GSTR 2006/6 - Goods and services tax: improvements on the land for the purposes of Subdivision 38-N and Division 75

This cover sheet is provided for information only. It does not form part of *GSTR 2006/6 - Goods and services tax: improvements on the land for the purposes of Subdivision 38-N and Division 75*

There is a Compendium for this document: **GSTR 2006/6EC** .

As a result of the decision in Commissioner of Taxation v Landcom an updated version of this ruling has been issued as a draft for public comment until 19 April 2024.

This document has changed over time. This is a consolidated version of the ruling which was published on *14 August 2019*

Generated on: 28 November 2026, 03:37:08 AM

Goods and Services Tax Ruling

Goods and services tax: improvements on the land for the purposes of Subdivision 38-N and Division 75

Contents **Para**

What this Ruling is about **1**

Date of effect **4**

Ruling with Explanation **9**

Detailed contents list **52**

Preamble

*This document was published prior to 1 July 2010 and was a public ruling for the purposes of former section 37 of the **Taxation Administration Act 1953** and former section 105-60 of Schedule 1 to the **Taxation Administration Act 1953.***

*From 1 July 2010, this document is taken to be a public ruling under Division 358 of Schedule 1 to the **Taxation Administration Act 1953.***

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

*[**Note:** This is a consolidated version of this document. Refer to the Legal database (ato.gov.au/law) to check its currency and to view the details of all changes.]*

What this Ruling is about

1. This Ruling discusses the meaning of the phrase 'improvements on the land' in the context of the phrases 'improvements on the land' or 'no improvements on the land' or equivalent phrases in Subdivision 38-N and Division 75 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

2. These phrases appear in Subdivision 38-N and Division 75:

- 'land on which there are no improvements' in subsection 38-445(1) and section 38-450;
- 'no improvements on the land' in paragraph 38-445(1A)(c);
- 'no improvements on the land or premises' in item 4 of the table contained in subsection 75-10(3) and subsection 75-10(3A); and

- 'improvements on the land or premises' in item 3 of the table contained in subsection 75-10(3) and in paragraph 75-10(3A)(b).

3. Unless otherwise stated, all references in this Ruling are to the GST Act.

Date of effect

4. This Ruling applies to tax periods commencing both before and after its date of issue. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

5. [Omitted.]

6. [Omitted.]

7. [Omitted.]

8. [Omitted.]

Ruling with Explanation

Supplies under section 38-445 or 38-450

9. Whether there are improvements on the land is relevant in establishing whether a supply made by the Commonwealth, a State or Territory[1] is GST-free under sections 38-445 and 38-450 of the GST Act.

10. Under subsection 38-445(1), if the Commonwealth, a State or a Territory makes a supply of land on which there are no improvements and the supply is of a freehold interest or long-term lease, it is GST-free unless the land has been previously supplied as a GST-free supply under section 38-445.

11. Under subsection 38-450(1), a supply by the Commonwealth, a State or a Territory of land on which there are no improvements is GST-free if the supply is by way of a lease other than a long-term lease and the lease is subject to conditions that when satisfied entitle the recipient to the grant of a freehold interest in or long-term lease of the land.

12. When the Commonwealth, a State or Territory subsequently supplies the freehold interest or long-term lease, it is GST-free under

[1] Goods and Services Tax Ruling GSTR 2006/5 *Goods and services tax: the meaning of Commonwealth, a State or a Territory* discusses the Commonwealth, a State or a Territory.

subsection 38-445(1A), unless the land has previously been supplied as a GST-free supply under section 38-445.

Surrender of a lease under subsection 38-450(2)

13. Under subsection 38-450(2) the surrender of a lease to the Commonwealth, a State or Territory is GST-free if:

- the supply of the lease was GST-free under subsection 38-450(1), or would have been GST-free under that subsection if it had not been made before 1 July 2000; and
- solely or partly in return for the surrender of the lease, the Commonwealth, State or Territory makes a supply of the land to the lessee that is GST-free under section 38-445.

Paragraph 75-10(3)(b)

14. Whether there are improvements on the land is also relevant if a taxable supply of real property is made under the margin scheme and the margin for the supply is calculated under subsection 75-10(3).

15. If subsection 75-10(3) applies, the margin for the supply is the difference between the consideration for the supply and an approved valuation of the real property at the relevant date specified in the table in paragraph 75-10(3)(b). Whether there are improvements on the land may determine which item in the table applies to the supply. The item in the table then establishes the valuation date.

