HIGH COURT OF AUSTRALIA

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Details of Filing

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

BETWEEN: **AGRINOVA PTY LTD ACN 629 285 589**
Applicant

and

CHIEF COMMISSIONER OF STATE REVENUE (NSW)
First Respondent

NEW SOUTH WALES CIVIL AND ADMINISTRATIVE TRIBUNAL
Second Respondent

FIRST RESPONDENT'S SUBMISSIONS

PART I: CERTIFICATION

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

PART II: CONCISE STATEMENT OF THE ISSUES

2. The removed proceedings present four substantive issues for determination: **(1)** whether s 90(1)(a) of the *Family Law Act 1975* (Cth) (**FLA**) is capable of any application to the duty charged by Chapter 2 of the *Duties Act 1997* (NSW) (**NSW Duties Act**) on the transfer of land to the Applicant (**Agrinova**); **(2)** if so, whether Agrinova and the Commonwealth should be granted leave to reopen ***Gazzo*** *v Comptroller of Stamps (Vic)* (1981) 149 CLR 227; **(3)** if so, whether s 90(1)(a) is a valid law of the Commonwealth; and **(4)** if so, whether any error of law was material to the decision of the Appeal Panel of the NSW Civil and Administrative Tribunal (**NCAT**) to dismiss Agrinova's appeal from the NCAT's decision to affirm the assessments of duty under review.

3. For the reasons set out below, the First Respondent (the **Commissioner**) submits that the four questions in the Special Case (see Special Case Book (**SCB**) **32**) should be answered: (1) No; (2) Unnecessary to answer; alternatively, no; (3) None; (4) the Applicant.

PART III: SECTION 78B NOTICES

4. Adequate notice under s 78B of the *Judiciary Act 1903* (Cth) has been given: see **SCB 9–19**.

PART IV: STATEMENT OF MATERIAL FACTS

5. Agrinova's statement of facts is materially incomplete in a number of respects.

6. <u>The proceedings</u>: In April 2017, the ex-wife commenced proceedings against her then husband, which relevantly concerned the "scope and division of property that they accumulated during the marriage": Supplementary Special Case Book (**SSCB**) at **21 [1]** and **30 [73]**. The ex-husband's parents were joined as parties to the proceedings in December 2017: **SSCB 30 [78]**. They were joined because the ex-wife contended, and they denied, that they had gifted her and her ex-husband certain plant and equipment: see **SSCB 82–90 [410]–[418]**.

7. Reasons: The Family Court of Australia (Benjamin J) delivered reasons for judgment in December 2018: **SSCB 4, 19, 130**. Benjamin J adopted the four-step approach identified at **AS [28]** in determining the property settlement proceedings: see **SSCB 79–130 [400]–[681]**. **Step 1:** "[T]he existing legal and equitable interests in property of the parties"[1] was largely common ground: see **SSCB 79–81 [400]–[404]**. The property of the ex-husband and ex-wife included only two pieces of real property, being Properties "A" and "B", which had been the subject of a view by Benjamin J: **SSCB 31 [80]**. Benjamin J found that there was no gift by the ex-husband's parents of the plant and equipment, which was accordingly not property of the marriage: **SSCB 92–94 [428], [437], [445]**. **Step 2**: Having regard to the contributions of the ex-husband's parents, Benjamin J found that the contributions of the parties "favour the husband as to 80 per cent and to the wife 20 per cent": **SSCB 123 [628]**. **Step 3**: Having regard to the matters then referred to in s 79(4)(d)–(g) of the FLA, Benjamin J was satisfied that there ought to be a five per cent adjustment in favour of the wife, producing a property division of 25 per cent to the wife and 75 per cent to the husband: **SSCB 19, 129 [673]–[674]**. **Step 4:** Benjamin J was satisfied that that settlement would be just and equitable in all the circumstances: **SSCB 80 [402], 129 [676].**

8. 31 January 2019 Orders: Benjamin J made orders in relation to the property settlement proceedings effective 31 January 2019: **SSCB 19–20; SCB 119–131**. Order 1 dismissed the ex-wife's claim against the ex-husband's parents and Order 2 ordered the ex-husband to pay her $1,908,146 (being 25 per cent of the couple's property minus the value of certain property retained by the ex-wife – see **SSCB 82 [406]**): **SCB 120**. Order 6 provided that, simultaneously with the Order 2 payment, the ex-wife shall transfer all her right, title and interest in Properties "A" and "B" to the husband: **SCB 121**. Other than as provided for by the orders, each party relinquished any right, title or interest in property, including real property, in the possession or custody of another party: Order 32, **SCB 129**. The Court noted that "[t]he proceedings in so far as they related to the [ex-husband's parents] are concluded" (Order 40) and that, pursuant to s 81 of the FLA, the parties intended that the orders "shall as far as practicable finally determine the financial relationship between them and avoid further proceedings" (Order 41): **SCB 130**.

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1 See *Stanford v Stanford* (2012) 247 CLR 108 at [37] (French CJ, Hayne, Kiefel and Bell JJ).

9. <u>23 October 2019 Orders</u>: On 23 October 2019, without notice to the Commissioner, Benjamin J made further orders by consent following the brief hearing described at **AS [10]**: **SCB 133-137**. The orders: joined Agrinova as Trustee for the Agrinova Unit Trust (Order 3); ordered the ex-wife and ex-husband to transfer Properties "A" and "B" to Agrinova (Order 5); and ordered the ex-husband's parents to transfer six pieces of real property, being Properties "C", "D", "E", "F", "G" and "H", to Agrinova (Order 7). Orders were also made for the transfer to Agrinova, by both the ex-wife, the ex-husband and his parents, of interests in shares, water licences, and plant and equipment. The total value of real property (including water rights) to be transferred to Agrinova was $65,000,000: **SCB 156**. As Agrinova expressly concedes (**AS [84]**), the properties the subject of Order 7 were not property of the parties to the marriage or either of them.

10. <u>The Trust</u>: The 23 October 2019 Orders directed the transfer of property to Agrinova as Trustee for the Agrinova Unit Trust. The ultimate beneficiaries of that trust *include*, but are not limited to, the ex-husband, his parents and his sister: **SCB 26–27 [3]–[4]**. "Beneficiaries" is defined in very broad terms (see **SCB 90, 116**) and include, for example, any company which has as a director or secretary the ex-husband, his parents or his sister, or a relative of any of them.

