



## Determination of Fixtures and Chattels in Western Australia

This Commissioner's practice provides guidance on the factors considered when determining if an item of property the subject of a dutiable transaction is a chattel or a fixture.

### Background

Under section 15 of the *Duties Act 2008* ('Duties Act'), land in Western Australia is dutiable property, where *land* is defined in section 3 of the Duties Act as including anything that is part of land as a fixture.

Section 15 also provides that a chattel in Western Australia is dutiable property unless identified as excluded from the definition of *chattel* in section 3 of the Duties Act.

Section 14 of the Duties Act provides that a transaction involving a chattel is not a dutiable transaction unless it is aggregated with another dutiable transaction pursuant to section 37 of the Duties Act.

### Commissioner's Practice

1. Where plant and equipment that are claimed to be chattels are not being transferred in conjunction with any other dutiable property, the Commissioner may be required to determine whether items of the plant and equipment are chattels or fixtures.
2. Whether a chattel has become a fixture and, therefore, part of the land to which it is affixed, is a matter of fact to be determined having regard to all of the relevant circumstances at the time liability to duty on the transaction arose. These matters include the purpose or object of annexation and the mode or degree of annexation.
3. While the Commissioner will have regard to all relevant circumstances in determining whether an item of plant and equipment is a chattel or a fixture, no particular factor will necessarily be determinative and every case will depend on its own facts. The Commissioner may consider the intention with which items of plant or equipment were placed upon the land, and will take into account information included in a statement provided by the taxpayer with regard to:
  - 3.1 the period of time for which the item was to be in position;
  - 3.2 what was done with it;
  - 3.3 the significance of the item of equipment; and
  - 3.4 the function to be served by its annexation.
4. Where matters relating to the mode of annexation of items of plant and equipment at the time at which they were placed on the land are to be considered, the taxpayer must provide evidence with respect to each item of

plant or equipment in relation to the degree of annexation to the land, and how each item relates to other items of plant and equipment including, where relevant, how the item of plant or equipment is connected or attached to other items of plant or equipment.

5. Where it is determined that any of the chattels the subject of a transaction is a fixture, all chattels will become dutiable.
6. Information required to be provided to the Commissioner to determine whether the only dutiable property the subject of a transaction is chattels is specified in Duties Information Requirement '[Chattels, plant and equipment](#)' which can be accessed through the [Duties publications section of the website](#).

### **Date of Effect**

This Commissioner's Practice takes effect from 28 February 2014.

Bill Sullivan  
COMMISSIONER OF STATE REVENUE  
28 February 2014

### **Commissioner's Practice History**

Commissioner's Practice	Issued	Dates of effect	
		From	To
DA 6.0	1 July 2008	1 July 2008	27 February
DA 6.1	28 February 2014	28 February 2014	21 March 2021