16. For example, item 4 of the table applies where the supplier is the Commonwealth, a State or Territory and has held the interest, unit or lease since before 1 July 2000, and there were no improvements on the land or premises in question as at 1 July 2000. Under item 4, the valuation must reflect the value of the real property on the day on which the taxable supply takes place. In addition, if item 4 of the table applies, then the valuation excludes any improvements on the land or premises at the valuation date.[2]

Legislative context of the term 'improvements on the land'

17. The Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998 in respect of subsection 75-10(3), and the House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No 2) 1999 in respect of subsection 75-10(3A), refer to unimproved land held by the Commonwealth, a

[2] Subsection 75-10(3A).

State or a Territory as at 1 July 2000, which is subsequently improved before the supply.

18. The Explanatory Memoranda confirm that GST is intended to be applied to the difference between the sale price and the value of the land component at the date of sale. The effect is that the value of the land is not subject to GST and that only the value of improvements is taxed.

19. The Explanatory Memoranda also state that this outcome is intended to be consistent with the operation of Subdivision 38-N of the GST Act which provides that grants of freehold interests in unimproved land by governments are GST-free. Accordingly, the treatment of improvements is the same for subsections 75-10(3) and 75-10(3A) as it is for Subdivision 38-N.

20. Land in its natural state is unimproved land. Thus, to establish whether there are, or were, improvements on the land for the purpose of these provisions, a comparison is made between the state of the land in question at the relevant time and that same land in its natural state.

The meaning of 'improvements on the land'

21. In considering the meaning of 'improvements' in the context of land tax, Griffith J, in the High Court decision of *Morrison v Federal Commissioner of Land Tax* [1914] HCA 10 held:

> Any operation of man on land which has the effect of enhancing its value comes within the definition of 'improvement'.

21A. In other contexts, a broader meaning has been given to 'improvements'. In *Commonwealth v Oldfield* [1976] HCA 17, Jacobs J stated (emphasis added):

> It appears to me that the considerations which led the Court in these cases to give the word "improvements" a meaning which would include what is done in improvement of quality of the soil and thereby **the usefulness of the land** apply as much to the words of this lease as to the words of that statute.

21B. In *Dampier Mining Company Limited v The Commissioner of Taxation of the Commonwealth of Australia* [1979] FCA 93, a case on the expressions 'effecting improvements upon land' and 'making improvements… on …land' that were used in the *Income Tax Assessment Act 1936*, Brennan J in the Full Federal Court stated (emphasis added):

> one cannot find an "improvement" in the present case unless the dredging enhances the value of land**, or makes the use of land more efficient**.

21C. On appeal to the High Court, Stephen J also expressed a broad view on the meaning of improvements[2A]:

> I would not confine the notion of improvements in Div. 4 to that which enhances the market value of land; some improvements, not made in the course of putting land to its best economic use but, rather, so as to meet the particular requirements of its occupier, may, I suppose, have the effect of actually depreciating its market value.

22. While the meaning of 'improvements' will depend on the statutory purpose and context in which it is used, there is nothing in the GST Act which requires a restrictive or narrow meaning to be adopted. In accordance with the ordinary meaning of the word and taking into account the views expressed in the cases referred to in paragraphs 21 to 21C of this Ruling, for there to be 'improvements on the land':

- there must have been some human intervention;
- the human intervention must have been physically located on the land; and
- at the relevant date[3] for ascertaining whether there are improvements on land, the human intervention must enhance the
  - value of the land;
  - usefulness of the land; or
  - both the value and usefulness of the land.

22A. A physical human intervention on land that enhances the usefulness of the land does not necessarily have to also result in an increase in the value of that land to constitute an improvement on the land. It is sufficient that what was done has made the land more useful to an occupier.

23. Where there have been a number of human interventions on the land it is necessary to establish whether any of the human interventions enhance the value or usefulness of the land. If any of the human interventions located on the land enhance its value or usefulness at the relevant date, then there are improvements on the land. This is regardless of whether the net value of the human interventions enhances the overall value of the land.

