

Acquisition Statement: Acquisition of an Interest in a Primary Producer

This statement must be made by the person who has made the relevant acquisition in a primary producer.

The statement also facilitates:

- **Commonwealth Reporting Requirements**
to collect and report to the Australian Tax Office (ATO), information on relevant acquisitions of land in NSW
- **Surcharge Duty**
to determine whether a transaction is an acquisition of residential land by a foreign person
- **Surcharge Land Tax**
to identify foreign persons for surcharge land tax liability

Note:

- Each person who makes a relevant acquisition must complete a separate acquisition statement
- Read the notes at the back of this form for an explanation of the terms used in this statement
- Under the *Taxation Administration Act 1996*, you are required to provide all relevant information to enable duty to be assessed on a document or transaction. It is an offence to provide false or misleading information
- If you need more room, complete your answers on a separate sheet and attach to this form when lodging
- For an exempt acquisition, use form ODA 047
- For an acquisition in a public landholder, use form ODA 043B
- For an acquisition in a private landholder, use form ODA 043A
- Print clearly in the boxed spaces and tick the appropriate boxes
- Read more about the **Landholder Duty** factsheet on www.revenue.nsw.gov.au
- Read more about Surcharge Duty (Surcharge Purchaser Duty) available at www.revenue.nsw.gov.au

The following supporting information must be lodged with this statement:

- A formal valuation of the unencumbered value of all the landholdings including landholdings of linked entities.
- Evidence of value of all the goods of the landholder and its linked entities (even if the linked entities do not hold land).
- Financial statements (including notes) of the landholder and linked entities as at the date of the transaction.
- Register of shareholders/unit holders.
- Constitution of the company if there are different classes of shares.
- Deed establishing the unit trust and any amending deed.
- Letter stating any association between the share/unit holders of the landholder and the purchaser.

I,

am the person

am an authorised officer of the Company/Corporation

Company/Corporation name

am authorised on behalf of the Government

Country of Government

am a General Partner of a Limited Partnership

Name of Limited Partnership

Name of General Partners

who has made a relevant acquisition in the landholder details in Part 1.

Acquirer's Details

Date of Birth (if an individual) / /	ABN/ACN/ARBN (if applicable)
Current Address (residential address for an individual / correspondence address for all other)	
Future Address (residential address for an individual / correspondence address for all other)	
Contact phone number	
Email address	
*Country of citizenship (if an individual)	
Country of incorporation	
Country of tax residence	
FIRB application number (if applicable)	

*** If country of citizenship is other than Australia, complete the following:**

Passport number
Visa number
Sub-class
Expiry date / /
Overseas ID

Are you making the acquisition in the capacity as a trustee?

Yes No

If Yes please select the type of trust and provide the name of the trust?

Unit Trust Discretionary Trust Fixed Trust Superfund

Name of Trust

For any other trust (e.g. bare trust) provide the names of the beneficiaries (e.g. real purchaser)

Name of Beneficiaries

1. Details of primary producer landholder

➤ See Notes 1 and 2

a) If the primary producer landholder is a unit trust scheme:

Name of unit trust scheme
ARSN (if applicable)
Name of trustee
ABN/ACN (if applicable)
Address of trustee (Show registered address if trustee is a company)

b) If the primary producer landholder is a company:

Name of company
ABN/ACN
Place of registration of company
Registered address of company

2. Details of linked entities

Linked entity	Percentage interest held directly or indirectly by Landholder

➤ See Notes 4 and 5

3. I confirm the unencumbered value of the land holdings held or taken to be held by

(name of landholder)

is \$2 million or more and comprises;

a) less than 80% of the unencumbered value of all it's property

OR

b) 80% or more of the unencumbered value of all it's property

➤ See Notes 1, 2 and 3

4. Details of relevant acquisition

➤ See Notes 11 and 8

a) Date of the relevant acquisition

/ /

b) The interest acquired (%)

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c) How was interest acquired

--

➤ See Note 9

5. Details of prior acquisitions by the same or “associated persons” (as defined in Duties Act 1997)

Date of acquisition	Acquired by	Interest acquired	Duty Paid (if any)	OSR Reference
/ /		%	\$	
/ /		%	\$	
/ /		%	\$	
/ /		%	\$	

6. Total interest by the person who made the relevant acquisition and associated persons as at the date of the relevant acquisition.

