

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



BETWEEN:

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**Warwick Coverdale,  
Valuer-General of  
the State of Tasmania**

Appellant

and

**West Coast Council**

Respondent

### APPELLANT'S SUBMISSIONS

#### Part I: Publication

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

20 **Part II: Concise Statement of Issues Presented by Appeal**

2. The Valuer-General's duty under s 11 of the *Valuation of Land Act 2001* ("the VLA") is to make valuations of "all lands" within a valuation district "including any Crown lands that are liable to be rated".
3. Macquarie Harbour is Crown land within the respondent's municipal area. It contains marine farming leases. Rather than determining the Valuer-General's duty by reference to the definition of "land" in the VLA (which does not include the sea or seabed) the majority of the Full Court determined it by reference to the definitions of "land" and "Crown land" in the *Crown Lands Act 1976* ("the CLA") and thus that the lands the subject of the marine farming leases are liable to be rated.
- 30
4. Is the sea, or seabed "land" which, under the VLA, the Valuer-General is required to value?

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

5. The appellant has considered whether any notice should be given in compliance of section 78B of the *Judiciary Act 1903*. No s 78B notice is required.

#### Part IV: Citations

- 40 6. The citations for the decisions in the Supreme of Court of Tasmania are:

- a. Primary Court: *West Coast Council v Coverdale* [2014] TASSC 42 (Blow CJ);
- b. Intermediate Court: *West Coast Council v Coverdale (No 2)* [2015] TASFC 1; (2015) 206 LGERA 323 (Tennent, Estcourt & Pearce JJ).

#### Part V: Narrative Statement of Facts Found

7. The respondent ("the Council") wished to levy rates on 8 marine farming leases<sup>1</sup> within Macquarie Harbour on the west coast of Tasmania. It requested the applicant ("Valuer-General") to value the leases under the VLA. The Valuer-General refused to do so<sup>2</sup>.  
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8. The waters in Macquarie Harbour are State waters<sup>3</sup>. The bed of Macquarie Harbour belongs to the Crown.<sup>4</sup>
9. Macquarie Harbour, including its waters, is within the Council's municipal area.<sup>5</sup>
10. A marine farming lease is granted pursuant to the provisions of the *Marine Farming Planning Act 1995* by the Minister responsible for the administration of that Act.<sup>6</sup>
11. Each lease grants to the lessee exclusive possession of a particular area which includes all waters and the seabed in the lease area.<sup>7</sup>
- 20 12. Prior to 30 July 2013, the Valuer-General had included the 8 marine farming leases in valuation lists which were prepared for the Council's municipal area. The entries in the lists included details of the owner and values of the land the subject of the marine farming leases. The Council acted on the valuation lists and resolved to impose rates on the marine farming leases as rateable land under the *Local Government Act 1993*, Part 9.<sup>8</sup>
13. With effect from 30 July 2013, the Valuer-General removed the references to the marine farming leases from the valuation lists.<sup>9</sup>
- 30 14. In April 2014, the Council sought (amongst other things) a declaration in the Supreme Court to establish that the Valuer-General has a duty under the *Valuation of Land Act 2001* to make valuations of the marine farming leases.<sup>10</sup>

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<sup>1</sup> *West Coast Council v Coverdale* [2014] TASSC 42 ("First instance") at [1]  
<sup>2</sup> *West Coast Council v Coverdale (No 2)* [2015] TASFC 1; (2015) 206 LGERA 323 ("Full Court") at [38]  
<sup>3</sup> First Instance at [2]  
<sup>4</sup> First Instance at [2]  
<sup>5</sup> First instance at [1], Full Court at [2]  
<sup>6</sup> *Marine Farming Planning Act 1995*, s 59  
<sup>7</sup> Full Court at [2]; *Marine Farming Planning Act 1995*, s 59  
<sup>8</sup> Which includes the Council's rating powers. Full Court at [3]  
<sup>9</sup> Full Court at [3]  
<sup>10</sup> The declaration sought is fully set out in Full Court at [38], per Pearce J (dissenting)

15. The action was dismissed by the learned Chief Justice on 18 August 2014.<sup>11</sup> The Council appealed to the Full Court which allowed the appeal.<sup>12</sup>

#### Part VI: Succinct Statement of Argument

16. The VLA, s 11(1) provides that the Valuer-General must:

“...make valuations of the land values, capital values and assessed annual values of all lands within each valuation district, including any Crown lands that are liable to be rated in accordance with Part 9 of the *Local Government Act 1993*”.

