
Journal of New Business Ideas & Trends

2011, 9(2), pp. 1-10.

["http://www.jnbit.org"](http://www.jnbit.org)

State of Origin: Queensland Crown Leasehold - lessons from New South Wales

Dr Lucy Cradduck

Faculty of Business

University of the Sunshine Coast, Queensland, Australia

Email: cradduck@usc.edu.au**Andrea Blake**

School of Urban Development, BEE

Queensland University of Technology, Queensland, Australia

Email: a.blake@qut.edu.au**Abstract**

Throughout Australia freehold land interests are protected by statutory schemes which grant indefeasibility of title to registered interests. Queensland freehold land interests are protected by Torrens system established by the Land Title Act 1994. However, no such protection exists for Crown land interests. The extent of Queensland occupied under some form of Crown tenure, in excess of 70%, means that Queensland Crown land users are disadvantaged when compared to freehold land users. This article examines the role indefeasibility of title has in protecting interests in Crown land. A comparative analysis is undertaken between Queensland and New South Wales land management frameworks to determine whether interests in crown land are adequately protected in Queensland.

Keywords: *Crown land, tenure, indefeasibility of title, leasehold tenure*

Introduction

Queensland land tenure is unique. Population bases generally are located on the coastal fringe with the most common form of landholdings being those held under freehold tenure. The majority of Queensland land including some areas of major towns, however, is held pursuant to one form of Crown grant or another. To achieve effective stewardship of Crown land,¹ Queensland law requires that Crown land management have regard to the principles of sustainability, evaluation, development, community purpose, protection, consultation and administration.² The principle law governing Crown land use and the allocation of interests in Crown land is the *Land Act 1994* ('Act').

The Act facilitates the creation and administration of interests in unallocated Queensland Crown land.³ It also regulates the rights and obligations of both interested parties and the State and is *the* land management tool for Crown land. Crown land occupiers have a general duty to care for the land and cannot use or work the land as they see fit if that is contrary to the use permitted by the documentation evidencing their grant of occupation. Even if the proposed use appears to be acceptable there is no guarantee that permission for that use will be granted as, prior to the granting of a lease, or the making any other land/interest allocation, there must be an evaluation is undertaken to assess the most appropriate tenure and use.⁴ That evaluation must take account of the existing planning strategies and policies *and* the seven principles articulated in Section 4.⁵ Once an approval for a use/s is granted the land then *must* be used for those purposes only and if used for any other purpose this is a breach of the terms of the grant which could be relied upon as a technicality for forfeiture of the interest.⁶

In line with the principles of land stewardship, the focus of the Act therefore is very much on the appropriate use of Crown land the subject of the granted interest rather than on protections available to the interest holders. For example, while a Crown leasehold interest may have more rights than that granted by a permit to occupy, the interest created in a perpetual lease is not equivalent to that of freehold tenure. The Act does not address issues of the quality of the registered interests created nor does not grant indefeasibility of title to interests in Crown land. For those deprived of their interest by unfair means, which in many circumstances would trigger a claim for compensation if the interest lost was in freehold land, the Act does not provide compensation or any other form of redress.

The lack of indefeasibility of title for Crown leasehold interests puts Queensland at odds with other Australian States and Territories, where indefeasibility of title is provided to interests in both freehold and Crown land. Although many of the Crown land grants are made to commercial interests, equally grants are made to ordinary consumers. In an era of increased consumer protection laws, most recently evidenced by the introduction of the Australian Consumer Law ('ACL'), this lack of protection for Crown land interests requires review. The purpose of this paper is to identify the role that indefeasibility of title can play in respect of Crown land management and in the promotion and protection of ordinary and commercial interest holders. In order to do so gaps in the Act are identified by means of comparison with New South Wales ('NSW') laws as to the extent of protection of the NSW Torrens system of titling. The paper commences by an explanation of what is meant by the term *indefeasibility of title* and provides a brief overview of the Torrens titling systems operating in Queensland and NSW.

