose of working out the land tax payable, the unimproved value of the land is reduced by the percentage of the exemption. For example, in long-stay and short-stay parks, if 30 per cent of the sites are exempt, the unimproved value of the land is reduced by 30 per cent. If a park is comprised of 75 per cent or more of an exempt category of site, the whole park will be exempt.

In mixed-use parks the exemption is adjusted based on the proportions of the park used for long-stay and short-stay sites. For example, if 60 per cent of the sites are short-stay sites, and 50 per cent of those sites are caravan and camp sites, the short-stay proportion of the exemption will be 30 per cent. The remaining 40 per cent of the sites in the park are long-stay sites. If all of these sites are owner occupied the long-stay section of the park is 100 per cent exempt. The long-stay proportion of the exemption will be 40 per cent. The total park exemption will be 70 per cent (30 per cent plus 40 per cent).

The following steps calculate how much of a park is exempt from land tax:

1. Work out what proportion of the **short-stay sites** is exempt due to being caravan and camp sites.

Short-stay sites are intended for short term rental (for example, for a holiday) and include caravan sites, camp sites, relocatable homes, cabins and chalets. Only caravan and camp sites are exempt.

2. Work out what proportion of the **long-stay sites** is exempt due to being owner-occupied sites.

Long-stay sites are intended for long term rental to people who use them as their principal place of residence. These sites can include vehicles, buildings and other structures intended to be used as a residence. Only owner-occupied sites are exempt.

3. If the park has **a mix of short-stay and long-stay sites**, work out how many of the short-stay sites are exempt and how many of the long-stay sites are exempt. Then work out the proportion of the park sites that are exempt short-stay sites and the proportion that are exempt long-stay sites.
4. The area of land used for certain purposes must be **excluded** from the calculation, such as shops, hotels and restaurants.
5. Once these steps are completed it is possible to calculate what portion of the park will be exempt.

The calculation of the exemption is explained in more detail below.

Short-stay Parks (Caravan and Camping Grounds)

A short-stay park is a park which only contains sites rented to people on a short-term basis.

Sites for caravans and camping count towards the land tax exemption for the park. If at least 75 per cent of the short-stay sites are caravan and camp sites, the entire park will be exempt. If less than 75 per cent of the sites are caravan and camp sites, then a portion of the park will be taxable. For example, sites with holiday cabins and chalets will not count towards the exemption.

The amendment ensures that the exemption only applies to parks that provide sufficient low-cost holiday accommodation (caravan and camp sites).

Example 1 – Fully exempt caravan park

A caravan park contains 200 park sites, 160 are caravan and camp sites, 40 are holiday cabins and chalets. The park does not contain any area used for excluded purposes.

More than 75 per cent of the sites are caravan and camp sites

$(\frac{160}{200} = 80 \text{ per cent})$ so the entire park is 100 per cent exempt.

Example 2 – Partially exempt caravan park

A caravan park contains 200 park sites, 100 are caravan and camp sites, 100 are holiday cabins and chalets. The park does not contain any area used for excluded purposes.

Less than 75 per cent of the sites are caravan and camp site

$(\frac{100}{200} = 50 \text{ per cent})$ so the park is 50 per cent exempt.

Long-stay Parks (Residential Parks)

A long-stay park is a park which only contains sites rented to people to be used as their primary residence (long-stay sites). It does not contain any caravan and camp sites or other short-stay accommodation such as holiday cabins or chalets.

A resident of a long-stay site may own the relocatable home on the site (owner-occupied) or may rent both the site and the home from the park owner (long-stay tenant).

The exemption considers the number of owner-occupied sites as a proportion of the total number of sites, and the park is exempt in that proportion. If at least 75 per cent of a long-stay park's sites are owner-occupied, the entire park will be exempt. If less than 75 per cent of the sites are owner-occupied, then a portion of the park will be taxable.

Example 3 – Fully exempt residential park

A residential park contains 100 park sites, 90 are owner-occupied home sites, and 10 are not owner-occupied. The park does not contain any area used for excluded purposes.