7. Are any of the above acquisitions exempt acquisitions? If yes, under which section of the Duties Act? > See Note 15

8. Details of NSW landholdings and goods of landholder and linked entities as at the date of the relevant acquisition > See Notes 4, 5 and 16

Landholdings

Held by (entity)	Title particulars of the land holdings	Unencumbered value	Value taken to be held by landholder if held by linked entity > See sections 158 & 158A
		\$	\$
		\$	\$
		\$	\$
		\$	\$

Goods

Held by (entity)	Type of goods	Unencumbered value	Value taken to be held by landholder if held by linked entity > See sections 158 & 158A
		\$	\$
		\$	\$
		\$	\$
		\$	\$

Total unencumbered value of NSW landholdings and goods held or taken to be held by the landholder as at the date of the relevant acquisition

9. Details of NSW landholdings and goods of landholder and linked entities as at the date of the prior acquisition (do not include exempt acquisitions or any acquisitions made outside the statement period. ➤ See Notes 4, 5, 6 and 7)

Landholdings

Date of prior acquisition	Held by (entity)	Title particulars	Unencumbered value as at the date of prior acquisition	Value taken to be held by landholder if held by linked entity
/ /			\$	\$
/ /			\$	\$
/ /			\$	\$
Total				\$

Goods

Date of prior acquisition	Held by (entity)	Type of goods*	Unencumbered value as at the date of prior acquisition	Value taken to be held by landholder if held by linked entity
/ /			\$	\$
/ /			\$	\$
/ /			\$	\$
Total				\$

*Don't include goods for acquisitions made prior to 1 July 2009.

10. Landholder Duty calculation

➤ Note: If you ticked the box at 3 a) do not complete this section.

a) If there are no prior dutiable acquisitions

Formula

Step 1:

Unencumbered value of landholdings and goods held or taken to be held by landholder:

Total unencumbered value of landholdings and goods (Q8) × relevant acquisition (Q4b) = \$

Step 2:

Apply general transfer rate of duty to this amount.

Step 3:

If a credit for a portion of any marketable security duty paid on the relevant acquisition is claimed, advise the unencumbered value of all property of the landholder at the time of the relevant acquisition. ➤ See formula for marketable security duty below.

b) If there were other acquisitions made within the statement period ➤ See Notes 6 and 7.

Formula

Step 1:

Interest acquired at the date of each acquisition (relevant and prior) × unencumbered value of the landholdings and goods held or taken to be held by the landholder at each date.

Date	Percentage interest acquired	Unencumbered value of landholdings and goods held or taken to be held by landholder	Total amount*
/ /		\$	\$
/ /		\$	\$
/ /		\$	\$
Total			\$

* Unencumbered value of land and goods × percentage interest acquired

Step 2:

Apply duty at the general transfer rate on the total amount.

Step 3:

A credit for a portion of any landholder duty paid on any of the prior acquisitions may apply ➤ See section 155(4) of the Duties Act 1997. Do not include goods for acquisitions prior to 1 July 2009.

If a credit for a portion of any marketable security duty paid on the relevant acquisition is claimed, advise the unencumbered value of all property of the landholder at the time of the relevant acquisition.

Formula

Marketable security duty credit

*Credit Calculation

Unencumbered value of the land holdings and goods in New South Wales of the landholder at the time the acquisition was made
 ----- ×
 unencumbered value of all property of the landholder at that time

sum of duty paid or payable on a dutiable transaction in relation to the relevant shares, units, capital reduction, rights alteration or allotment by direction, and duty paid or payable in another Australian Jurisdiction

Total unencumbered value of all residential land in NSW the landholder was entitled to as at the date of the relevant acquisition (i+ii+iii)

\$

Calculation of surcharge duty

- Surcharge duty is charged on the proportion, represented by the interest acquired, of the total unencumbered value of all residential property in NSW the landholder was entitled to as at the date of the relevant acquisition.
- Refer to section 157H of the *Duties Act 1997* for more details on how surcharge duty is charged on relevant acquisitions by foreign persons.
- You are required to calculate and pay the surcharge duty within 3 months of the date of the relevant acquisition. Please provide a copy of your calculations of the surcharge duty payable.

