

**A SUMMARY  
OF THE PAPER  
“ON THE EFFICIENCY OF PROPERTY RIGHTS  
ADMINISTRATION.”**

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## 1.0 BACKGROUND

In 2002, the Queensland Govt undertook an analysis of the efficiency and effectiveness of land/property rights<sup>1</sup> administration in that State.

In 2003 ANZLIC (Australian and New Zealand Land Information Council) noted the outcomes of that analysis<sup>2</sup> and requested -

- they be updated and tested in all its jurisdictions, and
- practical actions which ANZLIC might take.

This Paper is a summary of the response to that request.

## 2.0 THE QUEENSLAND REPORT

The Queensland report, noted that there were three major change drivers, with six subsequent consequences, acting on land administration and that these were making a complex system much more complex, less certain and more costly. A shortened version of that report was presented to the AURISA 2002 Conference in Adelaide.<sup>3</sup>

*Major Conclusions* from the report were:-

1. Administration of "ownership and property" rights continues to evolve 'bottom up'.
2. Implicitly bundled property rights are being "unbundled" into separate property rights (such as water, vegetation, native flora and fauna etc), to enable them to be dealt with independently of each other.
3. Recently imposed obligations on landholders, such as a "duty of care", are likely to increase.
4. The Regulatory regime is excessively complex.
5. Traditional land administration needs to be broadened significantly (both conceptually and operationally), to
  - include the administration of various unbundled property rights,
  - foster the operation of separate specialised markets, and to
  - operate contemporaneously with the land and property market.

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<sup>1</sup> In this paper "property rights" is used in its fullest generic sense of including all types of rights, restrictions, obligations, controls etc pertaining to land and/or property. It is used synonymously with "property ROR's" where ROR's is an abbreviation for rights, obligations and restrictions, with restrictions including controls. It excludes intellectual property rights.

The term "property rights" can have many different meanings to different groups. Some take the term "property" to only relate to "real property" or definitions of either in particular legislation. Some view property rights as a generic term encompassing, or synonymous with, some or all of the following - access rights, use rights, entitlements rights and similar terms. Some consider the generic term also includes obligations, restrictions, controls and similar terms. Others view "rights" as being solely restricted to rights and not to include obligations, restrictions etc. Some consider the terms "access rights" and "use" rights to have specific meanings. Access and use rights can be considered as modifying restrictions to, or obligations on rights held by another.

<sup>2</sup> Lyons, Davies and Cottrell, 2002. *On the Efficiency of Property Rights Administration in Queensland* <http://www.anzlic.org.au/get/2393092707>

<sup>3</sup> Lyons K, E Cottrell, K Davies (2002), *The Case for Refocusing and Re-engineering Land Administration to better Meet Contemporary and Future Needs in Property Rights and Markets* <http://www.anzlic.org.au/get/2381206196>

The following priorities emerged from stakeholders:

*Priority 1 –*

- (a) Obtaining consolidated information on ALL rights and obligations and restrictions pertaining to any parcel or area of land,
- (b) Achieving certainty in the definition and application of ALL rights and obligations and restrictions pertaining to any parcel or area of land.
- (c) Compensation to landholders where financial loss occurred as a result of the withdrawing of some property rights to meet a common good requirement.

*Priority 2 –*

- (d) Harmonising land administration Regulatory regimes and systems across jurisdictions,
- (e) Implementing performance measurement of land administration and its various components.

*The Central Issue* was seen to be:-

***Should land administration be restrained to its traditional context or should it be seen as much more embracing (with a name change if necessary), and include all rights, obligations controls, restrictions, (property rights) relating to land, and for land to be treated more holistically? That is, should land administration be refocussed so as to take a more holistic view of property rights and their markets?***

***Possibilities for Improvement***

The paper suggested, as a basis for discussion, a range of possibilities for improvement, including:-

- an explicit set of objectives and qualities for property rights, markets and administration,
- conceptual and operational models,
- ten possible next steps,
- fifteen questions for further discussion and debate.

**3.0 UPDATING THE QUEENSLAND REPORT TO AN AUSTRALIAN CONTEXT**

While the Queensland report was for that jurisdiction, it included a global literature review.

Updating the Report identified 78 more recent publications and these are reported in the Bibliography<sup>4</sup>. Stakeholder interviews were conducted in Capital Cities.

Additional information was sought from jurisdictions on the process adopted in the conveyance of land. The information sought included:

- Who can convey land
- Searches undertaken
- Cost of conveyance
- Authority to undertake the conveyance

The results of the information collected are contained in the substantive paper.

