HIGH COURT OF AUSTRALIA

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Form 27D – Respondent's submissions

Note: see rule 44.03.3.

IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY **No. S130 of 2023**

BETWEEN

Godolphin Australia Pty Ltd ACN 093921021

Appellant

and

Chief Commissioner of State Revenue

Respondent

10

SUBMISSIONS OF THE RESPONDENT

Part I: Internet publication

1. This submission is in a form suitable for publication on the internet.

Part II: Concise statement of issues

2. Section 10AA(1) of the *Land Tax Management Act 1956* (NSW) (**LTMA**) creates an exemption from the obligation to pay land tax in respect of rural land. The exemption applies where the land is used for a particular objective: "for primary production". Section 10AA(3) gives content to that exemption by identifying six specific purposes that, exhaustively, constitute use "for primary production". One of those six, reflected in s 10AA(3)(b), is: "land the dominant use of which is for – (b) the maintenance of animals … for the purpose of selling them or their natural increase or bodily produce".

3. The appellant runs a business involving the breeding and racing of thoroughbred racehorses: CA [1]. In the 2014-19 land tax years, much of the use of the land was devoted to breeding, training, and preparation of the horses *for racing*. Indeed, the great majority of the land was used for purposes other than the selling of "covering" services by stallions:[1] TJ [258], CA [79], [128], [163]. CAB 90 CAB 71, 110, 123, 131

4. Is the appellant entitled to the "primary production" exemption from land tax for those years, pursuant to ss 10AA(1) and (3)(b)? The answer is "no". In summary, the respondent's case on this appeal is as follows.

5. ***Statutory construction:*** On a natural reading of ss 10AA(1) and (3), the "dominant use" limitation contained in the chapeau to (3) attaches to the purpose enumerated in (3)(b) as a whole (as is the position for (a) and (c)-(f)). Thus, s 10AA(1) applies only if the dominant use of the land is *maintaining animals for sale*; not just *maintaining animals* simpliciter.

6. In this context, the concept of "use" of land cannot textually or logically be divorced from the "purpose" for which it is used. There is no basis for separating s 10AA(3)(b)'s composite phrase into two hermetically sealed compartments: "use", comprising the maintenance of animals, and "purpose", comprising sale (cf AS [2]-[3], [22], [26]).

7. The respondent's reading is corroborated by the legislative history, understood in light of the jurisprudence addressing the "primary production" exemption at the time s 10AA was introduced, and coheres with the evident statutory purpose of encouraging farming activities undertaken for commercial gain by sale of the produce.

8. ***Factual issues:*** An analysis of the physical activities undertaken at the land in the 2014-

[1] The service consisting of providing the appellants' stallions to impregnate mares owned by others for a "nomination" fee: CA [1].

19 land tax years establishes that the dominant use of the land was the maintenance of thoroughbred horses for the purpose of breeding, educating, and training them as racehorses, and spelling them between races, with a view to achieving success in horse racing (**the racing purpose**). It was not for the exempt purpose, that is, maintaining horses for the purpose of selling them or their natural increase or bodily produce (**the sale purpose**). At best, the sale purpose was equal or approximately equal in importance to the racing purpose.

9. ***Notice of Contention***: In the alternative, if (contrary to the respondent's primary case) the appropriate way to approach the present type of fact pattern is to conclude that there were two separate but interrelated uses of the land, each with its own purpose, then the same ultimate conclusion would be reached by the Court of Appeal. The physical uses to which each parcel of land was put, the areas over which activities were conducted, the intensity of those activities, and the time, money and labour spent on them, all demonstrate that the use of the land for racing activities (and the racing purpose) dominated over the use for stud activities (and the sale purpose). At the least, the appellant cannot prove that the use of the land for the sale purpose was predominant.

10. Accordingly, the orders made by the Court of Appeal should be upheld and the appeal dismissed.

Part III: Section 78B of the *Judiciary Act 1903* (Cth)

11. No notices under s 78B of the *Judiciary Act 1903* (Cth) are required.

Part IV: Material facts in dispute

12. The appellant omits or glosses over critical aspects of the relevant background.

13. ***Important concessions:*** The appellant accepted below that the racing purpose is an objective that is distinct from the sale purpose: CA[26], [109], [124]. It also acknowledged that one "broad use" of maintaining horses can be for the purpose of sale or for the purpose of racing: CA[29]. Of the four properties on which the appellant carried out its business, it claimed the exemption in respect of two: Woodlands (BFM 5) and Kelvinside; BFM 4, 6. It did not claim the exemption for Crown Lodge and Osborne Park, accepting that "the activities on [those properties], although part of its integrated equine operations, are activities primarily undertaken for the purpose of racing rather than sale of horses, their natural increase or bodily produce": CA[81]. By contrast, the appellant contended that there were *two purposes* underpinning the activities carried out at Woodlands and

CAB 96-97, 118, 122

CAB 97

CAB 110

Kelvinside: the racing purpose and the sale purpose (CA[4], [112], [113]). CAB 90-91, 118-119

14. ***Activities at Woodlands and Kelvinside*:** Most of the appellant's breeding mares are kept on Woodlands, its foals are born there and yearlings are kept there for some time: CA[72]. CAB 108 During the breeding season, the appellant keeps 10-14 stallions at Kelvinside, where the stallions "cover" mares brought to Kelvinside: CA[75], TJ[22]. Only about 10% of one of CAB 109, 12 the four parcels of land at Kelvinside is used for housing stallions and covering areas: CA[77]; BFM 6. Horses that have commenced racing also spend significant time at CAB 109 Kelvinside; a series of paddocks are used for "spelling" or resting racehorses after (and in between) periods of racing: CA[76], TJ[36], [261]. Approximately 85% of the appellant's CAB 109, 16, 71-72 horses spelling in NSW do so at Kelvinside: TJ[36]. CAB 16

15. ***Rearing and training horses for racing:*** In conducting its business, the appellant retains "the overwhelming majority of foals" with very few sold as "culls": TJ[30]. The appellant CAB 14 begins the racing education of yearlings at Kelvinside "when they are able to be handled and led" including by use of "a sand training track that allows a horse to get used to a rider and become familiar with the look and feel of a racetrack" and "wide practice barriers" to "familiarise the young horse with the feel of being led into a starting gate": TJ[31]. CAB 15 Yearlings begin "an intensive 4-6 months of training, commencing when the horse is approximately 18 months old", which involves the transportation of the entire foal crop in batches to Crown Lodge for one week of training after which they return to spell before that process is repeated up to five times per yearling batch: TJ[32], CA[75]. The appellant CAB 15, 109 only trains its own horses, and each year about 120 horses enter the appellant's racing regime nationally: CA[58]. Training is conducted so that a horse has "the best possible CAB 105 preparation to win at the racecourse", and spelling is "an integral part of racehorse preparation for racing": TJ[261]. CAB 71-72