24. Determining whether a human intervention enhances the value or usefulness of the land entails an objective test. This means that whether an intervention enhances the value or usefulness should

---

[2A] *Dampier Mining Co Limited v Commissioner of Taxation (Cth)* [1981] HCA 29. However, it is noted that in this case (and in the earlier cases of *Goldsworthy Mining Ltd v Commissioner of Taxation (Cth)* [1975] HCA 3 and *Brisbane City Council v Valuer-General (Q)* [1978] HCA 40 Gibbs CJ took a more limited view on the meaning of improvements as being that which enhanced the value of the land.

[3] Paragraph 34 of this Ruling discusses the relevant day for ascertaining whether there are improvements on the land.

not be determined by reference to actual, or intended, use by a specific occupier. Rather, a comparison should be made between the value or usefulness of that land in its natural state and its value or usefulness at the time provided for in the relevant provisions[3A], to any potential occupier.[3B]

Human interventions

25. The following are examples of human interventions that may enhance the value or usefulness of land:

- houses, town-houses, stratum units, separate garages, sheds and other out-buildings;
- commercial and industrial premises;
- farm houses, farm outbuildings, internal fencing, stockyards, wells and bores, excavated tanks, dams, surface drains, culverts, bridges, sown pasture, formed internal roads, and irrigation layouts;
- formed driveways, swimming pools, tennis courts, and walls;
- any other similar buildings or structures;
- fencing – internal or boundary fencing;
- utilities, for example, water, electricity, gas, sewerage connected or available for connection;
- clearing of timber, scrub or other vegetation;
- excavation, grading or levelling of land;
- drainage of land;
- building up of soil fertility;
- removal of animal pests, rabbit burrows etc;
- removal of rocks, stones or soil; and
- filling of land.

Enhancing the value or usefulness of the land

26. A human intervention is not necessarily an improvement. To be an improvement, the human intervention must enhance the value or usefulness of the land.

27. In some circumstances, a human intervention on land neither enhances nor decreases the value or usefulness of land. For

[3A] Sections 38-445, 38-450 and 75-10.
[3B] *Trust Company of Australia Ltd v The Valuer-General* [2007] NSWCA 181 at [95]. See also paragraph 36 of this Ruling.

example, fire breaks, solely to allow access to fire equipment and reduce the spread of a fire, may not enhance the value or usefulness of the particular land.

28. In other circumstances, human interventions that were once improvements but that have deteriorated over time or have contributed to land degradation, may no longer enhance the value or usefulness of the land and are not improvements. For example, clearing is a human intervention which ordinarily enhances the value or usefulness of the land. However, clearing may deteriorate over time with the regrowth of the same type of vegetation or even different vegetation (for example, lantana, blackberry or other noxious weeds). Clearing also may degrade the land by later causing erosion or salinity problems.

29. Similarly, a building that initially enhanced the value or usefulness of the land may have deteriorated over time to such an extent that it is a detriment as it is uninhabitable and has been condemned by order of the local council. This building is not considered to be an improvement.

30. In some situations, improvements may have been on the land but no longer exist as improvements on the relevant day specified in the table below. For example, bushland owned by the Commonwealth, a State or a Territory may have originally been fenced, but due to deterioration, no valuable or useful fencing exists on the relevant day.

30A. In other circumstances, a human intervention that enhanced the value or usefulness of land will not cease to enhance the value or usefulness of the land simply because of a change in the preferred use of the land. In other words, a human intervention on land will not cease to be an improvement if there is no physical change to it. For example, fencing may be constructed to enhance the value or usefulness of land used for farming. The fencing may remain in good repair. If the land can now be better used for mining, for which the fence will be of no use, it does not mean that the fencing no longer enhances the value or usefulness of the land. Compared to the land in its natural state, the fencing continues to enhance the value or usefulness of the land to an occupier who wants to put the land to use for farming.[3C]

31. The following High Court cases provide support for considering the impacts of deterioration or degradation:

- *Morrison v Federal Commissioner of Land Tax* [1914] HCA 10, per Griffith CJ (emphasis added):

  > While improvements or the consequent operations of nature are still going on, the value of improvements may, of course, increase from year to year, just as, in the case of some improvements, **it may be exhausted**.

[3C] See paragraphs 24 and 35 of this Ruling.