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<sup>4</sup> Annex D in the substantive Paper.

## *Major Conclusion*

***Additional information does not change the major conclusions or thrusts of the initial report. Rather the additional information reinforces the original findings together with the necessity to improve the current situation.***

## **4.0 MATTERS OF MAIN INTEREST OR RELEVANCE**

During the updating process the following were identified as matters of most relevance:-

- 1) The political and policy framework for property rights administration.
- 2) A May 2004 WA Parliament report<sup>5</sup>.
- 3) Various papers on property rights.
- 4) Various issues associated with the provision of information on ROR's
- 5) Productivity Commission reports.
- 6) Work of the National Development Assessment Forum (DAF).

Brief comments on each follow.

### ***1. The political and policy framework for property rights administration***

In any consideration of administrative reform of this scale it is important to recognise and quarantine from that consideration those higher level policy settings, which can be controversial, but which are of themselves not part of the processes of administration. Where these issues are mentioned in this paper they are either in reporting feedback, or in identifying linkages. The paper expresses no opinion on them.

These higher level issues include

- the philosophical/political/legal basis for property rights in Australia (i.e. public or private 'ownership', and attached conditions)
- the appropriateness of legislation
- the implicit rights existing in private property/freehold
- the relevance of compensation to the "taking" of a right

Discussions on these framework issues are more properly the responsibility of other forums and care should be taken in any consideration/discussion of administrative reform that framework issues do not diffuse/confuse that discussion.

### ***2. May 2004 WA Parliament report***

This was a major report of over 700 pages. It encompassed a wide range of issues associated with the private ownership of land such as the compulsory acquisition of interests in land; notification and

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<sup>5</sup> Public Administration and Finance Committee (2004). *The Impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia*. Report. Parliament of Western Australia. May. [http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(ReportsAndEvidence\)/8D89047DADC4CF0C48256E9100809C9A?opendocument](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(ReportsAndEvidence)/8D89047DADC4CF0C48256E9100809C9A?opendocument)

recording of restrictions on land use; the duration of private property rights affected by the actions of the State Government; the payment of compensation.

### ***3. Various papers on property rights***

There is no shortage of articles in the literature that deal with property rights and the Bibliography contains many of these. Three useful articles are by Scott (1999), Young M and J McColl (2002)<sup>6</sup>, Sheehan (2002), and these are commented on later in this report.

### ***4. Various issues associated with the provision of information on ROR's***

There are a large number of interests/ROR's (in order of 200 per jurisdiction) that are potentially liable to effect a land parcel/property, and numerous pieces of legislation (in order of 200 per jurisdiction) that can generate them.

There is growing recognition, both from the supply-side and the demand-side, that obtaining comprehensive information on ALL the ROR's that can affect a property is not only becoming increasingly difficult, time-consuming and costly, but also becoming increasingly necessary.

Various approaches are being considered. A number are shown below, posed as questions:-

- Should all ROR's be considered which affect the use and enjoyment of a land parcel and or property; or only a subset which can be registered on the Certificate of Title (CT); or only those affecting a land parcel and not the property?
- What are the options for providing users with consolidated ROR information? (e.g. a portal; all shown on a Certificate of Title; some to be shown above the line and some below?)
- Should a landholder be responsible for providing a complete list of ALL ROR's when seeking to sell a property? (e.g. Vendor Disclosure Statements)
- Should registration at the time of transfer of a property be used as a complete compliance check point for all ROR's, and registration be conditional upon complete compliance?
- Should compensation be paid where withdrawing rights/imposing restrictions causes a lowering of property value or economic loss to the landholder?

The need for comprehensive and reliable information is considered the key issue by users of the land administration system(s). The uncertainty relating to what ROR's affect the property and where to obtain information is a symptom of more deeply embedded problems. Sec. 6 refers.

### ***5. Productivity Commission reports***

Two areas of work of the Productivity Commission are relevant:-

- Reports dealing with the environment, biodiversity etc
- Reports dealing with performance measurement, benchmarking and Regulatory reform.

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<sup>6</sup> Young M and J McColl (2002), Robust Separation – A search for a generic framework to simplify registration in trading of interests in natural resources, CSIRO Land and Water, Policy and Economic Research Unit  
[http://www.clw.csiro.au/publications/consultancy/2002/Robust\\_Separation.pdf](http://www.clw.csiro.au/publications/consultancy/2002/Robust_Separation.pdf)

Most of the reports dealing with the environment make the point that property rights and responsibilities need to be very clear, and this is often not the case. Performance measurement and benchmarking have been carried out for many Government services across jurisdictions. There appears no reason why these processes cannot be applied to the administration of ROR's, and they should be.