16. ***Influence of racing purpose on sale decisions:*** The appellant kept the best racers for itself: CA[71]. It did not sell horses until they showed their racing potential, hence they were CAB 108 not usually sold until after their third year (being the first year in which they are permitted to race): CA[61]. Whilst it sells some 70% of the thoroughbred horses that it breeds, with CAB 106 sales "necessary to keep control of horse count and quality…[and] a significant contribution to revenue" (CA[60]), the appellant only sells its horses after they have "done CAB 106 some racing, and it is only the less able racers which are sold": CA[119]. CAB 120

17. As to *yearlings*, in each of the land tax years, the appellant sold very few yearlings compared to the "foal crop" engaged in racehorse training: TJ[35]; BFM 29. In so far as CAB 16 yearlings were sold, it was not until the appellant was able to assess their racing potential

and take a view on whether they were going to "add to our racing stock and our prize money and profile of our stallions": TJ[263]. CAB 72

18. As to *older horses*, racehorses generally race until five to six years if mares, and up to five years if stallions: CA[57]. A factor the appellant considered when deciding whether to sell CAB 105 or keep mares and stallions is their racing performance: CA[62]. Once their racing career CAB 106 is finished, mares either become part of the appellant's broodmare "band" or are sold to third parties: TJ[38]. In the appellant's business, some 95% of male horses born are gelded CAB 17 (castrated) "after an initial assessment has been made of their racing (and thus breeding) prospects": CA[59]. CAB 106

19. ***Revenue and expenses:*** As to *racing*, prizemoney from race wins is an important revenue stream for the appellant: CA[84]; BFM 7, 50. The appellant incurred substantially greater CAB 111 expenses with respect to racing compared to covering and breeding activities: CA[105]; CAB 117 BFM 7, 9. Stallion operations were run at a net profit and racing operations at a substantial net loss: CA[86], [95](2), (3) ; BFM 7, 9-10. More employees were involved in activities CAB 112, 114 more directed to the racing purpose than the sale purpose: CA [105]; BFM 8. CAB 117

20. As to *covering*, most of the stallions on the appellant's roster in the relevant tax years had not been bred and raced by the appellant but had been either "shuttled" in from overseas or bought: CA [65]. The "shuttled" stallions would spend around seven months of the year CAB 107 overseas: TJ [208]; BFM 17, 19, 46. In the period 2013-19, the financial contribution to CAB 58 nomination fees (the fees received for covering mares) from horses bred by the appellant in Australia was relatively small: CA[65], [120]. Revenue from stallion covering services CAB 107, 120-121 in the relevant tax years exceeded revenue from racing, but not by a large margin: CA[95](1); BFM 7. CAB 114

21. As to *sale of horses*, whilst this also earned significant revenue, it was "not divorced" from the racing purpose because the horses sold tended to be those less successful at racing: CA[95](4). CAB 114

22. ***Non-financial benefits:*** Whilst the appellant earned money from racing, the racing purpose was not purely concerned with commercial gain or measurable in economic terms. Horse racing is an activity that also confers prestige on owners when the horses win races: CA [97]. The evidence at trial demonstrated that the appellant "had been trying to win the CAB 114-115 Melbourne Cup for 30 years by the time it succeeded in doing so in 2018", and that in 2018, one of its "objectives was to win the Melbourne Cup with a horse owned by a company in the Godolphin group": CA [98]; BFM 35, 60-62. CAB 115

Part V: Argument

Proper construction of s 10AA(3)(b) of the LTMA (grounds numbered 1 and 2)

Overarching propositions

23. Section 10AA of the LTMA is relevantly in the following terms:

> **10AA Exemption for land used for primary production**
>
> (1) Land that is rural land is exempt from taxation if it is land used for primary production.
>
> (2) Land that is not rural land is exempt from taxation if it is land used for primary production and that use of the land –
>
> (a) has a significant and substantial commercial purpose or character, and
>
> (b) is engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made).
>
> (3) For the purposes of this section, **"land used for primary production"** means land the dominant use of which is for--
>
> (a) cultivation, for the purpose of selling the produce of the cultivation, or
>
> (b) the maintenance of animals (including birds), whether wild or domesticated, for the purpose of selling them or their natural increase or bodily produce, or
>
> (c) commercial fishing (including preparation for that fishing and the storage or preparation of fish or fishing gear) or the commercial farming of fish, molluscs, crustaceans or other aquatic animals, or
>
> (d) the keeping of bees, for the purpose of selling their honey, or
>
> (e) a commercial plant nursery, but not a nursery at which the principal cultivation is the maintenance of plants pending their sale to the general public, or
>
> (f) the propagation for sale of mushrooms, orchids or flowers.

24. The place of this provision within the scheme of the LTMA can be shortly stated. Pursuant to ss 7 and 9(1), all land situated in New South Wales which is owned by a taxpayer (as defined in s 3(1)) is subject to land tax, other than land which is exempt for taxation under the LTMA. Sections 10-10A and 10Q-10S then prescribe various grounds on which land is exempt from taxation – including s 10AA containing the exemption "for land used for primary production".

25. Before analysing the aspects of s 10AA that are in dispute, it is convenient to note several uncontroversial propositions that bear on the provision's interpretation and application.

26. *First*, land tax is assessed annually as at midnight on 31 December, for a 12 month period commencing on 1 January in the following year (ss 8, 12). In other words, whether certain land is liable to land tax, or whether an exemption applies to that land, falls for determination within the specific timeframe of a land tax year. It is true that the inquiry

extends to a consideration of the land's use during a reasonable period preceding and following the assessment date. For example, in *Leda Manorstead Pty Ltd v Chief Commissioner of State Revenue* (2010) 80 ATR 68, Gzell J took account of evidence covering the period from six months before to six months after the relevant date, stating that this would permit consideration of financial records pertaining to the uses to which the land was put (at [4]).[2] Nonetheless, the use of land to which exemptions such as s 10AA are directed is a use manifesting and subsisting during the period for which the property is taxed.