- 10 17. The sub-section is in two parts. The first limb directs the Valuer-General to value land. It does not direct the Valuer-General to value anything else.
18. The definition of “land” in section 3 of the VLA does not include the seabed, or the waters above it. No judgment below suggests otherwise.
19. The contest arises under the second limb of s 11(1), which operates to extend the Valuer-General’s duty to include in the land to be valued “any Crown lands that are liable to be rated”. It is this part of the section on which the reasoning of the majority of the Full Court (Tennent and Estcourt JJ) focuses.
- 20 20. The majority held that Crown lands liable to be rated in accordance with Part 9 of the *Local Government Act 1993* (“the LGA”) include “lands” the subject of the marine farming leases.
21. The majority did so, not by considering the meaning of “land” in the VLA, but by reference to (amongst other things) the definitions of “land” and “Crown land” in the CLA and “land” in the LGA.
22. As a result, the majority:
- a. ignored the first limb of the VLA, s 11(1) that the Valuer-General must value “all lands” within the meaning of the VLA;
  - b. had improper regard to the definition of “Crown land” in the CLA;
  - c. gave the definition of “land” in s 86 of the LGA an operation beyond its proper scope, so as to include the seabed and waters above it.
- 30 The first point was an error of which the second and third points are manifestations.

#### ***Error – ignoring the first limb of s 11(1)***

23. Tennent J approached the VLA, s 11(1) with particular reference to the second limb.<sup>13</sup> Her Honour then referred to the definition of “land” in the VLA, however, with no discernable consequence. She did not refer to it

<sup>11</sup> *West Coast Council v Coverdale* [2014] TASSC 42.

<sup>12</sup> *West Coast Council v Coverdale (No 2)* [2015] TASFC 1; (2015) 206 LGERA 323

<sup>13</sup> Full Court at [9]

again, except<sup>14</sup> with reference to the reasons of the learned Chief Justice at first instance<sup>15</sup>.

24. Her Honour asked herself “what Crown lands may be ‘liable to be rated’”. To answer that question she referred to the LGA, s 87(1) and said, “[t]he starting point therefore is that all land is rateable unless exempted.”<sup>16</sup> Her Honour failed to consider whether the Crown land in question was “land” within the meaning of the VLA, s 11(1), or the LGA, ss 86 and 87.
25. Estcourt J’s approach was similar, but more direct. His Honour set out s 11(1), with particular reference to the second limb and the word “liable”. He found without any reference to definition of “land” in the VLA, that “the [Valuer-General] is under a duty to value lands the subject of the [marine farming] leases because they are Crown lands that are “liable” to be rated.”<sup>17</sup>
26. By this approach, their Honours asked themselves the wrong question, namely whether Crown land was exempt under the provisions of the LGA, rather than whether it was land within the meaning of the VLA in the first place.

### ***The correct approach***

27. The Valuer-General’s duty under s 11(1) to value Crown land is engaged when three conditions are present, namely,
- a. there is land within the meaning of the VLA;
  - b. the land is Crown land; and
  - c. the land is liable to be rated under the LGA, Part 9.
28. The majority reasoning in the Full Court ignores the first condition.
29. The task of determining the proper construction of a statute begins with a consideration of the text itself.<sup>18</sup> The surest guide to legislative intention is the language used in the text. The meaning of the language begins with an examination of the context, considered in its widest sense, including the general purpose and policy of the provision.<sup>19</sup>
30. The statute imposing the duty on the Valuer-General is the VLA. The text and context of s 11 requires primary attention. In the present case, the task

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<sup>14</sup> Full Court at [13]

<sup>15</sup> First instance at [27]

<sup>16</sup> Full Court at [10]

<sup>17</sup> Full Court at [29] and [31]

<sup>18</sup> *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* [2009] HCA 41; (2009) 239 CLR 27 at [47]

<sup>19</sup> *Travellex v Commissioner of Taxation* [2010] HCA 33, (2010) 241 CLR 510 at [82]

was correctly addressed by Pearce J (dissenting)<sup>20</sup> and, at first instance, by Blow CJ.<sup>21</sup>

31. The Valuer-General is required to value land. There is authority in this Court and at intermediate level dealing with the ordinary and literal meaning of land.<sup>22</sup> It does not include the seabed, or the waters above it.