¹ DERM (2010) 'A Guide to Land Tenure under the *Land Act 1994*', June 2010

² *Land Act 1994* (Qld) Section 4

³ *State of Queensland v Litz* [1993] 1 QdR 593 at page 610

⁴ *Land Act 1994* (Qld) Section 16(1)

⁵ *Ibid.*, Section 16(2)

⁶ *Ibid.*, Section 199A

Indefeasibility of title

Land tenure arrangements in Australia are historically based on the English feudal system of land ownership.⁷ That system relied upon registration of the documents (deeds) dealing with interests in land. The English system, however, did not address issues regarding the quality of the title to the land. This meant that for a buyer the conveyancing process (i.e. the process of land acquisition) was lengthy and involved complicated and costly searches, including checking documents going back many years, to establish a vendor had ‘good title’ to sell.⁸ Conveyancing therefore required specialist assistance.

The ‘old’ system was costly and not perfect or accurate. This led to the introduction of a ‘new’, simplified system of registration of interests in land in South Australia⁹ that was soon adopted by other colonies. This land titling system was based in part on the shipping title registration system and the method of land registration operating in the Hanseatic towns.¹⁰ The ‘new’ system is a method of title to land by registration and conveyance by instrument.¹¹ The cornerstone of Torrens is *indefeasibility of title* of the registered interests.¹² All dealings in respect of a lot are registered on the one certificate of title located in volumes in the Titles Office and searchable by anyone on payment of a fee. This removed the need for lengthy and costly searches to establish a good title in the seller. Subject to certain exceptions, i.e. fraud,¹³ registration is conclusive evidence of a party’s interest¹⁴ and a party with a registered interest cannot be deprived of that interest. However, ‘old’ system titling for freehold land continues until land is converted to the ‘new’ system.

The Torrens system also introduced a guarantee of title backed by a system of compensation for parties deprived of their interest.¹⁵ This right to recover damages replaced the right to recover the land¹⁶ and provided protection for innocent parties. For example, if Party A (who was the registered owner of Lot 1) loses their interest by the fraud of Party B (who has forged Party A’s signature on the transfer to Party C) and innocent Party C has registered the transfer, Party C is now the registered owner and will keep the land but Party A will receive compensation. If Party B can be located, then other proceedings can be brought against them. As an aside, any real estate agent so involved may breach the ACL.¹⁷

Although Torrens is applied throughout Australia, the constitutional division of powers between the federation and the States/Territories means that each State/Territory has its own land laws with land interests being better protected in some than in others. Also for some interests the underlying tenure system is not freehold but rather Crown leasehold so Torrens may not apply to protect them. Of relevance for this paper are the Crown tenure systems of Queensland and NSW and their interaction, or not, with Torrens.

⁷ Butt, P., (2006) *Land Law*, 5th Ed, Thomson Lawbook Co., Sydney [401]

⁸ See *Conveyancing Act 1919* (NSW) Section 53(1) as to the obligations to show title with respect to ‘Old system’ land in New South Wales

⁹ *Real Property Act 1858* (SA)

¹⁰ A term applied to certain commercial cities in Germany whose famous league for mutual defence and commercial association began in a compact between Hamburg and Lubeck in 1241

¹¹ Named after the man who devised it – Sir Robert Torrens as he was to become

¹² *Land Title Act 1994* (Qld) Section 184; *Transfer of Land Act 1958* (Vic) Section 42(1) and (2); *Real Property Act 1886* (SA) Sections 69 and 70; *Land Titles Act 1925* (ACT) Section 159; *Land Title Act* (NT) Section 40; *Land Titles Act 1980* (Tas) Section 42; *Land Administration Act 1997* (WA) Section 202; *Real Property Act 1900* (NSW) Section 42(1)

¹³ See *Land Title Act 1994* (Qld) Section 184(3) and Section 185 for a complete list of exceptions

¹⁴ *Gibbs v Messer* [1891] AC 248, 254

¹⁵ In Queensland contained in *Land Title Act 1994* Part 8, Division 2, Subdivision C

¹⁶ West, G., (1992) ‘Real Property (Torrens Assurance Fund) Amendment Bill, *NSW Legislative Assembly Hansard*, 18 November 1992, 9230

¹⁷ Boddy, N., and G., Knowles (2011) ‘New rules to stop property sale scams’, *The West Australian*, August 31, 2011

Queensland's Torrens system

The Torrens system of registration existing today in Queensland is embodied in the *Land Titles Act 1994* ('LTA'). The LTA also provides other methods of protecting *in rem* and *in personam* rights (i.e. by lodging a caveat). The main object of the LTA is to consolidate and reform the law about the registration of freehold land and interests in freehold land.¹⁸ Unlike the Act, the LTA is not concerned with the management and use of freehold land and this is left to other legislation.¹⁹ Registration remains vital for creating a legal interest in land²⁰ but does not prevent the creation of equitable interests or the success of a claim. Certain equitable rules also continue to apply, for example, the equitable rule regarding competing claims,²¹ still applies to unregistered documents.