More than 75 per cent of the sites are owner-occupied ($\frac{90}{100} = 90$ per cent) so the entire park is 100 per cent exempt.

Example 4 – Partially exempt residential park

A residential park contains 100 park sites, 60 are owner-occupied home sites, and 40 are not owner-occupied. The park does not contain any area used for excluded purposes.

Less than 75 per cent of the sites are owner-occupied ($\frac{60}{100} = 60$ per cent) so the park is 60 per cent exempt.

Mixed-use Parks

The exemption also applies to mixed-use parks that contain both accommodation types.

The portions of a mixed-use park attributable to short-stay (caravan and camp sites) and long-stay (owner-occupied) sites will be exempt.

In a park without any excluded land, if at least 75 per cent of the long-stay sites are owner-occupied and 75 per cent of the short-stay sites are caravan and camps sites, the entire mixed-use park will be exempt.

Example 5 – Fully exempt mixed-use park

A mixed-use park contains 200 sites:

- 150 are short-stay sites
120 are caravan and camp sites, 30 are holiday cabins and chalets
- 50 are long-stay sites
45 are owner-occupied home sites, and 5 are not owner-occupied.

The park has no excluded land.

More than 75 per cent of the short-stay sites are caravan and camp sites ($\frac{120}{150} = 80$ per cent) so the short-stay portion of the park is 100 per cent exempt.

More than 75 per cent of the long-stay sites are owner-occupied home sites ($\frac{45}{50} = 90$ per cent) so the short-stay portion of the park is 100 per cent exempt.

The mixed-use park is 100 per cent exempt.

If one of the site types (short-stay or long-stay) in a park meets the 75 per cent threshold, that portion of the park will be fully exempt.

If the other site type is below the 75 per cent threshold, the portion attributable to exempt sites will be exempt and the remaining portion will be taxable.

Example 6 – Partially exempt mixed-use park

A mixed-use park contains 200 sites:

- *120 are short-stay sites
60 are caravan and camp sites, 60 are holiday cabins and chalets*
- *80 are long-stay sites
70 are owner-occupied home sites, and 10 are not owner-occupied.*

The park has no excluded land.

1. Short-stay portion

Less than 75 per cent of the short-stay sites are caravan and camp sites ($\frac{60}{120} = 50$ per cent) so the short-stay part of the park is 50 per cent exempt.

Short-stay sites make up 60 per cent of the park sites ($\frac{120}{200} = 60$ per cent). The short-stay portion of the park is 50 per cent exempt so the short stay portion of the exemption is 30 per cent (60 per cent x 50 per cent = 30 per cent).

2. Long-stay portion

More than 75 per cent of the long-stay sites are owner-occupied home sites ($\frac{70}{80} = 87.5$ per cent) so the long-stay portion of the park is 100 per cent exempt.

Long-stay sites make up 40 per cent of the park sites ($\frac{80}{200} = 40$ per cent). The long-stay portion of the park is 100 per cent exempt so the long-stay portion of the exemption is 40 per cent (40 per cent x 100 per cent = 40 per cent).

3. Total park exemption

To calculate the total park exemption the short-stay exemption (30 per cent) is added to the long-stay exemption (40 per cent).

The mixed-use park is 70 per cent exempt.

Excluded Land

The exemption does not apply to land in a park used for purposes such as a hotel, motel, shop or restaurant, or land cleared for development.

The exemption also does not apply to land that is not used for the purposes of operating a dwelling or residential park. This could include undeveloped land not used by park tenants, land used for commercial purposes not related to the park, or land used to store the park owner's personal property.

The square meterage of the park area that is used for excluded purposes is removed from the calculation so that any exemption applies to the remainder of the park.

Example 7 – Fully exempt residential park (with excluded land)

A residential park has a total area of 8,000 m². It contains 120 park sites, 100 are owner-occupied home sites, and 10 are not owner occupied.

More than 75 per cent of the sites are owner-occupied ($\frac{100}{120} = 80$ per cent) so a 100 per cent exemption would apply to the park.

