

**2015**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**RATES AMENDMENT BILL 2015**

**EXPLANATORY STATEMENT**

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# RATES AMENDMENT BILL 2015

## Summary

The *Rates Amendment Bill 2015* amends the *Rates Act 2004*.

## Overview

### Background

Part 3 of the *Rates Act 2004* (the Rates Act) provides for the imposition of rates in accordance with the following formula:

$$FC + (AUV \times P)$$

The fixed charge (FC) is determined by disallowable instrument under section 139 of the *Taxation Administration Act 1999* while the variable charge is a percentage (P) of the average unimproved value (AUV) of a parcel of rateable land.

The AUV is a three-year average of a parcel's unimproved value as determined by the Commissioner for ACT Revenue (the Commissioner) according to normal principles of land valuation.

Unimproved values are determined annually as of 1 January with the general rates levied across the following financial year. For example, the AUV of a rateable property on 1 January 2015 is used to work out the property's rates liability for the 2015–16 financial year.

### The Bill

This Bill amends the Rates Act to establish a methodology for changes in the unimproved value of airport lands.

The Bill is intended to reflect the unique nature of Canberra Airport's lease arrangements and the limitations on the purpose and use of airport lands. The unique combination of the Crown Lease for the Airport's site which was developed when the Airport was privatised, and the essential infrastructure, results in the need for this alternative methodology. It recognises the difficulty in determining an unimproved value for airport land for rating purposes.

### Description of methodology

The amendments in this Bill address the manner in which the AUV of airport land varies from year to year.

The methodology affects only the AUV component of the rates formula for airport land (that component is referred to in this Explanatory Statement as the 'AUV of airport land'). The methodology will apply to the assessment of both general rates and the Fire and Emergency Services Levy (FESL).

Instead of being an average of unimproved values over three years, as with other ACT rateable land, the AUV of airport land will instead be indexed annually from an agreed base value of \$23,931,667 (the average unimproved value of all airport land as determined at 1 January 2014).

The indexation will be based on a combination of two factors.

- The first factor is the **development index**, or the change in the ‘total lettable area’ (TLA) of airport land measured in square metres. This is intended to capture any further development on airport lands. The development index will be calculated by reference to a base figure of 377,901m<sup>2</sup>, which is the agreed TLA of Canberra Airport as at 1 January 2014).
- The second factor is the **growth index**, or the average increase (or decrease) in the AUVs of all commercial land (other than airport land) in the Territory in the previous year. This is intended to capture the general growth in commercial unimproved values over time.

Both the growth index and development index are expressed as decimal amounts.

#### Benefits of methodology

The approach in this Bill will provide certainty for both Canberra Airport and the Government in terms of revenue, as the growth path for Canberra Airport’s AUV will be relatively stable (subject to fluctuations in the commercial market).

The new airport rating methodology will also preserve broad consistency with the assessment of rates for other commercial land in the Territory.

In the formula  $FC + (AUV \times P)$  under section 14 of the Rates Act:

- The FC applying to airport land will be the same as other commercial land.
- P, the marginal rating factor, will also apply on the same basis as for other commercial properties.
- Only the AUV component will be calculated differently from year to year. Instead of being based on an annual revaluation, it will vary based on the growth and development indexes described above.

The rates payable by Canberra Airport will therefore be subject to the Government’s policy.

#### Human rights

This Bill is not expected to have human rights implications.

#### **Commencement**

The amendments will commence on the day after notification with the methodology first applying to airport land for the 2016–17 financial year. The methodology is intended to operate for a 15-year period.

## Details of the *Rates Amendment Bill 2015*

### **Clause 1      Name of Act**

This clause provides that the name of the Act is the *Rates Amendment Act 2015*.

### **Clause 2      Commencement**

This clause provides that the Act commences on the day after its notification day.

### **Clause 3      Legislation amended**

This clause provides that the Act amends the *Rates Act 2004*.

### **Clause 4      Imposition of rates Section 14 (3), definition of *AUV***

Section 14 (2) of the Rates Act sets out the formula for imposing rates:

$$FC + (AUV \times P)$$

This clause amends the definition of *AUV* in section 14 (3) to provide that, in the case of airport land, the *AUV* to be used in the rates formula is worked out under new section 40C.

