

# The Republic and its impact on property rights in Sydney

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## **Authors:**

Spike Boydell<sup>1\*</sup>, Nicole Watson<sup>2</sup>, Vince Mangioni<sup>1</sup>, Mark McMillan<sup>2</sup> and Shankar Sankaran<sup>1</sup>

<sup>1</sup>Asia-Pacific Centre for Complex Real Property Rights, University of Technology, Sydney, Australia

<sup>2</sup>Jumbunna Indigenous House of Learning & Asia-Pacific Centre for Complex Real Property, University of Technology, Sydney, Australia

## **\*Corresponding author contact details:**

Professor Spike Boydell  
Director, Asia-Pacific Centre for Complex Real Property Rights  
University of Technology, Sydney  
PO Box 123,  
Broadway, NSW, 2007  
Australia

e: [spike.boydell@uts.edu.au](mailto:spike.boydell@uts.edu.au)

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## **Abstract**

In 1973, the Federal Commission of Inquiry into Land Tenures identified that ‘in our modern complex society, an individualistic approach to property rights and land ownership is incompatible with public interest, unless individual rights are restricted to the use and enjoyment of the land’ (Else-Mitchell et al., 1973, p.17). We offer a theoretical inquiry into the institutional arrangements to enable an innovative land restitution model for Sydney within a new Republic, by vesting the superior interest in land (and buildings thereon) in the stewardship of the customary indigenous guardians (rather than the State or Crown). The model analyses leasehold solutions and land tax implications to ensure the continued economic growth of the City of Sydney under such a restitution arrangement.

We have arranged this paper in three discrete yet complementary sections. We start with a review of the Republic debate, and then lead into a discussion on superior Aboriginal title. This sets the scene for looking at two solutions – a leasehold model and a land-tax model. We then offer some analysis and conclude with suggestions as to how this debate may move forward.

## Introduction<sup>1</sup>

If Australia were to become a Republic, what would (or should) happen to the Crown's superior interest in the land? To become a Republic we have to remove the sovereignty of the Crown. In so doing, we pull back a veil to ask: Who were the people who occupied and owned this country before the Crown proclaimed sovereignty over Australian territory? We offer a theoretical inquiry into the institutional arrangements that are necessary to enable an innovative land restitution model for Sydney within a new Republic, by vesting the superior interest in the land (and buildings thereon) in the stewardship of the customary indigenous guardians (rather than the State or Crown).

We acknowledge that the institutions that underpin land tenure systems are manmade social definitions that exist to serve the needs of people. These needs are tied up with the complexity of power and relationships. We need a picture of the ways that the things we take for granted have been made. We need a story of the construction of the basic categories through which land is known in a public sense (Verran, 1998: 243). A good example of this is the 1973 Federal Commission of Inquiry into Land Tenures, which identified that 'in our modern complex society, an individualistic approach to property rights and land ownership is incompatible with public interest, unless individual rights are restricted to the use and enjoyment of the land' (Else-Mitchell et al., 1973: 17).

In this paper, we propose to challenge the accepted notion of private real property rights in Sydney. We challenge in particular the libertarian notion of property, which significantly misrepresents the idea of Freehold as being sacrosanct. As Goodall (1996) highlights, there are a few sources to reveal the complex relations of Aboriginal people with their lands before the invasion of Australia by Britain in

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1788. We expand on of the view of Kevin Gray that 'Proudhon got it all wrong ... property is not theft – it is fraud' (Gray, 1991: 252). Hepburn (2005) argues that the consequence of adopting feudal tenure and absolute Crown ownership has been in the estrangement of indigenous rights, title and culture.

Hepburn goes on to contest that a pluralistic property culture, where indigenous and 'normal' title exist as equalised entities, can only be properly nurtured with a full and absolute abolition of the feudal doctrine of tenure in Australia. We take this view a stage further than Hepburn, and rather than suggesting an allodial system whereby the State holds no presumptive ownership and individual landowners retain proprietary independence, we suggest a scenario where the superior interest in land and buildings thereon is placed in the indigenous community.

We have arranged this paper in three discrete yet complementary sections. We start with a review of the Republic debate, and then lead into a discussion on Superior Aboriginal Title. This sets the scene for looking at two solutions – a leasehold model and a land-tax model. We then offer some analysis and conclude with suggestions as to how this debate may move forward.

### **The Republic Debate**

The Australian Constitution – The *Commonwealth of Australia Constitution Act 1900* is an Act of the Parliament of the United Kingdom at Westminster – by its very design is no friend of the indigenous Australian. The framers of the document – or its principles – knowingly, willingly and deliberately rejected an equality before the law provision to be incorporated as a fundamental principle of the fledgling democracy. Similarly, it (the federal government) was expressly forbidden at the time of federation from legislating for indigenous peoples.

In common with other former British Dominions such as Canada and New Zealand, Australia has developed into a liberal democracy while remaining a constitutional monarchy. The Crown is not only our Head of State, but the concept of the Crown is also the theoretical foundation for the daily actions of government and of particular relevance to this paper, its administration of public lands. Throughout the

two centuries following the Invasion there have been numerous campaigns for Australia to become a Republic. The most recent spanned over the 1990s and focused almost solely on the former dimension of the Crown.

The campaign was led by the Australian Republican Movement (ARM), established in 1991 for the purpose of securing, 'a Head of State who is an Australian citizen, who is appointed by Australians and who represents the independent and sovereign nation of Australia (Higley & Case, 2000: 142). In a subsequent referendum in 1999, Australians were asked whether or not they favoured the appointment of a President and the insertion of a new Preamble into the Constitution. Australians voted 'No' on both counts. However, the result was not necessarily a vindication of the monarchy, as public support for a Republic was and remains strong. Rather, the outcome can be attributed to a number of forces, such as the intricacy of the legal issues involved, the former Prime Minister's support of the 'No' vote and a failure to engage the populace (Williams, 2002).

