

IN THE HIGH COURT OF AUSTRALIA
HOBART REGISTRY

ON APPEAL FROM THE FULL COURT
OF THE SUPREME COURT OF TASMANIA



H10
No. H1 of 2015

10 BETWEEN: (WARRICK COVERDALE, VALUER-GENERAL
(OF THE STATE OF TASMANIA Appellant
(
(- and -
(
(WEST COAST COUNCIL Respondent

**SUBMISSIONS OF THE ATTORNEY-GENERAL OF TASMANIA
AS CONTRADICTOR**

20 **Part I: Publication**

1. These submissions are in a form suitable for publication on the internet.

Part II: Issues

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2. This case is concerned with the rateability of eight marine farming leases granted over an area of State waters pursuant to the *Marine Farming Planning Act 1995* (the Marine Farming Act). For convenience this is referred to as the land in question.
 3. Two issues arise. First, whether it is sufficient to engage the duty of the Valuer-General pursuant to section 11 of the *Valuation of Land Act 2001* (VLA) if the land in question is Crown land which is liable to be rated in accordance with Part 9 of the *Local Government Act 1993* (LGA)? This is how Estcourt J, it is submitted correctly, approached the construction question.
 4. Secondly, if not, whether the land in question is land within the meaning of section 11 of the VLA?

40 **Part III: Section 78B of the Judiciary Act 1903**

5. The Attorney-General has considered whether any notice should be given in compliance with section 78B of the *Judiciary Act 1903* and has concluded that no notice needs to be given.

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Part IV: Material facts

6. The Attorney-General accepts as accurate the narrative statement of facts at Part V of the Appellant's submissions.

Part V: Applicable legislation and chronology

- 10 7. The Attorney-General accepts as accurate the schedule of legislation at Annexure A of the Appellant's submissions together with the chronology of the Appellant.
8. In addition the Attorney-General relies on the legislative provisions in Annexure A to these submissions.

Part VI: Submissions

9. In summary the Attorney-General submits that:
- 20 (a) it is sufficient to engage the valuation obligation, imposed by section 11 of the VLA, if on the facts there is Crown land that is liable to be rated in accordance with Part 9 of the LGA. Crown land need not be 'land' within the first part of the section. That is the effect of the words 'including any Crown lands' (**the Primary Submission**);
- (b) if **the Primary Submission** is incorrect, then upon a proper construction the reference to 'land' in section 11 of the VLA includes land covered by water and the seabed (**the Alternative Submission**).

30 *The legislative history*

10. The Appellant pays insufficient attention to the statutory context: the legislative history, purpose and the extrinsic materials.¹
11. The earliest rating statutes were specific to Hobart Town and Launceston.² The municipal council of Hobart Town (incorporated as a city) was empowered to make rates upon the occupiers of assessed lands and buildings³. This power did not

¹ *FCT v Consolidated Media Holdings Limited* [2012] HCA 55 (2012) 250 CLR 503 at [39] (the Court), *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* [2009] HCA 41 (2009) 239 CLR 27 at [4-5] per French CJ, *Kennon v Spry* [2008] HCA 56; (2008) 238 CLR 366 at [90] per Gummow and Hayne JJ, *Independent Commission Against Corruption (NSW) v Cunneen* [2015] HCA 14 (2015) 89 ALJR 475 at [57] per French CJ, Hayne, Kiefel and Nettle JJ.

² *Hobart Town Corporation Act 1857, Launceston Improvement Act 1858.*

³ Section 97.

extend to lands or buildings the property of, or occupied on behalf of, Her Majesty.⁴ Similar provisions applied to Launceston.⁵

12. Rural municipalities were incorporated from 1865.⁶ Rates were able to be made upon the annual value of property within a municipality.⁷ Property belonging to or occupied by Her Majesty was exempt.⁸

10 13. The broad structure of this statutory scheme was maintained pursuant to the *Hobart Corporation Act 1893*⁹, the *Launceston Incorporation Act 1894*¹⁰, the *Local Government Act 1906*¹¹, the *Hobart Corporation Act 1929*¹², the *Launceston Corporation Act 1941*¹³ and the *Hobart Corporation Act 1947*.¹⁴

14. The valuation of land was first separately provided for by the *Property Valuation Act 1857*. It did not apply to Hobart Town or Launceston¹⁵ but otherwise permitted the Justices to cause to be made Valuation Rolls of the whole of the property within each District.¹⁶

20 15. A series of Assessment Acts commencing in 1900 and extending to 1950 at first permitted the local authority of every district, but then the Chief Valuer, to cause an assessment roll to be prepared for rateable property within municipal areas¹⁷. These statutes did not define land as including Crown land.

16. The *Local Government Act 1962* provided for a general consolidation; except the cities of Hobart and Launceston retained independent statutes which operated concurrently.¹⁸

17. When first introduced, the 1962 Act permitted the corporation of a municipality to impose rates 'upon the occupiers of land within its municipal district.'¹⁹ It defined

⁴ Section 104. Repealed by 40 Vic No. 10 which, by section 2, continued the exemption for lands or buildings the property of and occupied on behalf of Her Majesty.

⁵ *Launceston Improvement Act*, sections 69 and 73.

⁶ *Rural Municipalities Act 1865*.

⁷ Section 119.

⁸ Section 136.

⁹ Sections 103 and 116.

¹⁰ Sections 115, 116 and 122.

¹¹ Sections 155, 173, 176(3) and 177(1).

¹² Sections 105, 106 and 122.

¹³ Sections 106, 107, 115.

¹⁴ Sections 101, 106(1) and 112.

¹⁵ Section 3.

¹⁶ Section 4. A District was defined as meaning a Police District by section 1.

¹⁷ *Assessment Act 1900*, the *Land Valuation Act 1909*, the *Annual Values Assessment Act 1911* and the *Land Valuation Act 1950*.

¹⁸ *Hobart Corporation Act 1963* and *Launceston Corporation Act 1963*.

¹⁹ Section 232(1) contained in Part XII. Additional specific rating powers were conferred upon the City of Launceston pursuant to the *Launceston Corporation Act 1963*, sections 90-102 and upon the City of Hobart pursuant to the *Hobart Corporation Act 1963*, sections 85-88. A presently notable aspect of each of the specific statutes was that the owner of land, and not the occupier, was liable to be rated: Launceston section 100 and Hobart section 85.

land to mean *'any parcel of land shown as separately valued in the valuation list of the municipality concerned.'*²⁰ It did not contain a separate definition of land. It did not permit the making of a rate or charge *'upon Her Majesty or the Commonwealth'*²¹.