These aspects were covered in the previous report and are still valid. Productivity Commission reports in the ensuing two years, continue to make the same points with respect to property rights.

The Draft "Reform of Building Regulation" addresses the need to pursue a national approach to consistency in Regulations within a national framework.<sup>7</sup>

### ***6. Work of the National Development Assessment Forum (DAF)***

DAF was formed in 1998 comprising representatives from all levels of Government and industry and professional bodies. Its charter is to advance leading practice for Development Assessment, aiming for national agreement on ways to improve the processes for development approvals. Significant work has been done on:-

- what constitutes leading practice and the principles thereof
- comparative performance measurement and benchmarking of planning and development assessment systems
- electronic lodgement of development applications
- standard definitions
- harmonisation between jurisdictions
- stakeholder engagement.

Aspects under consideration include:-

- Performance-based codes
- Harmonising appeal bodies and appeal time frames.

The approach and work of the DAF is interesting in that it can be considered a model for addressing improvements in Property ROR's administration.

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<sup>7</sup> Productivity Commission (2004), *Reform of Building Regulation*, Draft Report, 27 August 2004.  
<http://www.pc.gov.au/study/building/draftreport/building.pdf>

## 5.0 THE KEY USER QUESTIONS

The four key questions, from a user/landholder perspective, appear to be:-

- 1) *What are ALL the ROR's that are affecting all or part of a property or area of land? Where do I go to get information on them? What do these ROR's entail and cover? What exact restrictions or obligations are imposed, and for how long do they apply? What Agencies/Sections are responsible for administering each? What is my liability if I don't know them all and don't comply with them?*
- 2) *Do any of the restrictions or obligations reduce the value of the land/property and affect my ability to borrow money against the value of the property, or to gain an economic return from the land?*
- 3) *If I am unaware of ROR's affecting my land, can anyone claim my land, or restrict the use of the land, or prevent its sale?*
- 4) *If I lose a right, can I be compensated?*

These have been deliberately posed from the users' perspective as they are the primary beneficiaries of a land administration system. The administrators' perspective is considered in the next section

## 6.0 A SYSTEM DYNAMICS VIEW

The questions in Sec. 5 are to a larger extent symptomatic of more hidden problems. Figure 1 is an influence diagram which seeks to show the main system dynamics and how various elements influence other elements.

A major area of user concern is the serious difficulty in finding information on ALL ROR's that affect a particular property. This aspect is shown in the system dynamics diagram in Fig 1. A root cause analysis, (using the Why, Why, Why technique), is shown in Figure 2.

### *Discussion*

The uncertainty, relating to what ROR's affect a property, and the call for easy access to all ROR information (as noted in Sec 4 (#4) and Sec 5), are symptoms of more deeply embedded problems of ROR structure, systems and administration.

Figure 1 reveals that there are two primary causes and four primary effects. The *primary effects* are considered to be:-

- I. Uncertainty as to what ROR's are, what applies where for any given area/land/ property; where info is being held and by whom (with calls for various approaches/solution)
- II. Overall increase in cost & complexity to administer the ROR systems
- III. Increasing risk to the quality/indefeasibility of Title, and the Registration process, due to increasing uncertainty surrounding ROR's
- IV. Reduction in use/enjoyment (& hence value) of certain land/ property

The last two cause a flow on effect and can give rise to:

- Reduced ability to raise capital and derive economic benefit, with flow on effects to the economy
- Calls for compensation

The *primary causes* are considered to be:

- I. The volume of legislation providing for ROR's (~200/jurisdiction)<sup>8</sup> across all three levels of Government, and the number of ROR's (also ~200/jurisdiction)
- II. The number of different Agencies/Sections involved (across all three levels of Government), and the lack of a standard/consistent/best practice approach to defining, creating, and notifying the application of ROR's

Figure 2 conducts a root cause analysis (using the why, why, why, technique) on one particular effect, the uncertainty as to what ROR's affect a property. This brings to light two *additional factors*:-

