



## HIGH COURT OF AUSTRALIA

5 June 2024

GODOLPHIN AUSTRALIA PTY LTD ACN 093 921 021 v CHIEF COMMISSIONER OF  
STATE REVENUE  
[2024] HCA 20

Today, the High Court unanimously dismissed an appeal from a judgment of the Court of Appeal of the Supreme Court of New South Wales. The appeal concerned the correct construction of s 10AA of the *Land Tax Management Act 1956* (NSW) ("the Land Tax Act"). Section 10AA(1) of the Land Tax Act exempts from land tax rural land "if it is land used for primary production". Section 10AA(3)(b) states that "*land used for primary production* means land the dominant use of which is for ... the maintenance of animals ... for the purpose of selling them or their natural increase or bodily produce". The key issue on appeal was whether the requirement of "dominant use" of land applied to both the "maintenance of animals" and also to the purpose of sale in s 10AA(3)(b).

The appellant used two properties to undertake an "integrated" thoroughbred breeding and racing operation. For the 2014-2019 years, the Chief Commissioner of State Revenue ("the Commissioner") assessed the appellant as liable for land tax in respect of these properties. The appellant claimed that certain parcels of each property were exempt from land tax pursuant to the exemption in s 10AA(3)(b). While the Commissioner accepted that the parcels of land were being used to maintain horses, he did not accept that the dominant purpose of that use was for the sale of the horses, their progeny or their bodily produce.

In the Supreme Court of New South Wales, the primary judge held that, given the integrated nature of the appellant's business it could not be said that there were two distinct purposes for the activities carried on at the properties. It was unnecessary to decide whether use for any one such purpose was the dominant use. Both parcels of land were used for primary production and exempt from land tax. The Commissioner succeeded on appeal, with a majority of the Court of Appeal deciding that the correct test required the word "dominant" to qualify the "use-for-a-purpose" in s 10AA(3)(b).

The issue before the High Court was whether the requirement of "dominant use" of land applied to both "the maintenance of animals" and also to the purpose of sale in s 10AA(3)(b). Neither party disputed the critical finding below that a "significant use" of the two properties was animal maintenance for the purpose of selling animal produce and progeny. The appellant argued that the work done by the word "dominant" should be confined to the required use of the land and no more. The Court unanimously rejected the appellant's construction of s 10AA(3)(b). In dismissing the appeal, the Court held that, when the text of s 10AA(3) is read in its immediate statutory context and in light of broader statutory and extrinsic context, the word "dominant" qualifies one composite phrase, namely "use of which is for ... the maintenance of animals ... for the purpose of selling them". The "use-for-a-purpose" construction was correct. Further, that a significant use of the land was for breeding horses, the plurality held, fell short of demonstrating that the "dominant use" of the land was for the purpose of selling them or their natural increase or bodily produce.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*