However 800 m² of the park is used as shops, cafes and restaurants. These are types of excluded land and are not exempt. This portion of the park area is removed from the exemption:

- $\frac{800}{8,000} = 10\%$ (10 per cent of the park is excluded land)
- $100\% - 10\% = 90\%$

The residential park is 90 per cent exempt.

Example 8 – Partially exempt mixed-use park (with excluded land)

A mixed-use park has a total area of 20,000 m² and 2,000 m² of the park is excluded land.

The park contains 150 park sites:

- 90 are short-stay sites
80 are caravan and camp sites, 10 are holiday cabins and chalets
- 60 are long-stay sites
15 are owner-occupied home sites, and 45 are not owner-occupied.

The 2,000 m² of excluded land is comprised of a number of commercial tenancies and undeveloped land which is not used by the park tenants.

1. Short-stay portion

More than 75 per cent of the short-stay sites are caravan and camp sites ($\frac{80}{90} = 88$ per cent) so the short-stay portion of the park is 100 per cent exempt.

Short-stay sites make up 60 per cent of the park sites ($\frac{90}{150} = 60$ per cent). The short-stay portion of the park is 100 per cent exempt so the short-stay portion of the exemption is 60 per cent (60 per cent x 100 per cent = 60 per cent).

2. Long-stay portion

Less than 75 per cent of the long-stay sites are owner-occupied home sites ($\frac{15}{60} = 25$ per cent) so the long-stay portion of the park is 25 per cent exempt.

Long-stay sites make up 40 per cent of the park sites ($\frac{60}{150} = 40$ per cent). The long-stay portion of the park is 25 per cent exempt so the long-stay portion of the exemption is 10 per cent (40 per cent x 25 per cent = 10 per cent).

3. Park exemption

To calculate the park exemption the short-stay exemption (60 per cent) is added to the long-stay exemption (10 per cent).

The park exemption is 70 per cent.

4. Excluded land

The area of the park which is not to be included when calculating the exemption can be worked out as ($\frac{2,000}{20,000} = 10$ per cent).

The excluded land comprises 10 per cent of the whole park. So 90 per cent of the park is not excluded land.

5. Total Park exemption

The park exemption is 70 per cent. This applies to 90 per cent of the 20,000 m² area of the park.

To calculate the total park exemption, the park exemption is multiplied by the percentage of the park that is not excluded land (70 per cent x 90 per cent).

The mixed-use park is 63 per cent exempt.

Division 4A – Land used for dwelling or residential parks

39A. Terms used

Section 39A defines the following terms:

camp has the meaning given in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995* (Caravan Parks Act).

The term is defined as any portable shed or hut, tent, tent fly, awning, blind or other portable thing used as or capable of being used for habitation and includes a vehicle of a prescribed type or in prescribed circumstances.

caravan has the meaning given in section 5(1) of the Caravan Parks Act.

The term is defined as a vehicle that is fitted or designed for habitation, and, unless the contrary intention appears, includes an annexe.

caravan or camp site means a short-stay site that is set aside, marked or intended to be used for one caravan or camp.

A short-stay site is also defined in section 39A below.

dwelling or residential park means a dwelling park or residential park as defined in section 39A below.

The term includes a place that is both a dwelling park and a residential park, as it is possible for a park to satisfy both definitions.

dwelling park means a caravan or camping ground as defined in the Caravan Parks Act. The term is defined as an area of land on which caravans, or caravans and camps, are situated for habitation.

The park must also be operated (or required to be operated) under a licence under the Caravan Parks Act or be operated by a local government on land not owned by the local government.

excluded land specifies land that is taxable and is not included in the exemption, even when it is part of a dwelling or residential park. The proportion of a park's area which is excluded land is removed from the exemption which applies to the park.

The term means:

- (a) land used for a hotel, motel, hostel, lodging house, boarding house, shop, café or restaurant;
- (b) land not listed in paragraph (a) subject to a licence under the *Liquor Control Act 1988*;

The Liquor Control Act 1988 provides for a number of different types of liquor licence (for example, restaurants, clubs, hotels and liquor stores).