Legislative obligation also must be complied with, if proscribed, prior to a legal interest being created. If a statute imposes requirements as a condition precedent to acquiring title, those conditions must be fulfilled otherwise title may be set aside.²² Importantly for those seeking to acquire an interest in Queensland land they must bear in mind that while most of Queensland is Crown land, not freehold, the benefits guaranteed by the Torrens system are limited. Indefeasibility of title, and the right to access compensation, is only granted to holders of interests in land that are subject to the LTA and not the Act.

New South Wales' Torrens system

The Torrens system in NSW, as was embodied in the *Real Property Act 1900* ('RPA'), only applied to freehold land.²³ Since 1981, however, Crown land has progressively been brought within the RPA Torrens system.²⁴ This means holders of registered interests in NSW Crown land have the *same* protection and benefits as interest holders in freehold land. This includes indefeasibility of their registered interest²⁵ and access to assurance fund compensation if they are inappropriately deprived of that interest.²⁶

For land management Torrens is not relevant and Crown land continues as such²⁷ with interest holders subject to the provisions of the *Crown Lands Act 1989* ('CLA').²⁸ The objects of the CLA are to ensure Crown land is managed for the benefit of the NSW people; in the best interests of the State and consistent with stated legislated and policy principles.²⁹ A breach of any conditions of the CLA renders a lease liable to forfeiture.³⁰ The CLA specifies how parties acquire an interest;³¹ what are permissible activities; and how interest may be dealt with.³² The power to lease and consent to transfers vests in the Minister³³ and land must be assessed before any lease is granted.³⁴

¹⁸ *Land Title Act 1994* (Qld) Section 3

¹⁹ i.e. – *Nature Conservation Act 1992*; *Environmental Protection Act 1994*

²⁰ *Land Title Act 1994* (Qld) Sec 181 and 184. Also see - *Breskvar v Wall* (1971) 126 CLR 376; *Fraser v Walker* [1967] 1 AC 569

²¹ *Latec Investments v Hotel Terrigal* (1965) 113 CLR 265; 276 per Kitto J - "*qui prior est tempore, potior est jure*" - if the merits are equal, priority in time of creation is considered to give the better equity

²² *Lugue v Shoalhaven Shire Council* [1979] 1 NSW LR 537

²³ Note 7, Butt [2332]

²⁴ *Real Property (Crown Land Titles) Amendment Act 1980* (NSW) introduced Part 3

²⁵ *Real Property Act 1900* (NSW) Section 42(1)

²⁶ *Ibid.*, Part 14

²⁷ *Crown Lands Act 1989* (NSW) Section 3(2)

²⁸ *Ibid.*, Section 6

²⁹ *Ibid.*, Section 10; LPMA (2010) 'Development and Crown Land', June 2010

³⁰ *Ibid.*, Part 6 – this is also the position in Queensland

³¹ *Ibid.*, Part 4

³² *Ibid.*, Part 3

Interests in Queensland Crown Land

By virtue of the Act the State controls the majority of Queensland.³⁵ The principal tenet behind the management of Crown land is the effective stewardship of land and thus decisions surrounding the most appropriate tenure for land are very much grounded in land/environmental management considerations. Registration of documents³⁶ is essential in order to create an interest in Crown land as these interests do not exist under the general law.³⁷ Also, as Gummow J identified, “*the statute may appear to have adopted general law principles ... in truth the legislature has done so only on particular terms*”.³⁸

The interests created by the Act therefore may be considered to be *pure* statutory rights³⁹ and it is to the Act that interest holders must look for both their rights and remedies.⁴⁰ No interests or rights (legal or equitable) are recognised until registration is effected⁴¹ and then the only remedies recognised are those provided for in the Act. Documents are deemed to be part of the Act’s register from the time of lodgement,⁴² which differs from freehold land where documents are only part of the register from the time of registration.⁴³ However, unlike freehold land documents have no effect before registration.⁴⁴

While priority is granted to interests in the order of lodgement for registration,⁴⁵ equitable interests or priorities are not recognised⁴⁶ and there is no recourse to equitable remedies. For example, if documents are not lodged for registration within the required six months⁴⁷ the Ministerial approval will lapse.⁴⁸ Thus the buyer, while they may as against the vendor be the beneficial owner of the lease interest,⁴⁹ nevertheless as against the State they have no rights and there is no guarantee the Minister will grant a further approval.