11. <u>Circumstances surrounding the 23 October 2019 Orders and transfers</u>: The circumstances were addressed by Agrinova in its objection to the Commissioner which, in accordance with the requirements of Part 8 of the *Taxation Administration Act 1996* (NSW), was declared to be "true, accurate and complete in every particular": **SCB 171**. The variation of the 31 January 2019 Orders was said to be part of a "restructure" of the agribusiness of the ex-husband, his parents and his sister "for asset protection purposes": **SCB 172**. An earlier letter to the Commissioner explained that the "family wanted to protect its farming assets from any possible future Family Law proceedings involving other family members or a breakdown of relationships within their own family group": **SCB 146**.

12. According to Agrinova's objection to the Commissioner, after the 31 January 2019 Orders were made, the barrister then appearing for the ex-husband advised the ex-husband, his parents and his sister that he would seek to have the orders varied "so that the land assets held by [the ex-husband, the ex-wife and the ex-husband's parents] could

be transferred into a discretionary trust to be set up" on their behalf[2] and that, if so varied, the transfers would be exempt from stamp duty: **SCB 172**. The ex-husband, his parents and his sister are said to have instructed the barrister to proceed in accordance with his advice and vary the 31 January 2019 Orders: **SCB 173**. It is said that if they had been aware that stamp duty would be payable, "they would not have proceeded with the transfers being registered": **SCB 172**.

13. None of the matters summarised in the previous two paragraphs were disclosed to Benjamin J at the hearing which preceded the making of the 23 October 2019 Orders. His Honour was simply told that the restructure had been required by a bank to enable it to advance funds necessary for the ex-wife to be paid: **SCB 140–141**.

14. <u>The transfer of property</u>: For the purposes of, or in accordance with, the 23 October 2019 Orders (**SCB 27 [9]–[10])**, Properties "A" and "B" were transferred from the ex-wife and ex-husband to the ex-husband (PEXA Document number ending 863) and then from him to Agrinova (PEXA Document number ending 203): **SCB 143–144**. Properties "C" to "H" were transferred from the ex-husband's parents to Agrinova (PEXA Document number ending 505): **SCB 145**. Whereas the transfer between the parties to the marriage was described as "Without Monetary Consideration And As Regards A Court Order", the transfers to Agrinova were described as being "Without Monetary Consideration And As Regards An Intergenerational Assignment": **SCB 143–145.**

15. <u>Duty Assessment</u>: An investigation by the Commissioner found that Agrinova was not eligible for the exemption for intergenerational transfers in s 274 of the NSW Duties Act: **SCB 155–156**. The Commissioner found that the "sole purpose" of the transfers was "asset protection" and the avoidance of duty: **SCB 159–160.** The Commissioner issued Duties Notices of Assessment in respect of the transfers to Agrinova from the ex-husband (DAN 10207042) and his parents (DAN 10206911): **SCB 138, 162–168**.[3] The transfer between the parties to the marriage was exempt from duty: **SCB 138**.

16. The Commissioner disallowed Agrinova's objection to the assessments (see **SCB 169–179**) because the requirements of s 68(1)(a) of NSW Duties Act had not been met. In

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[2] Property held by a discretionary trust is not "property" for the purposes of the FLA: see eg *Kennon v Spry* (2008) 238 CLR 366 at [74]–[80] (French CJ) and [92], [125]–[126] (Gummow and Hayne JJ).

[3] The total payable by Agrinova, as at March 2023, was $1,995,656: **SCB 180–183**.

respect of the transfer from the ex-husband, Agrinova was "not party to the break-up of marriage": **SCB 185**. In respect of the transfer from the ex-husband's parents, the ex-husband's parents were "not party to the break-up of marriage" and the property was not "matrimonial property": **SCB 188**.

PART V: ARGUMENT

Section 90(1)(a) has no possible application to the relevant duty

17. Even if it is a valid law of the Commonwealth, s 90(1)(a) of the FLA is incapable of applying to the duty charged under Ch 2 of the NSW Duties Act: cf **AS [24]–[25]**. Accordingly, no question arises in this case as to the validity of s 90(1)(a).

18. Section 90(1)(a), like its predecessor, is concerned with conferring an immunity on *instruments* from stamp duties. Consistently with its heading, "[c]ertain instruments not liable to duty", s 90(1)(a) provides only that certain "deeds and other instruments" are "not subject to any duty or charge under any law of a State". The Explanatory Memorandum to the *Family Law Bill 1974* (Cth), at [34], described the clause that became s 90 as one "exempting instruments executed for the purposes of the Act from State stamp duty": see also **CS [11]**. Section 90 purported to reduce and minimize expenses with divorce proceedings "by removing liability to stamp duty": *Commissioner of Stamp Duties (NSW) v **Bryan*** (1989) 20 ATR 868 at 870 (Gleeson CJ, Hope and Meagher JJA agreeing). The re-enacted version of s 90(1)(a) was similarly concerned with providing an "exemption from State stamp duties for documents executed under the Act": **SCB 328**. Section 90(1)(a) says nothing about transfers of property and does not purport to immunise legal transactions effected by the deeds and other instruments to which it refers, such as transfers of property: cf **AS [52], [56], [58]**.

19. Conversely, the NSW Duties Act, unlike the *Stamp Duties Act 1920* (NSW) which was in force when s 90 of the FLA was enacted and re-enacted (and unlike the provisions of the *Stamps Act 1958* (Vic) considered in *Gazzo* (see at 273 (Aickin J)), imposes a tax on *transactions*, not instruments: see *Chief Commissioner of State Revenue v **Benidorm** Pty Ltd* (2020) 104 NSWLR 232 at [46]–[50], [53], [55], [60]–[62], [70], [79], [80], [88] (special leave refused [2021] HCATrans 067); *ALH Group Property Holdings Pty Ltd v Chief Commissioner of State Revenue (NSW)* (2012) 245 CLR 338 at [8]. The NSW Duties Act "is properly described as a *Duties Act* … because the incidence of tax has

nothing to do with any vellum, parchment or paper upon which a stamp may be affixed or impressed": *Benidorm* at [62].