- *Lewis Kiddle v Deputy Federal Commissioner of Land Tax* [1920] HCA 17*,* per Knox CJ (emphasis added)*:*

  Presumably, a purchaser of land, if he considered this question at all, would determine that the amount to be attributed to value of improvements would be equal to the amount which he gained or saved by reason of the improvements having been made, he being thereby relieved from the necessity of making them. This amount would be found by ascertaining the amount which it would cost to make the improvements in question at the relevant date, including a proper allowance for loss of interest on all outlay during the period which must elapse before such outlay became fully productive, and **by deducting from the sum so ascertained a proper allowance for depreciation or partial exhaustion of the improvements**.

Multiple human interventions on the land

32. Where there are a number of human interventions on the land, it is not appropriate to take a holistic approach to establishing whether there are improvements on the land. Instead, it is necessary to determine whether any of the human interventions enhance the value or usefulness of the land. If any of the human interventions enhance the value or usefulness of the land there are improvements on the land.

33. For example, a building that is uninhabitable because it is derelict and condemned by order of the local council does not enhance the value or usefulness of the land. The building in these circumstances is a detriment rather than an improvement. However, if the land on which the building is located is cleared and the clearing has not deteriorated or has not degraded the land, there are improvements on the land. The clearing still enhances the value or usefulness of the land.

When you ascertain whether there are improvements on the land

34. The following table describes the relevant day for ascertaining whether there are improvements on land.

Section	***Relevant day for ascertaining whether there are improvements on the land***
Subsection 38-445(1)	When the supply is made.
Subsection 38-445(1A)	When the land was previously supplied by the Commonwealth, a State or a Territory by way of a lease to the recipient of the supply.
Subsection 38-450(1)	When the supply is made.
Item 2A of the table in subsection 75-10(3)	When the land was previously supplied by the Commonwealth, a State or a Territory by way of a lease to the recipient of the

	supply.
Item 3 of the table in subsection 75-10(3)	1 July 2000.
Item 4 of the table in subsection 75-10(3)	1 July 2000.
Subsection 75-10(3A)	The day on which the taxable supply takes place.

Establishing whether there are improvements on the land

35. Determining whether a human intervention enhances the value or usefulness of the land is an objective test based on the facts. This means that whether an intervention enhances the value or usefulness of the land should not be determined by reference to actual, or intended, use by either the supplier, the recipient or a specific occupier. For example, real property with a building on it that is not condemned, enhances the value or usefulness of the land even though the recipient may intend to demolish the building and construct some other building in its place.

36. As the issue of whether there are improvements on the land is a question of fact, a professional valuer's opinion may be of assistance in determining whether the intervention enhances the value of the land, provided that the valuer's opinion compares the land to its natural state. However, valuation concepts will not be relevant in determining whether the intervention objectively enhances the usefulness of the land to the occupier. Also the concept of 'highest and best use' is not relevant because this approach assesses the best use to which the land can be applied, which does not test whether the intervention enhances the value or usefulness of the land compared with its natural state, as required.[3D]

Meaning of 'on the land'

37. The term 'improvements on the land' refers to any human intervention on the land which has the effect of enhancing its value or usefulness. It is not limited to visible structural improvements and includes improvements below the surface of the land, such as underground drainage or other facilities.

38. Support for this view is found in the decision in *Commonwealth v Oldfield* [1976] HCA 17 where the High Court described the meaning of 'improvements on the land' in the following manner:

> We are concerned with the value at the relevant date of the physical consequences which enure to the land of the acts whereby the land attained a quality and usefulness additional to that which it had in its virgin state.

[3D] *Trust Company of Australia Ltd v The Valuer-Genera*l [2007] NSWCA 181 at [95].

> …
>
> Improvements to land result in improvements on that land in the relevant sense. The preposition 'on' does not here mean 'on the surface of the land' or the like unless the word improvement is limited to physical objects placed or constructed in or in the soil and for the reasons which I have given I do not think that the word has that meaning.

Alternative view

39. There is an alternative view that the expression 'improvements on the land' is limited to visible structural improvements such as buildings and does not extend to things such as clearing and draining.

40. This view does not accept the principles adopted in the land tax cases as these cases considered a broader expression, being 'improvements thereon or appertaining to' the land. The expression is broader, on this view, because the words 'appertaining to the land' extend the phrase to improvements that are not necessarily on the land.