32. The inclusive definitions of "land" in s 3 of the VLA and s 46 of the *Acts Interpretation Act 1931* extend the meaning of the term, but not to the seabed of coastal waters below the low water mark.<sup>23</sup> These provisions are concerned with interests in land. They relate only to things, or rights in the nature of, or attaching to realty.<sup>24</sup>

33. The Valuer-General's duty is to value "all lands within each valuation district including any Crown lands". In the context of s 11(1), Crown lands are simply a sub-set of the lands to be valued.

34. The phrase "all lands within each valuation district"<sup>25</sup> lends support to that construction. It identifies the class which must be valued. To fall within that class, Crown lands must first be lands within the defined meaning of that term. The word "including" strongly indicates that Crown lands are to be brought within the class.

35. The phrase "liable to be rated" in the second limb of s 11(1) directs attention to those Crown lands which are included within the identified class to be valued.<sup>26</sup> It does not in terms refer to the exceptions which operate to exempt certain categories of Crown lands from being rated under the LGA.

36. Thus, the lands which the Valuer-General must value under s 11(1) are fully identified within the scope and meaning of the VLA. There is no need (even if it were permissible) to resort to other statutory definitions for that purpose.

### ***Legislative History***

37. The legislative history of the VLA, s 11(1) is consistent with that interpretation.

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<sup>20</sup> Full Court at [41] to [44];

<sup>21</sup> First instance at [18] to [24]

<sup>22</sup> *Risk v Northern Territory* High Court [2002] HCA 23; (2002) 210 CLR 392 at [26]; Full Federal Court [2000] FCA 1179; (2000) 105 FCR 109 at [34]; *Northern Territory v Arnhem Land Aboriginal Trust*. [2008] HCA 29; (2008) 236 CLR 234 at [56]

<sup>23</sup> *Risk v Northern Territory* [2000] FCA 1779; (2000) 105 FCR 109 and on appeal to the High Court [2002] HCA 23; (2002) 210 CLR 392

<sup>24</sup> Full Court: Pearce J at [54] referring to *Re Lehrer and the Real Property Act 1900-1956* [1961] SR (NSW) 365 at 370-371

<sup>25</sup> A valuation district is the municipal area of a council: VLA, s 3. The *Acts Interpretation Act 1931*, s 46 provides that in any Act a municipal area is a municipal area within the meaning of the LGA. The LGA defines each municipal area in the State: s 18 and Schedule 3.

<sup>26</sup> LGA, s 87; explained by Pearce J at Full Court [64]

38. The VLA came into force on 28 June 2002.<sup>27</sup> Immediately before that the Valuer-General's duty was contained in s 12 of the *Land Valuation Act 1971* ("the LVA"). The direction to the Valuer-General was to value all lands (other than Crown lands), but conferred upon the Valuer-General a discretion to value Crown lands as the Valuer-General thought proper.<sup>28</sup>

39. The VLA adopted the same formula when it was first enacted. However, it was amended on 1 July 2004<sup>29</sup> to refer to "all lands...and Crown lands liable to be rated..."<sup>30</sup>

10 40. The phrase "all lands...including any Crown lands"<sup>31</sup> was introduced by amendment on 1 January 2007.<sup>32</sup>

41. The substitution of the word "including" is consistent with the need to clarify that the duty is to value only those Crown lands which are properly described as land.

#### **VLA, s 45**

42. Section 45(1)(c) of the VLA refers to Crown lands in the context of the particulars to be given in a valuation list. It refers to "all lands...**except such lands of the Crown** as are not rateable and have not been valued..."

43. That formulation has remained in s 45 since the VLA was enacted.<sup>33</sup>

20 44. "Lands" in the phrase "lands of the Crown" must be interpreted having regard to the meaning to be attributed to it in the VLA. It is consistent with lands of the Crown being a sub-set of lands. It is only those lands which must be included in a valuation list.

45. Sections 11(1) and 45(1)(c) should be construed harmoniously.<sup>34</sup> The most likely construction is one which gives a consistent operation both to the word "including" in s 11(1) and to the exception in s 45(1)(c).

46. Section 45(1)(c) is consistent with the proposition that there is no species of Crown land under the VLA, which does not answer the ordinary and literal meaning of land.

