

Real Estate Markets Quarterly

Winter 2024



Foreword

Welcome to the winter edition of our Real Estate Markets Quarterly. We hope that you and your families are well.

In this edition, we cover a range of topics from Victorian stamp duty reforms, Build to Rent tax concessions, New Zealand Planning Reforms, statutory and land valuations, compulsory land acquisition, PPS legislative changes and more.

We also continue our spotlight on Women in Real Estate and in this edition we have the pleasure of featuring Sian Sinclair. Sian has dedicated her career to assisting clients in the Property and Construction industry with tax, planning and regulatory matters. She joined Grant Thornton in 2001, serving as the National Industry Leader for Real Estate and Construction for 12 years and the Global Industry Leader for the Grant Thornton International network for four years. Currently, as the Partner and Office Chair in Brisbane, Sian focuses on being the local ambassador for Grant Thornton Australia, managing day-to-day tax matters for industry clients and implementing the firm’s Client and People promises and CARE values.

At the time of writing, the RBA kept its cash rate on hold at its 12 year high of 4.35% (the same as it has been since November 2023). The headlines are still being dominated by the government’s attempts to control inflation and the speculation by analysts as to whether interest rates will rise, fall or be left on hold and the likely impact that will have on real estate markets. The RBA has warned it will be “some time yet” until inflation hits the 2 to 3 per cent target, with the board needing “to remain vigilant to upside risks”. Whilst inflation has been easing, the RBA flagged it “has been doing so more slowly than previously expected and it remains high”. The latest figures showed inflation rose to 3.6 per cent in April, up slightly up from 3.5 per cent in March and down from a peak of 8.4 per cent in December 2022.

Whilst the economy all but stalled at the start of this year, employment growth has remained strong with the jobless rate sitting at around 4%.

Most of the Big 4 banks are currently predicting the first rate cuts to kick in early 2025, followed by a number of cuts during 2025 and a final predicted cash rate of 3.60 per cent by the end of 2025. Time will tell whether such predictions are accurate and if so, whether the cuts will result in another real estate boom.

We hope you enjoy our Winter quarterly and we look forward to working with you soon on your next project.

Stay safe.



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Industry Spotlight - Sian Sinclair



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Please provide an overview of your career to date.

I've been working with clients in the Property and Construction industry for all of my career, assisting them with tax, planning and regulatory matters generally. I joined Grant Thornton in 2001 and up until last year, had been the National Industry Leader for Real Estate and Construction for about 12 years and spent 4 of those years as the Global Industry Leader for the Grant Thornton International network. Over that time, I've worked with some amazing industry participants and as a Tax Professional, I look to advocate for the industry on all things tax related and often get involved in Industry Stakeholder Committees with the regulators to provide commercial feedback on the impact of proposed changes.

Tell us a bit about your current role at Grant Thornton and your responsibilities as a Partner and Office Chair in Brisbane.

Last year I decided to focus more locally and took on the role of Office Chair for Grant Thornton in Brisbane. The role involves being the local ambassador for Grant Thornton Australia and working with our amazing team to bring to life our Client and People promises and our CARE values in the Brisbane market. This keeps me busy these days, along with looking after the day to day tax management for our industry clients.

What do you like most about working in the Real estate and Construction sectors?

While it is a cliché, I'm often in awe of the remarkable places that our sector creates for people to work, live and play. Seeing the myriad of working parts in the sector come together to deliver solutions and create amazing spaces is inspiring.

What are your tips for young professionals aspiring to pursue a career in the Real Estate and/or Construction sector/s?

It's never too early to start building your network, and step out of your comfort zone – you never know where it will take you or who you will meet.

Do you hold any other industry roles currently? If so, what led you to these positions and how do they complement your work at Grant Thornton?

I've been closely involved with the Property Council of Australia as a member of their Queensland Divisional Council for a number of years and I really enjoy the incredible network of people it connects you with and the advocacy work they do. I am also a Board member for Queensland Trust for Nature (QTFN) which is a Government initiated Not for Profit that takes a commercial approach to positively impacting and restoring biodiversity across Queensland's natural assets. It's really interesting to see what solutions can be found when those seeking positive outcomes for the natural environment can work together.

Are there any recent tax trends or developments impacting the Real Estate and Construction industries, and how has your team adapted to these changes?

The recent tax changes around Thin Capitalisation might sound like a mundane topic to many, but it's going to have a significant impact for many who have international related parties funding assets or development activities here - so it is something that needs to be thought about now. Also, while the flurry of announcements around Build to Rent concessions from all levels of Government have been great, they need to make them accessible. To date, the eligibility hurdles put in place have been simply too high to make any meaningful difference.

How do you address issues related to diversity, equity, and inclusion within the industries you work with from a legal perspective?

Like many professional firms, we work hard to improve gender diversity at leadership levels. We've made great progress and are really proud of our sector leading results in the 2024 WGEA Gender Pay Gap report, favouring women – but there's always more that can be done. This year we also made our 9 day fortnight permanent, after a 12 month trial – and overwhelming support from our people.

What are your top reading, listening or watching recommendations?

My guilty pleasure at the end of the day is an hour spent with my nose in a book that is complete fiction or unwinding with some Bridgerton or Emily in Paris viewing.



Victoria’s Commercial and Industrial Property Tax: What You Need to Know

Author: Catherine Nufer



It is likely other States and Territories will be carefully watching Victoria as its new Commercial and Industrial Property Tax (CIPT) comes into effect from 1 July 2024, taking a step towards abolishing stamp duty on land in the state.

Depending on the outcome of the CIPT implementation and the resolution of any teething issues, it is highly likely that, if successful, we will see a gradual creep of the property tax model across jurisdictions (as was the case with the introduction of foreign surcharge duty and land tax, which has now been implemented in most jurisdictions).

