



THE CHANGING FACE OF PROPERTY



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Once upon a time, we considered water, air and access to essential services our right. The United Nations Charter of Consumer Rights indicated that one of these 8 principles was the access of all citizens to essential services. Access to running water, the use of air and the necessary amounts of energy to live your life, were seen as fulfilling ones essential services right.

This is now changing. Once we saw air and water as free, now we see it as being something that can be traded, sold and transferred.

Historically, water was owned by the person who had property it ran through. This English right was bought to Australia in 1788 and was applied in dry baron land; and it was discovered that this theory did not work in the great southern land. In 1912, the Water Act was enacted which transferred the ownership of water to State and Territory governments. You needed a licence, permit or authority to build constructions to use the water, to use the water and to use the water for specific purposes.

In 2000, the Water Management Act introduced the ability to trade water entitlements. On the 1st of July 2011, the transition to water trading was complete when all the old water licences were transferred over to water titles so that they could be traded.

This complex scheme is similar to holding a land title. The various land title offices throughout Australia register water entitlements. Persons can trade all these entitlements or can just trade a portion of their allocation to another person. They can sell it, lease it, mortgage it or charge it. Although the High Court at this stage is unwilling to say that a water entitlement is property, essentially water is something that can be traded from one business to another or from

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consumer to consumer.

The carbon tax is another example. Because there is a price now on carbon, these carbon credits can be traded from one person to another. Furthermore, we are already in an environment whereby we trade energy obtained from solar panels back into the energy grid. There will become a time where people build their own solar panels and sell the energy to the neighbours. We may even get to a situation where developments have central solar panels which form part of the community or strata scheme system.

This is a changing face of our property industry. We will not be just buying a property; we will be valuing the price of water, air and energy as part of any sale. In some cases it may add value, but in other cases it may be a separate and distinct saleable product.

These changes raise the questions of licensing, appraisals, agency agreements and contracts for the sale of land. Moreover, leases of properties may not take into account just leasing a house; it might be leasing water entitlements, leasing energy etc.

Leverage Australia has commenced research into this brave new world and is currently producing a paper on this new form of property. Todd Darvis, our legal clerk, is currently researching all these areas as a means of un-complicating a very complicated area. Moreover, Todd and I are looking at what opportunities lay in wait for a property industry that is looking for some new products to sell.

Our CPD for the next year in relation to rural agents will be this water licensing issue. I delivered a short paper to the rural marketing association on the Gold Coast on the 16th July 2011 and we will be starting to deliver this in rural areas on 19 August 2011. We expect that this topic will be the central issue for real estate agents and stock & station agents in 2011.

With the slowing down of the market place, it is absolutely imperative that people embrace the other forms of property rights that can be sold. With change comes opportunity, and with opportunity comes the ability to assess. We wish you the best of luck in this brave new world.

Cheers,
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and the team at ACP/Leverage

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