



WAFARMERS
Shaping the Future of Agriculture

Private Property Rights speaks louder than Any Voice

By **JOHN HASSELL**
WAFarmers President



THE system of land title in Australia that currently proves and protects our right to property is called the Torrens title system, which was first introduced in 1858 in South Australia.

The Torrens title system operates on the principle of “title by registration” which does away with the need for proving a chain of title (i.e., tracing title back in time through a series of documents).

The State guarantees title, and the system is usually supported by a compensation scheme for those who lose their title due to private fraud or error in the State’s operation.

Unfortunately, this is not in the case where the State decides to reduce your property rights by banning land clearing or imposing restrictions such as we are about to experience with the new Cultural Heritage laws, but that’s for another day.

The Torrens system has been adopted by many countries throughout the world and is a much more secure system of land title than the old system of deed by historical reference which required an unbroken chain of signatures on a title deed to be valid, or by word of mouth handed down generation to generation in non-literate societies.

In both the old systems, once the chain of ownership was lost so was the property right.

When Australia was settled or invaded, depending upon your view of history, there was in place a version of the old system of title used by the indigenous inhabitants.

Title or ownership of country, as we currently are encouraged to refer to land held under native title rights, was handed down from family group to family group based on an unbroken link of lineage.

Break the link and the land was lost unless they were prepared to fight to regain it or marry back into it, not dissimilar to what had been happening across Europe for centuries with its various monarchies and landed barons juggling family succession and fighting or marrying to retain or regain their landed estates.

Fortunately, Australia escaped this form of land title control and when in 1858 we moved to the Torrens system of certainty of tenure, it literally underpinned the building of a nation on the back of landrights.

But then along came Eddie Mabo and everything changed and uncertainty was reintroduced into property rights.

Mabo, a Torres Straits Islander man, set out to prove that he and his people had unbroken attachment to the land based on custom and that he in fact had under the old system unbroken title to his land.

The High Court ruling determined that native title did exist and the indigenous land ownership could be based on traditional laws and customs, albeit in this case the land in question on Murray Island was marked out by rocks being a relatively small site, no different to many settled indigenous market gardens as is common in the Pacific.

From there we ended up with former Prime Minister Paul Keating’s Native Title Act and with it a vast industry was born of lawyers fighting over the bounty that comes with gaining title over land that remains under the ownership of the crown and with luck

has some hapless miner wanting to drill for minerals on it.

Overnight, Native Title became a gold mine to many lawyers and a few indigenous family groups.

Unfortunately, Native Title has failed to deliver what was promised by the cheer squad of progressive supporters as a means of closing the gap or what former Prime Minister Gough Whitlam coined back in 1972 “the pathway to self determination”.

In fact, one could argue that Native Title has failed to deliver for the simple reason that unlike freehold title it does not confer a real property right, a right that the banks place a value on.

There is a simple rule of thumb which is if you can’t mortgage it, it has limited value or you don’t really own it.

Unlike a farm or a station (which sits on a long lease), these are assets that have value, which families and owners can borrow against to build a business and a future.

A case in point is indigenous housing on land that sits where native title has been determined in remote communities. All the houses have had to be funded by the government as they sit on land the banks don’t value as no bank will fund private construction.

Across Western Australia the State and Federal governments have had to fund more than 2000 houses across 88 remote indigenous communities because there is no property right that the banks can take a mortgage over.

The brutal reality is if it’s not freehold under the Crown, the banks are not interested in it.

Land which is Aboriginal controlled, but owned by the State and leased to local communities, has no value to the financial community.

There is a good reason why there is no, or limited, private housing in indigenous communities and it all goes back to the question of freehold, Native Title and the Torrens system of property rights.

This is the same reason why these 88 remote indigenous communities will never close the gap with the rest of Australia, which is because they live in a no-mans land that does not attract the interest of the banks, the government, property developers or entrepreneurs.

They are simply bottomless pits for welfare dollars offering no hope and no future to those who remain there.

Australia attracts millions of migrants who are attracted by our rule of law and the fact that any property they amass will be protected by the Torrens system and private property rights.

But sadly we don’t see the benefits of either flowing into our remote regional communities.



Why? Because they are locked into a paternal system where government offers them a form of title that is effectively useless.

Which takes me to the Voice to Parliament. How establishing what will be yet another attempt at a body to represent indigenous interests to the Federal government will improve the lot of aboriginal people is beyond me, when fundamental issues like land tenure are not open for discussion.

In my mind therein lies the real problem with our land rights and the whole Voice discussion.

It doesn’t solve individual self determination, rather it appeals to lofty goals of collective self determination, more akin to the dreams of old school socialists who still believe in the ideals of collective ownership, something that failed miserably in communist Russia and China.