There will no doubt be practical and administrative questions which arise once the CIPT regime fully gets underway. We have summarised the key points that advisers and landowners need to know to be ready for 1 July 2024.

What are the changes?

From 1 July 2024, the purchase of Victorian commercial and industrial property will trigger the property to come within the ambit of the CIPT regime. Once the land has entered the scheme it will be referred to as ‘**tax reform scheme land**’.

This will not occur automatically, but will be triggered in circumstances where the land has a *qualifying use* and one of the following transactions occurs:

- **Entry Transaction**
The acquisition of an interest of 50% or more in the land (either directly by way of a transfer of the land) or indirectly (where an interest is acquired of 50% or more of the shares or units in a Victorian landholder).
- **Entry subdivision**
Occurs where land is tax reform scheme land and is subdivided. The new subdivided lots will be taken to be tax reform scheme land on their creation.
- **Entry consolidation**
Will occur where there is consolidation of land which is all tax reform scheme land or where tax reform scheme land is consolidated with non-tax reform scheme land. An entry consolidation into the scheme will only occur in circumstances where more than 50% of the consolidated land (calculated based on land area) is tax reform scheme land.

To the extent a transfer duty or landholder duty exemption would apply to the transaction, this will not trigger the land becoming subject to CIPT.

Land will become ‘tax reform scheme land’ on the date of the transaction (i.e. settlement date for land transfers or the acquisition date for relevant shares or units). This means that any subsequent transfer or acquisition of tax reform scheme land should not trigger duty (subject to certain conditions and circumstances).

This article further considers the impact of the CIPT specifically related to Entry Transactions involving the direct acquisition of land.

When does land have a ‘qualifying use’?

The CIPT will only apply to land with a *qualifying use*, as determined by the Australian Valuation Property Classification Code (AVPCC). The land must be coded by the Valuer General as either:

- commercial;
- industrial;
- extractive industries;
- infrastructure and utilities property; or
- certain land used for eligible student accommodation.

If the relevant land has a mixed use, the Commissioner will adopt a sole or primary use test to determine whether the land has a qualifying use.

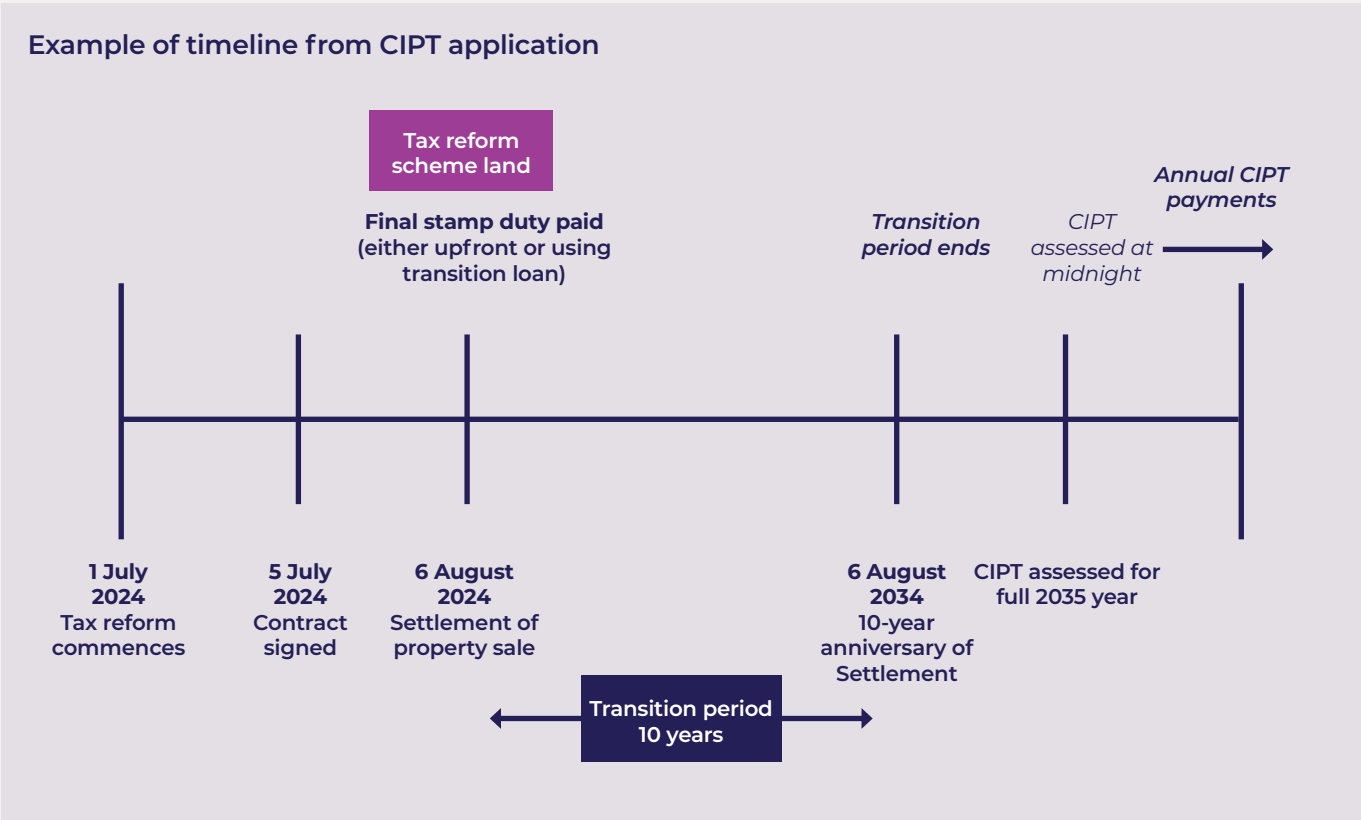
What happens when CIPT is triggered?