- (c) land which has been cleared for the purpose of developing the land;

Land cleared for the purpose of development is excluded from the exemption because it cannot be used by tenants of a dwelling or residential park.

- (d) land used for prescribed purposes; and

Subsection (d) allows the Government to prescribe specific uses of land which are excluded from the exemption.

- (e) land that the Commissioner considers is not used for the purposes of operating the dwelling or residential park;

Subsection (e) allows land which, in the Commissioner's opinion is not used for the purposes of operating a dwelling or residential park, to be excluded from the exemption.

Land not used for the purposes of operating a dwelling or residential park may include undeveloped land not used by park tenants, land used

for storing personal property of the park owner, or commercial uses (shops or cafes) which are not solely for park tenants. Land used for these purposes will be excluded land and not included in the exemption.

Land used for the purposes of operating a dwelling or residential park could include a gym, mini golf course, or undeveloped land containing nature trails which are usable by all park tenants. Land used for these purposes is included in the exemption.

long-stay site has the meaning given by the *Residential Parks (Long-stay Tenants) Act 2006* (Residential Parks Act) section 3.

The term means a site in a residential park that the park operator is willing to rent to a person that is used or intended to be used as the person's principal place of residence.

This is effectively a site used, or intended to be used, as a person's home.

operate has the meaning given in section 5(1) of the Caravan Parks Act.

The term means to carry on the business of a caravan park or camping ground and includes causing, employing or engaging another person to carry on that business.

owner-occupied home site means a long-stay site for which a site-only agreement (as defined in section 3 of the Residential Parks Act) is in force.

This means a site where the tenant has the right to occupy a relocatable home that they have provided. The person owns the relocatable home while renting the underlying site.

park site means an area of land in a dwelling or residential park, that is set aside, marked, or intended to be used for –

- (a) one caravan, camp or relocatable home; or
- (b) one holiday cabin, chalet or similar building.

relocatable home has the meaning given in section 3 of the Residential Parks Act.

The term means a vehicle, building, tent or other structure that is fitted or designed for use as a residence (whether or not it includes bathroom or toilet facilities) and that is or can be parked, assembled or erected on a site in a residential park.

residential park has the meaning given in section 5B of the Residential Parks Act.

The term means a place, including a caravan park, containing relocatable home sites to be rented to people for use as their primary residence. The residential park must also contain shared premises for the use of tenants, such as driveways or common areas.

A residential park cannot be a retirement village.

short-stay site means a park site that is not a long-stay site.

This means any site which is not used (or intended to be used) as a person's principal place of residence and is rented to people short-term, generally for a holiday. This can include sites containing camps, caravans, relocatable homes, cabins, chalets or similar buildings.

39B. Exemption for land in dwelling or residential parks

Section 39B provides the exemption for dwelling or residential parks that contain caravan or camp sites, or owner-occupied home sites.

Subsection (1) provides that a park is exempt (in the proportions set out in subsection (2)) if at midnight on 30 June in the previous financial year it contained caravan or camp sites or owner-occupied home sites.

Subsection (2) provides the proportion of a park that is exempt. A park may be fully exempt or partially exempt. This is calculated as a percentage (**X%**) under section 39C.

Subsection (3) provides that if land in a park is not 100 per cent exempt, the unimproved value of the land is reduced by an amount equal to X%.

For example, if a dwelling park land has an unimproved value of \$1,000,000 and qualifies for a 50 per cent exemption, the land will have an unimproved value of \$500,000 for the purpose of determining its taxable value.

39C. Calculating percentage for exemption for dwelling or residential parks

Section 39C calculates the percentage for the extent to which a dwelling or residential park is exempt from land tax. The Commissioner will calculate a park's exemption based on the number of accommodation sites and any excluded land in the park.

Subsection (1) provides that section 39C sets out the method used to calculate the percentage of dwelling or residential park land that is exempt under section 39B.

The calculation is designed to apply to any type of park (short-stay, long-stay or mixed-use). Only some of the calculations in section 39C will need to be completed for certain parks:

The calculations in subsections (2) and (3) are not completed for long-stay parks with no caravan and camp sites (section 39D(2)).