20. The NSW Duties Act "creates and charges a number of duties", which are debts due to the State of New South Wales "when a liability to pay the duty is created": ss 3–4. In Chapter 2 of the NSW Duties Act, headed "Transactions concerning dutiable property", s 8(1)(a) charges duty on "a transfer of dutiable property". Pursuant to s 11(1)(a), "dutiable property" includes "land in New South Wales". Section 8(2) provides that a transfer of dutiable property is a "dutiable transaction" for the purposes of the NSW Duties Act. Headed "[f]orm of dutiable transaction is immaterial", s 10 states that the duty charged is payable whether a "dutiable transaction is effected by an instrument or by any other means".[4]

21. Liability for duty "arises when a transfer of dutiable property occurs": s 12(1). If a transfer of dutiable property is effected by an instrument, liability for duty arises when the instrument is first executed: s 12(2). But liability does not depend on there being such an instrument. Pursuant to ss 15 and 16, within 3 months after the liability arises, the transferee must lodge with the Commissioner the instrument effecting the dutiable transaction or provide a written statement in the approved form. Unless Chapter 2 requires another person to pay the duty, duty is payable by the transferee: s 13. Duty is to be paid within 3 months after the liability to pay the duty arises: s 17. Concessions and exemptions from duty are dealt with in Parts 6, 7 and 8 of the NSW Duties Act (s 20), which includes s 68: see [31] below.

22. Thus, irrespective of whether s 90(1)(a) validly immunised the PEXA Documents number ending 203 and 505 from any duty or charge under State law, s 90(1)(a) of the FLA did not purport to immunise the transfers of land, which is the basis for the duties assessments in the present case: see [14]–[15] above.

Leave to reopen *Gazzo* should be refused

23. If, contrary to the submissions above, the validity of s 90(1)(a) arises in this case, leave to reopen *Gazzo* should be refused. Contrary to the approach implicit in **AS [34]–[61]**,

4 The dictionary to the NSW Duties Act defines an instrument as including "a document, written statement or any record of information that exists in a digital form and is capable of being reproduced, transmitted, stored and duplicated by electronic means".

this Court is not entitled to consider the validity of s 90(1)(a) of the FLA "as though the pages of the law reports were blank": *Queensland v The Commonwealth* (1977) 139 CLR 585 at 599; ***MJZP*** *v Director-General of Security* (2025) 99 ALJR 1108 at [16]. There is a "strongly conservative cautionary principle" that the step of reopening "should not lightly be taken": *Wurridjal v The Commonwealth* (2009) 237 CLR 309 at [70]. The applicants have a "particularly heavy persuasive burden" (*MJZP* at [16] and [18]) in circumstances where s 90(1)(a) of the FLA is relevantly indistinguishable from the provision held invalid by this Court in *Gazzo* and where they effectively seek to re-agitate the case considered and rejected by a majority of this Court in *Gazzo*.

24. At bottom, the validity of s 90(1)(a) of the FLA involves the application of settled principles of characterisation to the particular provision: see [35]–[36] below. Whether a law manifests the requisite degree of connection to a head of power is an issue on which minds might reasonably differ. In *Gazzo* itself, Mason J recognised (at 248) that there will "necessarily be differences of view as to what … has a sufficient connection with the marriage relationship". The issue is quintessentially of a kind which must ultimately be settled by a decision of this Court but which, once settled, should not be reconsidered. If it were otherwise, any settlement by this Court would be as impermanent as the composition of the Court, different majorities over time taking reasonably open opposing views about whether the law evidences a sufficient degree of connection to a head of power. The line having been drawn in *Gazzo*, leave to reconsider the issue should be refused.

25. None of the factors identified in ***John*** *v Federal Commissioner of Taxation* (1989) 166 CLR 417 at 438–439 support reopening.

26. ***First***, *Gazzo* rests upon a principle carefully worked out in the succession of cases following the enactment of the FLA[5] concerning the required connection between the "marriage relationship" and the rights and liabilities created by a Commonwealth law whose validity depends on s 51(xxi) and/or 51(xxii) of the Constitution: see eg *Gazzo* at 234–235 (Gibbs CJ) and 264–265 (Aickin J); cf **AS [64], CS [44]**. Indeed, as Aickin J identified, the language of "close" connection criticised by Agrinova and the Commonwealth (see **AS [44], [64], CS [37]**, **[44]**) had already been adopted by a

[5] See eg *Russell v Russell* (1976) 134 CLR 495; *The Queen v Demack; Ex parte Plummer* (1977) 137 CLR 40; *Dowal v Murray* (1978) 143 CLR 410; and *The Queen v* ***Lambert****; Ex parte Plummer* (1980) 146 CLR 447.

majority of this Court in *Lambert*: see *Lambert* at 456–457 (Gibbs J, with whom Barwick CJ agreed) and 487–489 (Wilson J, with whom Aickin J agreed).

27. *Gazzo* has stood undisturbed for over 44 years: cf **AS [64]–[65]**. It has been considered and cited without criticism in numerous decisions of this Court[6] and this would appear to be the first time it has been sought to be overruled.

28. ***Second***, there are no material differences in the reasoning of the majority judges in *Gazzo*. Each of the majority Justices concluded that s 90 of the FLA had an insufficient connection to be a law with respect to the heads of power in s 51(xxi) or s 51(xxii) of the Constitution. Agrinova contends that the majority's reasoning was not "uniform" by reference only to (see **AS [68]**): (a) a matter reflected in each of the majority's reasoning (see *Gazzo* at 240 (Gibbs CJ), 244 (Stephen J) and 270–272, 277 (Aickin J); **CS [33]–[34]**); and certain *dicta* of two members of the majority but not the third.

29. In terms of the force of the reasoning upon which *Gazzo* rests, which is implicit in the first two *John* factors,[7] Agrinova's central contention before this Court is effectively that, if this Court reconsidered the issue, this Court would reach a different conclusion as to the sufficiency of the connection between s 90 of the FLA and s 51(xxi) and 51(xxii) of the Constitution. That is plainly an inadequate basis to seek to reopen *Gazzo*, particularly in circumstances where, as Mason J recognised, the matter is one on which there will necessarily be differences of view.