10 18. By the *Local Government Amendment (Rates & Charges) Act 1985*²² the entirety of the rates provisions in Part XII were repealed and replaced. Pursuant to section 232 a corporation became entitled to raise money *'by rates and charges in respect of lands within its municipality'*²³. Land *'owned by the Crown... which is unoccupied or occupied exclusively for public purposes'* was, apart from presently irrelevant exceptions, exempt from all rates and charges²⁴.

19. The 1962 Act was repealed upon commencement of the LGA on 17 January 1994²⁵. At that time section 87(1) relevantly provided:

'(1) all land is rateable except that the following are exempt from general and separate rates and any rate collected under section 88 or 97:

20 *(b) land owned by the Crown which is unoccupied or occupied exclusively for public purposes (other than under the Homes Act 1935)*

...

(2) the owner of any land referred to in subsection (1) may agree to pay general or separate rates.'

20. Section 88 is concerned with the collection of rates on behalf of another rating authority. Section 97 permits the making of construction rates and charges for infrastructure.

30 21. Service rates could be made pursuant to section 93 for all or any of the listed services. Service charges could be made pursuant to section 94. In each case Crown land was not exempt. By section 95, a council could determine that a service rate or service charge for water supply or sewerage removal applied to any land within 30 metres at the nearest boundary from a council pipe, even though the service was not supplied to the land. By section 95(4), a council could not make a service rate or service charge in respect of other services unless they were supplied or available.

²⁰ Section 231.

²¹ Section 243(1). Similarly *Launceston Corporation Act*, section 100(2)(a). No similar provision was enacted for Hobart. The exemption for land of Her Majesty at section 243(1) of the 1962 Act applied.

²² 28 of 1985.

²³ Section 231 defined 'land' to mean *'a parcel of land shown as separately valued in the valuation list.'* Further it defined 'land value' to mean *'the land value of the land determined pursuant to the Land Valuation Act 1971 and as shown in the valuation list.'*

²⁴ Section 243(1)(b). The exceptions were expressed at section 243(5) and limited to land owned or occupied by the Director or Housing and land occupied by a Marine Board for the purposes of the *Marine Act 1976*, except those in the City of Launceston occupied by the Port of Launceston Authority. A more limited exemption applied to land belonging to a Marine Board within the City of Hobart pursuant to subparagraph (6).

²⁵ Statutory Rule 1/1994.

22. Section 86 defined 'land' as 'means a parcel of land which is shown as being separately valued in the valuation list prepared under the Land Valuation Act 1971.' It did not (and does not) contain a definition of 'Crown land' or 'land owned by the Crown.' It did (and does) define 'rateable land' as 'means land in respect of which rates are payable.'²⁶

10 23. The Assessment Act 1900, the Land Valuation Act 1909 and the Annual Values Assessment Act 1911 did not refer to Crown land. The Land Valuation Act 1950, by section 14, imposed a requirement on the Chief Valuer to "make a valuation of the unimproved values, improved values and assessed annual values of all lands (other than Crown lands) within each valuation district, and of such Crown lands within each valuation district as the Chief Valuer thinks proper to include in the valuation..." The Chief Valuer was required to furnish a valuation list to a rating authority.²⁷

20 24. The Land Valuation Act 1971 required the Valuer-General to "make valuations of the land values, capital values and assessed annual values of all lands (other than Crown lands) within each valuation district and of such Crown lands within each valuation district as the Valuer-General thinks proper to include in the valuation".²⁸ A 'District' was defined to mean a municipality.²⁹ Once again, the Valuer-General was obliged to furnish a valuation list to each rating authority.³⁰

25. The LGA was amended by the Local Government Amendment (Rates and Charges) Act 1995³¹. Section 87 was not amended but the service rate and service charge provisions were. Relevantly subparagraphs (4) and (5) were added to section 93:

30 '(4) a council must not make a service rate for a service referred to in subsection (1) in respect of Crown land if the council does not supply that service to that land.

(5) in subsection (4) 'Crown land' means land owned by the Crown which is –
 (a) unoccupied; or
 (b) occupied exclusively for public purposes, other than under the Homes Act 1935.'

26. Similar amendments were made to section 94³².

27. Section 87 was significantly amended by the State and Local Government Financial Reform Act 2003³³ (the Financial Reform Act). Subparagraph 1(b) was deleted and

²⁶ Section 3, definition.

²⁷ Section 43(1).

²⁸ Section 12.

²⁹ Section 3.

³⁰ Section 42(1).

³¹ The Act commenced on 23 May 1995.

³² '(4) A council must not make a service charge for a service referred to in section 93(1) in respect of Crown land if the council does not supply that service to that land.

(5) In subsection (4) 'Crown land' means land owned by the Crown which is –
 (a) unoccupied; or

(b) occupied exclusively for public purposes, other than under the Homes Act 1935.'

replaced with a new subparagraph (b) which expressed the exemption to apply in relation to *'land held or owned by the Crown that...'* was of a particular type. The specification included national parks, conservation areas, public parks, highways and railway lines.

28. Section 107 of the LGA was also amended by the Financial Reform Act. It is concerned with the variation of rates and charges within the municipal area by reference to a list of statutory factors. Subparagraphs (3) and (4) were inserted to limit the ability of a council to impose varied rates on State government bodies³⁴.

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29. The Financial Reform Act also amended section 11 of the VLA by deleting subsection (1) and by inserting subsection (1)(a):

'(1) The Valuer-General must, subject to this section, make –

(a) valuations of the land values, capital values and assessed annual values of all lands within each valuation district and Crown lands liable to be rated in accordance with Part 9 of the Local Government Act 1993; and...'

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30. The word *'and'* (before *Crown*) was replaced with *'including any'* on 1 January 2007³⁵. Thus, until the commencement of the Financial Reform Act:

(a) Crown land which was unoccupied or occupied exclusively for public purposes (other than under the *Homes Act 1935*) was exempt from general and separate rates together with any rates collected under sections 88 or 97; and

(b) Crown land could be the subject of a service rate or service charge, but only if a council supplied the relevant service to that land.

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31. The primary effect of the Financial Reform Act was to make all Crown land liable for rates and charges unless specifically exempted by categorisation at section 87(1)(b) of the LGA.