On purchase or acquisition of land with a qualifying use, a final round of duty will be triggered, which will be required to be paid by the purchaser upfront (as per usual), or the purchaser may opt to access a government-facilitated transition loan to fund the payment of transfer duty on commercial terms across 10 years (i.e. the stamp duty amount plus interest). The land will then be classified as tax reform scheme land (otherwise referred to as CIPT land).

The purchase of the CIPT land will start a clock ticking and an annual CIPT will become payable 10 years from the date the property entered into the CIPT regime.

The rate of CIPT will be a flat rate of **1%** of the unimproved value of the land, payable annually. For build-to-rent land (which qualifies for a build-to-rent land tax benefit) the rate will be 0.5%.

It is important to note that the CIPT is separate and distinct from land tax – that is, once the CIPT comes into effect over the land, the owner of the land will pay CIPT (once the 10-year transition period has passed) and land tax annually (as applicable).



How will CIPT be assessed?

CIPT will be assessed on the land owned as at midnight on 31 December each year (in a similar way that land tax is assessed). However, note that CIPT is an additional and separate tax to land tax or any other existing taxes that apply to land in Victoria.

There is a 10-year transition period once the land becomes part of the regime before the first round of CIPT will be assessed.

In summary, CIPT applies to land that:

- has entered the tax reform scheme (i.e. purchased after 1 July 2024);
- is no longer within its 10-year transition period (commencing the date it entered the scheme);
- has a qualifying use (discussed below) as at midnight on 31 December; and
- is taxable land within the meaning of the *Land Tax Act 2005*.

Who is liable for CIPT?

The registered owner of the land at the time it has entered into the tax reform scheme will be liable to pay the annual CIPT (or any subsequent owner).

Lessees of long-term (non-Crown leases) granted prior to 1979 are also deemed to be owners. These long-term lessees may have a statutory liability for CIPT purely because the lessor disposes of the freehold land after 1 July 2024.

Advisers and landowners – Key points to consider

1. Landowners and advisors need to be aware that other transactions can trigger movement into the CIPT regime (consolidations, subdivisions, share and unit acquisitions) and advise clients accordingly, as additional reporting and compliance obligations may be required.
2. The Commissioner will have the power to recover unpaid CIPT from third parties which have a connection with the land (including a lessee, occupier or mortgagee). There are however restrictions imposed to pass on CIPT to lessees or tenants.

3. Where the property has a mixed use, there is no provision for apportionment. It will be based on the sole or primary purpose of the land.
4. A change in the use of the land can trigger duty and CIPT implications. Advisers and landowners need to consider land use and whether any implications will arise where significant changes to business activities or use will create a notification obligation. If a change does occur, the Commissioner must be notified within 30 days from the date the change occurred.
5. If a land sale contract in Victoria is likely to complete after 1 July 2024 (notwithstanding the contract may have already been signed), there may be transfer duty and CIPT implications for this transaction and specialist advice should be obtained (if not already provided).
6. From 1 July 2024, all purchasers (including real estate purchases and commercial transactions involving shares and units in a landholder) should ensure that their due diligence procedures take into account determining the CIPT status of any land. Clearance certificates should be obtained and advice should be sought where there is unpaid CIPT listed on the certificate.

Stay informed and get prepared

Stay informed and prepared for the changing landscape of property taxation. As the implementation of the CIPT unfolds, it's crucial for landowners, advisors and stakeholders to stay abreast of updates and developments. Seek expert guidance to navigate the complexities of the new regime and ensure compliance with reporting and compliance obligations. For personalised advice tailored to your specific situation, don't hesitate to reach out to our team.



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Queensland Incentivising Infill Development Fund: Key Considerations for Project Proponents

Author: Amelia Prokuda

The housing crisis in Queensland (and Australia) is worsening. The latest attempt by the Queensland Government to stimulate housing construction and meet the ambitious target of one million new homes by 2046 is the introduction of the Incentivising Infill Development Fund (**Fund**).

Applications under the \$350 million Fund opened on 10 June 2024. In this article, we explain the objectives of the Fund, eligibility criteria and opportunities for proponents to obtain priority in the application process.

Fund objectives

The Fund is intended to support the development of underutilised land within existing urban areas to foster sustainable and efficient land use. The Fund provides financial incentives to developers for projects that align with the State’s objectives of increasing housing supply, improving infrastructure and promoting environmentally sustainable practices.

In particular, the Fund provides targeted support to eligible projects which:

- **Increased density:** deliver increased density in well-located infill areas, supporting housing diversity;
- **Housing choice and affordability:** promote housing choice in existing urban areas and contribute to affordable housing outcomes;
- **Policy alignment:** complement State, regional and local policy priorities such as place-based statutory regional plans, local housing action plans and other initiatives that provide multiple benefits (for example, housing to support emerging industries);
- **Delivery:** can come to market within the period specified under the Fund Guidelines (depending on the nature of the development).

Eligible development costs

Funding is available for the following development costs:

- **Infrastructure charges:** Funding is available for the payment of infrastructure charges for related trunk infrastructure costs levied by an eligible entity, through:

- an infrastructure charge notice (**ICN**) for eligible developments;
- the infrastructure charges included in an infrastructure agreement (**IA**) where the project is an eligible development.

The Fund will only pay the residential development component of the ICN or IA approved under the Fund. The State will make payments or commit to making payments for the identified value of an ICN or component of an IA directly to the relevant entity.

- **Development assessment fee relief:** Funding is also available for providing refunds of development application fees for applications lodged since the announcement of the Fund on 3 February 2024.