27. *Second*, land tax is assessed, and the land tax exemptions are to be applied, on a "parcel by parcel" basis: CA [10]-[15]. The effect of s 9 of the LTMA is that the taxable value of an owner's land must be determined by reference to the average land value of each "parcel" of that land (s 9(2), a term which is undefined in the statute). In the Court below, the parties and the Court accepted that it was logical to proceed on the basis that the exemption in s 10AA similarly applied to any such "parcel": CA [14], [15].[3] CAB 92-93 CAB 93

28. *Third*, the concept of "use" of "land" within s 10AA necessarily involves *deliberate* physical deployment[4] of the land effectuated by human actors – through either activities undertaken upon it or calculated inaction (eg by leaving a field fallow on rotation).[5]

29. *Fourth,* the criterion of "use" within s 10AA is framed without reference to *who* uses the land or the personal motivations of that person in doing so. As Barrett JA remarked in ***Metricon***, it addresses "'use' at large" (at [47]), meaning that "[t]he question is not what an owner [etc]… decides is to happen in relation to the land" (at [60]). The end to which the use is directed must be inferred as an objective matter from the use itself.[6] That said, the reality that land must be put to use *by* someone means that the intentions of the person claiming the exemption under s 10AA may shed light on "the objective characterisation of the physical activities actually being conducted on, or in respect of, the land".[7]

30. *Fifth,* land "used" in this context means *present* "physical use, not some notional or

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[2] Appeal dismissed in *Leda Manorstead Pty Ltd v Chief Commissioner of State Revenue* (2011) 85 ATR 775 (***Leda CA***). See also *Leppington Pastoral Co Pty Ltd v Chief Commissioner of State Revenue* (2017) 104 ATR 820 (***Leppington***) at [52].
[3] See also *Chief Commissioner of State Revenue v Adams Bidco Pty Ltd* (2019) 109 ATR 754 at [17], [46].
[4] *Chief Commissioner of State Revenue v Metricon Qld Pty Ltd* (2017) 224 LGERA 236 (***Metricon***) at [49], [61], [63].
[5] CA [24]; *Metricon* (2017) 224 LGERA 236 at [46]; *Leda CA* (2011) 85 ATR 775 at [23].
[6] *Metricon* (2017) 224 LGERA 236 at [60]-[61].
[7] *Bayside Council v Karimbla Properties (No 3) Pty Ltd* (2018) 99 NSWLR 66 at [113], cited at TJ [50]; see also *Young v Chief Commissioner of State Revenue* [2020] NSWSC 330 (***Young***) at [136].

potential future or contemplated use".[8] "An intended future use does not become an actual existing use merely because substantial moneys and resources are applied in its planning and preparation".[9] The need to establish present use assumes importance here given that s 10AA requires land to have been "used for" the identified end of primary production. As Campbell JA emphasised in *Leda CA* (at [50]), "[l]and can be used, now, for purpose Y, even if its use now for purpose Y is also preparatory to its eventual use for purpose X".

31. *Sixth*, where there are "competing uses" of land, the characterisation exercise in s 10AA(3) "requires weighing the nature and intensity" of those uses, "the physical areas over which they are conducted, the time and labour spent in conducting the different uses, the money spent or assets deployed in each use and the value derived or to be derived from it".[10]

32. *Seventh*, on a review of the respondent's decision concerning an objection to a land tax assessment, the taxpayer invoking s 10AA bears the onus of proving, on the balance of probabilities, that the exemption is satisfied with respect to the relevant land tax year(s).[11]

Text of s 10AA

33. The plain language and syntax of s 10AA(1) and (3) demonstrates that *purpose* infuses each stage of the test for the primary production exemption, whichever limb of s 10AA(3) is invoked.

34. Section 10AA(1) applies only if the land is used for a purpose described as use "for primary production". That concept is explained in s 10AA(3), through the enumeration of the more specific purposes described in s 10AA(3)(a)-(f). By the chapeau to s 10AA(3), each of those specific purposes then has the further overlay that the use for that purpose must be the "dominant" use. Critically for this case, the natural and ordinary import of the words in the chapeau to s 10AA(3), read in their statutory surrounds, necessarily means that it is the *specific purpose* identified in any of s 10AA(3)(a)-(f) that must have the requisite character of "dominance" – not just the "use" simpliciter. Indeed, it makes no sense even to attempt to separate "use" from "purpose" in this context.

35. ***"Use":*** The *first* textual indicator of the above construction is the language of "use" within the provision: land "used" (s 10AA(1)), and land that has a dominant "use" (s 10AA(3)).

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[8] *Leda CA* (2011) 85 ATR 775 at [23]; *Metricon* (2017) 224 LGERA 236 at [61], [66], [71]; cf eg ss 10(2A)(a), 10R(1)(a) of the LTMA.
[9] *Metricon* (2017) 224 LGERA 236 at [71], quoting from *Bellbird Ridge Pty Ltd v Chief Commissioner of State Revenue* [2016] NSWSC 1637 at [25].
[10] *Leppington* (2017) 104 ATR 820 at [158]; *Metricon* (2017) 224 LGERA 236 at [51]-[52], [54] fn 18; CA [34]. CAB 99
[11] Section 100(3) of the *Taxation Administration Act 1996* (NSW); CA [6], [131]. CAB 91, 124

Whilst the word "use" is protean and must be construed in its context,[12] it nonetheless has a commonly understood meaning in the context of land requiring "examination of activities undertaken upon the land in question".[13] Numerous authorities confirm that the notion of "using" land in this regard is inseparable from the purpose or end to which that physical deployment of the land is devoted.

36. An early and compelling, endorsement of this proposition can be found in *Council of the City of Newcastle v Royal Newcastle Hospital* (1957) 96 CLR 493 (***Royal Newcastle Hospital***), where Kitto J (dissenting in the result), stated that the word "used" "does not involve more than physical acts *by which the land is made to serve some purpose*".[14] The plurality approved that formulation in *Wagga Wagga* (at [69]), although indicated that it did not chart the metes and bounds of the idea of use.[15] Almost two decades after Kitto J's explanation in *Royal Newcastle Hospital*, the NSW Court of Appeal in *Commissioner of Land Tax v Christie* [1973] 2 NSWLR 526 emphasised that "'use' has regard to the purpose to which the land is put" (at 533) – an analysis echoed by that Court more recently in its statement that the characterisation of the "use" of premises "involves ascertaining the purpose for which the various physical acts are being conducted on the land".[16] And in *Berrima Gaol*, Gageler J encapsulated the inextricable link between use and purpose in this context by explaining that "whether land is used cannot be determined without taking into account the purpose for which the land is claimed to be used, in that 'purpose will dictate the degree of immediate physical use required to decide whether [land is] actually used in more than a notional sense'".[17] Whilst his Honour's reasoning was directed to s 36(1)(b) of the *Aboriginal Land Rights Act 1983* (NSW), the broader point is relevant to s 10AA: physical acts on the land can only mean anything within the s 10AA(3) criteria if they are construed as manifestations of a pursued object or goal.