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<sup>27</sup> *Valuation of Land Act 2002*, s 2, *Proclamation under the Valuation of Land Act 2002*, SR 69 of 2002

<sup>28</sup> LVA, s12(1)(a) and (b)

<sup>29</sup> *State and Local Government Financial Reform Act 2003*, s 2

<sup>30</sup> *State and Local Government Financial Reform Act 2003*, s 21

<sup>31</sup> *Valuation of Land Amendment Act 2006*, s 11

<sup>32</sup> *Valuation of Land Amendment Act 2006*, s 2; *Proclamation under the Valuation of Land Amendment Act 2006*, SR 157 of 2006

<sup>33</sup> Section 45 was amended by the *Valuation of Land Amendment Act 2006*, but not materially for these purposes.

<sup>34</sup> *Project Blue Sky Pty Ltd v Australian Broadcasting Authority* (1998) 194 CLR 355

### **The Crown Lands Act definitions**

47. By resorting first to the question of whether Crown lands were liable to be rated, the majority felt able to consider (as a governing provision) the definition of Crown land under the CLA, s 2, under which land includes “the part of the sea or those waters covering the land”.<sup>35</sup> This ultimately led to the conclusion that the marine farming leases were “Crown lands that are liable to be rated.”<sup>36</sup>
48. That approach disregards the principles of statutory interpretation referred to above. It also imputes a definition into the VLA, which neither appears, nor is required for its proper construction. If that step is to be taken:
- a. the purpose of the VLA must clearly favour the imputation;
  - b. it must be apparent that the Parliament has inadvertently overlooked a consequence for which the statute is intended to operate; and
  - c. it must be possible to state with certainty what Parliament would have said to overcome the difficulty.<sup>37</sup>
49. The first two conditions are not satisfied. The third does not arise.
50. The purpose of the VLA is to ascribe value to land. No provision of the VLA suggests that land is to include the sea. To contend otherwise requires a strained meaning to be given to s 11(1).
51. It is far from apparent from the provisions of the VLA that Parliament has overlooked the possibility that areas of Crown land in the sea, or more specifically, marine farming leases should be valued. It is more likely that it intended no such thing. The sea is not the land. A marine farming lease is a sufficiently different genus to a lease of land to permit the suggestion that, had Parliament intended them to be valued, it would have said so.
52. The definitions of “Crown land” and “land” in the CLA are immaterial to the question of whether the land, in s 11 of the VLA, includes the seabed and waters above it. They are confined to the operation of the CLA.<sup>38</sup> There is no reason to use them to construe s 11.

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<sup>35</sup> Full Court at [12]

<sup>36</sup> Full Court per Tennent J at [13]; Estcourt J at [24]

<sup>37</sup> *Birmingham v Corrective Services Commission of New South Wales* (1988) 15 NSWLR 292 per McHugh JA at 302 and *R v Young* (1999) 46 NSWLR 681 per Spigelman CJ (with whom Abadee and Barr JJ agreed) at [11]-[16], discussed in *Director of Public Prosecutions v Leys* [2012] VSCA 304; (2012) 296 ALR 96 at [44]-[111]; see the discussion in Pearce, DC & Geddes, RS *Statutory Interpretation in Australia*, 7<sup>th</sup> Ed, Lexis Nexis, p 54ff

<sup>38</sup> *Yager v The Queen* (1977) 139 CLR 28 at 43. Full Court at [62] to [64] per Pearce J; Pearce, DC & Geddes, RS *Statutory Interpretation in Australia*, 7<sup>th</sup> Ed, Lexis Nexis, p 104