30. The various criticisms advanced by Agrinova and the Commonwealth (see **AS [64], [67]–[68]**; **CS [37]–[44]**) do not undermine *Gazzo* and its invalidation of s 90.

    a. The use of the language of a "close" connection by the majority (see *Gazzo* at 234, 241 and 264–265) pre-dates *Gazzo* (see [26] above) and is, in any event, a semantic criticism about what is "merely a matter of words": *V v V* at 242 (Dawson J, dissenting). Even Mason J in *Gazzo*, at 248, described the word "close" only as

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6 See *Fencott v Muller* (1983) 152 CLR 570 at 583 (Gibbs CJ); ***V v V*** (1985) 156 CLR 228 at 243 (Dawson J); *Re LSH; Ex parte RTF* (1987) 164 CLR 91 at 120 (Dawson J) and 135 (Gaudron J); *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1 at 101 (McHugh J); ***P v P*** (1994) 181 CLR 583 at 600 (Mason CJ, Deane, Toohey and Gaudron JJ) and 628 (Dawson J); *Cunliffe v The Commonwealth* (1994) 182 CLR 272 at 313 (Brennan J); ***Spence*** *v Queensland* (2019) 268 CLR 355 at [69] (Kiefel CJ, Bell, Gageler and Keane JJ). Cf ***Fisher*** *v Fisher* (1986) 161 CLR 438 at 453 (Mason and Deane JJ) and *Spence* at [135]–[136] (Nettle J).

7 See *G Global 120E T2 Pty Ltd v Commissioner of State Revenue* (2025) 99 ALJR 1465 at [76].

"*perhaps* too limiting" (emphasis added). This Court has recognised that, in practice, the questions asked to determine whether there is a sufficient connection between a provision and a head of power "often vary[] according to the nature of the provision or the power in question": *Victoria v Commonwealth* (1996) 187 CLR 416 at 548–549. The use of the language of "close" by the majority in *Gazzo* simply reflects the unquestionable proposition that "a law is not a law with respect to marriage simply because it has some operation with respect to married persons": see *Gazzo* at 234 (Gibbs CJ); see also 247 (Mason J) and 264, 267, 268, 272 (Aickin J). Furthermore, as addressed at [34]–[56] below, *Gazzo*'s conclusion as to the insufficiency of connection accords with the application of orthodox principle.

b. The non-discriminatory nature of the State laws purportedly excluded by s 90(1), and the nature or amount of the duty and charges they impose, is plainly relevant (cf **AS [66], CS [42]**) given that, in accordance with "well settled" principle, the character of s 90 must be determined by reference to the rights, powers, liabilities, duties and privileges which it creates and that its "practical as well as legal operation must be examined to determine whether there is a sufficient connection between the law and the head of power": ***Re Maritime Union*** *of Australia; Ex parte CSL Pacific Shipping Inc* (2003) 214 CLR 397 at [35]. See also [38]–[39] below.

c. The majority's reasoning does not involve a "revival of the States' reserved powers doctrine": cf *Gazzo* at 261 (Murphy J); **AS [67]**. Indeed, a majority of this Court in *Spence*, at [69], specifically endorsed Gibbs CJ's observations in *Gazzo* at 240 that "a provision cannot be said to be incidental to the subject matter of a power simply because in a general way it facilitates the execution of the power" and it "is not always irrelevant that the effect of the law is to invade State power".

31. ***Third***, *Gazzo* has not "led to considerable inconvenience": *John* at 438; cf **AS [69]**. In response to *Gazzo* being handed down in December 1981, each State enacted legislation to exempt from duty, or impose nominal duty, on transfers made in circumstances like that considered in *Gazzo*: **SCB 30–31 [28]–[29]**. Equivalent provisions remain in force today.[8] NSW enacted the *Stamp Duties (Amendment) Act 1982* (NSW) to ensure the

[8] See: s 68 of the NSW Duties Act; ss 43 and 44 of the *Duties Act 2000* (Vic); ss 420–421 and 424 of the *Duties Act 2001* (Qld); s 71CA of the *Stamp Duties Act 1923* (SA); ss 113 and 129 of the *Duties Act 2008* (WA); and s 56 of the *Duties Act 2001* (Tas).

continuation of "the exemption which had been applied … to transfers of matrimonial property between spouses under divorce proceedings" following the introduction of the FLA and to avoid "further burden on the parties" to the divorce: see **SCB 277–278**; see also *Bryan* at 870.

32. The exemption in NSW is now found in s 68(1)(a) of the NSW Duties Act (**SCB 31[28.2]**) which provides that, if a transfer is effected by or in accordance with an order of a court under the FLA, no duty is chargeable on a transfer of "matrimonial property"[9] to: the parties, or either of the parties, of a marriage that is dissolved, annulled or that has broken down irretrievably; to a child or children of either of the parties to such a marriage or the trustee of such a child or children; or to a bankruptcy trustee of either of the parties to such a marriage. *Gazzo* has achieved a "useful result" (*John* at 438; cf **CS [45]**) because the confined nature of the exemption provided by State law ensures that proceedings under the FLA are not used, unbeknownst to a court exercising power under the FLA, for the collateral purpose of making transfers of property free from any potential State duty or charges. The matters in [11]–[13] above demonstrate the reality of that possibility.

33. ***Fourth***, contrary to **AS [70]–[72]** and **CS [46]**, *Gazzo* has been independently acted on in a manner which militates against its reconsideration. State legislatures have enacted their own (narrower) exemptions from duty: see [31]–[32] above. State governments, like NSW, have, for over 44 years, administered their duties legislation on the basis, in accordance with this Court's decision in *Gazzo*,[10] that s 90(1)(a) of the FLA does not validly immunise the deeds and instruments to which it refers from State duty or charges. The available records do not permit the Commissioner to estimate the revenue foregone for the State of NSW if the Commissioner had applied the immunity purportedly conferred by s 90(1)(a); it is unsurprising no such records were kept against the possibility that *Gazzo* might be challenged decades later. But the evidence makes clear the critical nature of the NSW Duties Act to State taxation revenue (contributing over a quarter of taxation revenue in 2024–2025) and the significant number of transactions to

9 "[M]atrimonial property" is defined in s 68(5) of the NSW Duties Act as "property in relation to the parties to a marriage or of either of them" within the meaning of the FLA, including any property treated as property in relation to the parties or of either of them as a result of an order made under that Act.

10 See *Graham v Minister for Immigration and Border Protection* (2017) 263 CLR 1 at [39]–[40].

which s 90(1)(a) could potentially have applied and may apply in the future (whether legitimately or by contrivance): see **SCB 31–32 [29]–[34]**.

Section 90(1)(a) of the FLA is not a valid law of the Commonwealth

34. If, contrary to the submissions above, the Court decides to reconsider *Gazzo*, it should conclude that s 90(1)(a) of the FLA is not a valid law of the Commonwealth.