32. There is no reference in section 87(1)(b) to marine reserves, the seabed or land covered by water except for land owned by the Hydro-Electric Corporation³⁶. Although the *Nature Conservation Act 2002* defines land as including *'land covered by the sea or other waters and that part of the sea or those waters covering that land'*³⁷, it does not provide for marine reserves in the classification list at section 16. Nor does it make any other reference to marine reserves or protected areas.

³³ Act 65/2003 which commenced on 1 July 2004: section 2.

³⁴ By subparagraph (3): *'A council must not apply a higher general rate on a State government body than it would apply on a body of a similar nature that is not a State government body.'* Subparagraph (4) contained four definitions. A State government body was defined as meaning a State Service Agency, a statutory authority, a State-owned company or a Government Business Enterprise. The exemption was not expressed generally with respect to all Crown land.

³⁵ *Valuation of Land Amendment Act 2006*, section 2, Statutory Rule 157/2006.

³⁶ Section 87(1)(c).

³⁷ Section 3.

33. Marine protected areas may be created pursuant to the *Living Marine Resources Management Act 1995*³⁸. The Minister may establish a Marine Resources Protected Area for prescribed purposes.³⁹ Seven Marine Nature Reserves have been declared⁴⁰.

Context: Extrinsic material⁴¹

10 34. The second reading speech for the Financial Reform Bill is of assistance.⁴² What is clear is that the purpose of the Bill was to remove the general exemption enjoyed by Crown land from municipal rates and taxes except to the extent of express exceptions. Specifically in relation to the amendments to the VLA, Mr Kons said:

'Under the reforms, the Valuer-General will be required to value those parcels of Crown land that are liable to be rated in accordance with Part 9 of the Local Government Act 1993.'

Purpose: Financial Reform Act⁴³

20 35. The Financial Reform Act removed numerous taxation and assessment exemptions which had been enjoyed by State and local government. The amendments had the effect, *inter alia*, of imposing stamp duty on the transfer of property to a council,⁴⁴ land tax upon local government entities⁴⁵ and pay-roll tax upon councils.⁴⁶ In this context the balance which was struck "*between competing interests*"⁴⁷ resulted in Crown land being made, generally, subject to local government rates and charges.

The Primary Submission

30 36. The duty of the Valuer-General in accordance with section 11 of the VLA is to be read as a component of an integrated legislative scheme with Part 9 of the LGA. The text of the Financial Reform Act, its purpose and the extrinsic materials makes this clear.

37. Prior to the Financial Reform Act, land of the Crown enjoyed a broad exemption from municipal rates and charges except to an inconsequential extent. The

³⁸ Sections 104-117.

³⁹ Section 105(1). The purposes include the protection of estuarine habits and ecosystems, the maintenance of fish species and genetic diversity, the protection of vulnerable fish species and their habitats and public education in the resources, protection and use of the marine environment.

⁴⁰ Kent Group Marine Nature Reserve, Governor Island Marine Nature Reserve, Maria Island Marine Nature Reserve, Timber Docks Marine Nature Reserve, Ninepin Point Marine Nature Reserve, Port Davey/Bathurst Harbour Marine Nature Reserve and Macquarie Island Marine Nature Reserve.

⁴¹ *Acts Interpretation Act 1931*, section 8B.

⁴² Hansard, House of Assembly 2 October 2003 and Legislative Council 6 November 2003.

⁴³ Section 8A, *Acts Interpretation Act 1931*.

⁴⁴ Section 4 which amended the *Duties Act 2001*.

⁴⁵ Section 6 which amended section 17(e) of the *Land Tax Act 2000*.

⁴⁶ Section 10 which deleted section 10(e) of the *Pay-Roll Act 1971*.

⁴⁷ *Carr v Western Australia* [2007] HCA 47 (2007) 232 CLR 138 at [5] per Gleeson CJ.

legislative scheme displaced the immunity which would otherwise have applied in respect of all Crown land by reason of section 6(6) of the *Acts Interpretation Act 1931*⁴⁸. Accordingly, Pearce J correctly reasoned *'if the Crown was not bound by the Act, the exemption of certain categories of Crown land in section 87 would not be necessary.'*⁴⁹

38. Consistent with the purpose of the Financial Reform Act, section 11 of the VLA was amended, quite deliberately, by requiring the Valuer-General to value Crown land rather than by assuming that Crown land was otherwise liable to be rated as 'land'.

39. In consequence, the phrase *'including any Crown lands'* is to be construed as not confined by any limitation which may attach to 'land'. The inclusive provision must be given its full effect: *Corporate Affairs Commission (SA) v Australian Central Credit Union*⁵⁰:

*'The function of such an inclusive 'definition' is commonly both to extend the ordinary meaning of the particular word or phrase to include matters which otherwise would not be encompassed by it and to avoid possible uncertainty by expressly providing for the inclusion of particular borderline cases.'*⁵¹

40. On this interpretation Crown lands that are liable to be rated must be construed in an *'enlarged sense'*⁵².

41. For these reasons, the first limb of section 11 is not a necessary precondition to the engagement of the obligation which is imposed on the Valuer-General and the approach of Estcourt J was correct, if the land is Crown land.⁵³

42. There is no definition of 'Crown land' in the VLA or the LGA. The common meaning is simply *'land belonging to the Crown.'*⁵⁴ The common meaning is properly informed by the statutory definition in the *Crown Lands Act 1976*.⁵⁵ Further, in an

⁴⁸ *'No Act shall be binding on the Crown or derogate from any prerogative right of the Crown unless express words are included therein for that purpose.'* It is settled that the section extends to any necessary implication: *Kaye v Attorney-General for Tasmania (1956)* 94 CLR 193 at 204, *Brisbane City Council v Group Projects Pty Ltd (1979)* 145 CLR 143 at 167, *Bropho v State of Western Australia (1990)* 171 CLR 1 at 15 and *BMG Resources Ltd v Municipality of Beaconsfield (1988)* TAS.R. 142 at 144.

⁴⁹ Full Court reasons at [48].

⁵⁰ (1985) 157 CLR 201.

⁵¹ At 206-207, Mason ACJ, Wilson, Deane & Dawson JJ. See also *Favelle Mort Ltd v Murray (1976)* 133 CLR 580 at 588-589, Barwick CJ, *Zickar v MGH Plastic Industries Pty Ltd (1996)* 187 CLR 310 at 330 per Toohey, McHugh & Gummow JJ, *Brown v Brook (1971)* 125 CLR at 282, Windeyer J, *YZ Finance Co Pty Ltd v Cummings (1964)* 109 CLR 395 at 401-402, Kitto J and *FCT v St Hubert's Island Pty Ltd (1978)* 138 CLR 210 at 216, Stephen J and 225, Mason J.