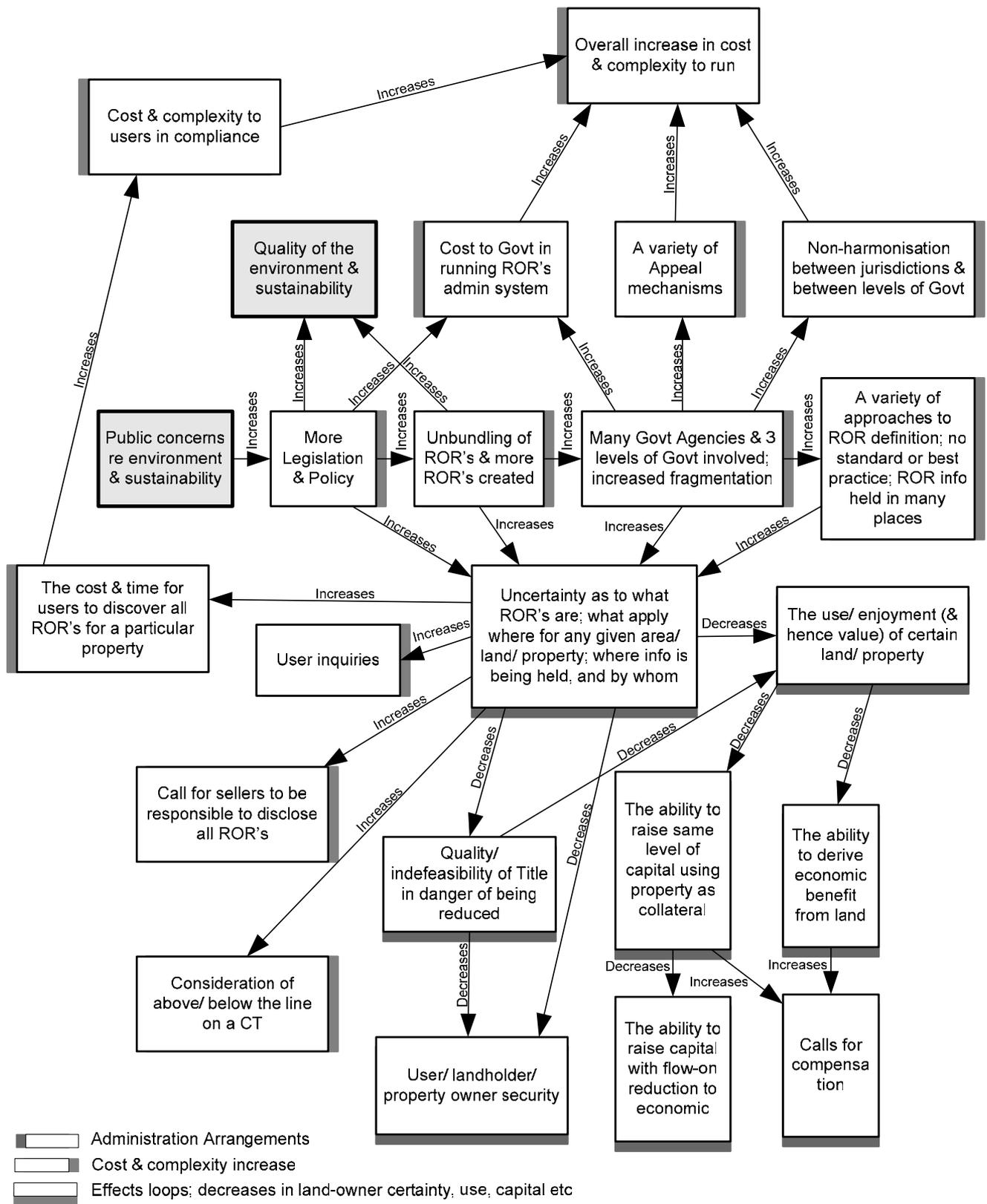
- I. There are no legal or administrative requirements:-
  - for various Agencies to conform to any standard for defining or creating an ROR;
  - to make ROR information easily discoverable;
  - to make it available through a single point of enquiry.
- II. There is a lack of a whole of government approach, and a lack of recognition that there is a problem.

Some might consider that there is no problem, or that it is a minor problem, or not the problem of traditional land administration. It can also be argued quite strongly that what is now being seen are the symptoms of a quite serious problem, and which unless addressed, will lead to a further erosion of the fundamental principles of the Torrens system, a cornerstone of Australian society and wealth. It is interesting to note that several recommendations in the WA Parliament report were concerned with a single Agency acting in a number of land matters, rather than a number of Agencies all acting independently.