Development criteria

Applications may be made by the landowner, development proponent or a representative authorised to represent the landowner (for example, a town planning consultant or development manager). The development must meet the following criteria:

- be consistent with the objectives of the Fund;
- be in Queensland;
- be for a material change of use or reconfiguring a lot;
- be:
 - well-located residential development (this includes the residential component of a mixed-use development); or
 - accommodation for workers or tertiary students and new major employment centres such as (but not limited to) tertiary institutions, hospitals and medical precincts, or in high-tourism areas;
- be for dwellings other than luxury housing; and
- at the time of the application for funding being decided:
 - construction for a material change of use has not started;
 - for all other development, the levied charge has not become payable under the *Planning Act 2016* (Qld).

There are additional location-based criteria depending on whether the project is located in a ‘Category A local government area’ (mostly metropolitan areas), or ‘Category B local government area’ (mostly regional areas).

All development must be complete and have submitted the payable levied charge to the State for payment by 1 February 2028.

Priority

Under the Fund Guidelines, priority will be given to projects which:

- have an existing approval or accepted development that has a demonstrated ability to come to market by 30 June 2025;
- include affordable housing;
- include gentle density housing typologies (including small studios, duplexes, row or terrace houses, triplexes or duplexes and multiple dwellings); and
- support a mix of housing types in regional local government areas, to respond to housing needs of emerging industries and sectors.

Successful applicants will be required to enter into a funding agreement with the State and provide further information including a project completion report and risk management plan.

With the right approach, the Fund can be a powerful tool for driving innovative and

sustainable urban development in Queensland. However, it is difficult to tell whether the funding available will in fact ‘offset’ high construction costs sufficiently to encourage proponents to pursue residential development and increase the housing supply.

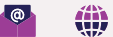
What’s next?

The Fund offers a unique opportunity for developers to contribute to solving the housing crisis while benefiting from significant financial incentives. By targeting underutilised urban land, this initiative not only addresses housing shortages but also promotes sustainable development practices.

If you’re a developer or landowner looking to make a meaningful impact and leverage government support for your projects, now is the time to act. Explore the potential of your projects under the Fund and help shape the future of Queensland’s urban landscape. Reach out to Amelia Prokuda to learn how to take advantage of this opportunity and for more information on the application process.



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The Australian Government’s Boost to Build-to-Rent (BTR) Developments: Income Tax Concessions

Author: Seema Sandhu, Sarah Roettgers and Anish Prakash

Build-to-rent Tax Concessions

Treasury has released for consultation the much-anticipated Exposure Draft of the *Treasury Laws Amendment Bill 2024: Build to rent developments (BTR ED)* and related Explanatory Materials (**EM**) outlining the BTR tax concessions that were first introduced as part of the 2023/24 Federal Budget. The BTR tax concessions were introduced to encourage the construction of BTR developments by offering accelerated capital works deductions and benefits for managed investment trusts (**MIT**) with the intention that these measures would encourage stronger investment into accommodation to address Australia’s current housing shortage. The BTR tax concessions seek to address both the upfront capital expenditure and the ongoing income generated by BTR developments.

In addition, on 1 May 2024, the Treasurer announced broad policy reforms designed to strengthen and streamline Australia’s foreign investment framework. Relevantly, and to support the Government’s strategy of encouraging investment in new housing stock, Treasury has now lifted the prohibition on foreign investors acquiring established BTR properties. It is hoped that this change in policy, coupled with a reduction in FIRB application fees for such investments, will increase demand and incentivise the construction of new projects. Treasury is yet to release guidance as to what will be captured by the concept of an established BTR development.

Incentivising Construction: Accelerated Depreciation

The first BTR tax concession is the increased capital works tax deduction rate for qualifying new BTR projects (referred to as “active BTR developments”). This rate has been raised from 2.5% to 4% per annum for projects initiated after 9 May 2023. This translates to faster depreciation of construction costs, effectively reducing taxable income for investors during the relevant period. This mechanism shortens the depreciation timeline from 40 years to 25 years, enhancing the project’s early cash flow attractiveness.

Reduced Withholding Tax for MITs

The second BTR tax concession relates to active BTR developments held within MITs. For eligible rental income distributions to foreign investors from active BTR developments, the MIT withholding tax rate has been reduced from 30% to 15%, bringing the rate in line with the MIT withholding tax rate that applies to commercial property. This measure is intended to make BTR investments in Australia more appealing to foreign capital, potentially diversifying the investor pool and increasing overall investment in the sector.

Qualifying Requirements

To access the new BTR tax concessions, the following criteria will need to be satisfied:

- construction of the BTR development must be commenced after 9 May 2023;
- the BTR development must consist of 50 or more dwellings made available to rent to the general public;
- all of the dwellings in the BTR development must continue to be directly owned together by a single entity for at least 15 years;
- dwellings in the BTR development must be offered for lease for a term of at least 3 years during the 15 year period; and
- at least 10% of the dwellings in the BTR development must be offered as affordable tenancies throughout the 15 year period.

Compliance Considerations

Importantly, the BTR tax concessions are accompanied by a clawback mechanism. A “misuse tax” will be imposed if a BTR development has claimed a BTR tax concession but subsequently ceases to qualify as an “active BTR development” within the 15 year compliance timeframe. The rate of the misuse tax is 1.5% which is applied to:

1. the total accelerated depreciation claimed (multiplied by either the corporate tax rate (for a company) or 45% for any other entity), then increased by 8%; and

2. the reduced MIT withholding benefits previously obtained, increased by 8%, multiplied by 10.

Additionally, entities participating in BTR schemes will be subject to specific reporting requirements to the ATO. Careful planning and adherence to these regulations is essential for investors to be able to claim the new BTR tax concessions.

Market Impact and the Road Ahead

The new BTR tax concessions and FIRB policy reforms are anticipated to incentivise investment in BTR developments, ultimately leading to an expansion of the rental housing supply. This increased supply has the potential to alleviate rental shortages and stabilise rental prices, offering long-term benefits to renters. However, given the strict criteria which must be satisfied to qualify as an active BTR development, together with the potentially punitive effect of the misuse tax, the full impact of these measures on the BTR market and rental affordability remains to be observed.