The amendment ensures that rates are imposed for airport land subject to the new provisions. Nevertheless, components *FC* and *P* of the formula continue to be based on the amounts determined by the Minister under section 139 of the *Taxation Administration Act 1999*.

### **Clause 5      New part 5A**

This clause introduces a new part 5A (Airport land). This part presents a methodology for determining the *AUV* for airport land in each period of assessment for general rates and the *FESL*.

Section 40A contains definitions for new part 5A. These terms form part of the new airport rating methodology.

Section 40B defines *airport land* by specifying parcels of land in the Majura and Pialligo districts.

Airport land also includes any other land comprised in an airport lease granted by the Commonwealth to Canberra Airport under the *Airports Act 1996* (Cwlth) (*Airports Act*).

This provision ensures all relevant land is subject to the alternative rating methodology.

Section 40C provides the formula used to work out the *AUV* of airport land for a particular year using the development and growth indexes as well as the previous year's *AUV*:

$$\textit{last AUV} \times (1 + (\textit{growth index} + \textit{development index}))$$

The *last AUV* is the AUV of airport land as at the previous 1 January. This value is indexed by the addition of the development and growth indexes, such that a decrease in one index will offset an increase in another when applied to the last AUV.

This calculation is subject to new section 40D (1) and (2), which provide that the development index will be zero in a year if the TLA of airport land has not reached 377,901m<sup>2</sup>. The growth index would still be calculated for such years in accordance with new section 40E.

As at 1 January 2015, the AUV of airport land is defined as \$23,931,667. This figure would be used as the last AUV in working out the AUV as at 1 January 2016.

New section 40C provides broad consistency with the general rates framework for other commercial properties—that is, in all other respects, the rating structure applies to Canberra Airport exactly as it does to any other rate payer.

#### Example

To work out the AUV of airport land on 1 January 2016, the last AUV of **\$23,931,667** is used in accordance with section 40C (1).

The TLA of airport land on 1 January 2016 was less than 377,901m<sup>2</sup>; therefore, the development index for calendar year 2016 is **0.00** (in accordance with section 40D (1) and (2)).

The growth index for calendar year 2016 is **0.08** (in other words, the AUV of relevant commercial land increased by 8% as compared to the previous year).

The AUV of airport land is worked out as follows:

$$\$23\,931\,667 \times (1 + (0.08 + 0.00)) = \$25\,846\,200$$

On 1 January 2017, the AUV of airport land as at 1 January 2016 (**\$25,846,200**) is used as the last AUV.

The TLA of airport land as at 1 January 2017 is 393,017 m<sup>2</sup>. Therefore, section 40D (2) applies. The last TLA used is 377,901m<sup>2</sup> pursuant to section 40D (5). This results in a development index of **0.04** for calendar year 2017.

The growth index for calendar year 2017, however, is a negative value of **-0.06**.

The AUV of airport land as at 1 January 2017 will be:

$$\$25\,846\,200 \times (1 + (-0.06 + 0.04)) = \$25\,329\,276$$

Section 40D defines the *development index* used in working out the AUV of airport land.

The development index is the change in the TLA for airport land over a calendar year expressed as a decimal amount. This index is intended to reflect the increased value of airport land from changes in commercial development space.

Generally, if the TLA increases in a year, the following year's development index will be a positive amount.

TLA is defined as the total of the following:

- for **terminal buildings**, the gross floor area of the buildings in square metres;
- for **other buildings**, the total of the net lettable area and gross lettable area—retail worked out in accordance with the Property Council of Australia publication *Method of Measurement for Lettable Area*;
- but not including:
  - areas developed only for an **aviation activity**; and
  - areas for which a **certificate of compliance** under the Airports Act has not been issued (that is, areas where development is not yet completed).

The definition of TLA is intended to encompass the commercial areas of the airport terminal, office and retail space. However, TLA excludes any area developed only for an aviation activity related to the development or use of airport land.

Aviation activities are defined under subsection (5) as any activity involving a runway, taxiway, apron, hangar, aviation rescue firefighter station, Airservices Australia facility, control tower or anything else prescribed by regulation.

Subsection (1) provides the development index is not used to work out the AUV of airport land until the first calendar year in which, on 1 January, the TLA is equal to or more than 377,901m<sup>2</sup>. In that year and subsequent years, the development index is worked out based on the change in TLA.