41. However, in *Brisbane City Council v Valuer-General (Q)* [1978] HCA 40, Gibbs J, with whom the four other members of the Court agreed, when considering the meaning of the phrase 'thereon or appertaining thereto', noted that:

> This means that the improvements, if not on the land, must be "such as are in the strict legal sense "appurtenant" to the property and incident to its ownership" (*McDonald v. Deputy Federal Commissioner of Land Tax (N.S.W.) …* (1915) 20 C.L.R. 231, at pp. 234-235).

42. From the above it can be seen that the words 'appertaining to' only extend the meaning of the phrase to a limited extent. Given this, it seems that the conclusions in the rating and land tax cases are more likely based on the expression 'improvements thereon' rather than the improvements 'appertaining to' the land.

43. As the phrase 'improvements thereon' is analogous to 'improvements on the land', it is the Commissioner's view that the principles in the rating and land tax cases apply when ascertaining the meaning of 'improvements on the land'.

44. The alternative view also argues that the construction adopted in the rating and land tax cases may have been influenced by the perceived policy of that legislation, and consequently the decisions do not have application in the GST context.

45. In *McGeoch v Federal Commissioner of Land Tax* [1929] HCA 29, per Knox CJ and Dixon J, the policy intent of the relevant legislation was articulated in the decision, in which the purpose of land tax was described as a policy of taxing the 'unearned increment'. That is, without

[4] [Omitted.]

regard to improvements effected by the owner or the owner's predecessors, but having regard to extrinsic circumstances, such as public roads or railways, increased settlement in the neighbourhood and other benefits not brought about by the operations on the land of successive operators. However, this reference to the apparent policy of land tax was not the primary basis for the decision.

46. For the reasons stated, and having regard to the High Court decision in *Commonwealth v Oldfield* [1976] HCA 17, the Commissioner considers the better view to be that improvements on the land, in the GST context, are not limited to visible structural improvements. This view is consistent with the Explanatory Memorandum which refers to the provisions requiring that the land is 'unimproved' or land that 'has not been improved'.[5]

Improvements that are not on the land

47. While the term 'improvements on the land' is not limited to visible improvements, it should be noted that 'improvements on the land' does not include interventions that are not upon the land, such as amenities in the surrounding area, even though they may enhance the value of the land.

Supply of a piece of land with multiple titles

47A. Sections 38-445 and 38-450 require identification of the 'supply … of land'. Similarly, subsection 75-10(3) requires identification of 'the land or premises in question'. Each section requires identification of the land that is the subject matter of the supply. The total fact situation must be considered, although a written contract is a logical starting point when identifying the land that is the subject matter of the supply.[5A]

47B. The subject matter of the supply is identified as a matter of substance not form. It is not determined simply on titles to the land. That is, separately titled lots are not necessarily separate supplies of land for the purposes of sections 38-445, 38-450 or subsection 75-10(3). Nor is the subject matter of the supply determined simply on whether there is a single contract or multiple contracts.

47C. Ordinarily, the subject matter of the supply will be the totality of the land, even if it is under more than one title. This will be the case if that land:

- is contiguous

---

[5] Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998, paragraph 5.132.

[5A] Paragraph 222 of Goods and Services Tax Ruling GSTR 2006/9 *Goods and services tax: supplies*.

- has physical attributes that identify it as a single piece of land
- is supplied to a single recipient, and
- is supplied under a single arrangement.

There will be separate supplies where land on one or more titles is objectively separate from the rest of the land by reference to physical attributes, historical and current usage, prior dealings, commercial context and legal status.

47D. If land that is the subject matter of a supply is a single piece of land comprising separately titled lots, then it is necessary to consider whether there are improvements on that single piece of land as a whole. The separately titled lots are not considered separately. If any part of that single piece of land has improvements, the entire land that is the subject of the supply is land on which there are improvements.

Example 1 – supply of land comprising separately titled lots used as a single site

47E. *Land described in ten certificates of title has been used as a school site. The land on seven of the titles is cleared, with the school buildings being constructed across five of these titles and the school oval and facilities established on the other two titles. The remaining three titles are in their natural state. The entire school site is marketed for sale as the XYZ School. A single contract for sale is drawn up in which the land is described as XYZ School.*

47F. *In this instance, notwithstanding that the single piece of land is described in ten certificates of title, the whole of the land being supplied, namely the school site, is the subject matter of the supply. In this case, the land is contiguous and it is physically identified as a single school site. It is supplied to a single recipient under a single arrangement. The historical usage and legal status each confirm that the subject matter of the supply is the whole school site. Because the land has improvements on it, the supply will not be a supply of land on which there are no improvements for the purposes of section 38-445.*

47G. *Even if the land was described in the contract by reference to the site components (the school buildings, the oval and the reserved land), the whole of the land being supplied would still be the subject matter of the supply.*

47H. If land comprised of separately titled and separately identifiable lots, without any singular identity by reference to the factors stated in paragraph 47C of this Ruling, is supplied together, each individual lot is a separate supply of land for the purposes of sections 38-445, 38-450 or subsection 75-10(3) to determine if there are, or were, any improvements on the land.