Investors considering BTR opportunities should carefully evaluate the eligibility criteria, compliance requirements, and potential tax benefits while seeking professional guidance to navigate these complexities.

For more information on the tax changes for BTR developments, please contact Seema Sandhu or Sarah Roettgers.

For more information on the FIRB policy reforms, you can access the article prepared by our colleague, Clementyne Rawlyk, [here](#).



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What’s in New Zealand’s Fast-Track Approvals Bill

Author: Paul Chambers

Key takeaways:

- The Fast-Track Approvals Bill was introduced to the NZ Parliament on 7 March 2024
- If passed, the Bill will give effect to a new streamlined approvals process for major infrastructure and other projects with “significant regional or national benefits”
- It will give overarching decision-making power for approvals to joint Ministers, which has drawn criticism from many quarters, including all opposition parties, conservationists and the New Zealand Law Society
- A Select Committee is yet to report following public submissions having closed in April.

Background

The Fast-Track Approvals Bill (**the Bill**) is part of the coalition Government’s plan to supercharge New Zealand’s economic growth through infrastructure building and reflects a key election commitment of the National Party.

If passed, the Bill will streamline the approvals process for projects with “significant regional or national benefits”. It aims to address criticisms of the existing approvals regime as too costly and slow, and as placing “insufficient value on the economic and social benefits of development relative to other considerations”.

The Bill was introduced to Parliament for a first reading on 7 March 2024 and then proceeded to Select Committee review where public submissions closed on 19 April. We now await the Select Committee’s report.

Fast-track access

To access the fast-track approval process, a project must either be:

- listed in Schedule 2A of the Bill (in which case, it will be automatically referred);

- following an application to use the process, jointly referred by the Ministers of Infrastructure, Regional Development and Transport having been assessed as eligible according to the relevant criteria.

Project applications (private or public sector) to the Ministry of Environment closed on 3 May.

An expert Advisory Group set up by the Government in April will be engaged until July in considering projects and providing independent recommendations to Ministers on the specific projects to be listed in the Bill (none appear yet).

Projects eligible for the fast-track

For a project which is not listed in Schedule 2A of the Bill, for that project’s referral to the fast-track process the joint Ministers must be satisfied that the project has “significant regional or national benefits”.

Among the considerations the Ministers may take into account in making this assessment include whether the project:

- has been identified as a priority project in central or local government, or sector plan or strategy, or is on the central government infrastructure priority list;
- will deliver regionally or nationally significant infrastructure, or significant economic benefits;
- will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment;
- will support primary industries (including aquaculture), the development of natural resources, or climate change mitigation.

When assessing projects, the joint Ministers must consult with relevant portfolio ministers, local authorities, agencies or statutory bodies, Treaty settlement / related entities and other identified Māori groups with interests. The Ministers will have broad discretion to approve or decline parts or all of the projects and whether to disregard any recommendation made by an Expert Panel.

Projects deemed “ineligible” are set out in section 18 of the Bill. They include projects that would include, as examples, an activity that would occur on land returned under a Treaty settlement or on identified Māori land.

Expert Panel to consider eligible projects

Projects which are referred into the fast-track approvals process will be considered by an Expert Panel, typically comprised of four people including a former Environment or High Court judge.

The Panel will have a limited discretion to consult as part of its decision-making process and may or may not decide to hold hearings.

It will have a maximum of six months to make a recommendation to the joint Ministers to approve (with conditions) or decline the project.

The presumption in the legislation appears to be that the joint Ministers will adopt the recommendation of the panel when they make the final decision as to whether or not to approve a project (whether wholly or in part) and as to any conditions to which an approval may be subject. However, this is not a given as the joint Ministers have discretion to deviate from the panel’s recommendation provided they have “undertaken analysis of the recommendations and any conditions included in accordance with the relevant assessment criteria.” Accordingly, the Bill does create scope for the joint Ministers to reach a decision on an application which is very much at odds with the recommendation made by the panel on that same application.

The joint Ministers also have the ability to refer a project back to the panel for further review and/or for the potential revision of the panel’s recommendation.

Appeals process

If a project is rejected, the applicant can appeal to the High Court on points of law only, or seek judicial review of the Minister’s decision. If the High Court rejects the appeal, the applicant can apply to the Supreme Court for leave to appeal.

Controversy

The Bill is not without its critics. New Zealand’s public broadcaster, RNZ, reported on the ‘March for Nature’ on 8 June which attracted thousands to central Auckland in protest that the Bill would be “bad for the environment”.

It remains to be seen what changes – if any – the Government will be prepared to make to the Bill to ensure its safe passage or whether the coalition partners will prefer to push it through in its current form.

For more information or to stay informed on the Bill’s latest developments, please contact Paul Chambers.



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Understanding Statutory Land Valuations in Australia: A State-by-State Breakdown

Author: Nick Knowlman

Rates, land taxes, and other taxes and levies charged on properties in the six states and two territories around Australia are, almost without exception, calculated in proportion to some version of the value placed on each property by the Valuer-General in the relevant jurisdiction.

Without exception, these values are assessed in accordance with a state or territory act empowering and requiring the Valuer-General to make the valuation assessments and the procedures to be followed during that process.

The taxes, rates, and levies calculated using the assessed valuations are significant and ongoing, often leading to difficulties retaining properties or compromising the profitability of property-dependent businesses.

Valuation Methods

Typically, these rates, land taxes, and levies payable are calculated by multiplying the unimproved value of a property – its market value if it were sold without buildings and most other improvements – by a factor determined by the relevant local authority or state revenue office. In some cases, including Victoria and Western Australia, municipal rates are calculated by applying a factor to the assessed full capital value of the property – including the value of buildings and other improvements.