Unless governments and the community at large recognise the failure of Native Title to deliver better outcomes for individuals, they are unlikely to recognise that the Voice will also fail to deliver better outcomes, as both are based on the romanticised view that indigenous people need special rights to be able to close the gap.

Just as Native Title is a title only available to one particular race we are set to once again divide our nation by offering a solution to representation based on race.

Australia was set up to be fair and free, there should be one set of laws for all Australians, be it property rights or voting rights.

If we really want a better Australia, we have to stop the division based on race.

We have to allow real tenure on all Crown land in regional communities, based on freehold property rights backed up by the Torrens system of government, with the right to mortgage or sell land as the owners, traditional or otherwise, see fit.

We also have to accept that our Federal MPs including the 3 senators and 8 members of the House of Representatives who identify as indigenous are the only voice to parliament that indigenous Australians need. It is their job to defend all Australians property rights and ensure we all have access to land on an equal footing.

Shooting the Messenger

By **JOHN HASSELL**
WAFarmers President



IT’S not often I find myself in the position of wanting or needing to defend Trevor Whittington WAFarmers CEO, as he is more than capable of handling himself in the rough and tumble of political debates, even with some of his more controversial topics he raises in his *Farm Weekly* opinion articles.

However, the recent ones he has written on gun reform have fired up some members of the community, not from our members but from the recreational shooting community.

As an organisation it is our sole responsibility to represent the people who pay us to do so, primary producers, so I note with a little concern social media posts from non farmers, taking aim at Trevor over the position he has made on behalf of the organisation.

Note that I read all his articles before they are sent for printing. They are not WAFarmers policy but his words are aimed at encouraging debate on a wide range of topics.

It seems some in the recreational community have without making the effort to read the arguments put come to the conclusion, that Trevor was advocating for the banning of all guns for anyone but primary producers, professional shooters and competition shooters.

Any reasonable person making the effort to delve into the two comprehensive articles he has penned to date would come to quite the opposite conclusion.

His key point is that no cap on the number of firearms be it 5 for recreational or 10 for primary producers, restrictions on calibre or mental health checks for existing owners is likely to improve public safety.

In fact Trevor has repeatedly called out Police Minister Paul Papalia as putting up a shotgun of policy proposals with no discussion paper or evidence that any of the reforms are anything but an impost on responsible firearms owners.

He makes the challenging point that one thing and one thing only

will end firearm deaths and that is for an outright ban on firearms to drive down the number of owners in the community.

Something the Minister is clearly not brave enough to propose, as the electoral consequences of taking on the wrath of the 80,000 recreational shooters in the community is unlikely to get the support of his parliamentary colleagues.

Trevor also makes the obvious point that it doesn’t matter how many guns there are in someone’s cabinet, they can only use one at a time, and owning just one gun is enough to end one’s own or another’s life in a fit of rage or depression.

The Minister says we don’t want to go down the ‘slippery slope of the USA’, but I make the point that the evidence out of the US is that those States with the highest levels of gun ownership have the lowest crime (North and South Dakota) and vice versa (Washington and Illinois).

The problem is not with legal guns or how many guns a person owns, but illegal guns and poor law and order, along with poor mental health support.

The same applies here in Western Australia but the Minister has produced no discussion paper canvassing these issues, has no answers to illegal guns, new ideas on how to reduce domestic violence or violent crime or a public position on improving mental health services.

He has taken the easy route and gone after responsible legal gun owners with a weak set of policy ideas that have no evidence backing the claim they will support community safety.

Trevor has raised important questions and challenged the government, but some in the recreational community see only



WAFarmers CEO Trevor Whittington

select quotes from his 5000 words and have convinced themselves he is selling them out.

This reached a head last week, with even Federal politicians piling into the shootout, no doubt helped along by the heading in *Farm Weekly* journalist Bree Swift’s article in last Thursday’s *Farm Weekly* titled ‘Lobby Group takes Aim at Recreational Shooters’, which was about as far as some avid recreational shooters got in their reading before hitting Twitter or my phone with their outrage.

Let’s be clear farmers need recreational shooters to support the work we do on our farms albeit in an era of heightened farm safety laws, and as Trevor has pointed out he sees no

reason why they should be restricted to 5, 15 or 500 firearms.

It is the Minister’s job to make the case why there should be a cap of 5 firearms on recreational shooters and for recreational shooters to make the argument why the cap is unfair and unnecessary. Not WAFarmers. Maybe they should be following our example and taking a page in the local print media to get their message out.

We along with the PGA and the Horticultural Association will deal with government on the Primary Producer’s licence knowing it has all the powers to jam through any new rules with or without consultation.

In the meantime maybe it’s time for the recreational community, the Minister, the State Liberals and The Nationals who are strangely silent on the issue, the Shooters, Fishers and Farmers Party or even the Katter Australia Party, which also has a habit of shooting from the hip, to put pen to paper and make the case for or against changes to firearms controls so we can have an informed and respectful debate.