**Operation of the LGA, ss 86 & 87**

53. The conclusion that the marine farming leases are liable to be rated implicitly requires the proposition that the definition of land in the LGA extends to the seabed and the waters above it.
54. Part 9 of the LGA contains taxation provisions.<sup>39</sup> It is accepted that ordinary rules of construction apply. However, it is submitted that the fact that Part 9 imposes a tax is relevant to its context.<sup>40</sup>
- 10 55. The LGA, Part 9 contains no express statement, or discernable intention that land under the sea is rateable.<sup>41</sup> Rather, in s 86 it defines "land" as a parcel of land which is shown as being separately valued in the valuation list prepared under the VLA. Section 87 provides that all land is rateable, subject to express exceptions.
56. Tennent J did not expressly deal with s 86, although her Honour referred to s 87. The path to the implication is more easily discovered in the judgment of Estcourt J, who specifically referred to s 86.<sup>42</sup> He said it was no answer to the plain construction of s 11(1) of the VLA that the definition of land in the LGA<sup>43</sup> does not refer to the seabed and to the waters above it and that the Crown lands the subject of the marine farming leases are not shown as separately identified in the valuation list.<sup>44</sup>
- 20 57. Both judges in the majority relied on s 87 as the point of departure for determining the liability for land to be rated. However, the question of what is to be included in a valuation list is informed by neither ss 86 nor 87 of the LGA. Section 86 defines "land" by an existing state of affairs viz, that it is a parcel shown in a valuation list.
58. A local council, approaching the question of what land to rate should first look in the valuation list. If it finds a parcel of Crown land that falls within a particular exception in s 87, it should not rate it.
- 30 59. The validity of the reasoning of the majority depends on soundness of the premise that the definitions of "Crown land" and "land" in the CLA, s 2, should be imputed to the second limb of s 11(1) of the VLA. That premise necessarily informs the content of the definition of "land" in s 86 of the LGA. The weaknesses of this approach are fully exposed in the dissenting judgment of Pearce J<sup>45</sup> where his Honour explains:

<sup>39</sup> *The Municipal Council of Sydney v. The Commonwealth* [1904] HCA 50; (1904) 1 C.L.R., 208, at 230; *Wingadee Shire Council v Willis* [1910] HCA 35; (1910) 11 CLR 123 at 130.

<sup>40</sup> *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* [2009] HCA 41; (2009) 239 CLR 27 at 49 [57]

<sup>41</sup> *Hepples v Federal Commissioner of Taxation* (1992) 173 CLR 492 at 510-11, per Deane J  
<sup>42</sup> Full Court at [28]

<sup>43</sup> LGA, s 86

<sup>44</sup> Full Court at [30]

<sup>45</sup> Full Court at [62] to [64]

- a. the definitions in the CLA artificially extends the ordinary meaning of "land" to include the sea for the purposes of that Act;<sup>46</sup>
- b. those definitions are expressly confined to the CLA;<sup>47</sup>
- c. effect must be given to definitions enacted by Parliament in a particular statute;<sup>48</sup>
- d. The CLA is not *in pari materia* with rationally integrated valuation and rating systems of the VLA and LGA.<sup>49</sup>

### ***Circularity***

- 10      60. In the reasons of Estcourt J<sup>50</sup> it is suggested that it would be circular to construe the word "liable" in s 11(1) so as to require that lands that the Valuer-General is under a duty to value are already shown as being separately valued in a valuation list. In his Honour's view, no land would become liable to be valued unless and until the Valuer-General chose to value and list it.
61. With respect to his Honour the reasoning is flawed. First, it assumes as a premise the conclusion that Crown land includes the sea (that is that there is duty to include that Crown land in the first place).
- 20      62. Secondly, it incorrectly assumes that if his Honour's construction of s 11 is not accepted, the Valuer-General is left with a choice whether or not to value Crown land under s 11. The Valuer-General is a statutory officer with a duty to value land. His Honour's reasoning requires acceptance of the proposition that the Valuer-General will act capriciously. It also fails to acknowledge that performance of the duty could be compelled by mandamus.
63. There is no circularity involved in the construction of s 11(1) if the starting point is the duty, rather than an assumption that its performance will be flawed.

### ***Consequences of the decision***

- 30      64. If the majorities' reasoning is correct, the whole of the balance of Macquarie Harbour, un-subdivided by the marine farming leases, together with other areas of submerged Crown lands in municipal areas in Tasmania, are also liable to be rated.<sup>51</sup> It is extremely unlikely that Parliament intended that consequence. Apart from the onerous burden it would place on the Valuer-General, it involves the absurd proposition that the State intended itself to

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<sup>46</sup> Full Court at [62]  
<sup>47</sup> Full Court at [62]  
<sup>48</sup> Full Court at [63]  
<sup>49</sup> Full Court at [63]  
<sup>50</sup> Full Court at [32]  
<sup>51</sup> Full Court at [65] Pearce J,

be burdened with rates for all areas of Crown land (which is not otherwise exempt) under the sea within municipal boundaries.

**Part VII: Applicable Statutory Provisions**

65. The statutory provisions are attached at Annexure A.

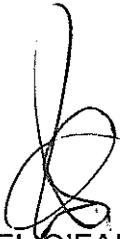
**Part VIII: Orders sought**

1. The appeal be allowed.
2. The orders of Full Court of the Supreme Court of Tasmania dated 17 February 2015 be set aside and reinstating the orders of Blow CJ dated 18 August 2014 in their place.
3. No order as to costs.