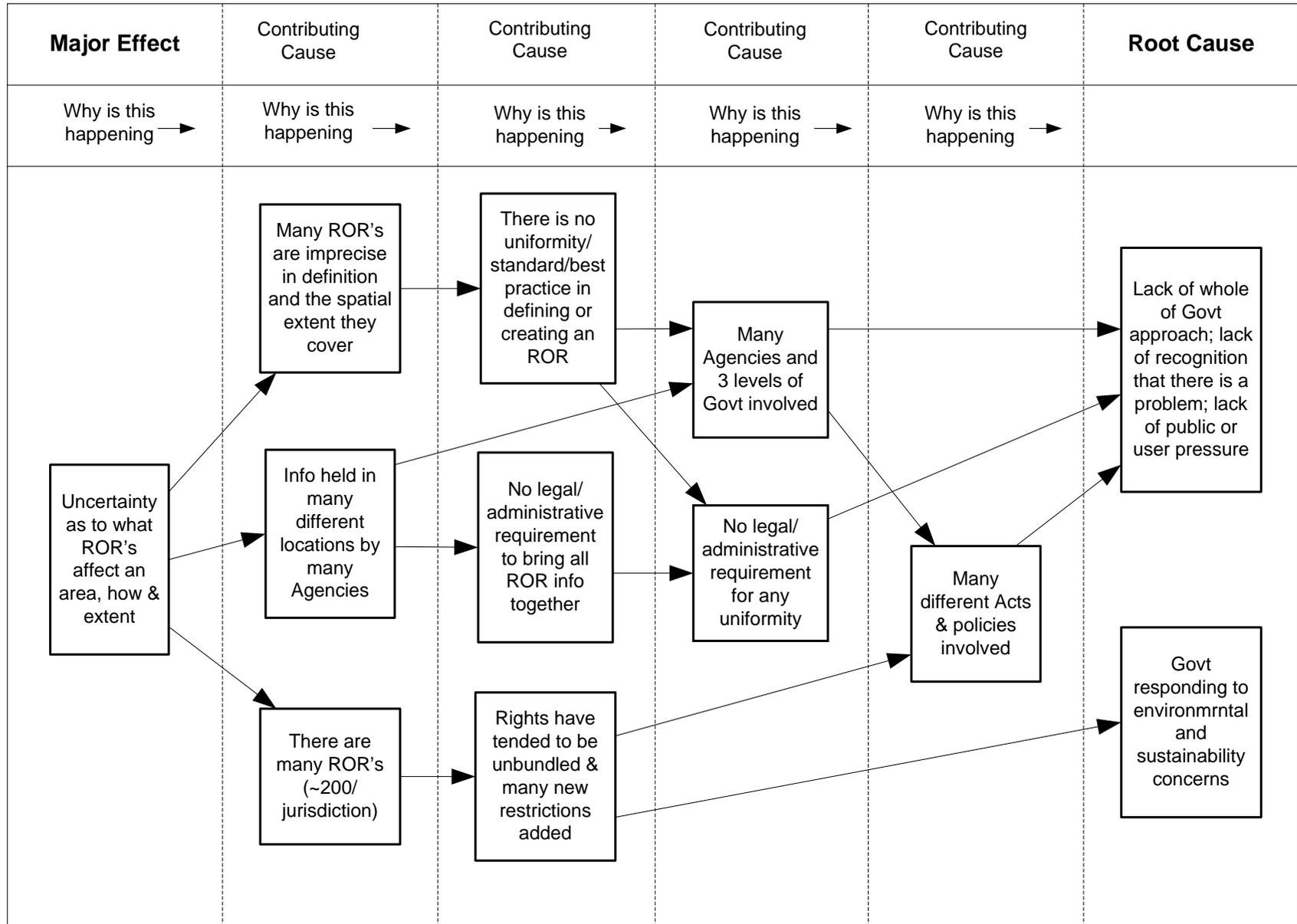
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<sup>8</sup> Should be regarded as a minimum; could well be much larger.