37. All in all, whilst acknowledging the need to address s 10AA in its particular statutory setting, the way that the words "used"/ "use" are deployed in s 10AA renders it appropriate

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[12] *Minister Administering the Crown Lands Act v NSW Aboriginal Land Council* (2008) 237 CLR 285 (***Wagga Wagga***) at [69].
[13] *NSW Aboriginal Land Council v Minister Administering the Crown Lands Act* (2016) 260 CLR 232 (***Berrima Gaol***) at [34], applied in the context of s 10AA of the LTMA in *Metricon* (2017) 224 LGERA 236 at [45]-[46].
[14] *Royal Newcastle Hospital* (1957) 96 CLR 493 at 508 (emphasis added); echoed more recently in the context of s 10AA(3) in *Young* at [136] ("the 'use' of land relevant to s 10AA(3) is one of physical use of the land in pursuance of one of the identified purposes").
[15] See also, in the s 10AA context, *Leppington* (2017) 104 ATR 820 at [115].
[16] *Bronger v Greenway Health Centre Pty Ltd t/as Greenway Plaza Pharmacy* [2023] NSWCA 104 at [40], citing (inter alia) *Royal Newcastle Hospital* at 508.
[17] *Berrima Gaol* (2016) 260 CLR 232 at [82], quoting from *Minister Administering Crown Lands Act v NSW Aboriginal Land Council* (1993) 31 NSWLR 106 at 121.

to borrow from planning law[18] as follows: "use must be for a purpose"; "'purpose' is the end to which the use of the land can be seen to be put"; and purpose "describes the character which is imparted to the land at which the use is pursued".[19]

38. ***Use "for":*** The purposive nature of the primary production exception is reinforced when one reads ss 10AA(1) and (3) as a whole and takes account of the "central role" played by the preposition "for",[20] which is used interchangeably with "for the purpose of".

39. By its heading[21] and s 10AA(1), s 10AA exempts rural land from taxation if it is used "for" an identified end: "primary production", as defined in s 10AA(3). The chapeau to s 10AA(3) states that use for that end means use "for" the matters in the ensuing paragraphs. Thus, the purposive link in s 10AA(1) is established by one or more of (a)-(f). In turn, those paragraphs identify activities "for", or "for the purpose of", certain objectives.

40. "For" is a "relational term"[22] that, in each of these settings, necessarily means "in aid of" – or, per the first definition of the preposition in the *Macquarie Dictionary*, "with the object or purpose of". As Barrett JA held in *Metricon* (at [61]), "use"/ "used" "for" within s 10AA means "physical deployment" of land "in pursuance of a particular purpose of obtaining present benefit or advantage from it".

41. How then should the enumerated matters in s 10AA(3)(a)-(f) be interpreted? On a plain reading, the composite elements of each paragraph combine to establish *a specific exempt purpose or purposes*, which may be a subset of some broader category. For example, para (a) recognises that a purpose of land use may at a high level of generality be described as "cultivation", but narrows down that category such that the exemption only applies to cultivation conducted "for the purpose of selling the produce" (or, put another way, commercial cultivation – compare para (c)). Similarly, in (d), the high level purpose is beekeeping, and within that, the tax exempt objective is beekeeping "for the purpose of selling … honey". In (f), the more general purpose is "propagation … of mushrooms, orchids or flowers", and the subset of that purpose which triggers the exemption is propagation "for sale". And in (b), the genus of purposes is "the maintenance of animals", and the species that gives rise to the exemption is the maintenance of animals "for the

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[18] See CA [23], noting that cases from planning and environmental law have been recognised in past decisions as throwing some light on construction of s 10AA(3) of the LTMA. CAB 95-96

[19] *Abret Pty Ltd v Wingebarribee Shire Council* (2011) 180 LGERA 343 at [51].

[20] *Metricon* (2017) 224 LGERA 236 at [61].

[21] See *R v A2* (2019) 269 CLR 507 at [40].

[22] See *R v Khazaal* (2012) 246 CLR 601 at [31]; *Australian Securities and Investments Commission v BHF Solutions Pty Ltd* (2022) 293 FCR 330 at [156], [177].

purpose of selling them or their natural increase or bodily produce".

42. Thus, each paragraph describes a concept to be read as a whole, aided by punctuation that makes the elements of that concept easier for a reader to identify (see paras (b)-(e)). Further, the expressions "for" and "for the purpose of" within s 10AA are coextensive, as appears to be a pattern elsewhere in the LTMA (see eg ss 10(1)(f)-(j)). That proposition can be tested by substituting one for the other within s 10AA(3)'s various paragraphs. Putting aside grammatical awkwardness, it is difficult to discern any different meaning that could be given to the substituted expressions "for selling" produce/ animals/ honey (paras (a), (b), (d)), or "for the purpose of sale" (para (f)).

10 43. Finally, what does this mean for the connection between the chapeau to s 10AA(3) and each of s 10AA(3)(a)-(f)? The natural way to read them together is that the limitation of "dominant use" in the chapeau attaches to the *whole* description of an exempt purpose as set out in each subparagraph. That follows from the word "for – " at the end of the chapeau, immediately followed by the list in (a)-(f). The word "for" in that setting imposes a purposive connection between land use and each composite phrase in (a)-(f), which is why the absence of the words "for the purpose of" from (c), (e) and (f) is irrelevant (cf AS [30]). And the appellant's invocation of differently worded tests within ss 3 and 10 (AS [38]-[41]) is a distraction that tends to reveal the need to pay careful attention to the particular features of ss 10AA(1) and (3).