**Part IX: Estimate of Time**

66. The appellant will need no more than 60 minutes to present his argument.

Dated: 15 October 2015



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Annexure A

SCHEDULE OF LEGISLATION

Valuation of Land Act 2001

**3. Interpretation**

In this Act, unless the contrary intention appears –

...

*land* includes –

- (a) messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description (whatever may be the estate or interest in them), together with all structures, paths, passages, ways, waters, watercourses, liberties, privileges, easements, plantations, gardens, mines, minerals and quarries and all trees and timber on land or lying or being under land; and
- (b) any structure which is above land but permanently anchored to, or otherwise kept in place above, the land; and
- (c) a licence to enter or remain on land;

...

*valuation district* means the municipal area of a council...

**11. Duty of Valuer-General to make valuations**

- (1) The Valuer-General must, subject to this section, make valuations of the land values, capital values and assessed annual values of all lands within each valuation district, including any Crown lands that are liable to be rated in accordance with Part 9 of the *Local Government Act 1993*.

...

#### **45. Valuation lists**

(1) The Valuer-General must, as soon as is reasonably practicable after the making of a proclamation of a fresh valuation under section 20(9) or after exercising powers under Part 9A, provide to –

(a) the Commissioner of State Revenue; and

(b) any relevant rating authority –

a valuation list –

(c) giving such particulars as the Valuer-General considers necessary for the purposes of this Act with respect to the ownership and values of all lands within that valuation district (except such lands of the Crown as are not rateable and have not been valued under this Act); and

(d) certified by the Valuer-General as being correct –

and the valuation list may include any adjustment factors applicable to those lands.

...

## Acts Interpretation Act 1931

### 46. Definitions of certain common phrases

In any Act –

...

*land* shall include messuages, tenements, and hereditaments, houses, and buildings of any tenure and any estate or interest therein;

...

*municipal area* means a municipal area within the meaning of the *Local Government Act 1993*;

...

## Crown Lands Act 1976

### 2. Interpretation

In this Act, unless the contrary intention appears –

...

*Crown land* means land which is vested in the Crown, and which is not contracted to be granted in fee simple; and includes land granted in fee simple which has revested in the Crown by way of purchase or otherwise;

...

*land* includes land covered by the sea or other waters, and the part of the sea or those waters covering that land;

...

## Local Government Act 1993

### 3. Interpretation

In this Act, unless the contrary intention appears –

...

*rateable land* means land in respect of which rates are payable;

...

## PART 9 – RATES AND CHARGES

### Division 1 – General Provisions

#### 86. Interpretation of Part 9

In this Part –

...

*land* means a parcel of land which is shown as being separately valued in the valuation list prepared under the *Valuation of Land Act 2001*;

...

#### 87. Exemption from rates

- (1) All land is rateable except that the following are exempt from general and separate rates, averaged area rates, and any rate collected under section 88 or 97:
  - (a) land owned and occupied exclusively by the Commonwealth;
  - (b) land held or owned by the Crown that –
    - (i) is a national park, within the meaning of the *Nature Conservation Act 2002*; or
    - (ii) is a conservation area, within the meaning of the *Nature Conservation Act 2002*; or

- (iii) is a nature recreation area, within the meaning of the *Nature Conservation Act 2002*; or
  - (iv) is a nature reserve, within the meaning of the *Nature Conservation Act 2002*; or
  - (v) is a regional reserve, within the meaning of the *Nature Conservation Act 2002*; or
  - (vi) is a State reserve, within the meaning of the *Nature Conservation Act 2002*; or
  - (vii) is a game reserve, within the meaning of the *Nature Conservation Act 2002*; or
  - (viii) . . . . .
  - (ix) is a public reserve, within the meaning of the *Crown Lands Act 1976*; or
  - (x) is a public park used for recreational purposes and for which free public access is normally provided; or
  - (xi) is a road, within the meaning of the *Roads and Jetties Act 1935*; or
  - (xii) is a way, within the meaning of the *Local Government (Highways) Act 1982*; or
  - (xiii) is a marine facility, within the meaning of the *Marine and Safety Authority Act 1997*; or
  - (xiv) supports a running line and siding within the meaning of the *Rail Safety National Law (Tasmania) Act 2012*;
- (c) land owned by the Hydro-Electric Corporation or land owned by a subsidiary, within the meaning of the *Government Business Enterprises Act 1995*, of the Hydro-Electric Corporation on which assets or operations relating to electricity infrastructure, within the meaning of the *Hydro-Electric Corporation Act 1995*, other than wind-power developments, are located;
- (d) land or part of land owned and occupied exclusively for charitable purposes;

(da) Aboriginal land, within the meaning of the *Aboriginal Lands Act 1995*, which is used principally for Aboriginal cultural purposes;

(e) land or part of land owned and occupied exclusively by a council.