35. Section 51(xxi) and (xxii) of the Constitution confer on the Commonwealth Parliament power to make laws with respect to "marriage" and "divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants". Section 51(xxi) grants Parliament "legislative power with respect to a status, reflective of a social institution, to which legal consequences attach and from which legal consequences follow": *The Commonwealth v Australian Capital Territory* (2013) 250 CLR 441 at [15]. It is "well settled" that s 51(xxi) "includes the relationship or institution of marriage" and that a "law defining, regulating or modifying the incidents of the marriage relationship is a law with respect to marriage": *In the Marriage of **Cormick*** (1982) 156 CLR 170 at 175–176 (Gibbs CJ) approved in *V v V* at 232 (Gibbs CJ, Mason, Wilson, Brennan and Deane JJ). The power given by s 51(xxi) enables the Commonwealth to define and enforce rights and obligations of the parties to a marriage which arise out of, or are sufficiently connected with, the marital relationship.[11]

36. "A power to make laws with respect to a subject matter is a power to make laws which in reality and substance are laws upon the subject matter*": Bank of NSW v The Commonwealth* (1948) 76 CLR 1 at 186 (Latham CJ); see *Spence* at [57]. The sufficiency of the connection with the subject matter of a conferral of legislative power "can turn on questions of degree": *Spence* at [59]. The connection must not be "'so insubstantial, tenuous or distant' that it cannot sensibly be described as a law 'with respect to' that head of power": *Re Maritime Union* at [35] (citations omitted); *Spence* at [57]. "The sufficiency of the connection … will appear without more if the law has a direct legal operation on the subject matter of the power": *Spence* at [58]. A law meets that criterion

[11] See eg *Gazzo* at 234–35 (Gibbs CJ), 241 (Stephen J), 247–248 (Mason J), 264–265 (Aickin J); *Re F; Ex parte F* (1986) 161 CLR 376 at 382 (Gibbs CJ); ***Dougherty** v Dougherty* (1987) 163 CLR 278 at 286–288 (Mason CJ, Wilson and Dawson JJ) and 293 (Brennan J); *Fisher* at 445–446 (Gibbs CJ, Wilson J agreeing), 452–453 (Mason and Deane JJ) and 456 (Brennan J); *P v P* at 600.

if it "creates rights and duties directly regulating something that forms part of that subject matter": *Spence* at [58] (citation omitted).

37. Section 90(1)(a) has an insufficient connection to the heads of power: Agrinova submits that s 90(1)(a) has a direct legal operation on the subject matters of s 51(xxi) and (xxii) or, in the alternative, is "at least incidental" to those subject matters. Both submissions rest on erroneous contentions concerning s 90(1)(a)'s connection with orders made under Part VIII of the FLA, the efficacy of such orders, and the costs of divorce and matrimonial causes: see **AS [51]–[61]**. For the following reasons, s 90(1)(a) of the FLA does not operate directly on, and does not have a sufficient connection to, the subject matters of s 51(xxi) or s 51(xxii) of the Constitution.

38. ***First***, where it operates, s 90(1)(a) purports to "destroy" or "exclude" the liability that would otherwise be owed to States under any law of the State imposing duty or charges, including general laws which do not "take as the criterion of the liability anything related to the marriage or the matrimonial cause": *Gazzo* at 235 (Gibbs CJ), 241 (Stephen J) and 267 (Aickin J); cf **AS [56], CS [41]**. The general State laws whose liability s 90(1)(a) purports to destroy, like the NSW Duties Act, "are of their nature wholly remote from the heads of power conferred by s. 51(xxi) and (xxii)" and it is only when those State laws "happen to encounter, quite randomly" particular deeds or instruments that there will "occur any connexion with those subject matters": *Gazzo* at 241 (Stephen J).

39. No analogy can accordingly be drawn between s 90(1)(a) and the law upheld in ***Bayside City Council v Telstra Corporation Ltd*** (2004) 216 CLR 595: cf **AS [59], CS [42]**. Unlike s 90(1)(a), the Commonwealth law whose validity was considered in *Bayside* only conferred an immunity in respect of "special kinds of State or Territory laws, that is to say, discriminatory laws" which imposed "discriminatory burdens upon carriers in carrying on activities as carriers authorised" by the *Telecommunications Act 1997* (Cth): *Bayside* at [24]. This Court found that "[c]onferring upon carriers an immunity from discriminatory burdens imposed upon them by State or Territory laws in their capacity as carriers" had a "direct and substantial connection" to Parliament's power pursuant to s 51(v) of the Constitution to make laws with respect to telecommunications services: see *Bayside* at [25]–[26]. Given the different heads of power and the different character of the Commonwealth law and the State laws the subject of the immunity, the conclusion

in *Bayside* is of no relevance to this Court's consideration of the validity of s 90(1)(a): see also *Spence* at [73]–[74].

40. ***Second***, s 90(1)(a) of the FLA has an extraordinarily broad operation. It does not "define[] the legal incidents of a judicial order": cf **AS [52]**. The existence of an order under Part VIII is a mere condition precedent to the operation of s 90(1)(a), which fixes immunity on the ensuing deed or instrument. Section 90(1)(a) provides that, if a deed or other instrument meets the condition of being "executed by a person for the purposes of, or in accordance with, an order made under" Part VIII of the FLA, the deed or instrument is not "subject to any duty or charge" under any State law. Indeed, a deed or other instrument executed by a person *for the purposes of* an order made under Part VIII of the FLA would include deeds or other instruments (and transactions) which were not even contemplated by the court which made the order.[12]

41. So long as that broadly expressed condition is satisfied, the immunity purportedly conferred by s 90(1)(a) of the FLA is wholly at large. As Stephen J identified in *Gazzo*, at 244, and as illustrated by the facts of this case, s 90(1)(a) of the FLA operates "at best" between a party to the marriage and a third party to the marriage, being State revenue authorities. Section 90(1)(a) of the FLA purports to operate irrespective of whether the property transferred is matrimonial or non-matrimonial property, whether the basis for the making of the order or instrument arises out of the marriage relationship, or whether the person liable to pay the duty or charge has any connection to the marriage.