⁵² *The Commonwealth v New South Wales (1923)* 33 CLR 1 at 49 per Isaacs J who also spoke of *'the whole of the enlarged definition of land'*.

⁵³ Estcourt J reasons at [29].

⁵⁴ *Commonwealth v New South Wales (1923)* 33 CLR 1 at 48 per Isaacs J, *Williams v Attorney General (NSW)* (1913) 16 CLR 404 at 425, 428, 439-440 (per Barton ACJ) and 540 (per Isaacs J), *The Melbourne Harbour Trust Commissioners v The Colonial Sugar Refinery Limited (1925)* 36 CLR 230 at 270-271 (per Isaacs J) reversed on appeal [1927] AC 343 but not relevantly in the present context.

⁵⁵ *Jennings Construction Limited v Burgandy Royale Investments Pty Ltd (1986)* 42 NTR 1 at 6, Kearney J.

appropriate context, it may include land covered by water. It is sufficient if the land in question is 'a definite portion of the terrestrial globe'.⁵⁶ It was common ground in the Courts below that the seabed of Macquarie Harbour is Crown land, the water in it is part of State Waters and that both are within the municipality of the Respondent⁵⁷.

43. The Attorney-General does not seek to support the reasoning of Blow CJ on the *pari materia* point.⁵⁸ It is accepted that the reasoning of Pearce J is correct to this extent.⁵⁹ It does not follow, however, that his Honour's exclusion of the *pari materia* rule led him to the correct result.

44. Section 11 of the VLA and section 87 of the LGA are each concerned with a particular characteristic⁶⁰ of land. Land is either Crown land or land held or owned by the Crown or it is not. The VLA and the LGA are not statutes which are concerned with the classification of various types of land. Each assumes that land has a particular characteristic and, if it does, certain consequences follow. Primarily the *Crown Lands Act* grants power to the Minister to 'reserve, set aside, manage, lease, license and transfer or otherwise dispose of Crown land'.⁶¹ Thus, the question is not whether the VLA or the LGA are statutes of classification or definition but, rather, what consequences flow pursuant to each because of a classification which is acquired or assigned by another mechanism.

45. In this case that mechanism is the *Crown Lands Act*. Section 2 defines 'Crown land' as meaning land 'which is vested in the Crown' and 'land' includes 'land covered by the sea or other waters, and the part of the sea or those waters covering that land'.⁶² It is uncontroversial that land so classified may, in some cases, be covered by water and may be or be part of the seabed.

46. Parliament has not legislated consistently in dealing with Crown land in Tasmania. Broadly three approaches have been adopted. First, statutes which refer to but do not define Crown land and which assume its status for regulatory control.⁶³

⁵⁶ *Commonwealth v New South Wales* at 23 per Knox CJ and Starke J, *Risk v Northern Territory* (2002) 210 CLR 392 at 118-119, per Callinan J. Reliance is placed on the primary meaning: a spherical representation of the Earth; pertaining to, consisting of or representing the Earth.

⁵⁷ Statement of Claim paragraph [2.7], Defence paragraph [7(a)], Reasons Blow CJ at [2], Tennent J [13], Estcourt J [24] and Pearce J [41].

⁵⁸ Primary reasons [24].

⁵⁹ Full Court reasons [62].

⁶⁰ Or status.

⁶¹ Section 3.

⁶² Definition, section 2.

⁶³ Examples are the *Boundary Fences Act 1908*, section 4 (interpretation, definition of owner), *Highways Act 1951* (section 3(3), reservation of Crown land for highway purposes), *Limitation Act 1974* (section 10, adverse possession of Crown lands), *Fire Service Act 1979* (section 66 permits and Section 57 fire breaks on Crown land), *Land Titles Act 1980* (section 27A bringing Crown land under the Act), *Forest Practices Act 1985* (section 3, definition of owner), *Port Arthur Historic Site Management Authority Act 1987* (section 3, definition of adjacent area), *Forestry Rights Registration Act 1980* (section 3, definition of owner of land), *Public Land (Administration & Forests) Act 1991* (section 135, definition of World Heritage Area), *Wellington Park Act 1993* (Section 3, definition of private right), *Private Forests Act 1994* (section 3, definition of private commercial forestry), *Aboriginal Lands Act 1995* (section 27, right of access to Crown land), *Land Tax Act*

Secondly, statutes which define Crown land as having the same meaning as in the *Crown Lands Act*.⁶⁴ Thirdly, statutes which contain an independent definition of Crown land.⁶⁵

47. The VLA and the LGA are each statutes in the first category. The textual and contextual structure of each Act, together with the identified purpose of the Financial Reform Act, do not require that Crown land or land held or owned by the Crown has a status which differs from the classification of land in accordance with the *Crown Lands Act*.

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The Alternative Submission

48. The Appellant contends that '*Crown lands are simply a sub-set of the lands to be valued*' and the primary obligation of the appellant is to '*value all lands within each valuation district*'.⁶⁶

49. A valuation district is the municipal area of each council⁶⁷. Municipal areas are determined by the LGA. The municipal area of the Respondent includes the entirety of Macquarie Harbour and the water in it.⁶⁸ The municipal area includes any accretion from the sea adjoining it and any part of the sea-shore to the low water mark adjoining it.⁶⁹

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50. '*Land*' is not defined in the *Acts Interpretation Act 1931* as including land covered with water or the bed of any body of water.⁷⁰

2000 (section 17, land tax not payable on Crown land), *Meander Dam Project Act 2003* (section 8, land adjacent to State forest), *Rail Infrastructure Act 2010* (section 20 fencing obligations and section 12, acquisition of land), *Litter Act 2007* (section 4 application extended to Crown land and State Waters), *Macquarie Point Corporation Act 2012* (section 3, definition of site) and *Workplaces (Protection from Protestors) Act 2014* (section 3, definition of owner).