12. Declaration

I am the person who made the relevant acquisition, or a person authorised to make this declaration on behalf of an entity that made the relevant acquisition, and I certify that the details provided in this statement are true and correct in every particular..

I,
Position (if applicable)
Corporation (if applicable)

make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1900*

Declared at (Place)	Date / / 20
Signature of declarant	

in the presence of an authorised witness, who states:

I (Name of authorised witness),
a (Qualification of authorised witness)

certify the following matters concerning the making of this statutory declaration by the person who made it (****please cross out any text that does not apply:***)

- *I saw the face of the person OR
*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
- *I have known the person for at least 12 months OR
*I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was

(Describe identification document relied on)
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Signature of authorised witness	on (Date) / /20
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Notes

These notes are for general guidance only. For details, see the relevant Sections of the *Duties Act 1997*.

1. A primary producer is a landholder whose land holdings in all places, whether within or outside Australia, wholly or predominately comprise land used for primary production or land that would be considered to be land used for primary production if it were land in New South Wales.
 - See Section 163D (2) of the *Duties Act 1997*
2. A primary producer is land rich if it has landholdings in New South Wales with an unencumbered value of \$2,000,000 or more, and its land holdings in all places, whether within or outside Australia, comprise 80% or more of the unencumbered value of all the property.
 - See Section 163D(3) of the *Duties Act 1997*
3. If a relevant acquisition is made in a primary producer, no duty is chargeable if the landholder's landholding in all places comprise less than 80% of the unencumbered value of all the property. If at any time within the period of 5 years after the acquisition of an interest in a primary producer is made, the landholder in who the acquisition is made ceases for any length of time to be a primary producer, the acquirer must immediately notify the Chief Commissioner of the date on which the landholder ceased to be a primary producer. Duty is chargeable in respect of the acquisition on the date on which the landholder ceased to be a primary producer.
4. **Land holdings** of a landholder ➤ See Section 147 of the *Duties Act 1997*. The land holdings of any linked entity of the primary producer must also be included. ➤ See Section 158 and 158A of the *Duties Act 1997*
 - See also Sections 159 and 160 for property taken to be held by the landholder
5. **Linked entities** include not only subsidiaries but also entities in which an interest of not less than 50 per cent is held, including through a chain of entities. ➤ See Section 158(2) of the *Duties Act 1997*
6. **Statement period** ➤ See Section 152(5) of the *Duties Act 1997*
7. **Earlier Acquisition** ➤ See Section 152(6) of the *Duties Act 1997*
8. A **significant interest** is an entitlement (without regard to any liabilities of the landholder) to a distribution of property from a private landholder:
 - a) In the case of a private landholder – 50% or more of the property distributed, or
 - b) In the case of a public landholder – 90% or more of the property distributed.
 - See Section 150(2)(a) and 150(2)(b) of the *Duties Act 1997*
9. A person **acquires an interest** in a landholder if the person obtains an interest or the person's interest increases, including (but not limited to) by means of:
 - a) the purchase, gift or issue of a unit or share,
 - b) the cancellation, redemption or surrender of a unit or share,
 - c) the abrogation or alteration of a right for a unit or share,
 - d) the payment of an amount owing for a unit or a share.
 - e) if the capacity in which the interest in the landholder is held changes.
 - See Section 151(2) of the *Duties Act 1997*
10. If an interest in a landholder is acquired or held by a person as bare trustee for another person, the interest is taken to have been acquired by, or to be held by, the ultimate beneficial owner of the interest. The ultimate beneficial owner of an interest is a beneficial owner of an interest who does not hold the interest as bare trustee for another person (so that, if there is a chain of bare trustees, the ultimate beneficial owner is the last beneficial owner in that chain). ➤ See Section 157A-157C of the *Duties Act 1997*.
11. A person makes a **relevant acquisition** if the person:
 - a) acquires a significant interest in a landholder
 - b) acquires an interest that when aggregated with other interests of the person or an associated person amounts to a significant interest in a landholder
 - c) has (either alone or together with associated persons) a significant interest and acquires a further interest in a land rich landholder.