42. The fact that an order has been made under Part VIII is the only necessary connection to the subject matters in s 51(xxi) and/or 51(xxii) of the Constitution. That is a tenuous connection. For example, if a court makes an order under Part VIII that a party to the marriage sell real property (e.g. to settle money on the other party to the marriage), s 90(1)(a) purports to confer on the third-party purchaser of the property an immunity from any applicable State duty or charge.

43. Notably, the dissenting Justices in *Gazzo* did not direct their attention to the expansive ambit of s 90's operation. Mason J repeatedly emphasised that his Honour's consideration was limited to whether s 90 could "validly apply to the situation at hand"

12 It is only deeds or other instruments executed *in accordance with* an order under Part VIII that "are necessarily connected with a matrimonial cause": *Gazzo* at 233 (Gibbs CJ).

(see at 246, 249) and, consistently with that emphasis, his Honour analysed the provision on the basis of its operation in respect of an instrument executed by a party to the marriage to transfer property to the other party: see, eg, at 248–249. Murphy J, at 261, acknowledged Victoria's argument that s 90 "could be misused to provide exemptions for transactions which were related only indirectly or slightly to the marriage relationship", but emphasised that that problem did "not affect the present case". His Honour stated that "[i]f the connexion between a particular transaction and the legislative power is only slight and indirect, that transaction will fall outside the scope of the law".

44. The recognition of s 90(1)(a)'s application to rights and duties which may have no basis in the marital relationship is fatal to its validity. In *Dougherty* at 286, a majority of this Court (Mason CJ, Wilson and Dawson JJ) held that s 79 of the FLA could "only have a valid application with respect to a claim based on circumstances arising out of the marriage relationship" and that the rights and duties which the Family Court could validly create or define under section 79 were "confined to those which have their basis in the marital relationship"; see also at 293 (Brennan J). Any power of Parliament to immunise deeds and instruments from State laws must be similarly confined.

45. ***Third***, s 90(1)(a) of the FLA purports to operate irrespective of the validity of the relevant order. There is no basis in the text, context or purpose of Part VIII to conclude that the immunising effect of s 90(1)(a) is confined to orders *validly* made under Part VIII: cf **AS [52]**; see also **AS [57], [58]; CS [5], [53]**. Indeed, s 79A(1), which confers a power to set aside orders altering property interests, recognises that orders affected by a "miscarriage of justice by reason of fraud, duress, suppression of evidence (including failure to disclose relevant information), the giving of false evidence or any other circumstance" are "orders" for the purpose of Part VIII of the FLA. That s 90(1)(a) must be characterised on the basis that it applies to all orders, irrespective of their validity, is underscored by the practical operation of the purported immunity upon State Commissioners of Taxation administering the taxation laws of their respective States.[13] It may rhetorically be asked, at which juncture of the objection process (before the Commissioner or the NCAT) was the Commissioner supposed to have challenged the validity of the orders made (without notice to the Commissioner) on 23 October 2019?

[13] See eg s 61 of the *Taxation Administration Act 1996* (NSW).

46. Notably, despite Agrinova's invitation for this Court to consider the validity of s 90(1)(a) on the basis of its operation with respect to validly made orders (see eg **AS [52]**), Agrinova's submissions elsewhere embrace s 90(1)(a)'s application to invalidly made orders, with Agrinova contending that s 90(1)(a) "operates temporally at the point of execution of the relevant deed or instrument", so long as there is an "order extant at that point in time": **AS [25]**. According to Agrinova, at that point s 90(1)(a)'s work is "complete" and any effort to set aside the order is "futile": **AS [78]**.

47. The potential for an order made under Part VIII of the FLA to have been *invalidly* made is evident from a cursory comparison of the broad scope of the powers, and the confined nature of the jurisdiction, conferred on courts under Part VIII. On the one hand, s 80(1) of the FLA confers "very wide" (**AS [86]**), apparently unconfined, powers on courts exercising powers under Part VIII, including the power to "make an order by consent" and "any other order … which it thinks is necessary to make to do justice": see eg *The Queen v Ross-Jones; Ex parte Beaumont* (1979) 141 CLR 504 at 509–510 (Gibbs J). On the other hand, the jurisdiction conferred on the court is confined:

    a. The FLA vests jurisdiction on courts in relation to "matrimonial causes" (s 39), which is relevantly defined in paragraph (ca) of the definition as "proceedings between the parties to a marriage with respect to the property of the parties to the marriage or either of them", being, relevantly, "proceedings … arising out of the marital relationship".[14] Paragraph (ca) requires that the proceedings between the parties to a marriage with respect to property "should arise out of the marital relationship", which imposes a "limit" on the jurisdiction to make an order under s 79: *Dougherty* at 286 (Mason CJ, Wilson and Dawson JJ).

    b. In Part VIII of the FLA, concerning "Property, spousal maintenance and maintenance agreements", s 79 confers a discretionary power in "property settlement proceedings", which are defined in s 4(1) to mean, relevantly, "proceedings with respect to … the property of the parties to a marriage or either of them". Section 79(1)(a) empowers the court to make "such order as it considers appropriate … altering the interests of the parties to the marriage in the property". It refers "only to orders which work an alteration of the legal or equitable interests

[14] Property" is defined in s 4(1) of the FLA to mean property to which the parties to a marriage or either of them are entitled "whether in possession or reversion".

in the property of the parties or either of them": *Mullane v Mullane* (1983) 158 CLR 437 at 445; see also *Federal Commissioner of Taxation v Tomaras* (2018) 265 CLR 434 at [29], [56] (Gordon J); *B Pty Ltd & Anker* [2025] FedCFamC1A 85; 395 FLR 113 at [15] (Riethmuller, Campton and Christie JJ).

c. Section 80 of the FLA does not confer any additional jurisdiction to s 79: *In the Marriage of Burridge* (1980) 6 Fam LR 513 at 516; *In the Marriage of Yunghanns* [1999] FamCA 64; 149 FLR 247 at [118]; see also *In the Marriage of Davidson* (1994) 117 FLR 335 at 345–347; *Ascot Investments Pty Ltd v Harper* (1981) 148 CLR 337 at 354 (Gibbs J). Cf **AS [32]–[33]**. Nor does Part VIIIAA: see ss 90AA, 90AE(2), (3) and (4) of the FLA; *Tomaras* at [71]–[72] (Gordon J); cf **AS [82]**.