20 44. In summary then, s 10AA(3)(b) asks the question: is the dominant use of the land "for" the species of purpose described in (b), namely, maintenance of animals for the purpose of selling them etc? This is the approach taken on appeal below by Kirk JA (at CA[31]-[33]) CAB 98-99 and Simpson JA (at CA[132], albeit with "some misgivings"); by the trial judge (at TJ [256]); by Payne J in *Young* (at [117], [136]); and by the Court of Appeal in *Metricon* (at [48]). CAB 124 CAB 70

45. There is no textual basis for partitioning para (b)'s syntax such that "dominant use … for" attaches only to the phrase "the maintenance of animals" (the genus), and is untethered from the ensuing words " … for the purpose of selling them or their natural increase or bodily produce" (the species). "A court will not construe a provision in a way that departs 30 from its natural and ordinary meaning unless it is plain that Parliament intended it to have some different meaning",[23] and there is no evidence of that here. Relatedly, as Payne J observed in *Young* [2020] NSWSC 330 (at [111], [117]), "[t]he statutory language should

[23] *Masson v Parsons* (2019) 266 CLR 554 at [26].

not be broken up and construed separately from its obvious context".

46. Further, applying the appellant's construction, there is no useful work done by the qualifying words "for the purpose of selling them [etc]" in s 10AA(3)(b). The appellant says that, on its approach, s 10AA(3) still requires that sale purpose to exist in some basal respect, in the sense that it must not be "trifling", "trivial", "immaterial" or "insubstantial" (AS [33], [67]). But there is no textual hook to which that purported statutory guardrail could attach; nor is there any indication of how such a nebulous standard should be identified and applied. What is an "immaterial" purpose? Why would a sale purpose be "immaterial" in circumstances where (i) a property is used to house offices and accommodation for staff who care for horses and facilities for stabling horses, and (ii) some or all of those horses are ultimately sold (cf CA [80]-[81], AS [33]); or where a landowner runs a few head of cattle and periodically sells them (cf AS[50])? Moreover, the gulf between that standard and the ordinary sense of the words that Parliament has chosen, as well as the uncertainty that such a standard would create for both taxpayers and the respondent, is self-evident.[24] CAB 110

47. Finally, the appellant does not grapple with the problem that its approach to s 10AA(3)(b) would rewrite "the purpose" to read "a purpose" (CA [159], cf AS [32]-[33]). CAB 130-131

48. ***Support in s 10A:*** A reading of s 10AA(3) that treats each of paragraphs (a)-(f) as a purposive test, and requires the land to be used in aid of the whole matter set out in the applicable paragraph to qualify for the tax exemption, is consistent with s 10A of the LTMA. Section 10A(1) provides that, if land is used for more than one purpose and each of those purposes is an exempt purpose, the land is exempt from taxation. Section 10A(2) provides that a "purpose for which land is used" is an "exempt purpose" if "land used solely for that purpose would be exempt from taxation because of its use for that purpose".

49. It is uncontroversial that s 10A "contemplates use for multiple purposes" (AS [25]). Importantly, though, the effect of s 10A(1) read with s 10AA is that, where land is used for multiple purposes that each fall within s 10AA(3)(a)-(f), there is no need to demonstrate that either is "dominant" in order to make out the exemption (contrary to what s 10AA(3) would otherwise require). If land were used solely for the propagation of mushrooms for sale (subs (3)(f)), it would necessarily meet the "dominan[ce]" test in subs (3); so too if land were used solely for commercial cultivation (subs (3)(a)); and so if certain land is used both for commercial propagation of mushrooms and commercial cultivation, s 10A

[24] See *International Finance Trust Co Ltd v NSW Crime Commission* (2009) 240 CLR 319 at [42].

bypasses the strictures of s 10AA(3) and exempts the land from taxation.

50. Section 10A(2) contemplates that a relevant exemption is triggered by land use *for a prescribed purpose*, which aligns with the analysis at [38]-[43] above. It also coheres with case law predating the insertion of s 10A into the LTMA,[25] which describes the purposes within what is now s 10AA(3) as "exempt purposes".[26] By contrast, on the appellant's reading of s 10AA, it is hard to see how s 10A could have useful work to do as regards the s 10AA(3)(a)-(f) exemptions. On its construction, at least ss 10AA(3)(a), (b) and (d) (and perhaps (f)) could not be described as provisions reflecting an "exempt purpose" within s 10A(2), as the exemption would not arise "because" the land was used solely for a purpose described therein.

51. More fundamentally, s 10A(1) serves to emphasise the absence of any textual basis for the appellant's approach to the primary production exemption. The appellant says that "where the dominant use of the land" is for "two or more related … purposes, one of which is an exempt purpose", it is "unnecessary to demonstrate separately that the exempt purpose is the dominant purpose" (AS [3]). That is, in effect, an expanded version of s 10A(1). Section 10A(1) could have so provided. Parliament did not frame it that way.

Context

52. The legislative history of s 10AA, emerging from the pre-2005 case law and culminating in the introduction of s 10AA into the LTMA by the *State Revenue Legislation Further Amendment Act 2005* (NSW) (**2005 Act**),[27] supports the respondent's construction.

53. ***The old definition:*** Before the commencement of the 2005 Act, the "primary production" exemption was contained in s 10(1)(p), which relevantly provided that rural "land used for primary production" was exempt from taxation (s 10(1)(p)(ii)). Section 3(1) defined "land used for primary production" to mean "land used primarily for" the matters set out in (a)-(e) thereunder (**old definition**). New paragraphs (a)-(f) of s 10AA(3) are materially identical to paragraphs (a)-(e) of the old definition, as is the structure of the chapeau and its concluding word "for".[28]

54. ***Pre-2005 case law:*** In a series of cases addressing the old definition, the courts

[25] *State Revenue Legislation Further Amendment Act 2003* (NSW), Sch 4, item 8.
[26] See *Sonter v Commissioner of Land Tax (NSW)* (1976) 7 ATR 30 (***Sonter***) at 34, *Abbott v Commissioner of Land Tax* [1979] VR 297 (***Abbott SC***) at 302 and *Jones v Commissioner of Land Tax (NSW)* (1980) 11 ATR 98 (***Jones***) at 101, discussed at [54]ff below.
[27] A short summary of the progenitor provisions dating from the enactment of the LTMA in 1956 is set out in *Metricon* (2017) 224 LGERA 236 at [42].
[28] Whilst para (b1), the predecessor provision to s 10AA(3)(c), commenced with the additional prefatory words "the purpose of …", the removal of that language effected no change to the substance. See [41] above.

characterised the test as one requiring proof that the land's primary use was *for the pursuit of a specific purpose* identified in paras (a)-(e).[29] Thus, contrary to the appellant's position in this appeal, the courts held that the qualitative threshold in the chapeau ("primary") attached to the prescribed purposes (eg the maintenance of animals for the purpose of sale), not to some discrete concept of "use" (eg "the maintenance of animals").