- d) acquires an interest that when aggregated with other interests of the person or other persons acquired under substantially one arrangement amounts to a significant interest in a landholder
- See Section 149 of the *Duties Act 1997*. Associated person is defined in the Dictionary of the *Duties Act 1997*
12. Duty is payable by the person who makes the relevant acquisition unless the relevant acquisition results from an aggregation of the interests of associated persons, in which case the person who made the relevant acquisition and the associated person or persons are jointly and severally liable for payment of the duty.
- See Section 154(2) of the *Duties Act 1997*
13. Duty is assessed in accordance with the provisions of Section 155 of the *Duties Act 1997*.
14. If a relevant acquisition is made in a land rich primary producer, duty is chargeable if the primary producer is land rich. ➤ See Section 163D of the *Duties Act 1997*
- A primary producer is a landholder whose land holdings wholly or predominantly comprise land used for primary production ➤ See Section 163D(2) of the *Duties Act 1997*
15. Exempt acquisitions are detailed in Sections 163A, 163B and 163C.
16. If the landholder has any interest in goods they are included in the calculation of the duty. For exempt goods
- See Section 163K of the *Duties Act 1997*.
17. **Residential land holding** means any land holding that is an interest in residential land ➤ See Section 157D of the *Duties Act 1997*).

Residential land means any of the following and does not include any land used for primary production:

- (a) a parcel of land on which there are one or more dwellings, a parcel of land on which there is a building under construction that, when completed, will constitute one or more dwellings, or
- (b) a strata lot, if it is lawfully occupied as a separate dwelling, or suitable for lawful occupation as a separate dwelling, or
- (c) a utility lot if its use is restricted to the owner or occupier of a strata lot, or
- (d) a land use entitlement, if it entitles the holder to occupy a building, or part of a building, as a separate dwelling, or
- (e) a parcel of vacant land (including any land that the Chief Commissioner is satisfied is substantially vacant) that is zoned or otherwise designated for use under an environmental planning instrument (within the meaning of the *Environmental Planning and Assessment Act 1979*) for residential or principally for residential purposes.

➤ See Section 104I of the *Duties Act 1997*

Residential – related property means:

- (a) residential land in NSW
- (b) an option to purchase residential land in NSW
- (c) an interest in any residential-related property referred to in (a) or (b), except to the extent that :
 - i. it arises as a consequence of the ownership of a unit in a unit trust scheme and is not a land use entitlement
 - ii. it is, or is attributable to, an option over residential-related property,
 - iii. it is a marketable security.
- (d) a partnership interest (being an interest in a partnership that has partnership property that is residential property).

➤ See Section 104K of the *Duties Act 1997*

18. **Foreign person** means a person who is a foreign person within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth.

➤ See Section 104J of the *Duties Act 1997*

You are NOT a foreign person if you are:

- (a) an Australian citizen
- (b) a person who is ordinarily resident in Australia.

Ordinarily Resident means:

A person is ordinarily resident in Australia at a particular time if the person

- (a) has actually been in Australia during 200 or more days in the period of 12 months immediately preceding the date of the agreement, and
- (b) was not subject to any limitation as to time for their continued presence in Australia (or was not, immediately before their most recent departure from Australia).

Foreign person means:

- (a) **an individual** not ordinarily resident in Australia; or
- (b) **a corporation** in which an individual not ordinarily resident in Australia, a foreign corporation or foreign government holds a substantial interest; or
- (c) **a corporation** in which 2 or more persons each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government hold an aggregate substantial interest; or
- (d) **the trustee of a trust** in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest; or
- (e) **the trustee of a trust** in which 2 or more persons each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government hold an aggregate substantial interest; or
- (f) **a foreign government**; or
- (g) **a general partner of limited partnerships** where:
 - i. an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds at least 20 per cent in the limited partnership, or
 - ii. two or more persons of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, holds an aggregate interest of 40 per cent in the limited partnership.