48. ***Fourth***, the conferral of an immunity from State duty and charges is neither necessary nor appropriate to make effective orders made under Part VIII of the FLA or "protect the[ir] integrity and practical efficacy": cf **AS [59]**, **CS [49]**. As Gibbs CJ explained in *Gazzo*, at 238, "[t]he liability to pay the duty does not prevent or impede the person to whom the order is directed from complying with it, or the person in whose favour it is made from enforcing it, nor does it affect the operation of the order". Irrespective of s 90(1)(a), the orders made under Part VIII of the FLA "stand complete and operative in themselves to bind the parties": *Gazzo* at 270 (Aickin J).

49. **CS [49]–[50]** raises the spectre of State duties and charges "unstead[ying]" the "economic balance struck by the Court" and the Court's "final word" and somehow discouraging separating parties to agree on arrangements for dividing their property. The articulation of these alleged threats, which the Commonwealth says s 90(1)(a)'s purpose was to address (see **CS [49]–[52]**), relies on an unreal assumption that the parties would seek, and the court would make, orders under s 79 of the FLA in ignorance of the potential consequences under State duties and charges despite provisions like s 79(5)(v).[15] Critically, the Commonwealth's submissions fail to provide any explanation as to why it is only State and Territory laws that pose this threat and why Commonwealth laws, like taxes on capital gains, do not require the same "anti-circumvention" imposed by s 90(1)(a). Further, the Commonwealth's argument would logically entail an ability on the part of the Commonwealth Parliament to empower a court exercising power under

[15] For example, in *Toscani & Toscani* [2020] FamCA 5 at [22] and [54]–[56] the Court made an allowance for capital gains tax and duty costs.

the FLA to dispense with *any* State or Territory laws which, in any way, affect the ultimate value of the marital pool, eg an ordinarily applicable State planning law which restricts what one party may do on the land.

50. ***Fifth***, the fact that s 90(1)(a) of the FLA may lower the costs associated with divorce and matrimonial proceedings is an insufficient connection to the heads of power: cf **AS [53]–[55], [59]**. The immunity purportedly conferred by s 90(1)(a), and correlative reduction in costs, is not confined, or even directed, to the parties to the divorce or those proceedings: cf **AS [56], [60]**. But even if it were, this would not provide a sufficient connection to the heads of power. Although the lowering of costs may make compliance with an order easier, as Gibbs CJ and Aickin J observed in *Gazzo* at 243 and 269, conferring an immunity from State duties and charges has no closer connection to s 51(xxi) and 51(xxii) than a law relieving a party from liability to pay their legal fees for the proceedings, which would plainly be beyond power: see also Stephen J at 243.

51. The absence of any real connection between s 90(1)(a) of the FLA and the efficacy of the Family Court's orders or the costs imposed on the parties to the marriage is usefully illustrated by the present case. Although Agrinova submits (despite the contents of its objection to the Commissioner) that the 23 October 2019 Orders were "necessary for the husband to raise finance for the payment of the lump sum to the wife" (**AS [61]**), the 31 January 2019 Orders accounted for the possibility that the ex-husband would not be able to pay the lump sum in accordance with Order 2. The ex-wife's obligation to transfer her interests to the ex-husband were only triggered by the making of the payment under Order 2 (**SCB 120–121**) and Order 19 made provision for any default under Order 2, with Properties "A" and "B" to be sold and the ex-wife paid out of the settlement funds: **SCB 125**. The savings that s 90(1)(a) of the FLA purport to confer did not enlarge the property pool of the parties to the marriage, with the savings conferred only on Agrinova, a stranger to the marriage. Immunising Agrinova from its significant liability under the NSW Duties Act would confer no benefit on the ex-wife. The only benefit to the ex-husband would be via the correlative expansion of the trust's assets and his status as a potential beneficiary of that discretionary trust.

52. ***Finally***, contrary to the **CS [4], [43], [47]–[52]**, s 90(1)(a) is not made a law with respect to s 51(xxi) or s 51(xxii) merely by identifying that s 90(1)(a) has a purpose or purposes

that has some relationship to the heads of power.[16] A provision cannot be said to be incidental to the subject matter of a power "simply because in a general way it facilitates the execution of the power": see [30] above. In *Spence*, at [60], this Court explained that "[d]etermining whether a law is incidental to the subject matter of a power can be assisted by examining how the purpose of the law … might relate the operation of the law to the subject matter of the power". The Court went on to observe, at [62], that a law whose purpose is the "protection of something that is encompassed within the subject matter of a conferral of legislative power may yet not be a law with respect to that subject matter because the law is insufficiently adapted to achieve that purpose, having regard to the breadth and intensity of the impact of the law on other matters".

53. Having regard to its effect and operation (*Spence* at [61]), s 90(1)(a) does not have the "two interconnected purposes" identified at **CS [49]** (see [49] above) which, in any event, do not show any real connection to the subject matters of s 51(xxi) or s 51(xxii) of the Constitution as articulated by this Court: see [35] above. Even if this Court were to conclude that s 90(1)(a)'s purpose was the protection of something within s 51(xxi) or s 51(xxii) of the Constitution, there is a such a disconformity between any such purpose and the extraordinary breadth and intensity of the provision to deny it the character of a law with respect to those subject matters: see eg *Spence* at [81]–[82]; cf **AS [60]**.

54. <u>Alternatively, s 90(1)(a) must be read down</u>: For the reasons above, s 90(1)(a) is wholly invalid. Alternatively, if s 90(1)(a) is capable of some valid operation, having regard to its extreme breadth and effect explained above, it goes well beyond that operation. Relevantly to this case, s 90(1)(a) at least cannot validly: **(i)** confer any immunity on a third party to the marriage; **(ii)** apply to an order or instrument concerning non-matrimonial property (i.e. property which is not property of the parties to the marriage or either of them); **(iii)** apply to an order which does not alter the interests of the parties to the marriage in matrimonial property for the purposes of dividing the property of the marriage; and/or **(iv)** apply to an order that has been set aside.

55. The conferral of an immunity from State duties and charges in each of these four respects has no real connection to the marriage relationship, divorce or matrimonial causes. None

[16] The Commonwealth's argument appears to be: (a) s 90(1)(a) protects the integrity and efficacy of orders and encourages settlements (**CS [49]–[50]**); (b) those purposes were invoked by the Joint Select Committee on the Family Law Act (**CS [51]**); (c) "[t]herefore, s 90(1)(a) is supported by s 51(xxi) and/or s 51(xxii)" (**CS [52]**).

of the various justifications of s 90(1)(a) proffered by Agrinova and the Commonwealth (e.g. centrality of property to marriage, efficacy of court orders, unsteadying of the court's final word, undermining early settlement between the separating parties, costs of divorce/proceedings etc) are capable of having any sensible application to the conferral of an immunity from State duties and charges: on strangers to the marriage; in respect of non-matrimonial property; in respect of orders made otherwise than as part of the division of the property of the marriage; and/or orders that have, in fact, been set aside.