Otherwise, if the TLA is less than 377,901m<sup>2</sup> on 1 January (and has not been more than or equal to that value in a previous calendar year) the development index for that year is deemed to be zero.

The purpose of subsection (1) is to take account of the net lettable area of buildings which have approval for development, but which will not have been constructed or completed by the commencement of these amendments.

Subsection (3) requires the Canberra Airport to give the Commissioner a copy of an audited statement of the TLA (as at 1 January each year) by 30 April in that year.

For example, Canberra Airport is required to give the Commissioner an audited statement, relating to development or demolition in calendar year 2015 and the TLA of airport land on 1 January 2016 (if subparagraph (b) (ii) applies), by 30 April 2016.

The statement must be prepared by an independent auditor, appointed by Canberra Airport as appropriate. The auditor used does not need to be different from the independent auditor used to prepare other reports on behalf of Canberra Airport.

The statement must set out whether any development or demolition has completed in the last calendar year, and if completed, the TLA as at 1 January in the particular year the statement is provided. Additionally, the statement must be given to the Commissioner whether or not the TLA has reached 377,901m<sup>2</sup>.

Subsection (4) requires the Commissioner to consider the information in the statement in working out the development index.

<b>Examples of the development index</b>				
<b>Date</b>	<b>Total lettable area</b> (from audited statement)	<b>Last total lettable area</b>	<b>Development index</b>	<b>Notes</b>
1 January 2016	373,901m <sup>2</sup>	N/A	zero	Subsection (1) (b) applies.
1 January 2017	381,680m <sup>2</sup>	377,901m <sup>2</sup>	0.01	Subsection (1) makes this year the <i>first year</i> .  The <i>last total lettable area</i> is deemed at 377,901m <sup>2</sup> .
1 January 2018	389,314m <sup>2</sup>	381,680m <sup>2</sup>	0.02	
1 January 2019	369,848m <sup>2</sup>	389,314m <sup>2</sup>	-0.05	Negative amount due to decrease in TLA.

Section 40E defines the **growth index** used in working out the AUV of airport land. This index is intended to reflect changes in the average unimproved values of commercial land in the ACT generally.

The growth index is the change in the total average unimproved value of all **relevant commercial land**, over a calendar year, expressed as a decimal amount.

**Relevant commercial land**, for a particular year, means all commercial land in the Territory on 1 January (excluding the airport land defined in these amendments) that has been commercial land for the whole of the previous calendar year.

In other words, land is not counted in the commercial land AUV if it has not been commercial land for part of the previous calendar year. This condition is to ensure that changes to the growth index are not the result of the surrender of existing land or release of new land, but rather a genuine reflection of the changes in commercial AUVs over the 12-month period.

New section 40E (2) requires the Commissioner to give Canberra Airport information about the commercial land AUV as at 1 January of a particular year by 30 April. For example, the Commissioner is required to give Canberra Airport information about the 1 January 2016 commercial land AUV by 30 April 2016.

<b>Examples of the growth index</b>				
<b>Date</b>	<b><i>Second commercial land AUV</i></b>	<b><i>First commercial land AUV</i></b>	<b><i>Growth index</i></b>	<b>Notes</b>
1 January 2016	\$3,780,000,000	\$3,500,000,000	0.08	
1 January 2017	\$3,780,000,000	\$3,780,000,000	zero	No change as AUVs are the same.
1 January 2018	\$3,628,800,000	\$3,780,000,000	-0.04	Negative amount (decrease in commercial AUV)
1 January 2019	\$3,701,376,000	\$3,628,800,000	0.02	

Section 40F provides for the expiry of the new airport land provisions 15 years after their commencement day.

After the expiry of the provisions, rates will be imposed for airport lands based on annual determinations of their unimproved value, the same as for other rateable land.

**Clause 6      Levies**  
**Schedule 1, part 1.1, section 1.1 (3), definition of AUV**

Schedule 1, section 1.1 of the Rates Act imposes the FESL in accordance with the following formula:

$$AUV \times P$$

This clause amends the definition of **AUV** in this section to provide that, in the case of airport land, the AUV to be used in the FESL formula is the AUV of airport land worked out under new part 5A.

The amendment ensures that FESL is worked out for airport land according to the new provisions.

**Clause 7      Dictionary, new definitions**

This clause inserts references to new definitions added to the Rates Act by clause 5 of this Bill.