⁶⁴ Examples are *Forest Management Act 2013* (section 3 definition of Crown land), *Forestry (Rebuilding The Forestry Industry) Act 2014* (section 3 definition of Crown land), *Launceston Flood Risk Management Act 2015* (section 3 definition of Crown land), *War Service Land Settlement Act 1950* (section 3 definition of Crown land), *Closer Settlement Act 1957* (section 3 definition of Crown land), *Mining (Strategic Prospectivity Zones) Act 1993* (section 7, definition of Crown land), *Land Use Planning & Approvals Act 1993* (section 3 definition of owner), *Electricity Companies Act 1997* (section 3 definition of property), *Vermin Control Act 2000* (Section 3 definition of Crown land), *Evidence Act 2001* (section 177D, certificates of Surveyor-General).

⁶⁵ Examples are *Local Government (Highways) Act 1982* (section 3, Crown land means land which is vested in the Crown and which is not contracted to be granted in fee simple, and includes land granted in fee simple which is re-vested in the Crown by way of purchase or otherwise), *Mineral Resources Development Act 1995* (section 3, Crown land means any land vested in the Crown), *Threatened Species Protection Act 1995* (section 3, identical definition to the *Local Government Highways Act*), *National Parks & Reserves Management Act 2002* (section 3, Crown land means any land vested in the Crown (whether or not subject to any private right) other than land vested in the Crown that is contracted to be granted in fee simple) and *Nature Conservation Act 2002* (section 3, the definition is the same as in the *National Parks & Reserves Management Act*).

⁶⁶ Submissions [33].

⁶⁷ Definition, section 3 VLA.

⁶⁸ Statement of Claim paragraphs 1.3 and 1.4, Defence paragraph 1.

⁶⁹ LGA section 16(3).

⁷⁰ Section 46. Similarly, *Interpretation Act 1987* (NSW) section 21, *Acts Interpretation Act 1954* (QLD) Schedule 1, *Interpretation Act* (NT) section 17 and *Acts Interpretation Act 1901* (Cth) section 2B. Compare *Interpretation of Legislation Act 1984* (VIC) section 38 (includes land covered with water), *Interpretation Act*

51. The Attorney-General does not dispute that ordinarily land is to be distinguished from the sea.⁷¹ Somewhat obviously, the issue in this appeal is whether the legislative scheme requires the distinction to be maintained.

52. The land in question is defined and readily ascertainable as a 'portion of the terrestrial globe'⁷². Each is a lease of a designated area of State waters.⁷³ The lessee has exclusive possession of the area specified in each lease including each specified area of the seabed.⁷⁴

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53. For several reasons this Court's decision in *Risk* does not require a narrow answer to the construction question. First, this case concerns a harbour which is entirely within the municipal area of the Respondent. No general question of the seabed beyond the low water mark arises.⁷⁵

54. Secondly, no other provision of the VLA draws a distinction between land and sea and nor is there any contextual assumption to that effect.⁷⁶

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55. Thirdly, it is sufficient for land valuation purposes that the land in question be a 'defined three-dimensional space, identified by natural or imaginary points located by reference to the earth's surface'⁷⁷.

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56. Fourthly, no textual inconsistency arises if land in the VLA is construed as including the seabed of Macquarie Harbour and the water above it⁷⁸. The Appellant draws attention to section 45(1)(c) of the VLA⁷⁹ in support of a contention that 'there is no species of Crown land under the VLA, which does not answer the ordinary and literal meaning of land.'⁸⁰ Why that must be so is not revealed by the Appellant. No evident inconsistency arises if land for the purposes of sections 11 and 45(1)(c) is construed as, relevantly in this case, the seabed of a harbour and the water above it. The error in the approach of the Appellant is to regard Crown land as a sub-set of land without regard to the status of Crown land under the *Crown Lands Act*.

57. Fifthly, no conceptual difficulty arises in this case concerning a fee simple grant of a portion of the seabed covered by water⁸¹. The land in question is expressly in each case the subject of an interest in land granted pursuant to the Marine Farming Act.

1984 (WA) section 5 (includes land covered with water) and *Acts Interpretation Act 1915* (SA) section 4 (land includes waters and airspace over land, the bed of any body of waters and subsoil and subterranean waters).

⁷¹ *Risk v the Northern Territory* (2002) 210 CLR 392 at [26], Gleeson CJ, Gaudron, Kirby and Hayne JJ.

⁷² *The Commonwealth v New South Wales* (1923) 33 CLR 1 at 23 per Knox CJ and Starke J.

⁷³ Marine Farming Act, section 59.

⁷⁴ Marine Farming Act, section 59(2) and example lease definition of lease area.

⁷⁵ *Risk* at [24].

⁷⁶ *Risk* at [28].

⁷⁷ *Risk* at [119] per Callinan J.

⁷⁸ *Northern Territory v Arnhem Land Aboriginal Land Trust* [2008] HCA 29 (2008) 236 CLR 234 at [57] Gleeson CJ, Gummow, Hayne & Crennan JJ.

⁷⁹ Submissions [42].

⁸⁰ Submissions [46].

⁸¹ *Risk* at [31].

58. Sixthly, for these reasons, land in the VLA may be properly understood as defined by the geographic limits of Macquarie Harbour and *'extending to so much of the fluid (water or atmosphere) as may lie above.'*⁸²

59. The primary meaning of *'land'* is not always *'an adequate definition for legal purposes.'*⁸³ Accordingly, in this case, land for the purposes of the VLA ought to be construed as including so much of the seabed of Macquarie Harbour and the water above it which is within the municipal area of the Respondent⁸⁴.

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Circularity, Consequences and Other Matters

60. No question of circularity arises in accordance with these submissions. Estcourt J was correct to reason that the word *'liable'* in s 11(1) of the VLA may mean *'a current state of affairs'* or *'can involve a future state of affairs'*.⁸⁵

61. Pearce J incorrectly reasoned that the land in question might be sold if the rates were not paid.⁸⁶ Section 137 of the LGA, which is concerned with the sale of land for unpaid rates, expressly does not apply to Crown land.⁸⁷

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62. No evidence was given at trial that an obligation to value the land in question would place an onerous burden on the Valuer-General. Conceptually, the burden is no greater than the current obligation to value all areas of State Forest which, since the Financial Reform Act, has not been exempt from municipal rates and charges.⁸⁸

63. It was open to the legislature to expressly exempt harbours and bays within municipal areas pursuant to section 87(1)(b) of the LGA. The State derives revenue by granting leases of areas of State waters for marine farming pursuant to the

⁸² *Northern Territory v Arnhem Land Trust* at [58], Gleeson CJ, Gummow, Hayne & Crennan JJ.