Substantial Interest means:

A person holds a substantial interest in an entity or trust if:

- (a) for an entity – the person holds an interest of at least 20 per cent in the entity; or
- (b) for a trust (including a unit trust) – the person, together with any one or more associates, holds a beneficial interest in at least 20 per cent of the income or property of the trust.

Aggregate Substantial Interest means:

Two or more persons hold an aggregate substantial interest in an entity or trust if:

- (a) for an entity – the persons hold an aggregate interest of at least 40 per cent in the entity; or
- (b) for a trust (including a unit trust) – the persons, together with any one or more associates of them hold, in aggregate, beneficial interests in at least 40 per cent of the income or property of the trust.

19. Supporting Evidence

<p>Individuals Evidence must be provided upon request</p>	<p>Australian citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. <p>New Zealand citizens require:</p> <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. <p>A person who is ordinarily resident in Australia requires:</p> <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see note 18).
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➤ See over page for supporting evidence (cont.).

Corporation Evidence must be provided upon request	<ul style="list-style-type: none"> ▪ Copy of the certificate of incorporation ▪ Complete copy of the Memorandum and Articles of Association ▪ Copy of corporation register/register of shareholders as at the date of execution.
	Plus in respect of each natural person shareholder: Australian citizens require: <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. New Zealand citizens require: <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. A person who is ordinarily resident in Australia requires: <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see note 18).
	Plus for each corporate and trustee shareholder who hold a substantial interest or aggregate substantial interest in the corporation: <ul style="list-style-type: none"> ▪ Copy of the certificate of incorporation ▪ Complete copy of the Memorandum and Articles of Association ▪ Copy of corporation register/register of shareholders as at the date of execution.

Corporation (cont.) Evidence must be provided upon request	Plus for natural person shareholders/beneficiaries of the corporate or trustee shareholders: Australian citizens require: <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. New Zealand citizens require: <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. A person who is ordinarily resident in Australia requires: <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see note 18).
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For property acquired on behalf of a trust Evidence must be provided upon request	<ul style="list-style-type: none"> ▪ A complete signed and dated copy of the trust deed with all its amendments. If a unit trust scheme: <ul style="list-style-type: none"> ▪ Copy of the unit register from date of establishment to current.
	Plus in respect of each of the beneficiaries/unitholders of the trust who are a natural person: Australian citizens require: <ul style="list-style-type: none"> ▪ Certified copy of birth certificate or Australian passport or Australian Citizenship certificate. New Zealand citizens require: <ul style="list-style-type: none"> ▪ Certified copy of New Zealand passport and evidence of holding a special category visa within the meaning of section 32 of the <i>Migration Act 1958</i>. A person who is ordinarily resident in Australia requires: <ul style="list-style-type: none"> ▪ Certified copy of foreign passport with your current visa and evidence that you meet the definition of ordinarily resident in Australia (see note 18).
	Plus for corporate beneficiaries/unitholders <ul style="list-style-type: none"> ▪ Copy of the certificate of incorporation ▪ Complete copy of the Memorandum and Articles of Association ▪ Copy of corporation register/register of shareholders as at the date of execution.

Privacy statement

There are state and federal laws to protect the privacy of your personal information collected by Revenue NSW. The law also specifies the circumstances where disclosure of your information for specific purposes to certain people or organisations is authorised. Revenue NSW has procedures in place to ensure that we comply with these laws. Revenue NSW will correct or update your personal information at your request.

Read more about privacy at www.revenue.nsw.gov.au

Contact details

 1300 139 814* (Monday – Friday, 8.30 am – 5.00 pm) *Interstate clients please call (02) 9689 6200
 www.revenue.nsw.gov.au  landholder@revenue.nsw.gov.au  Help in community languages is available.

 Postal address	DX number
GPO Box 4042, Sydney NSW 2001	DX 456 Sydney
PO Box 666, Wollongong NSW 2520	DX 5245 Wollongong

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