There is not any provision in the Act dealing with the quality of the interest created upon registration and there is no access to Torrens system rights. On the other hand, while there are recognised exceptions to indefeasibility,⁵⁰ there are no exceptions to the interests created by the Act. Further, the effect of registration is that the interest vests in the person identified in the document as the person entitled to the interest⁵¹ irrespective of whether they have given valuable consideration for the interest.⁵² If Crown land interests were confined to agricultural land only a lack of Torrens-type right may not be an issue. Crown land interests however are created throughout Queensland including, as a consequence of historical development, in many urban or semi-urban areas and included residential, commercial and community land uses. Only some of which are able to convert to freehold.

³³ *Ibid.*, Sections 34 and 38(a)

³⁴ *Ibid.*, Section 11

³⁵ DERM Land Management <http://nrw.qld.gov.au/land/state/index.html> (viewed 15 February 2011)

³⁶ *Land Act 1994* (Qld) Section 275

³⁷ *Wik Peoples v Queensland* (1996) 141 ALR 129, 204 per Gaudron J

³⁸ *Ibid.*, 242

³⁹ Hepburn, S., (2009) ‘Carbon Rights as New Property: The benefits of statutory verification’ 31(2) Sydney Law Review 239

⁴⁰ *Wik Peoples v Queensland* (1996) 141 ALR 129, 261 per Kirby J

⁴¹ *Hamilton Island Enterprises Ltd v Croycom Pty Ltd* (1998) Q Conv R 54-509

⁴² *Land Title Act 1994* (Qld) Section 283(2)

⁴³ *Ibid.*, Section 31

⁴⁴ *Ibid.*, Section 301; *Jansen v Frexbury* [2008] ACA 286

⁴⁵ *Land Act 1994* (Qld) Section 298(1)

⁴⁶ *Davies v Littlejohn* (1923) 34 CLR 174, 187

⁴⁷ *Land Act 1994* (Qld) Section 322

⁴⁸ *Kevroy Pty Ltd v Keswick Developments Pty Ltd* [2009] QSC 49

⁴⁹ *Shn Pacific Hotel Corp Energy Pty Ltd v Swan Resources* (unreported, SCrt WA, Brinsden J, 27 July 1981)

⁵⁰ *Land Title Act 1994* (Qld) Section 185

⁵¹ *Ibid.*, Section 302

⁵² *Ibid.*, Section 300

Identifying and Addressing the Gaps in Queensland Law

It is essential to bear in mind that general law principles do not apply to interests in Crown land. Boge goes so far as to suggest that the provisions of the Act that confer similar rights to the Torrens system are in fact evidence of an absence of *all* Torrens-type and equitable rights in Crown land.⁵³ This is because if those rights applied to interests under the Act it would not be necessary to specifically confer them. It is necessary, however, for the Act to do so specifically because the general law does *not* apply to interests created under it.⁵⁴

Unlike freehold land where equity grants certain rights to prospective transferees and lessees, dealings with land under the previous version of the Act⁵⁵ did not attract anything like protection of the Torrens system.⁵⁶ This position is not changed and no rights are conferred under the Act until registration is effected and then only in strict accordance with the provision of the Act. Equitable rights do not exist in relation to Crown land, nor does the Act create them.⁵⁷ Freehold leases also give the tenant a right to exclusive possession.⁵⁸ A Crown lessee however is not so entitled.⁵⁹