Figure 1 – Influence Diagram



**Figure 2 -Root Cause Analysis of Uncertainty in ROR's**

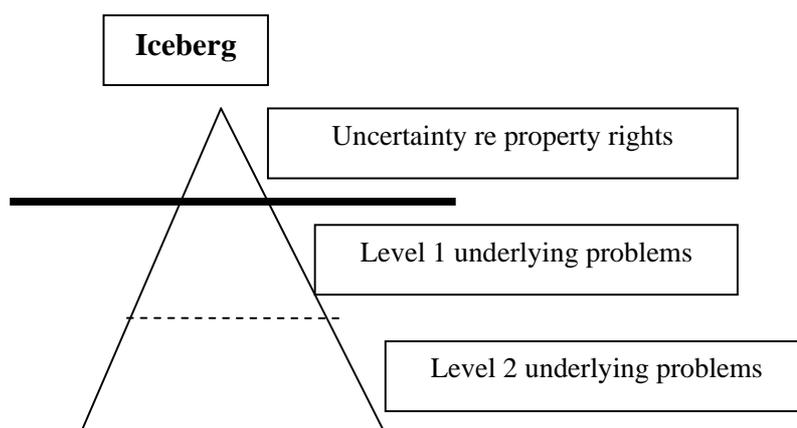


## 7.0 THE PROBLEM

The system dynamics analysis in Sec. 6 identified four primary effects and two underlying causes. The symptom of uncertainty as to what ROR's effect a property is the visible tip of the iceberg (see Figure 3). The root causes and other effects lie below.

For a long term solution to the problems, the root causes need to be addressed, or at least minimised.

**Figure 3: The iceberg**



### ***Level 1 underlying problems***

- I. The number of Agencies involved
- II. The lack of a uniform/ standard/ best practice approach to defining, creating, notifying, and providing discoverable information on ROR's.

### ***Level 2 underlying problems***

- III. The amount of legislation
- IV. The slow erosion of the Torrens principles (Sec. 9 #3 refers)
- V. Lack of recognition, at all levels, that there is a serious problem
- VI. Lack of coordination between Agencies; lack of a whole of Government approach in each jurisdiction; lack of harmonisation between jurisdictions.

### ***The ability of ANZLIC to achieve alone or to influence.***

The above problems are complex and their solution cannot be achieved alone by any single ANZLIC member, or indeed by ANZLIC itself. ANZLIC will need to take a leadership role and work closely with others and to influence them.

It is not known if the reporting lines of ANZLIC are optimal for bringing these problems to the attention of the highest levels of Government, and to gain support and action for their resolution.

As noted in the previous paper, after Dale and Baldwin (1999), the role of the State is to:-

- be responsible for land policy that defines the role and activities of the State within the land market
- be responsible for establishing the legal basis for land administration
- define the goods and services that can be traded through rules concerning permitted usage, maximum and minimum landholdings, leasing arrangements, development controls etc
- provide the regulating institutions
- be an important participant in its own right
- be a major financier and revenue raiser.

If the above is accepted, then there is need for leadership at a senior government organisational level.

## **8.0 SUGGESTED AREAS FOR ACTION**

*Suggestions for immediate action by ANZLIC where ANZLIC could take the lead -*

1. achieving reliable comprehensive information on ALL ROR's from a single point of enquiry
2. creating a standard or best practice for the definition and creation of an ROR which is binding on all creators of ROR's
3. addressing the erosion of Torrens' Principles and to regain the application of these Principles to all ROR's
4. instigating national benchmarking to measure the effectiveness and efficiency of ROR creation and administration
5. fostering a national summit to address the overall topic of Property ROR's, their creation, markets, and administration
6. making the case for "there is a serious problem" as well as "here is an approach to address the issue".

Suggestions 1-5 will be discussed/expanded in Section 9.0.

*Suggestions for action by ANZLIC where ANZLIC could seek to influence the initiation of action –*

7. seek a Regulatory impact assessment on the amount of Legislation and the number of Agencies involved
8. achieving greater coordination between Agencies
9. achieving a whole of Government approach in each jurisdiction
10. achieve greater harmonisation between jurisdictions
11. seek a fundamental reassessment of what Property ROR's aim to achieve and the most effective and efficient way (systems, administration etc) to achieve that aim.
12. seek a compliance audit (assuming #2 above implemented) of all existing ROR's with the aim of rectifying those that don't comply.

## **9.0 INITIAL COMMENTS ON SOME SUGGESTED IMMEDIATE ACTIONS**

*# 1 - Achieving reliable comprehensive information on ALL ROR's from a single source*

It is suggested that the following be accepted:-

## PRIME PRINCIPLE

*That it be possible to quickly and easily discover all ROR's that affect the use, enjoyment, and value of any segment of land or property.*

### *Comment*

It is recognised that there are initiatives and proposals under discussion in most jurisdictions dealing with providing information on the most common ROR's, and various options to make this information available.

It is considered (well recognising the problems that this may cause) that the goal must be to cover ALL ROR's (refer to the Hillpalm case<sup>9</sup>, where a restriction/right took precedence after 20 years; #3 below).