The calculations in subsections (4) and (5) are not completed for short-stay parks with no owner-occupied home sites (section 39D(3)).

The following examples demonstrate how to calculate an exemption for a mixed-use park (named the West Coast Caravan Park) which contains short-stay and long-stay sites and excluded land.

Subsection (2) calculates the proportion of the short-stay sites in the park that are exempt (caravan and camp sites). The calculation at

subsection (2) must be performed for any park which has short-stay sites.

The West Coast Caravan Park contains 100 short-stay sites and 80 of them are caravan and camp sites.

C is the number of caravan or camp sites in the park = 80

S is the number of short-stay sites in the park = 100

$$\frac{C}{S} = \frac{80}{100} = \mathbf{0.8}$$

If a park does not contain short-stay sites (for example, a residential park which only contains long-stay sites) subsection is not used.

Subsection (3) calculates the short-stay exemption component for a park. This works out how much of the park is short-stay, then calculates the exemption for this part.

West Coast Caravan Park also contains 100 long-stay sites.

S is the number of short-stay sites in the park = 100

T is the total number of park sites in the park = 200

The formula below first calculates the proportion of the park sites that are short-stay sites:

$$\frac{S}{T} = \frac{100}{200} = 0.5$$

The calculation then determines how much of this short-stay portion of the park is exempt.

$$= \frac{S}{T} \times P1$$

P1 is the value calculated under subsection (2) or, if that value is 0.75 or greater, P1 is rounded up to 1. In this case, P1 is 1.

$$= 0.5 \times 1$$

$$= \mathbf{0.5}$$

If a park does not contain short-stay sites (for example, a residential park which only contains long-stay sites) this subsection is not used.

Subsection (4) calculates the proportion of long-stay sites in the park that are exempt (owner-occupied home sites).

Of the 100 long-stay sites in the West Coast Caravan Park 50 are owner-occupied home sites.

O is the number of owner-occupied home sites in the park = 50

L is the number of long-stay sites in the park = 100

$$\frac{O}{L} = \frac{50}{100} = \mathbf{0.5}$$

If a park does not contain long-stay sites (for example, a caravan park which only contains short-stay sites) this subsection is not used.

Subsection (5) calculates the long-stay exemption component for a park. This works out how much of the park is long-stay, then calculates the exemption for this part.

West Coast Caravan Park contains 100 long-stay sites and 100 short-stay sites.

L is the number of long-stay sites in the park = 100

T is the total number of park sites in the park = 200

The formula below first calculates the proportion of the park sites that are long-stay sites:

$$\frac{L}{T} = \frac{100}{200} = 0.5$$

The calculation then determines how much of this long-stay portion of the park is exempt.

$$= \frac{L}{T} \times P2$$

P2 is the value calculated under subsection (4) or, if the value is 0.75 or greater, P2 is rounded up to 1. In this case, P2 is 0.5.

$$= 0.5 \times 0.5$$

$$= \mathbf{0.25}$$

If a park does not contain long-stay sites (for example, a caravan park which only contains short-stay sites) this subsection is not used.

Subsection (6) calculates the proportion of the park that is used for excluded land such as shops, hotels or restaurants.

West Coast Caravan Park has a total area of 10,000 m² and 1,000 m² of the park is excluded land.

E is the area of the excluded land in the park = 1,000 m²

A is the total area of the park = 10,000 m²

The formula below calculates the percentage of the total park area that is excluded land:

$$\frac{E}{A} = \frac{1,000}{10,000} = \mathbf{0.1}$$

If the park does not contain excluded land the outcome of the calculation in subsection (6) will be 1.

Subsection (7) calculates the total exemption which applies to the park.

The calculation in subsection (7) combines the long-stay and short-stay components of a park's exemption and removes excluded land from the total exemption.