The lack of indefeasibility is perhaps most obvious when considering the differences in permissible leasing practices between freehold and Crown land. Unlike the common law position, if the parties to a Crown lease do not comply with the requirement to obtain Ministerial consent to a proposed transfer, there is no passing at either law or equity of any estate in the leasehold interest.⁶⁰ However, it is not unusual in a commercial context for a business to either lease or sub-lease part of its premises to another entity and to finalise their arrangements prior to the landlord's formal consent being sought. The authors' professional experience shows that, particularly in non-metropolitan areas, many tenants (and agents) are reluctant to spend money on either the cost of undertaking searches of the underlying tenure to establish ownership or to check for existing encumbrances; or to engage a lawyer to provide appropriate advice. This may not be an issue for freehold land where if a lease (or sub-lease) is of less than three years it has protection as one of the exceptions to indefeasibility and is a legal lease.⁶¹ However, if the lease (or sub-lease) is of a Crown land/interest the tenant has no rights or protections unless and until Ministerial consent is given *and* its lease/transfer is registered.

Further, an option to renew a sub-lease of Crown land although contained within the sub-lease document does not automatically form part of the registered legal sub-lease as each lease requires specific approval.⁶² Options therefore do not have the indefeasibility of an option contained within either a short-term or a registered freehold lease.⁶³ Additionally, while freehold leases come with the guarantee of quiet enjoyment,⁶⁴ Crown land may be subject to dual use, sometimes irrespective of the occupiers' wishes, arising from alternative recognised land systems, such as native title, or for a variety of agricultural, pastoral, mining or tourism purposes.

⁵³ Boge, C., (2009) 'When Tenure Matters - Some Differences Between Freehold and State Leasehold Land Relating to Registration' delivered at the LexisNexis 5th Annual Property Law Masterclass, Marriott Hotel, Brisbane, 20 February 2009 [15.26] 173

⁵⁴ *Ibid.*

⁵⁵ *Land Act 1962* (Qld)

⁵⁶ *Beard v Wratislaw* [1993] 2 QdR 494, 500 per McPherson SPJ

⁵⁷ *Davies v Littlejohn* (1923) 34 CLR 174, 187

⁵⁸ *Radaich v Smith* (1959) 101 CLR 209

⁵⁹ *Wik Peoples v Queensland* (1996) 141 ALR 129

⁶⁰ *Roach v Bickle* (1915) 20 CLR 663, at 670-671

⁶¹ *Land Title Act 1994* (Qld) Section 170(1)(b)

⁶² *Land Act 1994* (Qld) Section 332

⁶³ *Elsafty Enterprises Pty Ltd v Mermaids Café & Bar Pty Ltd* [2007] QSC 394 [66]

⁶⁴ *Browne v Flower* [1911] 1 Ch 219, 228

It is not only commercial tenants that are disadvantaged by the different treatment of Crown land interests and lack of indefeasibility of those interests. Land investors and other occupiers also may be disadvantaged. A failure to comply with a condition precedent in the Act means that the title ‘acquired’ may be set aside.⁶⁵ An innocent party could therefore be deprived of their interest but, unlike freehold land, without the ability to obtain compensation. For example, if the prior registered proprietor had forged the Minister’s consent and by some means⁶⁶ a transfer to an innocent third party had registered the State would be able to overturn the registration simply because of the lack of that consent. The innocent third party, however, while deprived of their interest would have no access to the assurance fund and would only be able to take action against the lessee/seller (if they could be located).

However, introducing a compensation scheme would raise other issues for an already impoverished State. If compensation were payable under the Act, then in circumstances where the Governor in Council does *not* grant a lease when a department had previously represented that a lease would be granted, it might be held that the prospective lessee is deprived of its interest. If that prospective lessee had expended money on works and structures, the State may be liable to pay compensation, not directly as a consequence of its actions, but through the compensation scheme as a consequence of the prospective lessee’s deprivation of their interest.⁶⁷ Further, under the Act while the Registrar has the power to correct mistakes,⁶⁸ currently there is no method for a party to be compensated for any loss arising from such a mistake. Torrens’ compensation however is available where a loss arises through a mistake occurring in the Register.

To add to the complexity of land management is the growth of investment in carbon sequestration rights. Throughout Australia the laws surrounding investment in carbon sequestration rights are largely based on the contractual arrangements between the particular parties, although in Western Australia and South Australia these rights exist as specifically created statutory rights.⁶⁹ Carbon sequestration rights in freehold land are treated as a *profit a prendre* interest in Queensland⁷⁰ and NSW.⁷¹ This is an imperfect system as these rights do not satisfy the general test for what is a *profit* (a right to another to remove a resource from land) as the vegetation needs to remain on the land to embody carbon dioxide. At common law *profits* are not required to be registered although registration is required to obtain the protection of indefeasibility.⁷² In NSW a *profit* for carbon rights also may exist over Crown land⁷³ and also may be registered thus obtaining the benefit of indefeasibility. Similar protection, however, is not available for such rights over Queensland Crown land.

