

REGISTRATION SERVICES

Customer Information Bulletin

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1. ANZLIC STANDING COMMITTEE ON LAND ADMINISTRATION, SURVEY ON PROPERTY RIGHTS, OBLIGATIONS AND RESTRICTIONS (ROR)

In October 2005 the Standing Committee on Land Administration (SCoLA) conducted a survey to determine any issues and requirements relating to existing and potential Property Rights, Obligations and Restrictions (ROR).

Western Australia responded strongly to the survey with 418 out of a total of 551 responses. This is a very pleasing result for the state and shows the high level of involvement of industry in the overall land administration process.

Outcome of the survey

The following were the main findings from the survey:

- The register should be a central repository (electronic portal/access point) responsible for holding ALL information in relation to individual parcels of land.
- The response from the central repository should include all relevant information for the selected area that appears either:
 - On the Title (strongest preference) or
 - As an attachment (non statutory addendum to title) such as a secondary register referred to on Certificate of Title.
- The register needs to be comprehensive and easy to use/navigate.

Where to from here?

In Western Australia, work on such a framework has recently commenced under the cross-government initiative known as the Shared Land Information Platform (SLIP). This framework is called the Register of Interests (ROI). It is being developed by the Department of Land Information (DLI) in consultation with other WA government agencies and business stakeholders (please see Appendix 1 for further information). The purpose of ROI is the provision of a single access point for information on interests over any area of land, sea or air in Western Australia.

The planned next steps arising out of the findings of the SCoLA survey are to further develop the framework by reviewing the work currently undertaken in the various jurisdictions. In order to provide additional focus to developing a national approach, and since the main concern to landowners are potential restrictions on their land, attention should be given to defining the 6 to 12 most common concerns. This would help to identify the priority interests and thus will facilitate the discussion between Registrars of Title and their officers within the Land Registries. This will result in a harmonization of the information requirements across the jurisdictions thus leading to the development of a National Business Model.

If you have any queries regarding the SCoLA survey or the ROI project, please do not hesitate to contact Pamela Watson at DLI on 9273 7004.

Appendix 1 – Register of Interests (ROI)

Register of Interests (ROI) A *better* way to discover property¹ interests.

The Department of Land Information (DLI) has long been recognised as a key provider of information on ownership and interests that affect property. There are also over 20 other separate organisations who manage other interests that affect the use and enjoyment of land in Western Australia.

‘The Certificate of Title is no longer adequate as the sole source of information on land’.

Such disparate control and custodianship of property interest data means that West Australian businesses and the community must contact each organisation by phone, fax, mail or in person (*and sometimes all of these*) to discover their required information.

Recent research and consultation with industry has shown there are many weaknesses in the current approach. These include wide-spread lack of awareness that many interests are not shown on a Certificate of Title. In Western Australia today, there is no definitive list of interests in land or a mechanism to recognise and discover newly created interests.

Such flaws can lead to inefficiencies, less informed decision-making, increased risk associated with undiscovered interests and non-compliance of legal obligations.

There must be a *better* way to discover interests in land.

Register of Interests (ROI) is a new online service being developed as part of the Shared Land Information Platform (SLIP) initiative. Still at conceptual stage, an operational ROI service will connect businesses and the community to a ‘one stop shop’ that will, with time, list *all* property interest information in Western Australia.

A working prototype has been built to provide industry with a visual demonstration of how the system will work. A fully operational system will be flexible, intuitive and easy to use and offer packaged solutions by aggregating ‘like’ interest data into industry specific ‘business activities’. Users will also be able to customise their own search enquiry to capture only those interests that best suit their business requirements.

¹ ROI focuses on interests that may affect the use or enjoyment of an area of land. Ongoing development will also include those interests that may affect sea and air.

What do *your members* want from a ROI system?

We are working with industry and Government to scope business requirements. ROI's success will rely on ongoing consultation with industry professionals from the land and property sector to ensure full engagement during product development.

Should you like further information or to arrange a convenient time to meet and discuss what you and your members need and want from a ROI system please call Georgina Van Der Kuil, A/Senior Project Officer, SLIP on 9273 7885 or email georgina.vanderkuil@dli.wa.gov.au.

Appendix 2 – More detailed information from the SCoLA survey

In addition to the brief summary provided on page 1 the following contains the findings of the SCoLA to a greater level of detail:

The findings of the survey indicate that a central register for ROR be developed (this request was made by 94.1% of the participants). The register would need to satisfy the following issues:

- What is the property's status and what are the rights/factors which affect it and neighbouring properties and where do you find these rights and records, and who manages and enforces them and what is the relationship between them?
- Identification of which documents on which the specific property right, obligation or restriction should be recorded (eg. Mortgage on Certificate of Title).
- What methods should be used so that the relevant parties are aware of the specific property right (eg. notice in newspaper, direct letter to affected party)?
- Methods by which claiming/suing parties can make substantiated applications regarding their perceived entitlement to a property right, obligation or restriction.

The responses further suggest that the register be:

- A central repository (electronic portal/access point) responsible for holding *all* information in relation to individual parcels of land.
- Users access the portal by identifying their area of interest by eg Certificate of Title number, address, etc.
- The response includes all relevant information for the selected area that appears either:
 - on the Title (strongest preference) or
 - As an attachment (non statutory addendum to title) such as a secondary register referred to on Certificate of Title.
- The following information requirements were specifically noted:
 - Easements, service locations, Town Planning Scheme (zoning details)
 - Notices of future affect – including location affected, date affect started, type of affect, governing agency, appeal rights, availability of compensation, life interests
 - Stakeholders to be contacted and contact details.
 - Identification of dominant documents when rights “subject to”
 - Native title, pastoral land, water licenses, mineral titles, timber rights, environmental issues (endangered/threatened species).
 - An additional suggestion made was some type of chronological history of the site/property commencing with native title rights/interests and then a list of all other rights applicable to the property by year.

- To provide added value the register should also include:
 - Where the information is recorded;
 - How it can be accessed;
 - Pricing information;
 - Information regarding regularity of updates;
 - Plain English versions/ interpretations of any legal information provided;
 - Maps/diagrams/ aerial photography plus text;
 - Suggestions were made to supplement this information with a “report service” for different industries (perhaps with a price differential), checklists to guide searches and a “watch” list for issues currently in court.

From a users’ perspective the register needs to be:

- Easy to use/navigate.
- Provide all legally binding information associated with the property.

In establishing such a register the following issues need to be addressed / resolved:

- Too much bureaucracy / red tape.
- Quality of information available is poor (accuracy, timeliness).
- Takes too long to process.
- Fees / costs too high.
- Need central information centre/one stop shop / coordinated approach.
- Legislation and process too complicated, need to simplify.
- Inconsistencies in the data provided (eg between state and federal government).
- More information is required on the title.
- Address issues associated with compensation payments.
- Validation of rules / determination of property rights.
- Rules subject to interpretation by different professions and discretion causes issues and perception of bias and unjust system.
- Poor legislation / complex / lack of separation between law makers and enforcers.

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