⁸³ Butt: *Land Law*, 5th Ed (2010) at [202] where the author observes: *'The Oxford English Dictionary gives the primary meaning of 'land' as 'the solid portion of the Earth's surface, as opposed to sea, water. This may accord with the term's everyday meaning, but it is not an adequate definition for legal purposes. In law, 'land' is not restricted to the Earth's surface, but extends below and above the surface. Nor is it confined to solids, but can encompass such things as gases and liquids. In its common law meaning, 'land' is an area of three-dimensional space, its position identified by natural or imaginary points located by reference to the Earth's surface. This three-dimensional space may include the Earth's surface, or it may be wholly above it or wholly below it. It may have physical contents or it may be a void, for any three-dimensional quantum of the space – even air space – can be 'land'.'*

⁸⁴ *Goldsworthy Mining Ltd v Commissioner of Taxation* (1973) 128 CLR 199 at 215, Mason J, *Risk v Northern Territory* [2002] HCA 23 (2002) 210 CLR 392 at [26], Gleeson CJ, Gaudron, Kirby and Hayne JJ at [42], McHugh J, [118-123], Callinan J, *Chief Commissioner of State Revenue v Pacific National (ACT) Ltd* [2007] NSWCA 325 (2007) 70 NSWLR 544 at [73-76], Basten JA.

⁸⁵ Full Court at [63].

⁸⁶ Full Court at [61].

⁸⁷ (1) If any rates in respect of land which is not Crown land have been outstanding for 3 years or more, the council may *'sell that land or part of that land as if it was the owner of that land...'*

⁸⁸ Crown land is now the subject of management in permanent timber production zones pursuant to section 10 of the *Forest Management Act 2013*. In the 2012/2013 year Forestry Tasmania managed 1.5 million hectares which by 2014/15 had reduced to 820,000 hectares: Forestry Tasmania Annual Report 2014/2015, page 11.

Marine Farming Act. Clearly this is not the only type of commercial exploitation of State waters.⁸⁹ On any view the State facilitates the exploitation of Crown land which is covered by water. A corresponding obligation to pay municipal rates is hardly inimical to the conduct of commercial activities.

10 64. The extent to which Crown land covered by water may be the subject of local government rating is overstated by the Appellant. It is only in cases where the municipal area expressly includes harbours, bays and/or river systems that the present question arises. There is no broader question because in each other case the municipal boundary ends at the low water mark.

Part VII: Notice of contention and Costs

65. There is no notice of contention and no notice of cross appeal.

66. The Attorney-General does not seek Costs.

Part VIII: Estimate

20 67. The Attorney-General estimates that no more than 60 minutes will be required to present her oral argument.

DATED this 6th day of November 2015

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⁸⁹ For example, the *Living Marine Resources Management Act 1995* and the various forms of commercial licensing contained in the *Fisheries (Abalone) Rules 2009*, *Fisheries (Giant Crab) Rules 2013*, *Fisheries (Rock Lobster) Rules 2011*, *Fisheries (Scalefish) Rules 2015*, *Fisheries (Scallop) Rules 2010*, *Fisheries Rules 2009*.

	1857	<i>Property Valuation</i> 21 Vic No. 19	<p>Section 1: Property defined as 'shall mean Lands and Buildings.'</p> <p>Section 3: The Act does not apply to Hobart Town or Launceston.</p> <p>Section 4: 'The Justices shall, as often as occasion requires, cause to be made up a Valuation Roll, showing the average yearly value for the time being of the whole of the property within the District and specifying in each case the description or nature of the property...'</p> <p>Section 1: District as 'shall mean Police District.'</p>
10	1858	<i>The Launceston Improvement Act</i> 22 Vic No. 13	<p>Section 69: 'It shall be lawful for the Municipal Council at yearly, half-yearly, or such other periods as to the said Council may deem necessary, to make and levy Rates to be paid for paving, draining, cleansing, and lighting the Town, and the several other purposes in this Act contained... or for such other purpose as are foresaid, or one general Rate for all or any of such purposes...'</p> <p>Section 73: 'Nothing in this Act contained shall affect or apply to any right, title, or interest of Her Majesty, Her Heirs and Successors, or in any other way limit the Royal Prerogative.'</p>
20	1865	<i>Rural Municipalities</i> 29 Vic No. 8	<p>Section 3: Property defined as 'shall mean lands or buildings and lands and buildings'.</p> <p>Section 3: Municipality 'shall mean and include every District by this Act constituted and declared to be a Municipality, or which may hereafter be created a Municipality under the provisions of this Act.'</p> <p>Section 5: Constitution and incorporation of municipalities except for the City of Hobart Town, the Town of Launceston and Tasman's Peninsula.</p> <p>Section 12: 'Every Municipality shall be deemed to be a Police District'.</p>
30			<p>Section 98: 'Upon the Election of the Municipal Council of any Municipality constituted and declared hereafter the power vested in the Governor in Council by the <i>Rural Police Rate Act</i> to make and levy a Rate under the said Act shall cease and determine so far as relates to such Municipality...'</p>
40			<p>Section 102: 'The Municipal Council of each Municipality shall, on or before the First day of <i>June</i> in every year, assess by a just and equitable Assessment the annual value of all property within the Municipality.'</p> <p>Section 118: 'Nothing contained in <i>The Property Valuation Act</i> shall authorise a Valuation to be made under that Act of any property within the limits of any Municipality.'</p>
50			<p>Section 119: 'It shall be lawful for the Municipal Council of each Municipality at yearly, half-yearly, or such other periods as to the said Council may seem necessary, to make and levy Rates upon the annual value of the property within the Municipality to be paid for the several purposes contained in this Act... provided also, that such rate shall not... in any case collectively or separately (must not) exceed the sum of One Shilling and Sixpence in the Pound in any one year upon the annual value of the property within the Municipality'</p> <p>Section 136: 'Unless specifically empowered to do so by any Act, the Municipal Council of any Municipality shall not levy or raise any Rate whatever on any property belonging to and occupied by or on behalf of</p>