Example 2 – supply of land comprising separately titled lots as multiple supplies

47I. *A local council has land that is surplus to its needs, which it has held since before 1 July 2000. It subdivides the land into ten lots for sale for residential use. The subdivided lots are marketed as individual lots with a sale price for each lot. A local builder acquires four adjacent lots. A single contract for sale is drawn up in which the lots are listed individually with a separate price shown for each lot.*

47J. *In this instance, there are four separate supplies of land effected by way of a single contract. Although the land is contiguous and its historical usage was as a single piece of land, the commercial context and the legal status of the land involves the lots being offered for sale as subdivided individual lots. Each lot created from the subdivision has retained its own identity and has been dealt with by the supplier having regard to its individual title. The lots are being supplied on a single contract because it is commercially expedient to do so. Each individual lot is a separate supply of land for the purpose of determining under subsection 75-10(3) if there were any improvements on the land as at 1 July 2000.*

Subdivided land and item 4 of the table in subsection 75-10(3)

48. In this part of the Ruling, the Commissioner considers whether a supply of a particular subdivided lot is ineligible for consideration under item 4 of subsection 75-10(3) because the larger area (englobo land) from which it was subdivided had improvements on it at 1 July 2000. In this context, the physical area of the particular subdivided lot may have had no improvements, or part of an improvement, on it at 1 July 2000.

49. The issue is whether it is necessary to consider whether any part of the englobo land had improvements on it or whether regard should be had only to that part of the englobo land that forms the subdivided lot.

50. It is the Commissioner's view that the words 'land or premises in question' in item 4 qualify the application of the improvements test to land that is supplied and not the larger area from which it is subdivided.

51. These words can be contrasted with the expression 'interest, unit or lease' which are used elsewhere in the item to refer to the legal interest being supplied under the margin scheme. This distinction supports the view that it is the physical land rather than the legal interest that is considered when determining whether there were improvements on the land at the relevant date.[6]

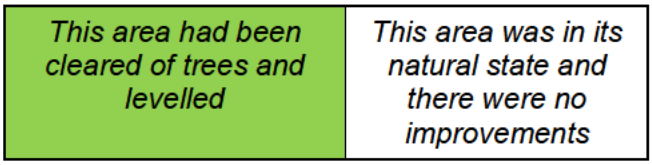
51A. The consequence of this view is that where land is subdivided after 1 July 2000, it is necessary to examine the englobo land as it

[6] This interpretation is also considered to be consistent with the practical approach to the interpretation of Division 75 adopted by Stone J in *Sterling Guardian Pty Ltd v Commissioner of Taxation* [2006] FCAFC 12.

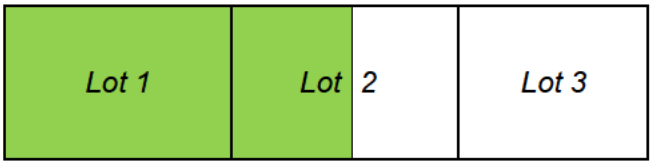
was at 1 July 2000 and identify if there were any improvements on that land. If the englobo land had improvements as at 1 July 2000, and any of those improvements, or parts of those improvements, were on the physical land that is supplied, item 4 will not apply. However, if the englobo land had improvements as at 1 July 2000 but none of those improvements, or parts of those improvements, were on the physical land that is supplied, item 4 can apply.

