

THE EFFICIENCY AND EFFECTIVENESS OF LAND ADMINISTRATION SYSTEMS IN AUSTRALIA AND NEW ZEALAND.

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INTRODUCTION

In May 2000 CCS Surveys Pty Ltd received an ASDI¹ project Grant to conduct a broad examination of the emerging trend towards the digital lodgment of cadastral survey plans in each of the Australian States and New Zealand, and to determine whether national standards were indicated. Ed Cottrell, Dr Ken Lyons and Kev Davies formed the project team.

The project included a global literature search, and visits to each titles jurisdiction within Australia and to NZ, and to Alberta Canada.

It did not take long into the project to realise that the context of digital lodgment within the overall objectives of land administration also needed to be examined. This led to a number of conclusions about the efficiency and effectiveness of Australian land administration systems as a whole – a much bigger picture than just digital lodgment.

In our view the land information systems of Australia contain inefficiencies costing in excess of \$2.2bn per year, a large part of which sum could be captured and applied to better use.

The purpose of this presentation is to detail the projects conclusions.

AUSTRALIAN LAND ADMINISTRATION SYSTEMS

We define land administration as –

“the framework (regulatory, spatial, institutional, stakeholders, systems and processes) that encompasses the determination, allocation, administration, and access to information concerning land use, rights, interests and restrictions. It includes development approval and land use conditions, title creation, restrictions and interests creation.”

& consider its role to be –

Ensuring the integrity of recorded rights and interests in land and property so that

- *transactions in the land and property market can occur efficiently and effectively;*
- *information concerning the rights, restrictions and responsibilities of land are readily available not only at a community level but also at the individual property level;*

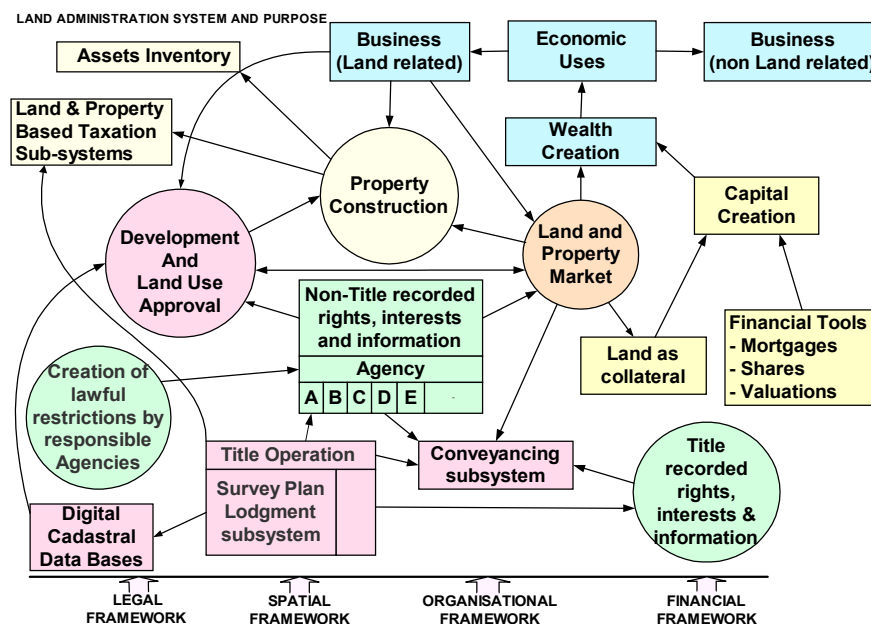
¹ Australian Spatial Data Infrastructure - <http://www.anzlic.org.au/icsm/asdi>

- *formation of capital based on land and property is supported;*
- *social harmony is advanced;*
- *land and property resources are able to be managed efficiently and equitably.*

Note: the term "right & interests" is considered to be ALL & not restricted to those noted on the title.

Australian and NZ land administration systems and their sub-systems are very complex, and comprehending the totality of the system is not for the faint hearted.

The following graphic illustrates the major sub-systems and their connectivity with the land and property market, the capital market and the creation of wealth.



Traditionally, the land administration system's primary function has been seen as providing for the orderly supply of land and property, and for related activities such as taxation and information systems.