For West Coast Caravan Park:

C1 is the short-stay exemption component calculated under subsection (3) = 0.5

C2 is the long-stay exemption component calculated under subsection (5) = 0.25

C3 is the proportion of the total land in the park that is excluded land calculated under subsection (6) = 0.1

Subsection (7) first calculates the potential park exemption by adding the short-stay exemption and long-stay exemption:

$$\begin{aligned} &C1 + C2 \\ &= 0.5 + 0.25 \\ &= \mathbf{0.75} \end{aligned}$$

The formula then removes the proportion of the park that is excluded land from the final park exemption:

$$\begin{aligned} &= 0.75 \times (1 - P3) \\ &= 0.75 \times (1 - 0.1) \\ &= \mathbf{0.675} \end{aligned}$$

Subsection (8) converts the proportion calculated under subsection (7) to a percentage. This percentage is the proportion of the park that will be exempt under section 39B.

In the examples given above, the West Coast Caravan park is 67.5 per cent exempt.

39D. Provisions about calculations under s. 39C

Section 39D clarifies some aspects of the calculations made under section 39C.

Subsection (1) provides that a calculation under section 39C is made with reference to the dwelling or residential park as at midnight on 30 June in the financial year before the land tax assessment year.

This means the sites and uses on 30 June are used in the calculations under section 39C.

Subsection (2) provides that if a park does not contain caravan and camp sites the steps in sections 39C(2) and (3) are not used. This ensures the exemption is calculated correctly and simplifies the calculation for parks that only contain long-stay sites.

Subsection (3) provides that if a park does not contain owner-occupied sites the steps in sections 39C(4) and (5) are not used. This ensures the exemption is calculated correctly and simplifies the calculation for parks that only contain short-stay sites.

Subsection (4) provides that a calculation under section 39C must be rounded to 4 decimal places.

Clause 9: Section 42 amended

Section 42 provides a one-year exemption for land which is vacant due to a mortgagee's right to sell the property. A person cannot receive a section 42 exemption for one property if they also have another property for which they are entitled to receive one of a number of listed exemptions.

Clause 9 amends the list to include the new section 26B exemption for an owner in full-time care. This ensures that an owner with more than one property cannot receive a section 42 exemption for one property if they are entitled to an exemption for another because they are in full-time care.

The section heading is also amended.

Part 3 – Amendments commencing on day after Royal Assent

Clause 10: Section 18A amended

Section 18A provides rules for determining the taxable value of land if only a partial exemption applies to the land.

This clause makes a minor grammatical change to section 18A.

Clause 11: Section 20 amended

The LTA Act contains provisions that exempt land from land tax, subject to certain requirements. If those requirements are not met, section 20 provides the Commissioner a discretion to still grant the land an exemption or concession. A taxpayer must apply to the Commissioner for the provision to apply.

Section 20 does not clearly state whether the tax reduction is contingent on the taxpayer making an application each year, or if the Commissioner can grant a tax reduction at a time other than when considering a taxpayer's application.

While the section sets out that the Commissioner may grant a tax reduction if satisfied it is reasonable to do so, it does not explicitly set out a process for the Commissioner refusing to grant a tax reduction.

Clause 11 amends section 20 to provide the Commissioner may apply a tax reduction to land they believe should qualify, without needing a taxpayer to first make an application. It also makes it clear that the Commissioner can continue to apply a tax reduction in future financial years without requiring an application from a taxpayer in each year.

Section 20(1) provides a taxpayer may apply to the Commissioner for a tax reduction.

Subclause (1) amends section 20(1) to add that the Commissioner may grant a tax reduction on their own initiative.

Section 20(2) provides the Commissioner may grant the tax reduction the taxpayer has applied for if satisfied there are reasonable grounds for doing so.

Subclause (2) amends section 20(2) to delete references to 'the application' since section 20 as amended does not require an application to be made.

Section 20(3) provides that if the Commissioner refuses to grant an exemption or concession, the applicant may appeal the decision to the Minister for Finance within 60 days of the Commissioner's decision. This section does not explicitly set out that the Commissioner may refuse to grant the tax reduction, and it does not oblige the Commissioner to notify the taxpayer of a refusal, once made.

Subclause (3) deletes section 20(3) and inserts subsections (2A), (2B) and (3).