It is also considered of prime importance that there be a single point of enquiry, and that information provided is reliable, and authoritative,

Three recommendations from the May 2004 WA Parliamentary report are relevant. They are: -

- R34 – that, the Department of Land Information, maintains a comprehensive and publicly available list of all policies, strategies and plans which impact on administrative decision-making pertaining to land use.
- R 35 – that, in the short term, the Department of Land Information continue to implement its aim of establishing itself as a “one-stop shop” database of all interests affecting land, as an urgent priority.
- R36 – that, for the long-term, the Department of Land Information, introduce, as soon as practical, an electronic three-dimensional certificate of title which records all interests affecting the described on the certificate of title

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<sup>9</sup> Hillpalm –v- Heaven's Door [2002] NSWCA 301

**# 2- Creation of a standard or best practice for the definition and creation of an ROR which is binding on all creators of ROR's**

It is suggested that the following be accepted:-

**KEY SUPPORTING PRINCIPLE**

***That every ROR MUST***

- *be defined & created in some standard way, or conforming to some best practice criteria,*
- *be no less rigorous than that required for land registration & entering on a CT*
- *be unable to be legally brought into force unless:-*
  - (a) it complies with the standard*
  - (b) is registered with a single Government Agency*
  - (c) the information is open to all.*

It is recognised that it will be no small matter to gain acceptance to the principle that there should be a standard, let alone to the detail, and to achieve agreement and implementation from the great variety of Agencies who create and administer particular ROR's. However the need for a standard is considered to be of fundamental importance, to overcome one of the major sources of the problem of uncertainty in ROR's. It may be necessary to gain the concurrence of coordinating bodies such as COAG to the importance of this Principle.

There is no shortage of articles in the literature that deal with property rights, and they cover a myriad of views and philosophies. There are far fewer articles that deal with suggestions of a practical nature concerning how to define these rights. Three excellent articles are by Scott (1999), Young M and J McColl (2002)<sup>10</sup>, Sheehan (2002).

The focus of these three articles is essentially on the characteristics of a natural resource right (eg. water, fish). The first eight characteristics in the table below come from these three sources plus some characteristics suggested by the Productivity Commission.

It is natural that, given the intense Australia debate on water rights and vegetation clearing, the focus be on a "right".

However the definition and extent of "obligations" and "restrictions" are of equal importance. There are a myriad of restrictions that can apply, and they can affect the use, enjoyment and value of a property. They assume a great importance when a person is considering buying a property.

It would appear that the same amount of thought on what constitutes the essential characteristics of a property **obligation and restriction**, has not been given as that afforded to the essential characteristics of a property **right**. The table below outlines some possible characteristics for a Property ROR. The

<sup>10</sup> Young M and J McColl (2002), *Robust Separation – A search for a generic framework to simplify registration in trading of interests in natural resources*, CSIRO Land and Water, Policy and Economic Research Unit [http://www.clw.csiro.au/publications/consultancy/2002/Robust\\_Separation.pdf](http://www.clw.csiro.au/publications/consultancy/2002/Robust_Separation.pdf)

first eight characteristics in the following table are drawn from the sources as indicated above. The remainder have been added by the authors.

#### **Possible Characteristics of a ROR**

<b>No</b>	<b>Characteristic</b>	<b>Comment</b>
1	Duration	The period for which the interest is defined
2	Flexibility	The extent to which the interest can be modified or altered without consent
3	Exclusivity	The degree to which the interest holder receives all the benefits from excision of the allocated opportunity
4	Transferability	The extent of freedom to trade (level of constraints)
5	Divisibility	Whether or not the interests can be subdivided into parts or each part held separately
6	Universality	All resources are privately owned and all entitlements (rights over how they can be used) are completely specified
7	Enforceability	Property rights are secure from involuntary seizure and encroachments
8	Quality of title	The extent of “security”, protection from fraud, opportunity to use as collateral, etc.
10	Spatial Extent	The exact geographical extent where any particular ROR has force
11	Clarity of Definition	To be couched in such a way that there is no uncertainty as to the meaning of the particular ROR
12	Discoverability	All information on every ROR to be on a public register which is easily accessible
13	Consistency	Every ROR to be consistently defined, created, and information about it available
14	Security	The degree of security afforded by a right to be very clearly defined, together with higher-ranking securities/interests that may be in place
14	Right of Appeal to Independent Body	An automatic right of appeal to an independent body as distinct from that which defined and granted the ROR

The above is not meant to be exhaustive. It merely aims to set the scene for discussions as to what might be a suitable set of essential characteristics, as a milepost on the road to establishing a standard procedure for the definition and creation of all ROR's.