55. Several of these authorities concerned factual scenarios with similarities to the present case. In *Sonter* (1976) 7 ATR 30, for example, the plaintiff operated a business breeding and selling cattle, horses and foxhounds from his property, and also used the land as a riding school. He contended that the riding school gave him "an opportunity of bringing his horses to the attention of prospective purchasers" (at 32). The Commissioner contended that the "riding school use" meant the plaintiff was not using the land "primarily for the maintenance of animals for the purpose of selling them or their natural increase" (at 31). Justice Rath found that animals were being maintained on the land "for two business purposes": "[h]orses are bought, sold and used for breeding; but with the exception of the stallions, the same horses that are bought, and are to be sold, or used for breeding, are also used in the riding school" (at 34). In other words, the case was concerned with "mixed uses … in the sense of the maintenance of the same animals for different purposes, *some of which are purposes of primary production and some are not*" (at 34, emphasis added). Critically, his Honour then stated that the question raised by these facts was "whether the use of the land is *primarily for the one purpose or the other*" (at 34). Justice Rath was not satisfied that "primary use of [t]he land" was "for the defined exempt purposes" (at 34, 35), although his Honour "suspect[ed] that the plaintiff's activities on the land [were] distinctly orientated towards the riding school" (at 34).

56. In *Clarke v Commissioner of Land Tax (NSW)* (1980) 11 ATR 794, the plaintiff used land as a picnic area with an entrance fee, and offered some of his horses for sale to persons who were picnicking. He contended that "the primary reason for his establishing the picnic area was to promote the sale of horses raised on lands owned or leased by him" (at 796).

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[29] In addition to the cases summarised below, see *Abbott SC* [1979] VR 297 at 302 ("the question is whether the whole of the parcel is primarily used for the exempt purpose"), affirmed in *Abbott v Commissioner of Land Tax* [1979] VR 297, addressing a materially identical Victorian provision; *Safety Beach Estate Pty Ltd v Commissioner of Land Tax (NSW)* (1979) 9 ATR 451 at 458 (the sale of fish was not the primary use of the land); *Illawarra Meat Co Pty Ltd v Commissioner of Land Tax (NSW)* [1979] 1 NSWLR 188 at 189, 191 (the plaintiff maintained pigs and cattle on the land, "principally for the purpose of selling their bodily produce, and to a minimal extent for the purpose of selling them"); *Saville v Commissioner of Land Tax (NSW)* (1980) 12 ATR 7 at 10 (land must be "used primarily for that purpose", ie "for the maintenance of animals thereon for the purpose of selling them [etc]"); *Oliveri v Oliveri* (1993) 38 NSWLR 665 at 674; *Shanahan v Chief Commissioner of Land Tax (NSW)* (1996) 32 ATR 468 at 470-471.

Justice Woodward held that "the principal use to which the property was put was the provision of picnicking facilities and the riding of horses at weekends" (at 803), such that the parcel was not "primarily used for the exempt purpose" (at 804). It was "not sufficient … to say that the only use to which the property is being put is for a purpose which is part of a business of primary production" (at 804).

57. In *Jones* (1980) 11 ATR 98, the plaintiffs kept horses on the land. Horse-breeding was carried out on the premises, albeit at a relatively small scale, but the property was also used for accommodating racehorses and for agistment (at 99-100). The Court accepted the plaintiffs' evidence that it was "necessary to have horses which have raced to establish their validity as breeding stock", and thus "to establish the racing capacity of horses so that a breeding programme can progress" (at 99), and that there were "advantages of racing fillies before breeding from them and establishing a performance of successful runs" (at 100). Nonetheless, Woodward J held that the test of "land used primarily for primary production" could "relate only to the breeding of horses" in the circumstances (at 100); asked whether the parcel was "primarily used for the exempt purpose" (at 101); and concluded that it was not (at 101).

58. Other authorities reflect the same interpretive approach. For example, in *Greenville Pty Ltd v Commissioner of Land Tax* (1977) 7 ATR 278, the plaintiff had closed down a golf course on its land and started using it to grow pumpkins. Chief Justice Helsham held (at 280, emphasis added) that the question to be decided was: "can it be said that land most of which is not being used at all is used *primarily for the cultivation of it for the purpose of selling the produce of that cultivation* if a very small part of it is under cultivation?" In *Brown v Commissioner of Land Tax (NSW)* (1977) 7 ATR 642 (***Brown***), the Court explained that the "primary production" exemption hinged on (relevantly) whether the land was "land used primarily for one or more of the designated purposes in para (b) of the definition of 'land used for primary production'" (at 648). And in *Longford Investment Pty Ltd v Commissioner of Land Tax (NSW)* (1978) 8 ATR 656, Sheppard J framed the issue in the same terms by reference to para (a) of the definition (at 661), and then continued: "[i]t is right to say that the land was used for the cultivation [of citrus etc] for the purpose of selling the produce of such cultivation; but was that its primary use?" His Honour was not "satisfied that at the relevant time the land was being used primarily for any of the purposes referred to in the definition" (at 662).

59. Importantly, however, these authorities also indicated that the expression "used primarily for" in the old definition was broad in one particular respect. In *Brown*, the Court accepted

the plaintiff's argument that the word "primarily" "permitted the rural activity on one part of the land to be weighed against the non-use of another part"– such that, "where some 17 acres were used for the designated rural purposes, and the balance of about 24 acres was not used and not readily capable of any rural use, the whole parcel of land should be regarded as land used for primary production" (at 647). For this reason, Rath J ultimately found that all of the land was "land used primarily for one of the designated purpose" even though less than half of the land was actually used for such purposes (at 648). A similar approach emerged in *Abbott SC*, where the Court held that it was "not sufficient to inquire whether" one use of the land was the "main or predominant" use; "[t]he predominance must be of such a degree as to impart a character to the parcel as a whole" (at 302).[30]

60. ***2005 amendments:*** By the 2005 Act, the substantive changes that Parliament made to the "primary production" exemption were twofold: the limitation in new s 10AA(2), applicable to land that is not rural land; and, in the chapeau of new s 10AA(3), replacement of the words "used primarily for" with "the dominant use of which is for".