Subsection (2A) provides the Commissioner may revoke a tax concession granted under section 20 if no longer satisfied that there are grounds for the tax reduction. This adds an explicit power for the Commissioner to revoke a concession granted under this section.

Subsection (2B) provides the Commissioner must give a taxpayer written notice of a decision to either not grant a tax reduction the taxpayer has applied for, or to revoke a tax deduction that applies.

Taken together, (2A) and (2B) formalise the Commissioner's decision not to approve the tax reduction and introduce an obligation to inform the taxpayer of this decision. These amendments provide a clear right for the taxpayer to appeal the decision, as well as a clear starting point for the 60-day timeframe for appeal to the Minister.

Subclauses (3), (4) and (6) make consequential amendments to the language of section 20.

The section heading is also amended.

Clause 12: Section 20A inserted

Certain land tax exemptions require the owner of the land receiving the exemption to notify the Commissioner of specific events or circumstances which could cause their exemption to no longer apply. Despite the notification requirements being very similar in nature, they are currently found in various locations of the LTA Act, where they create a specific notification requirement for each type of exemption.

Clause 12 introduces a general notification provision, which can apply to any tax reduction administered under the LTA Act. It sets out that the Commissioner must serve a notice on an owner of land for the notification requirement to apply. The notice informs the owner of the specific events or circumstances that may cause their land to be ineligible for its tax reduction.

The owner must advise the Commissioner if any of the events or circumstances occur in the current financial year and subsequent five financial years.

Clauses 13 to 17 delete the specific notification requirement for each exemption.

20A. Owner of land subject to exemption or concession may be required to notify Commissioner of event or circumstance

Subsection (1) provides the Commissioner may serve a notice on an owner of land if an exemption or concession applies to the relevant land. This ensures the notification requirement only applies to land owners currently receiving a land tax reduction.

Subsection (1)(a) provides the Commissioner may serve a notice in relation to an exemption or concession granted under the Commissioner's discretion in section 20.

Subsection (1)(b) provides the Commissioner may serve a notice in relation to an exemption or concession which applies under another provision of the LTA Act.

Subsection (2) provides the notice must describe specific events or circumstances and require the owner to inform the Commissioner if they occur. This ensures land owners are made aware of their obligation to inform the Commissioner.

The owner must notify the Commissioner if the event or circumstance occurs within the six financial years from receiving the notice. This timeframe means a notification obligation is not imposed on owners if significant time has passed since they were notified by the Commissioner. If this timeframe has elapsed the Commissioner must serve a new notice on the owner, informing them of their obligation.

Subsection (3) restricts the type of events or circumstances that can be specified in the Commissioner's notice. The Commissioner must consider that the events or circumstances will or may affect a tax reduction continuing to apply to the land. This ensures an owner is not required to inform the Commissioner of events or circumstances irrelevant to their tax reduction.

Subsection (4) restricts the timeframe for notification that the Commissioner may specify in the notice.

The timeframe the Commissioner sets:

- (a) must be at least 49 days after the event or circumstance occurs. This gives the owner reasonable time to contact the Commissioner; and
- (b) cannot be later than 30 September in the financial year after the financial year in which the event or circumstance occurs. This ensures the Commissioner is informed within a reasonable time of the event or circumstance occurring. For example, if an event occurred on 10 May 2023, a person may be required to notify the Commissioner by 30 September 2024.

Subsection (5) provides that a penalty of \$5,000 applies if a person does not comply with a notice.

Subsection (6) provides two exceptions to the notification requirements for an owner that has been served with a notice. The person does not need to notify the Commissioner if they do not own the land any more, or the Commissioner has determined that a tax reduction is not to be applied to the land.

Clause 13: Section 23A Amended

Section 23A(3) provides a specific notification requirement for an exemption for a residence owned by executor if the beneficiary in the will is living there and has a right to future ownership.

This clause deletes section 23A(3) and the penalty for this subsection. The section heading is also amended.