Example 3 – land subdivided from land with improvements on the land at 1 July 2000

51B. *At 1 July 2000, a large rural block was in part cleared and levelled and in part remained in its natural state.*



51C. *After 1 July 2000, the rural block is subdivided into three lots to be sold separately.*



51D. *Lots 1 and 2 are land on which there were improvements as at 1 July 2000. Lot 3 is land on which there were no improvements as at 1 July 2000.*

51E. *If, however, lots 1, 2 and 3 were sold as a single piece of land, the whole supply would be a supply of land on which there were improvements as at 1 July 2000 (see Example 1 of this Ruling).*

Detailed contents list

52. Below is a detailed contents list for this draft Goods and Services Tax Ruling:

	Paragraph
What this Ruling is about	**1**
Date of effect	**4**
Ruling with Explanation	**9**
Supplies under section 38-445 or section 38-450	9
Surrender of a lease under subsection 38-450(2)	13
Paragraph 75-10(3)(b)	14

Legislative context of the term 'improvements on the land' 17
The meaning of 'improvements on the land' 21
Human interventions 25
Enhancing the value or usefulness of the land 26
Multiple human interventions on the land 32
When you ascertain whether there are improvements on the land 34
Establishing whether there are improvements on the land 35
Meaning of 'on the land' 37
Alternative view 39
Improvements that are not on the land 47
Supply of a piece of land with multiple titles 47A
Example 1 – supply of land comprising separately titled lots used as a single site 47E
Example 2 – supply of land comprising separately titled lots as multiple supplies 47I
Subdivided land and item 4 of the table in subsection 75-10(3) 48
Example 3 – land subdivided from land with improvements on the land at 1 July 2000 51B
Detailed contents list **52**

Commissioner of Taxation
26 April 2006

Previous drafts:

GSTR 2005/D5

Related Rulings/Determinations:

TR 2006/10; GSTR 2006/5; GSTR 2006/9

Legislative references:

- ANTS(GST)A 1999
- ANTS(GST)A 1999 Subdiv 38-N
- ANTS(GST)A 1999 38-445
- ANTS(GST)A 1999 38-445(1)
- ANTS(GST)A 1999 38-445(1A)
- ANTS(GST)A 1999 38-445(1A)(c)
- ANTS(GST)A 1999 38-450
- ANTS(GST)A 1999 38-450(1)
- ANTS(GST)A 1999 38-450(2)
- ANTS(GST)A 1999 Div 75
- ANTS(GST)A 1999 75-10(3)
- ANTS(GST)A 1999 75-10(3)(b)
- ANTS(GST)A 1999 75-10(3A)
- ANTS(GST)A 1999 75-10(3A)(b)
- ITAA 1936
- TAA 1953
- TAA 1953 Sch 1 Div 358

Case references:

- Brisbane City Council v Valuer-General (Q) [1978] HCA 40; (1978) 140 CLR 41
- Commonwealth of Australia v Oldfield [1976] HCA 17, (1976) 133 CLR 612
- Dampier Mining Company Limited v Federal Commissioner of Taxation of the

Commonwealth of Australia [1979] FCA 93, (1979) 40 FLR 127, 79 ATC 4469, (1979) 10 ATR 193
- Dampier Mining Co Limited v Commissioner of Taxation (Cth) [1981] HCA 29, (1981) 147 CLR 408, 81 ATC 4329, (1981) 11 ATR 928
- Goldsworthy Mining Ltd v Commissioner of Taxation (Cth) [1975] HCA 3, (1975) 132 CLR 463,75 ATC 4023, (1975) 5 ATR 199
- Lewis Kiddle v Deputy Federal Commissioner of Land Tax [1920] HCA 17, 27 CLR 316
- McDonald v. Deputy Federal Commissioner of Land Tax (NSW) [1915] HCA 54, (1915) 20 CLR 231
- McGeoch v Federal Commissioner of Land Tax [1929] HCA 29, (1929) 43 CLR 277
- Morrison v Federal Commissioner of Land Tax [1914] HCA 10, (1914) 17 CLR 498
- Sterling Guardian Pty Ltd v Commissioner of Taxation [2006] FCAFC 12, (2006) FCR 255, 2006 ATC 4227, (2006) 62 ATR 119
- Trust Company of Australia Ltd v Valuer-General [2007] NSWCA 181

Other references:
- Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998
- House of Representatives Supplementary Explanatory Memorandum to the A New Tax System (Indirect Tax and Consequential Amendments) Bill (No 2) 1999

ATO references
NO: 2005/13605
ISSN: 2205-6157
ATOlaw topic: Goods and services tax ~~ Government ~~ Unimproved land
Goods and services tax ~~ Property ~~ Unimproved land