Often the values placed on properties are based on mass valuation methods, which fail to take account of the characteristics of individual properties, which can result in significant errors in valuations.

Objection Process

All jurisdictions provide an avenue for objecting to an assessed valuation, but the time period for lodging an objection is limited – usually 60 days – and it is often strictly enforced. Objection time limits are listed for each jurisdiction **below**.

If the initial response to an objection is unsatisfactory, further appeals are always available, but only if a valid objection has first been lodged.

It is important to note that generally only certain grounds of objection, with supporting evidence, will be considered. If broad or incomplete grounds are used, the objection will be deemed as not being ‘properly made’ and a correction notice will be issued.

For example, the Queensland Valuer-General has indicated that acceptable grounds for objection may include:

1. sales evidence supporting a different value;
2. the physical characteristics or constraints on the use of the land supporting a different value; or
3. other issues that may affect the valuation.

Grounds that the Queensland Valuer-General has listed as likely to be deemed unacceptable include:

1. statements that are unsubstantiated, broad or generalised;
2. comparisons with the general market indicators; or
3. comparisons to previous land values.

State and Territory Specific Guidelines

Queensland

In Queensland, objections must be lodged within 60 days of the date of issue of the valuation notice.

The 60-day objection period for the 2024 land valuations closed on Monday, 27 May 2024.

New South Wales

Land in New South Wales is valued for rating and tax purposes as at 1 July each year. You have 60 days following the issue of a new valuation to object.

After lodgement of the objection, the Valuer-General will review the case and provide a decision within 90 days.

If you are not satisfied with the outcome of your objection, you can appeal to the Land and Environment Court of New South Wales.

Victoria

Land in Victoria is valued for rating and tax purposes as at 1 January each year. The Valuer-General Victoria is the valuation authority for annual valuations of all land in Victoria for council rates, land tax and the fire services property levy.

Both an Unimproved Site Valuation (**SV**), and a Capital Improved Valuation (**CIV**) (the value of the land plus the buildings on it and any other capital improvements) are assessed for each property. A notional annual income for each property, called a Net Annual Value (**NAV**), is also used.

Note that in Victoria, in addition to rates and land tax, land is potentially subject to a Windfall

Gains Tax (calculated on any “instantaneous” increased Capital Improved Value on land re-zoning), a Vacant Residential Land Tax, and a Fire Services Property Levy. Whilst Land Tax in Victoria is levied on Unimproved Valuation as in New South Wales and Queensland, Municipal Rates, the Windfall Gains Tax, and the Vacant Residential Land Tax are calculated using the CIV.

While the Valuer General Victoria carries out all statutory valuation in the state, objections to a rates valuation must be lodged with the relevant local authority and objections to a land tax valuation must be lodged with the State Revenue Office.

Land Tax objections and (generally) rates valuation objections must be lodged within two calendar months of an assessment.

South Australia

South Australian land values are determined by the SA Valuer General as at 1 January each year. Both Site Value (essentially, unimproved land value) and Capital Value (Site Value plus value of improvements including buildings) are assessed.

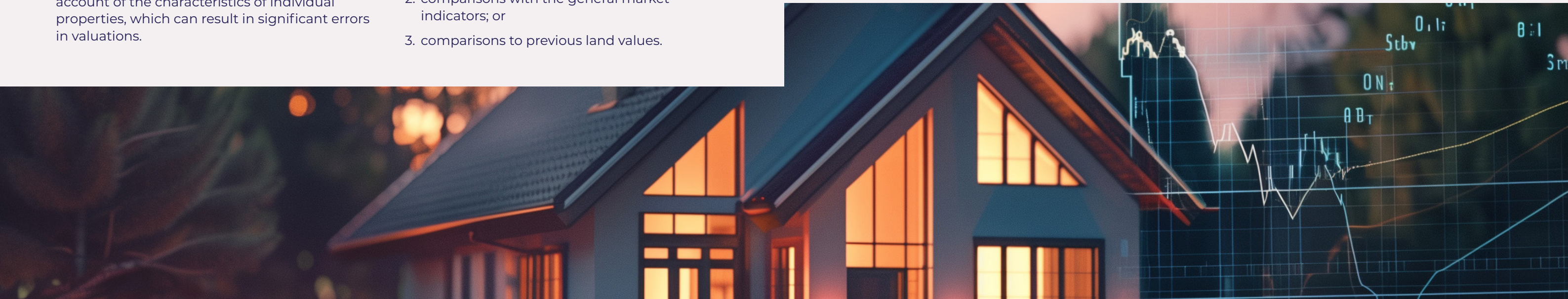
Site Values are used to determine:

- some regional council rates; and
- Land Tax.

Capital Values are used to determine:

- most council rates;
- Emergency Services Levy; and
- Water and sewerage rates.

Objections to valuations must be lodged within 60 days of receiving the first rate notice from any rating authority for the financial year.



Western Australia

An objection must be lodged within 60 days of the date of issue stated on your local government rates, water rates, land tax or pastoral rent notice.

Your billing notice is required to be paid by the due date, irrespective of whether an objection will be or has been lodged. Once a decision has been made by the Valuer-General, Landgate will inform all relevant rating authorities of any revised gross rental value (**GRV**) or unimproved value (**UV**). These authorities will reference the new assessment, adjust your rates or land taxes where applicable, and provide either a refund (where GRV/UV has reduced) or an interim rate notice for additional payment (where GRV/UV has increased).

The GRV is the total annual rent a property might reasonably be expected to earn each year if it was rented out. This includes associated rates, taxes, charges, insurances, and other outgoings. For non-residential properties, GST is also included.

The GRV is determined by the Valuer-General for all rateable and leviable properties in Western Australia. Landgate provides these figures to rating authorities who use it to work out the rates, service charges, and levies that property owners must pay.