This paper does not seek to diminish the importance of those activities, but suggests the system performs an equally important and separate function which does not receive sufficient attention in economic planning and public policy. This is its role in supporting the property and capital markets, essential and critical components of the economy. The graphic shows this dimension.

ANALYSIS

For the purpose of this project, only those details necessary to support the identification of issues needing fundamental review have been indicated here. Further study will be needed to undertake reforms.

Notwithstanding we believe that analysis in any greater detail than we conducted would be unlikely to alter the conclusions, issues and recommendations of this project.

Six high level issues were identified –

Issue 1

Land administration tends to be viewed as land allocation, tenure management and transaction recording. This tends to be historic and an operational view. The more appropriate purpose for modern times and the future would be support of the land and property market and assisting in capital formation. The purpose should be made explicit.

Discussion:

Historically land administration had as its driver, the orderly settlement and security of land rights (social benefits). This defined the purpose.

Land Administration is state based and historically heavily influenced by the objectives of both the State Lands Departments (closer settlement), and Land Registries (to register rights and some interests).

However in any high level analysis of the purpose of land administration today it can be seen that land administration also performs a vital economic role - that of underpinning the land and property market and assisting in the formation of capital of Australia

About A\$200bn of development capital is raised annually via the land and property mortgage market in Australia. In some other developed countries about 70% of the total capital market is raised through land and property and this represents 25% of GDP.

When one tests the efficiency and effectiveness of the land systems against these higher level objectives, something that no-one appears to do, some system inefficiencies become apparent. These will be identified in subsequent issues, however there is a need to make this purpose much more explicit in all jurisdictions, and to ensure that the land administration system and subsystems perform effectively to achieve this purposes.

Performance indicators for effectiveness and efficiency of the land and property market support for the capital market need to be developed and benchmarked nationally and internationally.

Issue 2

The efficiency of commerce and of capital creation in Australia is inhibited through the application of different rules and procedures applicable to the Land Administration System in each jurisdiction.

Discussion:

Despite a common genesis established by Torrens the Land Administration System of each jurisdiction has evolved differently such that international/national investors/organisations are confronted with eight different regulatory regimes, procedures, models and standards.

Some large national organisations with substantial holdings are now avoiding dealing in the official land market, due to cost and inconvenience of dealing in multiple land systems

The Property Council of Australia estimates this duplicity adds about A\$1.8bn per year to the costs of national investors (i.e. banks, financiers, telcos, etc) when transacting in the land and property market.

Simpson² (1976) notes some papers which indicate the inefficiency of having separate State land administrations rather than one national system.

Whilst there is discontent among some stakeholders about this issue, it has not escalated to the forum responsible for considering these issues – the COAG³.

Why has it not been escalated ? Because no-one is explicitly accountable for the issue involved.

The system works, it is a revenue source for Government, the country can afford the inefficiencies, and there is no legal alternative.

Issue 3

The present land administration system and subsystems can be significantly improved, but there are no best practice/performance indicators to create the efficiency drivers needed to compensate for the largely monopolistic nature of the System.

Discussion:

The Land Administration System consists of a number of inter-related sub-systems each of which has unique characteristics of culture, values, standards and operations.

² Simpson J., 1976, "Land Law and Administration".

³ Council of Australian Governments

The costs of some of these sub-systems are market tested (e.g. the land and property market, valuation, surveying, etc). However, others are not (e.g. the Registration and issue of titles).

Registry Offices publish statistics on production, but efficiency statistics are not readily available.

The absence of best practice/performance indicators at a sub-system level prevent objective measurement of efficiency (or inefficiency) of the “as is”, and inhibit the setting of improvement targets for the “to be”.

Without objective values anyone’s opinion is as good as anyone else’s and usually the view of those maintaining the sub-system prevails.

Objective performance measures, preferably international best practise benchmarks are necessary for largely government monopolistic aspects like land administration.

To ensure every sub-system is efficient it is important that performance/best practice indicators are established as a matter of urgency for the land administration system overall and for each separate sub-system. Two steps are involved –

1. establish the performance indicators, and
2. determine national and international best practice for those indicators.

Issue 4

Where Government responsibilities to the Land Administration System for regulation/quality/security are not at arm’s length from the Government’s operational or provision of service activities, a potential conflict of interest exists, and the application of market/best practice testing is inhibited.