(2) The owner of any land referred to in subsection (1) may agree to pay general or separate rates or an averaged area rate.

(3) Land occupied by a joint authority or single authority to which Part 3A applies is not exempt from rates or averaged area rates.

(4) . . . . .

## **Marine Farming Planning Act 1995**

### **59. Granting of lease**

- (1)** After considering any advice from the Board, the Minister may grant an application for a lease for marine farming for any area designated for that purpose in a marine farming development plan.
- (2)** A lease confers on the lessee exclusive possession of –
  - (a)** the area specified in the lease; and
  - (b)** any specified area of the seabed comprised in the lease.
- (3)** A lease is subject to any condition the Minister determines.
- (4)** If the Minister grants an application of a lease, the Minister is to issue a lease in an approved form.

## **HISTORICAL PROVISIONS**

### **Land Valuation Act 1971**

#### **12. Duty of Valuer-General to make valuation**

- (1) The Valuer-General shall, subject to this section, make –
- (a) valuations of the land values, capital values, and assessed annual values –
    - (i) of all lands (other than Crown lands and lands held by or on behalf of State authorities) within each valuation district; and
    - (ii) of such Crown lands and lands held by or on behalf of State authorities within each valuation district as the Valuer-General thinks proper to include in the valuation, except Crown lands and lands so held that are leased for grazing or agricultural purposes and that are part of the outer islands within the valuation district of Flinders; and
  - (b) valuations of the assessed annual values of such Crown lands and lands held by or on behalf of State authorities within the valuation district of Flinders as are leased for grazing or agricultural purposes and are part of the outer islands as the Valuer-General thinks proper to include in the valuation.

...

### **Valuation of Land Act 2001 (effective 28 June 2002)**

#### **11. Duty of Valuer-General to make valuations**

- (1) The Valuer-General must, subject to this section, make –
- (a) valuations of the land values, capital values and assessed annual values –
    - (i) of all lands (other than Crown lands and lands held by or on behalf of statutory authorities) within each valuation district; and

- (ii) except where so directed by the Minister, of such Crown lands and lands held by or on behalf of statutory authorities within each valuation district as the Valuer-General thinks proper to include in the valuation; and
- (b) valuations of the assessed annual values of such Crown lands and lands held by or on behalf of statutory authorities within the outer islands and leased for grazing or agricultural purposes as the Valuer-General thinks proper to include in the valuation.

**State and Local Government Financial Reform Act 2003  
(effective 1 July 2004)**

**PART 9**

**20. Principal Act**

In this Part, the *Valuation of Land Act 2001* is referred to as the Principal Act.

**21. Section 11 amended (Duty of Valuer-General to make valuations)**

Section 11 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

- (1) The Valuer-General must, subject to this section, make –
  - (a) valuations of the land values, capital values and assessed annual values of all lands within each valuation district and Crown lands liable to be rated in accordance with Part 9 of the *Local Government Act 1993*; and
  - (b) valuations of the assessed annual values of such Crown lands and lands held by or on behalf of statutory authorities within the outer islands, and leased for grazing or agricultural purposes, as are liable to be rated in accordance with Part 9 of the *Local Government Act 1993*.
- (1A) The Valuer-General may exempt land from the valuations to be made under subsection (1) if the Valuer-General considers that the land should not be included in those valuations.

**Valuation of Land Amendment Act 2006**  
**(effective 1 January 2007)**

**PART 2**

**3. Principal Act**

In this Part, the *Valuation of Land Act 2001* is referred to as the Principal Act.

...

**11. Section 11 amended (Duty of Valuer-General to make valuations)**

Section 11 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

- (1) The Valuer-General must, subject to this section, make valuations of the land values, capital values and assessed annual values of all lands within each valuation district, including any Crown lands that are liable to be rated in accordance with Part 9 of the *Local Government Act 1993*.

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