56. While courts exercising power under Part VIII of the FLA can validly be empowered to make orders concerning third parties, that is only in relation to the property of a party to a marriage and only because of the incidental connection to the division of property of the marriage between the parties to the marriage: see [47] above; *Ng v Van Der Velde* [2011] FCAFC 35 at [69]. For s 90(1)(a) of the FLA to extend to third parties, non-matrimonial property and/or orders which do not alter the interests of the parties to the marriage in matrimonial property for the purposes of dividing the property of the marriage, s 90(1)(a)'s immunising effect — which can be justified only as something incidental to the matters in s 51(xxi) and/or 51(xxii) of the Constitution — would be applied to matters and things which are themselves only capable of being done because of their incidental connection to those matters. The compounding of such incidental connections results in an insufficient connection to the heads of power: cf **AS [51]–[52], [57]–[58], [74], [82]**. There is absolutely *no* connection if the orders are subsequently recognised as ones which ought never to have been made.

Any error of law was not material

57. For any error of law about the validity of s 90(1)(a) to be material, there must be a "realistic possibility" that the decision made by the Appeal Panel, to dismiss Agrinova's appeal from the decision affirming the assessments under review, "*could* have been different if the error had not occurred": ***LPDT*** *v Minister for Immigration* (2024) 280 CLR 321 at [7] (original emphasis, citation omitted).

58. If s 90(1)(a) is a valid law of the Commonwealth, there is no realistic possibility that the Appeal Panel's decision could have been different because: **(a)** the immunity conferred by s 90(1)(a) does not apply to the duty charged by Chapter 2 of the NSW Duties Act

(see [17]–[22] above); and **(b)** s 90(1)(a) cannot validly extend to the instruments transferring Properties "A" to "H" from the ex-husband and his parents to Agrinova.

59. This case satisfies at least the first three categories identified at [54] above.[17] Orders 5 and 7 made on 23 October 2019 directed the transfer of property to Agrinova, a corporate trustee who was a stranger to the marriage and was to hold the property for a wide class of beneficiaries. Order 7 made on 23 October 2019 (the subject of DAN 10206911) required the transfer of $32,200,000 of property that is expressly conceded not to be matrimonial property: see [7] and [9] above. While Order 5 made on 23 October 2019 concerned the transfer of property that had been the property of the marriage (the subject of DAN 10207042), Order 5 (like Order 7) did not alter the interests of the parties to the marriage in matrimonial property for the purposes of dividing the property of the marriage: see [5]–[13] above; cf **AS [61]**.[18] To say that Orders 5 and 7 "facilitate" compliance with the property division orders or are "directed to the[ir] implementation" (**AS [61], [84]**) reveals how the application of s 90(1)(a) to the transfers directed by Orders 5 and 7 involves an unsustainable compounding of incidental connections to s 51(xxi) and/or 51(xxii): **cf AS [51]–[52], [57]–[58], [74], [82]**.

PART VII: ESTIMATE OF TIME

60. The Commissioner estimates that 2.5 hours will be required for presentation of his oral argument.

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Dated 26 August 2026

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17 Although the Commissioner has not, to date, sought to set aside Orders 5 and 7 made on 23 October 2019, he reserves his right to do so, including pursuant to s 79A of the FLA.

18 Agrinova appears to contend Order 7 has some unspecified connection to the parents' prior conduct in making contributions to the married parties: see **AS [88]**. Those contributions were considered and determined in Benjamin J's reasons (see [7] above) and the subject of the orders made on 31 January 2019. There is no basis to conclude that the prior contributions to the marriage had any relationship with the making of Order 7.

ANNEXURE TO FIRST RESPONDENT'S SUBMISSIONS

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date or dates
1.	The Constitution	Current	ss 51	Currently in force	All relevant times
Commonwealth Statutes					
2.	*Family Law Act 1975* (Cth)	1 August 1979 – 3 March 1982	s 90	In force on the date of orders in ***Gazzo*** *v Comptroller of Stamps (Vic)* (1981) 149 CLR 227	24 December 1981
3.	*Family Law Act 1975* (Cth)	22 November 2018 – 9 March 2019 (Comp No 87)	ss 4, 39, Pts VIII, VIIAA	In force on the date of Benjamin J's reasons for judgment and the date of the January 2019 orders	December 2018; 31 January 2019
4.	*Family Law Act 1975* (Cth)	25 April 2019 – 26 November 2020 (Comp No 89)	s 4, 39, Pts VIII, VIIAA	In force on the date of the October 2019 orders and the transfers of real property to Agrinova	23 October 2019; December 2019
New South Wales Statutes					
5.	*Duties Act 1997* (NSW)	1 July 2019 – 23 June 2020	ss 3, 4, Ch 2, 274, Dictionary	In force on the date of the transfers of real property to Agrinova	December 2019
6.	*Stamp Duties Act 1920* (NSW)	29 September 1983	Pts 1 and 3	In force at the time s 90 of the *Family Law Act 1975* (Cth) was repealed and substituted	28 October 1983
7.	*Stamp Duties (Amendment) Act 1982* (NSW)	As made	N/A	Statute enacted by NSW following *Gazzo*	N/A
8.	*Taxation Administration Act 1996* (NSW)	1 July 2019 – 18 May 2022	Pt 8, s 61	In force on the date of the Commissioner's duty assessments and Agrinova's objection	28 October 2021; 24 December 2021
Other State Statutes					
9.	*Duties Act 2001* (Qld)	Current	ss 420, 421, 424	For illustrative purposes	N/A

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date or dates
10.	*Duties Act 2001* (Tas)	Current	s 56	For illustrative purposes	N/A
11.	*Duties Act 2000* (Vic)	Current	ss 43, 44	For illustrative purposes	N/A
12.	*Duties Act 2008* (WA)	Current	ss 113 and 129	For illustrative purposes	N/A
13.	*Stamp Duties Act 1923* (SA)	Current	s 71CA	For illustrative purposes	N/A