61. In the Explanatory Note, the latter change was characterised as an amendment which "*limits the exemption* by requiring the use of the land for primary production to be the dominant use of the land".[31]

62. Further, in the speech in reply following debate on the second reading speech,[32] Minister Costa described the amendment to s 10AA(3) in terms that elucidated both (i) the link between the new "dominan[ce]" requirement and the purposes enumerated in the definition, and (ii) the particular respect in which that new requirement would "limit" the exemption. He stated that "land tax *for rural lands for genuine farm purposes* is important" (at p20063, emphasis added), and that "[r]unning a few head of cattle or sheep to attract a land tax exemption *rather than to make profits* will no longer suffice" (at p20064, emphasis added). Further, he explained that, in the case of a developer that subdivided a parcel of farmland whilst continuing to "run some farm animals on it", the "dominant use" test would "allow the portion of the revenue generated from the land from the sale of subdivided lots compared to the revenue generated from the sale of animals to be taken into account" (at pp 20063-20064; cf AS [35]). That identified mischief is consistent with the interpretation of "primarily" that had emerged in the cases described at [54]-[59] above. Finally, contrary to AS [51]-[52], the Minister's statement that the amendments

[30] See also the analysis in *Leppington* (2017) 104 ATR 820 at [154]-[157].
[31] Explanatory Note for the State Revenue Legislation Further Amendment Bill 2005 at p8 (emphasis added).
[32] NSW Parliament, Hansard, Legislative Council, 29 November 2005 at 20063.

would require "dominant use" of the land to be "primary production" does not assist the appellant, because it is clear that "primary production" should be read to mean primary production as defined in new s 10AA(3) – which then imports the purposive components explained at [38]-[43] above.

63. ***Conclusions:*** The following critical points can be drawn from this history. By amending the language of what is now s 10AA(3), Parliament did not intend to broaden the "primary production" exemption beyond the bounds of that exemption's interpretation under the pre-2005 case law. On the contrary, it sought to *narrow* the exemption in one discrete respect: replacing the word "primarily" with the language of "dominant use" such that the person claiming the exemption had to demonstrate that use of the land for the exempt purpose predominated. Otherwise, Parliament left the definition materially unchanged.

64. Putting aside that narrow amendment, it can be assumed that Parliament adopted the interpretation that the courts gave to the old definition.[33] As is evident from [54]-[58] above, the courts in those cases held that it was necessary to establish that the use of the land *for the exempt purpose* in paras (a)-(e) met the prescribed threshold ("primarily"). They dismissed claims for the "primary production" exemption in settings very similar to the present facts. And they reveal that the need for the taxpayer to prove that one of various "intertwined or overlapping purposes" (AS [34], [53]) outweighs others in a primary production setting, including one involving "integrated operations" (AS [44]), is an orthodox and longstanding feature of the statutory regime (cf AS [34]).

Purpose

65. The respondent's construction coheres with the evident purpose of s 10AA, which is to encourage farming (primary production) activities undertaken for commercial gain. "Each of the six activities in paras (a) to (f) [of s 10AA(3)] has a purpose or objective of commercial gain",[34] and each involves the sale of products grown on and from the land (including animals kept thereon). To deny the s 10AA(1) exemption where, eg, horses are maintained on land predominantly in pursuit of something other than the sale of horses or horse products is to create an incentive to use the land for commercial farming activities.

66. By contrast, the statutory purposes identified by the appellant – to prevent taxpayers from exploiting the exemption by "engaging in unrelated, non-exempt uses of the land" (AS [22]), and to preserve "the primary production exemption for integrated operations"

[33] *Vella v Commissioner of Police (NSW)* (2019) 269 CLR 219 at [19], [52]; *Re Alcan Australia Ltd; Ex parte Federation of Industrial, Manufacturing and Engineering Employees* (1994) 181 CLR 96 at 106-107.
[34] *Metricon* (2017) 224 LGERA 236 at [59]; CA [30].

CAB 97-98

(AS [44]) – are, at best, "unexpressed legislative intention",[35] and at worst, circular, in that they assume the construction for which the appellant contends.

67. Moreover, the appellant's contention that "integrated operations" enjoy some special status (AS [64]) is unavailing for the reasons given by Kirk JA: "to attach the label 'integrated' to the business does not explain why just one of the two purposes which … Godolphin was pursuing should be treated as dominant, with the other regarded as subsumed" (CA [122]). CAB 121-122 That analysis has particular force given that on no view was the racing purpose "minor" or "incidental" (CA [121]). To say that the appellant's activities involved the maintenance CAB 121 of the *same horses* for different purposes (AS [64]) takes the appellant no further. The most logical way to reconcile that proposition with s 10AA, and with the broader statutory regime requiring proof that the exemption applies with respect to a particular land tax year, is to conclude that one of those purposes is more immediate than, and predominates over, the other (see CA[104] and [71] below). CAB 116-117

68. The outcome of granting the s 10AA(1) exemption so long as a sale purpose is not "trivial" (see [46] above) is particularly unattractive having regard to the fact that "s 10AA(3) was part of a suite of anti-avoidance measures".[36] Those measures included new s 10AA(2), but the different test in s 10AA(2)(a)-(b) for non-rural land does not take the appellant any further (cf AS [42]). The 2005 Act amended the LTMA to impose the s 10AA(3) requirements as a baseline criterion for *both* rural and non-rural land, by requiring the taxpayer to establish in each case that the land is "used for primary production" (ss 10AA(1), (2)). Where the land is non-rural, s 10AA(2) adds further requirements. Viewed holistically, the better understanding of these amendments is that Parliament recognised that the primary production exemption needed to be reined in, but that the setting of non-rural land – where commercial farming activities would not ordinarily be conducted – was particularly vulnerable to exploitation and needed additional strictures. That discrete concern does not cast doubt on the statutory analysis of ss 10AA(1) and (3) above.

Conclusions on proper construction

69. There was no error in the Court of Appeal's interpretation of ss 10AA(1) and (3). Grounds 1 and 2 should be dismissed.

[35] *Taylor v The Owners – Strata Plan No 11564* (2014) 253 CLR 531 at [65].
[36] *Young* [2020] NSWSC 330 at [111].

The purposes for which the land was used (ground numbered 4)

Application to the facts if the appellant's construction is rejected

70. The appellant cannot establish, on a parcel-by-parcel basis, that the dominant use of the land for each of the land tax years was the maintenance of horses for the purpose of selling them or their natural increase or bodily produce (s 10AA(3)(b)).