		Her Majesty, nor any property hired or used by the Government for any public purpose...'
10	1894 <i>Launceston Corporation Act</i> 58 Vic No. 30	<p>Section 4 definition of property 'shall mean lands or buildings and lands and buildings'.</p> <p>Section 115: 'It shall be lawful for the Council... to make and levy Rates, for the purpose of improving, maintaining and repairing the streets of the said City, and for draining and cleansing the said City, ... provided also that such Rates so to be made and levied for the purposes aforesaid shall not in any case, collectively or separately, and together with any other Rate or Rates which the Council is by any other Act empowered to make and levy for the same purposes, exceed the sum of One Shilling and Sixpence in the Pound in any one year upon the assessed annual value of the lands and buildings within the city.'</p> <p>Section 116: Upon the publication of a rate notice signed by the Mayor the rates shall be payable 'by the respective occupiers of all assessed lands and buildings within the City, according to the annual value of such lands and buildings as ascertained and determined by the Assessment Roll then in force for the City...'</p> <p>Section 122: 'The Council shall not levy or raise any Rate whatever on – any lands or buildings the property of and occupied on behalf of Her Majesty.'</p>
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30	1900 <i>The Assessment Act</i>	<p>Section 4 definition of District shall mean – I. The City of Hobart, II. The City of Launceston, III. Towns of <i>Bellerive</i> and <i>Beltana</i> ... and IV. Every municipal district not included in the foregoing definitions of district as the same may now or hereafter be defined.</p> <p>Section 13: 'The Local Authority of every district shall, before the First day of <i>October</i> in every year, by a just and equitable assessment, cause an Assessment Roll of the property in such district to be prepared... and shall contain the following particulars ... VII: the annual value of the property assessed, VIII: the capital value of the property assessed ...'</p> <p>Section 4 defined Property as 'shall include lands and buildings' but did not otherwise refer to Crown land or any exemption for the Crown.</p>
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50	1906 <i>Local Government Act</i>	<p>Section 7: 'This Act shall not apply to the cities of Hobart and Launceston.'</p> <p>Section 155: The Revenue of a council shall consist of the moneys following; that is to say – I. Rates...tolls, ferry dues, market and other dues, fees and charges authorised by this Act or any other by-law, and the rent of tolls and dues, land and buildings...'</p> <p>Section 159: Established two kinds of rates General Rates and Special Rates. Section 159(2): 'The general rates must be made and levied equally upon all ratable property within the municipality.'</p> <p>'Special Rates may be made and levied either equally upon all ratable property generally or of a specified class (i) within the whole of the municipality, or (ii) within a particular part of the municipality.'</p> <p>Section 173: '(1) the council is not empowered to levy any rate of charge (except for water, prevention of fire, cleansing, drainage or sewerage, or for light or power actually supplied, or for any service actually rendered)</p>

10		<p>upon any – (i) Property belonging to and occupied by or on behalf of His Majesty, or any property hired or used by the Government for any public purpose...'</p> <p>Section 176(3): 'All rates payable in respect of property (not being Crown land) the annual value of which does not exceed ten pounds, or which is let to weekly or monthly tenants, or payable in respect of buildings let in separate apartments or portions, shall not be payable by the occupier thereof, but by the owner...'</p> <p>Section 177(1): 'Except when otherwise prescribed, the amount of every rate or charge is payable in the first instance by the occupier of the property rated; but he is entitled, except in the case of Crown lands – (i) to recover... from the owner thereof one-half of the amount of such rate...'</p>
20 30	1909 <i>Land Valuation Act</i>	<p>Section 3: 'Each district for the time being in existence under and for the purposes of the 'Assessment Act 1900' shall be a district for the purposes of this Act.'</p> <p>Section 4: All valuing is under the control, direction and management of the Chief Valuer.</p> <p>Section 11: '(1) a district valuation roll of the land in the district shall be prepared as soon as conveniently may be for each district, and shall be in the prescribed form and shall set forth in respect of each separate property the following particulars...'</p> <p>Section 12: 'the Chief Valuer shall - I. As soon as conveniently may be, cause the district valuation rolls to be prepared and II. Cause the same to be thereafter revised or amended as the case may be - pursuant to the provisions of this Act.'</p> <p>By section 11 the valuation roll included, amongst other things, the value of improvements, the unimproved value and the capital value of 'land'. Land was not separately defined.</p>
40 50	1911 <i>Annual Values Assessment Act</i>	<p>Repeals the <i>Assessment Act 1900</i> and the <i>Assessment Act 1910</i>. Section 6 defines property as 'includes lands and buildings'.</p> <p>Section 8: '(1) the council of every district shall, on or before the First day of October in every year, by a just and equitable assessment, cause an assessment to be made of the annual value of all property within its district, for the purposes of preparing the assessment roll of the district for the following year as hereinafter mentioned.'</p> <p>Section 49: 'Whereby any law in force at the date on which this Act comes into operation any rate or tax is imposed, or authorised to be imposed, upon the annual value of any property, the annual value of such property as appearing in any assessment roll in force for the time being under this Act shall be the annual value for the purposes of such rate or tax, and the same shall be made, imposed, levied, collected, and paid according to such annual value, anything and any Act to the contrary notwithstanding.'</p>
60	1929 <i>Hobart Corporation Act</i>	<p>Section 105: '(1) it shall be lawful for the Council at yearly, half-yearly, or other periods, to make and levy a rate for the general expenditure of the City upon the assessed annual value of the lands and buildings within the City.'</p>