In Queensland the idea of carbon sequestration rights as *profits* over Crown land faces other difficulties. For a *profit* to be granted over a Crown lease by the lessee must own the trees on the land, and the lease must permit the use i.e. as a timber plantation. The only other option would be to view carbon sequestration rights as a personal right enforced through the common law principles of contract law. This is not an ideal situation.

⁶⁵ *Lugue v Shoalhaven Shire Council* [1979] 1 NSW LR 537

⁶⁶ Admittedly an unlikely scenario as it is the Titles Office which also arranges the Ministerial consent to be given, however used here for discussion purposes

⁶⁷ For example - the scenario in *Walsteam Pty Ltd v The State of Queensland* (unreported, Supreme Court of Queensland, Horton SM, 29 May 1990)

⁶⁸ *Land Act 1994* (Qld) Section 291

⁶⁹ *Carbon Rights Act 2003* (WA); *Forest Property Act 2000* (SA) Section 6 and Section 7

⁷⁰ *Forestry Act 1959* (Qld); *Land Act 1994* (Qld) Section 61J(5) and Section 373G

⁷¹ *Conveyancing Act 1919* (NSW) Sections 87A, 88AB(1) and 88EA

⁷² Note 39, Hepburn, 239

⁷³ *Conveyancing Act 1919* (NSW) Section 88EA

Conclusion

No-one should be arbitrarily deprived of their property,⁷⁴ and if a person is so deprived, they must be compensated. Boge suggests the absence of a compensation system from the Act is deliberate act.⁷⁵ This might be so; however it might also be as a result of a policy decision made separately and without any consideration of the Torrens system or the appropriateness of access to compensation. This uncertainty indicates that the policy development process itself warrants review.⁷⁶ In the era of increased consumer protection consideration should be given to introducing the Torrens system of titling to Queensland Crown land and with it indefeasibility of leasehold interests and access to the statutory assurance fund.

The proportion of Queensland that is Crown land means that the lack of indefeasibility of title for Crown land interests can have a significant effect on commercial and residential land uses. Similarly a lack of access to the statutory assurance fund to those dispossessed of Crown land interests may adversely impacts upon Crown land management. Without certainty of title investors may be reluctant to invest and therefore maintenance of the land will fall back to the State, which has limited funds.

The treatment of Crown land in Queensland has been informed by the state's history and geography but arguably is ill equipped to deal with new interests in land such as those arising out of trade in carbon sequestration rights. The alignment of such rights with the existing and possibility antiquated common law notions, such as the *profit a prendre* considered, does not sit well with the existing Crown land management framework. The effectiveness of the *profit a prendre* as a resolution of these issues therefore is questionable. The treatment of new property rights arguably requires a re-conceptualization of property rights. This is necessary to ensure that the interests of investors and consumers are adequately protected while ensuring Queensland Crown land is managed effectively.

⁷⁴ Article 17.2 of the Universal Declaration of Human Rights

⁷⁵ Boge, C., (2007) 'Rural Leasehold Land – Changes to the Land Act 1994 (Q) as part of the State Rural Leasehold land Strategy', paper presented at LexisNexis Rural Masterclass Conference, 22 June 2007, [301.3A] 914/2

⁷⁶ Craddock, L., and A., Blake, (2010) Dealing with unique interests in Crown Land: A Queensland perspective, *PRRES 16th Annual Conference*, 24-27 January 2010, Wellington, New Zealand