71. Rather, the physical activities undertaken at the land (the education, training and spelling of horses: [14] above); the physical areas over which the activities are undertaken ([3] and [14] above); the time and labour spent conducting those activities ([19] above); and the intensity of those activities, the resources deployed, and the value derived from those activities ([19]-[21] above), point towards the dominant use of the land being for the (non-exempt) racing purpose ([14]-[16] above) and not the sale purpose ([14], [16]-[18], [20]-[21] above). That the appellant kept the "best racers" and only sold horses after they had been raced and their racing quality ascertained is strongly indicative that the purpose of sale was incidental or ancillary to the racing purpose. Put another way, the sale purpose in this context was no more than a future contemplated use (see [30] above and CA [104]). CAB 116-117

72. The Court of Appeal's decision below was correct. Animal maintenance for the purpose of selling animal produce and progeny was not the dominant use of the land at Woodlands and Kelvinside pursuant to s 10AA(3)(b) – either because "[a] more significant use of the land was animal maintenance for the purpose of racing" (CA[125] per Kirk JA), or because CAB 122 the appellant simply failed to discharge its onus (CA[160]-[162] per Simpson JA). CAB 131 Accordingly, the appellant is not entitled to the "primary production" exemption for the relevant land tax years.

Part VI: Notice of Contention

73. If the appellant's construction is upheld, the respondent contends that this Court should nonetheless dismiss the appeal on an alternative basis.

74. The Notice of Contention arises in the following circumstances. The respondent's primary submissions put above, and the appellant's case on this appeal (see eg AS[26]), both proceed on the assumption that there was a single use of the land which then had to be characterised by reference to the statutory phrase "maintenance … for the purpose of selling [animals] or their natural increase or bodily produce". The parties are apart on that issue. While Simpson and Griffiths AJA disagreed on the ultimate result of the case, they each appear to have approached it on this basis (see CA[147], [154], [165], [195] as did the trial judge (see TJ[256], [258]). CAB 128-130, 132, 140-141 CAB 70, 71

75. However, the alternative way in which the matter might be approached, for which there is some support in Kirk JA's reasons at CA[79] and [125], is to view this as a case where there were two separate but related uses of the land. The first use was the maintenance of animals for the purpose of sale; the second use was the maintenance of animals for the purpose of racing. If that approach to the problem were taken, it would then be necessary to identify whether the use for the purpose of sale predominated over the use for the purpose of racing. CAB 110, 122

76. For all the reasons the respondent advances in its submissions on its primary case above, if the proper way to characterise the facts was that there were two separate but related uses of the land, then the Court of Appeal should have concluded either that the use for the racing purpose was predominant, or (the minimum needed for the respondent to succeed on the appeal) that the use for the sale purpose was not predominant, particularly bearing in mind the appellant's onus of proof.

77. At this point, it is necessary to address the trial judge's finding that the appellant was conducting an "integrated operation" (TJ[258]), on which both Simpson and Griffiths AJA placed considerable reliance (CA[140], [164]). That finding of fact is not determinative in assessing whether there is one use or two, or in deciding the question of predominance. No doubt in a business sense there were interrelationships between different parts of the appellant's operations. But even accepting those interrelationships, they do not foreclose the conclusion that the differences between the two lines of the business were sufficient to characterise the activities as two separate uses of the same parcels of land. CAB 71 CAB 126, 131-132

78. An objective analysis of the physical areas where racing activities were conducted and the contrasting intensity of use between racing and stud activities (TJ[30], [258], CA[74]-[75], [77], [79], [125], BFM 6; see also [14] above); the time, resources and labour spent on racing activities, including the differences in employment of staff (CA [86](1), [90], BFM 7 and 8); the nature and amount of expenditure on racing activities despite significant continuing losses (CA [86](5), [95](2), (3), [96]); and the appellant's contemporaneous marketing, planning, financial and business records (CA[52], [71], BFM 25-26, 33), establishes that the use of the land for racing dominated over the use for sale. Indeed, the appellant kept the "best racers" for itself (CA[71]) and sold horses that did not meet that purpose or were "surplus" as part of funding the "breeding and racing operation" (CA[51]). The appellant considered sales to be necessary to "keep control of horse count and quality" with quality maintained by the sale of those horses that did not show sufficient racing potential (see [16] above). The appellant's oral evidence at trial confirms that the use for CAB 14, 71, 109 CAB 109-110, 122 CAB 112-113 CAB 112, 114 CAB 104, 108 CAB 108 CAB 104

sale was not the dominant use: TJ [263]-[267], [268]; CA[85], [86](5), [90], [105], [111]-[113]. Rather, the use of the land for the sale purpose was subservient to its use for the racing purpose. CAB 72, 73; 111-113, 118 CAB 119

79. Accordingly, the dominant use of Woodlands and Kelvinside was for the racing purpose (with the use for sale being subsidiary).

80. Alternatively, the appellant cannot prove that the use of the land for the sale purpose was predominant. At best, that use was equal or approximately equal in importance to the separate use for the racing purpose.

81. As such, neither property attracted the exemption from land tax conferred by s 10AA(1) and (3)(b).

Part VII: Estimate of time for oral argument

82. The respondent estimates that he will require 2 hours for his oral argument.

Dated: 19 December 2023

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IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY

BETWEEN GODOLPHIN AUSTRALIA PTY LTD ACN 093921021

Appellant

and

CHIEF COMMISSIONER OF STATE REVENUE

Respondent

ANNEXURE

List of statutes and statutory instruments referred to in the Respondent's submissions			
No	**Description**	**Provisions**	**Version**
1.	*Aboriginal Land Rights Act 1983* (NSW)	s. 36	Act No. 42, 1983 (as made)
2.	*State Revenue Legislation Further Amendment Act 2005*	Schedule 4	Act No 111, 2005 (as made)
3.	*Land Tax Management Act 1956* (NSW)	ss. 3, 10, 10A	As at 31 December 2004
4.	*Land Tax Management Act 1956* (NSW)	ss. 10, 10AA, 10A	As at 7 December 2005
5.	*Land Tax Management Act 1956* (NSW)	ss. 3, 7, 8, 9, 10, 10AA, 10A, 10Q, 10R, 10S, 12	As at 31 December 2013, 31 December 2014, 31 December 2015, 31 December 2016, 31 December 2017 and 31 December 2018 **Note:** ss. 7, 8, 9, 10, 10AA(1)-(3), 10A, 10Q, 10R, 10S and 12 have remained materially unchanged during this period and to date

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