UV is the value of the land only. For land within the metropolitan area and regional townships, the UV includes merged improvements such as drainage, levelling, and filling.

The UV is provided to:

- RevenueWA to determine land tax (for properties that are not the owner's primary residence); and
- Local governments to determine rates on some properties of a rural or rural-residential nature.

Australian Capital Territory

There is a strict 60-day time limit for lodging objections to valuations. This period begins on the date you receive your valuation notice, except in relation to commercial land where additional information has been requested.

For valuations of commercial land and rural land, if you lodge a request for additional

information within 28 days of receiving your valuation notice, the time limit to lodge an objection to the valuation is 60 days from when you receive the additional information.

Under the law, the Commissioner for ACT Revenue cannot accept objections after these time limits.

You must wait until you receive your next annual valuation notice for the opportunity to object.

Northern Territory

Every three years, property owners in the Northern Territory are issued a notice of valuation for their property from the Valuer-General. This notice specifies the unimproved capital value of the property as assessed by the Valuer-General. The valuations are dated 1 July of the year in which the valuation is performed.

Landowners in the Northern Territory have only 30 days from the date of issue (as opposed to receipt) of a valuation notice to object.

Tasmania

An owner of land can object to a statutory valuation. The objection must be made within 60 days from receiving a Notice of Valuation.

Stay Informed and Take Charge of Your Valuation Process

Understanding your property's statutory valuation is essential for navigating the complexities of taxes, rates and levies.

Protect your financial stability by staying informed, and consider reviewing your valuation to ensure fairness and accuracy. If you believe your property has been overvalued, take advantage of the objection process within the specified timeframe. A proactive approach today can lead to significant savings and peace of mind in the future.

If you require guidance and support to navigate this complex system, reach out to [Nick Knowlman](#).



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“It’s not a house, it’s a home”: Compulsory Acquisition and Compensation in Victoria

Authors: Brit Ibanez, Emily Pendlebury and Angus Verheul



In 1997, the quirky Melbourne-based Kerrigan family became a national icon on the release of “The Castle”, in which the Kerrigan’s were faced with the compulsory acquisition of their family home by the Victorian Government exercising its powers under the *Land Acquisition and Compensation Act 1986* (Vic) (**LAC Act**).

Off the silver screen, the LAC Act governs the process for compulsory acquisition of property in Victoria by an authority (the acquiring authority) and the basis upon which compensation may be sought from the acquiring authority by an interest holder in the acquired land (the **claimant**).

A claimant has several potential limbs under which compensation may be sought. This article considers the market value and disturbance heads of compensation in the case of partial acquisitions of land in Victoria.

“Tell him he’s dreaming”: Market value

Where only a portion of the property is acquired (**partial acquisition**), the LAC Act mandates a “before and after” valuation, which requires an “*assessment of the difference in market value of the whole pie in which the claimant has an interest in the before and after situation and not a direct assessment of the value of the piece bitten out of it*”.

This forms a ‘rolled up’ assessment of the value of the interest acquired, including considerations as to market value, severance and depreciation in value of the interest of the claimant.

In all Australian jurisdictions, the guiding principle of ‘market value’ of land is the land’s most advantageous use, otherwise known as the “highest and best use”, which may or may not be the current use of the property.

In Victoria, market valuation is assessed *as at the date* of acquisition. By valuing land in this way, the effect of the acquisition on the market value of the land as a whole is captured and the claimant is afforded a much greater potential for compensation than would be afforded if the market valuation was conducted on the acquired portion only. For example, the acquired portion may have an odd shape or dimensions that are suitable for a pipeline or other utilities, but which would mean that its potential highest and best use when considered in isolation is very limited.

“The law of common sense”: Loss attributable to disturbance

Disturbance under the LAC Act is narrowly defined as any pecuniary loss suffered by a claimant as a *natural, direct and reasonable consequence* of the acquisition of the land, which requires a “*very close and limited connection between the event giving rise to a right to compensation and the financial loss suffered*”.

In practical terms this means:

- the acquiring authority will focus on the wording “very close and limited connection” to restrictively construe disturbance loss; and
- the loss must be suffered; potential loss is not sufficient. For example, even though the surrounding property (i.e., the unacquired portion) may be significantly disturbed by works on the acquired land in the future, there is no claim for disturbance loss until the loss has been suffered.

As the effects of disturbance may only be quantifiable well after the land has been acquired, the claimant may be unable to claim disturbance as part of its notice of claim for negotiation with the acquiring authority.

However, if a claimant is willing to litigate its claim for disturbance loss, Courts have adopted a more favourable interpretation of the term “consequence” in section 40 of the LAC Act. Courts consider the term should not be read in any narrow or restrictive fashion, rather a claimant must be able to establish a factual link between causation of the loss and the loss following acquisition, and be able to quantify the loss.

Traditionally, the following items may support a claim for disturbance losses:

- removal expenses;
 - costs associated with the purchase of replacement property, including stamp duty and financial costs associated with the discharge of a mortgage and executing a new mortgage; and
 - costs arising from business interruptions incurred due to the acquisition of land;
- Conversely, the Courts have rejected claims for disturbance loss for:
- Loss of opportunity relating to interest payable by the Victorian Government on the offer for compensation;
 - executive time diverted to the issue of acquisition, in circumstances where the claimants failed to establish a reduction in taxable income or partnership income; and
 - replacement property, where the claimant did not adduce any evidence of an active effort to search for replacement property.

“How’s the serenity? So much serenity”: Solatium

Solatium is claimable for intangible and non-pecuniary disadvantages resulting from the compulsory acquisition of the property. The LAC Act provides examples of relevant factors when calculating solatium, such as the inconvenience likely to be suffered by the claimant by reason of acquisition of the land.