Reference List

- Boddy, N., and G., Knowles (2011) 'New rules to stop property sale scams', *The West Australian*, August 31, 2011 <http://au.news.yahoo.com/thewest/a/-/breaking/10151442/new-rules-to-stop-property-sale-scams/> (viewed 29/09/2011)
- Boge, C., (2007). *Rural Leasehold Land – Changes to the Land Act 1994 (Q) as part of the State Rural Leasehold land Strategy*, paper presented at LexisNexis Rural Masterclass Conference, 22 June 2007 [http://www.queenslandstatelands.info/State%20Rural%20Leasehold%20Land%20Strategy%20Paper%20\(22%20June%202007\).pdf](http://www.queenslandstatelands.info/State%20Rural%20Leasehold%20Land%20Strategy%20Paper%20(22%20June%202007).pdf) (viewed 01/09/2009)
- Boge, C., (2009). *When Tenure Matters - Some Differences Between Freehold and State Leasehold Land Relating to Registration*, delivered at the LexisNexis 5th Annual Property Law Masterclass, Marriott Hotel, Brisbane, 20 February 2009
- Butt, P., (2006). *Land Law, 5th Ed*, Thomson Lawbook Co., Sydney.
- Craddock, L., and A., Blake, (2010). Dealing with unique interests in Crown Land: A Queensland perspective, *PRRES 16th Annual Conference*, 24-27 January 2010, Wellington, New Zealand http://www.prres.net/papers/Craddock_Dealing_with_unique_interests_Crown_Land.pdf (viewed 20/06/2011)
- DERM (2010) 'A Guide to Land Tenure under the *Land Act 1994*', June 2010 http://www.derm.qld.gov.au/land/state/pdf/land_tenure_qld.pdf (viewed 29/09/2011)
- DERM (2011), 'State land', Land Management, 6 July 2011 <http://nrw.qld.gov.au/land/state/index.html> (viewed 29/09/2011)
- Hepburn, S., (2009). Carbon Rights as New Property: The benefits of statutory verification, *Sydney Law Review*, 31(2), 239.
- LPMA (2010) 'Development and Crown Land', June 2010, http://www.lpma.nsw.gov.au/data/assets/pdf_file/0018/130653/Development_and-Crown_land_Fact_Sheet.pdf (viewed 29/09/2011)
- West, G., (1992) 'Real Property (Torrens Assurance Fund) Amendment Bill, *NSW Legislative Assembly Hansard*, 18 November 1992, 9230 http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LA19921118034?open&refNavID=HA4_1 (viewed 29/09/2011)

Cases

- Beard v Wratishaw* [1993] 2 QdR 494
- Breskvar v Wall* (1971) 126 CLR 376
- Browne v Flower* [1911] 1 Ch 219
- Davies v Littlejohn* (1923) 34 CLR 174
- Elsafly Enterprises Pty Ltd v Mermaids Café & Bar Pty Ltd* [2007] QSC 394 [66]
- Fraser v Walker* [1967] 1 AC 569
- Gibbs v Messer* [1891] AC 248 at 254
- Hamilton Island Enterprises Ltd v Croycom Pty Ltd* (1998) Q Conv R 54-509
- Jansen v Frexbury* [2008] ACA 286
- Kevroy Pty Ltd v Keswick Developments Pty Ltd* [2009] QSC 49
- Latec Investments v Hotel Terrigal* (1965) 113 CLR 265

Lugue v Shoalhaven Shire Council [1979] 1 NSW LR 537

Radaich v Smith (1959) 101 CLR 209

Roach v Bickle (1915) 20 CLR 663

Southern Pacific Hotel Corp Energy Pty Ltd v Swan Resources (unreported, S. Crt of W.A., Brinsden J, 27 July 1981)

State of Queensland v Litz [1993] 1 QdR 593

Walsteam Pty Ltd v The State of Qld (unreported, S Crt of Qld, Horton SM, 29 May 1990)

Wik Peoples v Queensland (1996) 141 ALR 129

Legislation

Carbon Rights Act 2003 (WA)

Conveyancing Act 1919 (NSW)

Crown Lands Act 1989 (NSW)

Environmental Protection Act 1988 (Qld)

Forestry Act 1959 (Qld)

Forest Property Act 2000 (SA)

Land Administration Act 1997 (WA)

Land Title Act (NT)

Land Act 1962 (Qld)

Land Act 1994 (Qld)

Land Title Act 1994 (Qld)

Land Titles Act 1925 (ACT)

Land Titles Act 1980 (Tas)

Nature Conservation Act 1992 (Qld)

Real Property Act 1858 (SA)

Real Property Act 1900 (NSW)

Real Property (Crown Land Titles) Amendment Act 1980 (NSW)

Transfer of Land Act 1958 (Vic)

Universal Declaration of Human Rights