Discussion:

An essential component of the Australian and New Zealand Land and Property market is the acceptance by Government of the need for its involvement in:

- a. Creating and maintaining the statutory environment for necessary for the operation of a land and property market;
- b. Maintaining the Registers necessary to record interests and restrictions in land and property;

- c. Maintaining maps of the disposition of land and property in each jurisdiction; and
- d. Maintaining Quality standards.

Responsibilities (a) & (d) are concerned with regulating and quality assurance; (b) and (c) relate to operating parts of the system and supplying services;

Responsibility (c) has been outsourced for the DCDB in one jurisdiction. However in most jurisdictions responsibility for establishing and checking standards is spread across a number of Agencies and some of these Agencies also operate part of the system. There is a potential conflict of interest where Regulators are also operators and service providers. It could be argued that the regulatory and quality responsibilities should be held by an entity completely separate from operational entities. Both entities could be in Government - the present situation, or the operational aspects could be supplied by the private sector. The operational entity would need to achieve best practice (Issue 3).

The current system, from the Government point of view, is also monopolistic and a separation of functions will enable competition to be introduced into the service provision function and provide consumers with a choice.

Issue 5

The inability of the Land Administration System to quickly, cheaply and easily identify ALL registered and unregistered rights and interests in land and property (as a pre-condition to trading) is a growing threat to public confidence in the market, and a barrier to participation.

Discussion:

To check all rights and restriction deemed prudent for the simple transfer of a residential property can involve getting information from over 20 different sources, cost at least \$700, and take 14 days. Most would contend this is too complex, costly and time consuming. To determine ALL rights and restriction would take much longer and cost more. An estimate of the total amount Australia wide spent on searching for title interests is in the order of \$480m annually. Estimates indicate that a saving of about 80% is possible.

It is worth remembering that the Torrens system drivers were to -

- (a) enable a land market which was simple, quick and cheap
- (b) provide all information relevant to a conveyance on a single sheet of paper (the Title)

One can only speculate as to what Torrens would think of his system today.

Issue 6

If designed appropriately the digital lodgment of land and strata information can provide benefits to all process stakeholders as well as downstream data users and other land administration subsystems.

Discussion:

The digital lodgment of survey plans is a current issue in most jurisdictions. If designed appropriately, the digital lodgment of survey plans has the potential to reduce all stakeholders' costs, reduce total process time, and improve customer service. However expediency, and/or a concern about the risks of a fundamental redesign of the lodgment process itself tends to lead to an incremental computerisation of the existing process, which will lead to an increased process cost. Our project has identified appropriate process re-design criteria.

Digital lodgment will require changed work practices. However impacts will be minimised if all stakeholders (including the demand side) work together in its implementation. Interstate collaboration in planning digital lodgment will carry national benefits.

SUMMARY

Social and economic development depends on the existence of an adequate and efficient capital market. A significant amount of development capital in Australia (estimated at A\$200bn per year) is secured against land and property. It follows that any weakness in the land and property market, will impact negatively in that capital market.

Weakness in the land and property can be caused by (a) market fluctuations, and (b) inefficiencies in the systems supporting that market.

Inefficiencies can be caused by (i) delays in bringing land and property to the market; (ii) excessive processing overheads.

Our project has pointed to examples of improvements that can be made to the efficiency of land administration in Australia, capturing benefits initially estimated at A\$2.2 billion per year.

CONCLUSION

It is hoped that this paper will foster discussion within and between stakeholder groups, including all level in Government Agencies who are largely responsible for the administration (regulatory and operationally) of much of the land administration system in Australia and New Zealand.

The issues raised have important economic and financial implications and should be of interest to Treasury, Commerce and Development officials in each jurisdiction.

Surveyors too, might consider the advantages of stimulating and leading public debate on these issues, or they might even feel an obligation to do so.

It would be interesting for Surveyors to consider the public benefit and leadership opportunities in migrating towards a single surveying system for Australia.

Finally, the project team acknowledges the sponsorship of AUSLIG and the Surveyors Board of Queensland to this project, and the many land administration officials throughout Australia and NZ who provided input to the project.

Full project reports are available at <http://www.auslig.gov.au/asdi/survbdq.htm>

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