



# Stormwater

INDUSTRY ASSOCIATION  
OF QUEENSLAND INC.  
IA. 173 66



*Proudly Presents*

## ***Property Rights in Water?***

**31<sup>st</sup> May 2007**

**Presented by: John Sheehan**

**Property Rights Spokesman  
Chair, Government Liaison & Past President  
Of NSW Division, Australian Property Institute**

**John Sheehan** was President of the NSW Division of the Australian Property Institute for three years between 2001 and 2004, and is currently Chair, Government Liaison, and Property Rights Spokesman for the Division. His undergraduate discipline is land economics (valuation), with post graduate disciplines in land use planning and environmental law. He is well known as the Institute's former National Native Title Spokesperson filling that role for seven years until December 2004 and has completed extensive doctoral research into the subject of Indigenous property rights having had published a formidable array of articles and monographs on the topic, regularly lecturing in Australia and overseas. John is recognised internationally as an authority on property rights compensation, and has been briefed to undertake some of the earliest assessments of compensation for the compulsory extinguishment of native title in this country.

He has provided expert evidence for the Institute to a raft of Hearings before national and State Parliamentary Inquiries on Indigenous, water and biota property rights. In 2003 he was appointed by the then Deputy Prime Minister John Anderson as Chair of the Steering Committee for the Water Property Titles Research Project, which has been recognised as a fundamental plank of the National Water Initiative.

In 2005 he was awarded a Life Fellowship of the Australian Property Institute, and was recently honoured by the Faculty of Law, Haifa University, Israel as a Visiting Professor, a sessional position he took up in November 2006. On 10 January 2007, John was appointed to the Bench of the Land and Environment Court of NSW as an Acting Commissioner for a fixed term.

### **Content**

The measurement, definition and valuation of freestanding water rights has presented a considerable challenge to property and spatial professionals since the severing of the nexus between land property rights and water by the various States. The creation of water rights in Australia independent of land property rights, and the move to an open market for such water rights has been a pervasive issue in the development of national competition policy in this area.

Nevertheless, the parlous state of water rights throughout the various Australian States is starkly evident in the current lack of certainty of access to supply, quality and pricing of water, raising the uncomfortable spectre that the collateral base for much rural lending is fragile and precarious where water is part of the loan security. State Governments do not appear to have realised the gravity of the situation in this market. Obviously, the reluctance by State Governments to embrace "property rights" for water lies in the fear that such rights will enmesh government in substantial claims for compensation should they be expropriated in some manner.

However, in an attempt to encourage debate on a nationally consistent water titling system the (then) Deputy Prime Minister John Anderson announced on 19 December 2002, that the Commonwealth Government would provide up to \$A150,000 to identify the most appropriate property and titling system for water on a continent wide basis.

This research which was overseen by John Sheehan's Steering Committee revealed that the inherent physical idiosyncrasy of water contrasts markedly with the definitional stability evident in other property rights such as land and minerals. Existing titling regimes for land and minerals also appear to be unsuited for water, and hence the titling requirements for water are similarly idiosyncratic. A verifiable database to a level which engenders security and confidence is also absent, eschewing the fixity of land and minerals enjoyed through the cadastre.

Central to the creation of property rights in natural resources such as water is the question of territoriality – the placement of an individual property right on the cadastre. The ephemeral nature of water requires that definition and subsequent titling should be appropriate and robust, and will necessitate the convergence of the various professional, technical and scientific skill sets residing in the spatial sciences and in property valuation theory, law and practice. Conventional land titling systems are probably incapable of accommodating the changes necessary for emerging water property rights, given that the database required is so very different and more complex.

Arguably, the construction of such a database presents challenges hitherto unknown in land and mineral property rights. The issue of territoriality and hence fixity will need to be addressed at the gross level of catchments rather than through individual allotments as in the case of land and minerals. The subdivision of the water resource within a catchment occurs as a proportion of the quantity of water within the catchment at a specified time and date, with measurement achieved in megalitres rather than hectares. In addition, the flow rates upstream will ordinarily be less than downstream flow rates, as will the volume of water, however this is by no means a truism.

**Registration Form on following page**



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INDUSTRY ASSOCIATION  
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**Property Rights in Water?**  
**31<sup>st</sup> May 2007**  
**Presented by: John Sheehan**

**Programme**      **5.45 pm Registration**  
                         **6:15 pm Seated for Dinner**  
                         **7.00 pm Presentation**

**To be held at The Greek Club and Convention Centre, Edmondstone Street, South Brisbane**

***Please note—Registrations cannot be accepted after 12 noon on 28<sup>th</sup> May 2007 – fax to 3257 2392***

1<sup>st</sup> Registrant  
Name: .....

2<sup>nd</sup> Registrant  
Name: .....

3<sup>rd</sup> Registrant  
Name: .....

4<sup>th</sup> Registrant  
Name: .....

Company: ..... Contact: .....

Address: .....

Tel: (     ) ..... Fax: (     ) .....

E-Mail: .....  
*(We would appreciate your e-mail address so that we can forward correspondence to you electronically in future)*

I am paying by      Cheque      Purchase order      Mastercard      Visa      Amex      Diners

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Valid until: ..... / 20.....

**Name:** .....  
**as appears on credit card**

**Card holders Signature:** .....

### Registration Fees

This payment is for ..... persons at \$55.00 per head for non-members (\$10 day membership included)  
This payment is for ..... persons at \$45.00 per head for SIA members  
This payment is for ..... persons at \$35.00 per head for students

TOTAL \$ \_\_\_\_\_

**Please make cheques payable to: Stormwater Industry Association (Qld) Inc**

Enquiries phone Carolyn Hick on (07) 3000 2116, fax (07) 3257 2392 or e-mail at: [siaqld@stormwater.asn.au](mailto:siaqld@stormwater.asn.au)

***Please notify your Registration by 12 noon 28<sup>th</sup> May 2007***

Stormwater Industry Association Qld Inc., PO Box 2100, Fortitude Valley BC, Qld 4006

Cancellations must be notified no later than two (2) days before the event otherwise registration fees will be charged.