

PROPERTY LAW REVIEW

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ARTICLES

Property rights and coal seam gas extraction: The modern property law conundrum – *Michael Weir and Tina Hunter*

Recent years have seen a burgeoning in extraction of unconventional gas resources in parts of Australia. As this process requires access by petroleum titleholders to a publicly-owned asset (petroleum) found on privately-owned rural land, this has revealed a structural conflict between the interests of landholders and titleholders. This conflict may be based partly upon a misunderstanding of what is the nature of property rights granted to a fee simple owner or Crown leaseholder. This article discusses the legislative background to this conflict, the changes in perception which are needed for landholders and titleholders to deal with this inherent conflict and the adjustment required to the statutory regulatory system to maintain an equilibrium between private and public property rights and the protection of productive rural land.

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This land is my land, that land is your land, a challenge to private land ownership: The Canterbury Earthquake Recovery Act 2011 – *Elizabeth Toomey*

This article investigates the effect of the *Canterbury Earthquake Recovery Act 2011* (NZ) on the established Torrens principles of land ownership. Overriding statutes have always been accepted as an exception to indefeasibility of title and, for Cantabrians, this Act must be added to that list. There are various statutory provisions that directly affect this protection. Those provisions define the interrelationship of the acquisition and compensation powers that enable the chief executive of the Canterbury Earthquake Recovery Authority and/or the Minister for Canterbury Earthquake Recovery to acquire land either by “contract” or compulsorily with the long-standing acquisition, compensation and offer-back provisions under the *Public Works Act 1981* (NZ). Whether these powers have been, or will be, exercised in a balanced way to do no more than expedite recovery is a question that will cross many lips as the effects of the Act are felt within the next four years. Although the recovery is still in its very early stages, this article provides glimpses of some checks and balances.

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Expedition of Torrens system in the common law world and its Asian development in Singapore and Hong Kong – *Richard Wu and Mohd Yazid Bin Zul Kepli*

In the common law world, Australia was the first country to adopt, in the 19th century, a title registration system, widely known as the Torrens system. The system became popular in many common law countries. In Asia, countries such as Malaysia and Singapore also adopted the system. In this article, the authors consider the global implementation of title registration systems, focusing on common law countries such as Australia, England and the United States. They also analyse the development of title registration systems in two Asian cities, namely, Singapore and Hong Kong. They argue that Hong Kong can learn three lessons from Singapore for its title registration reform. First, it should weigh carefully the implications of adopting deferred indefeasibility or immediate indefeasibility. Second, it should appreciate limitations of rectification provisions in resolving title disputes. Finally, it should set no maximum limit to claims on the indemnity fund.

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Under development: Property law, human rights and development in Cambodia – Madeline Gleeson

In post-conflict societies, property law has a particularly important role to play in promoting peace and stability and protecting the rights of vulnerable sectors of the population to adequate housing, land and a range of other basic human rights. Over the last two decades, the transition from conflict to peace and economic growth in Cambodia has been accompanied by a number of legal and administrative measures to establish a formal framework for the ownership of property and the protection of private property rights. In practice, however, critical flaws in the implementation of this framework have caused widespread land disputes between the Royal Government, private companies and communities in both urban and rural areas. These disputes have increased social and political tensions, seen the protection of property law be denied to the poorest and most vulnerable population groups and exposed weaknesses in the legal and administrative institutions responsible for upholding and enforcing property law. The fair and equal application of the *Land Law* (KHM) and its supporting government regulations has become an issue of critical importance in urgent need of review. 114