

EXPLANATORY MEMORANDUM
LAND TAX ASSESSMENT AMENDMENT BILL 2010

This Bill seeks to amend the *Land Tax Assessment Act 2002* (LTAA) to:

- put in place a 100% exemption from land tax for caravan parks from 1 July 2010; and
- increase the clawback period for reassessment of land tax from five years to ten years from 1 July 2010 in the event of the subdivision of caravan park land.

These measures were announced as part of the 2010-11 Budget.

Currently, the LTAA provides a 50% land tax concession for caravan parks, which was introduced on 1 July 2005. It applies to “dwelling park land”, (which is a defined term), which includes land used as sites for caravans, park homes and camping grounds. The concession does not apply to land used for a chalet, cabin, motel, hostel, boarding house or restaurant.

The purpose of the concession was to assist the long term viability of caravan park businesses, following recognition that land values had risen rapidly. These land value increases led to large increases in land tax bills for caravan park business operators, which had an impact on the retention of low cost, affordable holiday accommodation in the State’s favoured tourism destinations. The concession was accompanied by a clawback provision which required a reassessment of land tax in the event of the subdivision of the dwelling park land for a period of up to five years prior to subdivision.

The proposed amendments, which are anticipated to further enhance the viability of caravan parks, flow from recommendations made in the Legislative Assembly Economics and Industry Standing Committee’s 2009 report into the “Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia”.

The Standing Committee found that rising land values had effectively negated the value of the 50% land tax concession to caravan park operators. It recommended that the land tax concession for caravan parks that provide predominantly tourist caravan and camp sites be increased to 100% and that the clawback provision for a 100% land tax concession should be increased to ten years.

The estimated additional cost to revenue is around \$1 million per year, thereby taking the total cost of the exemption to approximately \$2 million per year.

It is not proposed to depart from the current scope and framework supporting the 50% land tax concession and clawback. All definitions, eligibility and application requirements remain the same as currently apply. Similarly, the calculation methodology currently used for the five year clawback is retained for use under the ten year clawback.

Clause 1: **Short title**

This clause provides that the short title of this Act is the *Land Tax Assessment Amendment Act 2010*.

Clause 2: **Commencement**

This clause provides the commencement dates for the Act.

Paragraph (a) provides that sections 1 and 2 come into operation on the day on which the Act receives the Royal Assent.

Paragraph (b) provides that the rest of the Act comes into operation either on 1 July 2010 if assent day is on or before 1 July 2010, or where assent day is after 1 July 2010, it is deemed to have come into operation on 1 July 2010.

It is necessary to commence the amendments on this date on the basis that land tax is an annual charge based on an assessment year.

Clause 3: **Act amended**

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

Clause 4: **Section 15A amended**

This clause amends section 15A of the LTAA, which currently provides for the retrospective taxation of land that is subdivided after a concession on dwelling park land has been allowed in any of the five years prior to and including the financial year in which the subdivision takes place.

Section 15A(1) specifies the circumstances in which dwelling park land, which is subdivided, is to be retrospectively assessed. A definition of subdivided is provided in the Glossary to the Act.

Subclause (1) amends section 15A(1)(a) to include the exemption granted under the proposed amendments to

section 39B and extends the clawback from five to ten years prior to and including the financial year in which the subdivision takes place.

In future years, the proposed clawback period of ten years will traverse assessment years, some of which may have received the 50% concession and others the 100% exemption.

For example, assume a caravan park is comprised of dwelling park land that has been granted the 50% land tax concession for the 2005-06 to 2009-10 assessment years inclusive (five years) and a 100% land tax exemption for the 2010-11 and 2011-12 assessment years (two years).

The caravan park land is subdivided during the financial year ending 30 June 2013. In this circumstance, the dwelling park land will be retrospectively assessed for land tax back to 1 July 2005 (a clawback period of seven years, which includes assessment years some of which have received the concession and others the exemption). The clawback does not apply prior to 1 July 2005 as the land was fully taxable up to that point. The land will also be fully taxable in the 2012-13 assessment year, being the assessment year in which the subdivision took place.

Subclause (2) proposes an amendment to section 15A to alter the reference in subsections (2), (4) and (5) from five years to ten years. This is necessary as this Bill contemplates that the clawback will be extended from five to ten years.

Clause 5: Section 39B amended

This clause amends section 39B of the LTAA which currently provides a 50% concession from land tax for dwelling park land.

The proposed amendment will operate to grant a concession of land tax or exemption from land tax for land which is determined to be dwelling park land as defined in section 39A.

Subclause (1) provides that current section 39B(1) is replaced.

Proposed section 39B(1)(a) provides that land tax is payable at 50% of the rate imposed by the *Land Tax Act 2002* for an assessment year that commenced before 1 July 2010 if this section applies to the land.

Proposed section 39B(1)(b) provides that the land is exempt from land tax if the assessment year commenced on or after 1 July 2010 if this section applies to the land.

Subclause (2) amends section 39B(3) to provide that the apportionment provisions to allow a partial exemption or concession under section 18 of the LTAA do not apply to the concession or exemption for dwelling park land.

There is no need for section 18 to apply, because apportionment provisions are contained within section 39A(5), which provides that an application may be made for a determination as to land that constitutes a portion of a lot. This allows an owner of land to apply to the Commissioner for a determination that land is dwelling park land where only part of a lot of land is being used as a caravan park or camping ground, which effectively applies a partial exemption or concession in the relevant circumstances.