10			<p>Section 106(1): 'Upon the making of the City rate, a notice signed by the Mayor and not less than five alderman, specifying the amount of the rate, the period for which the same is made, and at what times the same is payable, shall be gazetted.'</p> <p>Section 106(2): 'Upon such notice being so gazetted, the rate therein mentioned shall be payable and paid at the times specified in such notice by the respective owners of all assessed lands and buildings within the City according to the annual value of such lands and buildings...'</p> <p>Section 122 – Exemptions. 'The council shall not levy or raise any city rate in respect of any of the properties herein after mentioned... (i) any lands or buildings the property of, and occupied on behalf of, His Majesty.'</p>
20	1941	<i>Launceston Corporation Act</i>	<p>Consolidated and amended the Law relating to the Incorporation of the Citizens of the City of Launceston; and to the Municipal Government of that City.</p> <p>Repealed a raft of legislation listed in Schedule 1</p> <p>Section 106: Made provision for the council to make and levy the following types of rates on an annual basis: general, sewerage, water, lighting, tram</p> <p>Section 118: The annual value of rateable property was not less than 5 pounds per centum of the capital value as shown in the valuation roll under the <i>Land Valuation Act 1909</i></p> <p>Section 107: Rates were made on the assessed annual value of a 'piece of land or building' according to the Assessment Roll for the city.</p> <p>Section 115(1): The council was not authorized to levy or demand any rate upon any land or building belonging to and occupied on behalf of His Majesty.</p> <p>Section 115(3): Where a land or building belonging to His Majesty was occupied by any person for a purpose other than those of His Majesty, the rates levied in respect of that land/building were payable by the occupier. The same also applied when rent was payable by tenants to His Majesty (Section 115(4))</p>
30	1947	<i>Hobart Corporation Act</i>	<p>Section 3: Definition of Assessment roll 'means the roll prepared in pursuance of the <i>Annual Values Assessment Act 1911</i>'...</p> <p>Section 101 '(1) The council shall have power... to make and levy a rate for the general municipal government of the city upon the assessed annual value of the lands and buildings within the city, or upon such other basis as the council may determine as provided by section 102...'</p> <p>Section 102: '(1) The council, by resolution, may determine upon what basis rates shall be made and levied, as hereinafter provided.</p> <p>(2) Any such resolution may be that rates shall be levied on the - I. annual value, II. the unimproved value, or III. a value ascertained by combining, as prescribed, a prescribed percentage of the value of the improvements and the unimproved value - of property within the city.'</p> <p>Section 106: '(1) The council shall not levy or raise any city rate in respect of any - (i) Land or buildings of the property of, and occupied on behalf of, His Majesty.'</p> <p>Section 109: The provisions of the <i>Annual Values Assessment Act 1911</i> in their application in relation to property in the city shall be subject to the</p>
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		<p>following modifications...'</p> <p>Section 110(1): All unpaid rates and interest... shall be and remain a charge upon the land in respect of which the rates are due.</p> <p>Section 112: Rates are payable by the owners of property.</p>
10	1950	<p><i>Land Valuation Act</i></p> <p>Land was not defined in section 3.</p> <p>Section 4: The valuation of land was under the control of the Chief Valuer</p> <p>Section 6: Divided the state into six valuation divisions.</p> <p>Section 13: Each municipality was a valuation district for the purposes of the Act.</p> <p>Section 14: Imposed a requirement on the Chief Valuer to 'make a valuation of the unimproved values, improved values and assessed annual values of all lands (other than Crown lands) within each valuation district, and of such Crown lands within each valuation district as the chief valuer thinks proper to include in the valuation; and any such valuation may include the unimproved values, improved values, and assessed annual values of the estates and interests of all owners (including lessors and lessees) in any such lands.'</p> <p>Under section 43(1) the Chief Valuer was required to furnish to the Commissioner of Taxes and every rating authority 'a valuation list giving such particulars as are prescribed with respect to the ownership and values of all lands within that district (except such lands of the Crown as are not ratable and have not been valued under this Act).'</p>
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30	1964	<p><i>Land Valuation Act</i></p> <p>This Act amended the <i>Land Valuation Act 1950</i>. It inserted sections 3A and 3B.</p> <p>Section 3: 'For the purposes of this Act, the following provisions shall apply to and in respect of the computation of the unimproved value of any land that is part only of a parcel of land that extends from the centre of the earth to the heavens, that is to say:-</p> <ul style="list-style-type: none"> (a) In the case of such a parcel subdivided in accordance with a stratum plan registered under Part XIA of the <i>Conveyancing and Law of Property Act 1884</i>, the unimproved value of the parcel shall be divided between all such parts in accordance with the unit entitlement of each part under section 75U of that Act; and (b) In any other case, the unimproved value of the parcel shall be divided between all such parts in the ratio of the annual value of each part to the total annual value of the parcel <p>Section 3B: 'For the purposes of subsection 3A of this section land the Crown grant of which is restricted by virtue of s120 of the <i>Crown Lands Act 1935</i> or any corresponding previous enactment shall be deemed to have been granted from the centre of the earth to the heavens'</p>
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60	1971	<p><i>Land Valuation Act</i></p> <p>Land: Was not defined Part 1, Section 3</p> <p>Section 5: The valuation of land was under the direction/control/management of the Valuer-General</p> <p>Section 12: Imposed upon the Valuer General the requirement to value land. It read as follows:</p> <p>'The Valuer-General shall, subject to this section, make valuations of the land values, capital values, and assessed annual values of all lands (other</p>

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than Crown lands) within each valuation district, and of such Crown lands within each valuation district as the Valuer-General thinks proper to include in the valuation'

District was defined in section 3 to mean 'the municipal district of a municipality'.

Section 12(3)(a): In relation to 'assessed annual values' and 'capital values', where land was occupied for trade, business or manufacturing purposes, the land was deemed not to include any plant, machines, tools, or other appliances that were not fixed to the land – or were fixed in a way which would enable them to be removed without causing damage.

Section 12(5)(b): In relation to 'land values', if due to the presence of buildings, structures, fixtures, dams, drains, channels, artificially established trees, artificially established pastures or other like visible/tangible improvements, the capital value of the land was greater, then the amount by which the value was greater was deducted

Also in relation to 'land values', by virtue of Section 12(6):
 "For the purposes of this Act, the following provisions apply to and in respect of the assessment of the land value of land that is part only of a parcel of land that extends from the centre of the earth to the heavens, that is to say:-

- (a) In the case of such a parcel subdivided in accordance with a stratum plan registered under Part XIA of the Conveyancing and Law of Property Act 1884, the land value of the parcel shall be divided between all such parts in accordance with the unit entitlement of each part under section 75U of that Act; and
- (b) In any other case, the land value of the parcel shall be divided between all such parts in the ratio of the annual value of each part to the total annual value of the parcel.

Section 12(7): Land, the Crown grant of which was restricted under Section 120 of the *Crown Lands Act 1935*, was deemed to have been granted from the centre of the earth to the heavens

Section 21: Fresh valuations of all lands within each district were required within 10 years of previous valuations

Section 22(3): Made provision for supplementary valuations
 Particulars of each valuation of land were contained within a Valuation Roll for each district which was prepared under section 23 of the Act.

Section 42(1): The Valuer-General was required to furnish to the Commissioner of Taxes and every rating authority, 'a valuation list giving such particulars as are prescribed with respect to the ownership and values of all lands within that district (except such lands of the Crown as are not ratable and have not been valued under this Act)'

Section 47(1): The Valuer-General had the power/authority to value land required by, or for the purposes of any Act, department or public authority. Section 47(2): He also had the power to make any valuation required by the owner of any land.