Solatium is capped at 10% of the market value of the land assessed pursuant to section 41(3) of the LAC Act, being the “rolled up” market value which may include severance and special value to the claimant. This will result in a higher value of solatium than an assessment based on the market value of the acquired portion only.

Although solatium is capped at 10% of the market value, in practice such a high percentage is likely to apply only to individuals being traumatically dispossessed of their long-held residence. An owner of a commercial property is likely to be awarded less than 5% of market value as solatium.

“It’s Justice. It’s Law. It’s the vibe, no that’s it”: Conclusion

For the Kerrigan’s hope comes in the form of retired Queen’s Counsel Lawrence Hammil, who provides a rousing argument based on section 51(xxxi) of the Constitution. Outside of Hollywood, just compensation is best achieved by claiming compensation under Part 4 of the LAC Act.

For partial acquisitions in Victoria, valuations are required to apply a “before and after” method. Valuations must consider the difference between the market value of the interest before the acquisition and the market value of the interest after the acquisition (being the entire block of land less the acquired portion).

Claiming disturbance losses can be tricky. Whilst the claimant may have knowledge of future losses that are likely or certain to occur, if losses cannot be quantified the authority (or Court) is unlikely to entertain a disturbance loss claim.

Solatium imposes discrete issues upon claimants. Owing to the nature of solatium, occupiers of the land may need to negotiate with landlords regarding entitlements to compensation under this head of loss.

Secure your rights

Whether you’re dealing with market value assessments, disturbance losses, or solatium claims, it’s essential to be well-informed and prepared. Taking action when faced with compulsory acquisition is crucial.

If you’re facing a compulsory acquisition, don’t hesitate to seek expert advice to ensure you receive the full compensation you deserve. If you have any questions or would like any more information, please reach out to Brit Ibanez.



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Impact of Proposed PPS Reforms on Real Estate Financing: What You Need to Know

Authors: Andrew Vincent and Peter Mutema

The key collateral on a real estate financing deal is, of course, the relevant real property.

However, financiers also typically require a general security deed covering all the personal property of the relevant security provider. It is common for such transactions to include share/unit specific security deeds as well. Any such security interest must be registered on the Personal Property Securities Register (**PPSR**) established under the Personal Property Securities Act 2009 (Cth) (**PPSA**).

In this context, the Federal Government’s recently proposed reforms to the PPSR are relevant to all stakeholders in real estate financing transactions, particularly financiers and professional trustees who service financiers.

Proposed PPS reforms

The Federal Government released its exposure draft legislation in November 2023, consisting of the *Personal Property Securities Amendment (Framework Reform) Bill 2023* and new regulations through the *Personal Property Securities Regulations 2023*. The Attorney General’s Department is now consulting with State and Territory Governments before introducing the legislation to the Federal Parliament.

Below, we set out a summary of some of the proposed reforms that stakeholders in real estate financing transactions should keep in mind.

Issue	Proposed amendment
Simplification of collateral classes	To simplify the collateral registration process, the proposed reforms will reduce the number of collateral classes from nine (with multiple sub-classes) to six standalone classes. The typical collateral classes in these transactions, being ALL PAAP and ALLPAAP Except, will be retained.
Duration of registrations	Registrations with no end time will no longer be available. Registrations against natural persons have a maximum duration of 7 years. Registrations against other persons will also have a maximum duration of 7 years, except ALLPAAP and ALLPAAP Except registrations which may be 25 years.
Registrations against trust assets	The requirements for registrations against trust assets are amended such that registrations should be made against the trustee (which is different to the current market practice of making registrations against the trust ABN or, in the absence of an ABN, the trust name).
Perfection by control in relation to an Investment Instrument (i.e., shares, units)	Under the current law, a person has control of an Investment Instrument if they have possession of the instrument and are able to transfer or otherwise deal with the instrument. Under the proposed amendments, a person will have control of a certificated Investment Instrument only if the instrument cannot be dealt with except with the consent of the secured party and, in addition, one of the following applies: - the secured party (or a third party on its behalf) is registered as the owner of the instrument on the issuer’s books; or - the secured party (or a third party on its behalf) possesses the instrument. Other rules apply for uncertificated instruments.
PMSIs	It will no longer be necessary for a registration to indicate whether or not it is a Purchase Money Security Interest. The timeframes for registering a PMSI will still apply, however (i.e., if the collateral is “inventory” before the grantor gets possession/attachment of the collateral and if the collateral is not “inventory”, 15 working days from when the grantor gets possession/attachment of the collateral).
Selection of multiple collateral classes	It will be possible to select more than one collateral class in a registration, except for ALLPAAP and ALLPAAP Except registrations.
Serial numbered goods	Serial numbered registrations for aircraft, motor vehicles, watercraft or certain intellectual property only need to be registered if the grantor is a natural person or if the secured party wants to avoid “taking free” risk
Amendment demands	A contract term which prohibits making an amendment demand is void.
Fixtures	Although no amendments are currently proposed, the Federal Government has indicated that it is exploring with States and Territories whether “fixtures” could be brought within the scope of the PPSA. This may ultimately be relevant to real estate financing deals where fixtures exist or may exist on the relevant real property.

Importantly, the above is only a small snapshot of the contemplated changes. Some 345 changes have been recommended.

Next Steps for Financiers and Stakeholders

Financiers will need to consider their existing PPSA registration policies in light of the changes to determine how they make their registrations going forward. Financiers should also monitor any further changes that are proposed, as the Federal Government continues its consultation with other governments. In particular, any change which brings fixtures within the scope of the PPSA would be something of interest.

We will continue to monitor, and comment on, the proposed changes to the PPSA, particularly as updates become available and the legislation is introduced to Federal Parliament. If you have any questions or would like any more information, please reach out to [Andrew Vincent](#) or [Peter Mutema](#).



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