### **# 3 - Addressing the erosion of Torrens' Principles and to regain the application of these Principles to all ROR's**

There was a comment in the 2002 AURISA Paper that - *In 1858 Torrens introduced the system named after him to overcome the weakness of the English Property Law then operating in Australia. The weaknesses were: too complex, too costly, uncertain, too slow, created a low value of credit of value against the land. It is interesting to speculate how Torrens would rate the regulatory regime now existing nearly 150 years after his simplifications.* The inference being that Torrens would probably not have been pleased.

In the May 2004 WA Parliamentary Report, Butt (2003) comments in a conveyancing practice note on the NSW Court of Appeal case, *Hillpalm Pty Ltd v Heaven's Door Pty Ltd*<sup>11</sup>, "Indefeasibility of title is the great catchcry of the Torrens system. It is what distinguishes that system so clearly from other registration systems. Without it, the Torrens System would be a mere shell. ....Both are inimical to the philosophy behind the Torrens system. Sir Robert Torrens would not have been pleased".

The table below lists some explicit and implicit principles and characteristics of the Torrens system, and provides comments on how well these might be currently being met when considering all ROR's

#### **Explicit and implicit principles and characteristics of the Torrens systems**

<b>Principle</b>	<b>Aim</b>	<b>Current Situation</b>
Mirror	CT and the Register contain all interests	Does not contain all ROR's
Curtain/ Completeness	No searching behind the register required; Contains all required information (i.e. a one stop shop)	Many locations need to be searched; never sure that all locations have been searched.
Conclusive/ Indefeasibility	Title is correct and paramount	Not 100% reliable
Openness/transparency/ Discoverability	The register is open to all to inspect and obtain information	Still applies to the ROR's held on the Torrens register. Does not seem to apply well to many other ROR's not held on the Torrens register
Indemnity	Recompense for those who suffer loss from relying on title information	Applies in certain circumstances

This is not meant to be a treatise on the Torrens system, but to illustrate that the main purpose of the Torrens system, that is - to hold all information necessary to take into account in a transaction in one place, has been eroded. Also that some of the defects it was established to overcome, that is - too complex, too costly, uncertain, too slow, created a low value of credit against the land, appear to have crept back in.

<sup>11</sup> Subject to High Court Appeal

It could be argued that the Torrens Register handles several ROR's well. It could also be argued that it (or a re-engineered version) should handle all ROR's, as its original purpose was to include all ROR's that effected tradability.

In view of the NSW Court case indicated above and the legal precedent that the NSW Planning and Assessment Act may take priority over the land registration system under the NSW Real Property Act, it appears essential that EPA's in all jurisdictions become part of the reform process, as they are, and are likely to be for some considerable time, a major creator of obligations and restrictions.

#### ***# 4 - Instigation of national benchmarking to measure the effectiveness and efficiency of ROR creation and administration***

Many complex areas of government service delivery (i.e. health, police, justice) are routinely subject to inter-jurisdictional performance measurement by the Productivity Commission. The benefits, as well as the initial pain, are outlined in the relevant reports.

The methodology that is used would appear suitable to apply to ROR administration.

A reasonable amount of work has also been done by the Development Assessment Forum (DAF) on a 'why' performance measurement should be applied in their area of public administration, and how it might be conducted.

The systems diagram in Figure 1 indicates the factors that come into play to increase both the cost to Government of running these systems, and to the user in complying with them; resulting in an overall increase in costs and complexity. It is doubted if anyone would not agree with the proposition that cost and complexity have increased and are continuing to increase.

However simply knowing that cost and complexity are increasing is not sufficient. It is firstly necessary to know the absolute and demand-side costs, where they occur etc, and then to be able to benchmark between jurisdictions. Cost is not the sole comparison criteria. In the initial Queensland study an order of magnitude forecasts was estimated, and considered substantial.

There is a need for a more refined measurement framework and performance comparison methodology, and for this to be applied between jurisdictions.

#### ***# 5- Foster a national summit to address the overall topic of Property ROR's, their creation, markets, and administration***

A separate report has dealt with the aims, structure and probable cost of a national summit.

The contents of this report, and the matters raised, and their complexity, are considered of sufficient importance, that ANZLIC should foster a national summit to address them.

## **10.0 CONCLUSION**

This Report identifies a major element of public administration in Australia which is deteriorating in efficiency and effectiveness as the needs of the nation become more complex. The scale of this element has not been identified although work done for the Qld Govt indicates it incurs substantial cost.

There is no mechanism in place to address this decline, and a number of suggestions (Sec.8) are made as to why and how action should be taken.