Clause 14: Section 23 Amended

Section 23(3) provides a specific notification requirement for an exemption that applies to private residential property owned by an

executor or administrator of a person's estate if the property was used as the deceased's primary residence when they died.

Subclause (1) deletes section 23(3).

Subclause (2) makes consequential amendments to section 23 to make it consistent with the new general notification requirement in section 20A.

Clause 15: Section 26 amended

Section 26(2) provides a specific notification requirement for an exemption for residential property held in trust for a disabled beneficiary.

This clause deletes section 26(2) and the penalty associated with this subsection.

The section heading is also amended.

Clause 26A: Section 26A amended

Section 26A(7) provides a specific notification requirement for an exemption for a residential property owned by a relative of a disabled person.

This clause deletes section 26A(7) and the penalty associated with this subsection.

The section heading is also amended.

Clause 17: Section 30F deleted

Section 30F provides a specific notification requirement for a primary production exemption.

This clause deletes section 30F.

Clause 18: Schedule 1 Division 7 inserted

This clause inserts transitional provisions for the Bill. While other parts of the Bill will commence from the day after Royal Assent, these transitional provisions are required for the dwelling or residential park exemption and the owner in care exemption because they will commence retrospectively from 1 July 2020. These are amendments that are in taxpayers' favour. For example, they allow a reassessment and refund back to 1 July 2020 for a person who paid land tax for the property that was their primary residence before they went into full-time care.

Under the transitional provisions for the dwelling or residential park exemption the amendments are not retrospective for a park which would pay more land tax under the new legislation.

Division 7 – Provisions for *Land Tax Assessment Amendment Act 2022*

Clause 22: Application of Amendments made by *Land Tax Assessment Amendment Act 2022*

Subclause (1) provides that the amendments in Part 2 of the Bill apply from the 2020-21 assessment year onwards.

Subclause (2) provides that the commencement date of the 2020-21 financial year does not apply if Clause 23 applies, that is, it would disadvantage park owners.

Clause 23: Reduced exemption percentage for land used for dwelling or residential park does not apply for certain financial years

Clause 23 ensures that park owners are not disadvantaged by the 1 July 2020 commencement date of the new dwelling or residential park exemption.

Subclause (1) defines a number of terms used to describe the exemption as it currently applies, and the exemption introduced in this Bill.

The 'new exemption percentage' refers to the exemption introduced in this Bill. The 'old exemption percentage' refers to the exemption as it is currently calculated.

Subclause (2) provides that if the new exemption percentage is less than the old exemption percentage for a park, the old exemption percentage will apply until the financial year following Royal Assent to the Bill.

If a park qualifies for a lower exemption under the new park exemption than under the current park exemption, the new park exemption does not apply from 1 July 2020. Instead, the current park exemption will apply until the financial year following the Royal Assent of the Bill.

Clause 24: Continued application of notification requirements

Sections 23A(3), 23(3), 26(2), 26A(7) and 30F of the Act provide notification requirements for taxpayers receiving a land tax exemption. The Bill deletes these subsections (clauses 13 to 17) because they are no longer required following the introduction of the general notification requirement in section 20A (clause 12).

The general notification requirement under proposed section 20A can only apply once the Commissioner notifies a land owner.

Clause 24 provides that the current notification requirements continue until the end of the financial year in which the general notification requirement came into operation. This ensures the Commissioner has reasonable time to notify land owners of their obligations.

Subclause (3) provides the current notification requirements do not apply to land if the Commissioner has notified the owner of their general notification requirement under proposed section 20A. This ensures an owner does not have two notification requirements for the same property.

Clause 25: Reassessment

Clause 25 provides that the Commissioner must make any reassessment necessary to give effect to Division 7 and the amendments made by the Bill, subject to the time limits in section 17 of the *Taxation Administration Act 2003*.

Clause 19: Various references to gender removed

This clause amends several provisions of the Act to remove gendered references. These changes reflect modern drafting conventions and ensure the Act is consistent with the definition of marriage in the *Marriage Act 1961* (Cth), which was amended by the *Marriage Amendment (Definition and Religious Freedoms) Act 2017*.