Few indigenous Australians have participated in any republic debates and the most recent was no exception; which is unsurprising given that the question of indigenous sovereignty had been deliberately overlooked. The former Chairperson of ATSIC, Gatjil Djerrkura, captured the sentiments of many indigenous Australians when he questioned the propriety of a minimalist campaign that all but ignored indigenous claims:

A narrow debate over whether we should have an Australian or British head of state will not satisfy our expectations for change ... For my people there is a far more important question than asking: Do we want a Queen or a President as our head of state? Instead we ask: Are our rights as the continuing custodians of this land being recognized? (McKenna, 2004: 47).

The historian Mark McKenna argues that one of the greatest flaws of the Republic campaign was its failure to draw from obvious commonalities with the Reconciliation movement (McKenna, 2004).

According to McKenna, it is both illogical and unfair for Australia to become a Republic without

recognising the Aboriginal sovereignty that the Crown has hitherto concealed. One of the means by which the invisibility of Aboriginal sovereignty has been maintained is the description of public lands as 'Crown land':

Like an illusion created by a conjurer, 'crown land' denies the Aboriginality of *this country*. And it is precisely for this reason that the *raison d'être* of the republic is the constitutional recognition of Aboriginal people. The republic must make visible what the crown has long sought to obscure (McKenna, 2004: 71).

The next section seeks to take McKenna's argument forward by outlining a model that would see the replacement of 'Crown land' with a form of a superior Aboriginal title.

### **Superior Aboriginal Title**

Land is the life force of indigenous societies; it is the source of their traditions, law, social relations and economies. Indigenous Australians have consistently argued that land justice is central to National Reconciliation. It is also critical to the establishment of an economic base and the improvement of living standards in impoverished Indigenous communities. Such arguments have found support in public health research, suggesting that indigenous people who live in relative autonomy on their traditional lands enjoy superior health (McDermott et al., 1998).

Indigenous people in the Sydney basin have derived some benefit from the *Aboriginal Land Rights Act 1983* (NSW) which makes provision for the grant of vacant Crown lands. While this legislation has conferred considerable benefits to Aboriginal communities throughout New South Wales, Aboriginal people in the Sydney basin remain locked out of the vast majority of lands that are privately held.

Our project seeks to substitute the Crown's radical title over lands in the Sydney basin with a superior Aboriginal interest. Before discussing the nature of the superior Aboriginal interest, some explanation of the Crown's radical title is required. The concept of a radical or ultimate title arose as a result of both

the acquisition of sovereignty and the doctrine of tenure. Upon the change in sovereignty, the Crown became the Paramount of all who held an interest in land in the colony. The radical title enabled the Crown to grant interests in land to others, and to acquire an absolute beneficial interest in land for itself. In *Mabo v State of Queensland* (1992) 175 CLR 1, the High Court determined that the Crown's radical title did not in itself extinguish the native title of the indigenous inhabitants. Upon the change in sovereignty, the native title became a burden on the Crown's radical title and, as such, was liable to extinguishment. There is yet to be an approved native title determination over Sydney and, in light of the extent of land-based property development, one in the future remains unlikely.

Under our model, the superior Aboriginal interest will be held by the traditional owners of Sydney, the Gadigal People. The superior Aboriginal interest can be distinguished from a native title determination because its existence will be presumed rather than proven. Furthermore, the superior Aboriginal title will not be reduced to a 'bundle of rights'. Like the Crown's radical title that it will replace, the superior Aboriginal title is an intellectual device. It will provide traditional owners with an economic base. This economic base could be achieved in one of two ways – by way of a leasehold solution, or as a restoration tax. Critically, the superior Aboriginal title also affords a 'nation building' exercise by providing long overdue acknowledgement of Aboriginal sovereignty; something that arguably should have been canvassed during the last Republic debate.

### **A Leasehold Solution**

So what does a leasehold solution mean and how can a leasehold solution ensure the continued economic growth of the City of Sydney under a restitution arrangement? We contest that it would be both inappropriate and unacceptable to merely convey the Crown's interest to the State, as this would only attempt to rekindle the now discredited myth that was *terra nullius*. Rather, the real 'sorry' statement is resolved efficiently and finally by conveying the superior interest from the Crown to the traditional owners, entrusted and in trust for the Gadigal people in the case of Sydney, and as with any

efficient land tenure system guaranteed by the State for and on behalf of the trustees. There are examples in the region other where indigenous rights have been restored under a Republic model, for example, in the case of Vanuatu and Niue.

Inherent in this solution is what that notion of superior interest should represent.

There are many examples of successful leasehold models in the context of ongoing economic development. For example, as English towns and cities grew during the 18<sup>th</sup> and 19<sup>th</sup> century, landowners optimised the financial gains from letting land to builders rather than less profitable farming tenants (George, 1992). These were 'building' leases, with premiums paid at lease commencement and thereafter a low or nominal ground rent. Builders developed the land, and then sold the land and buildings by way of a sublease for the unexpired term of the lease (commonly 95-97 years). However, the leases were clear that the approved improvements were to be returned to the landlord in good and tenantable repair at lease expiry. Details of the approved 'tenants improvements' undertaken by the builder, along with a comprehensive building plan, were included with the lease documentation.

Property rights in the developing world are often formalised in ways suggesting significant misunderstanding of the needs of emerging economies (Home & Lim, 2004), highlighting deeply embedded flaws in notions of property rooted in colonial legacies – as we see in the post-invasion history of land in Australia. However, there was no misunderstanding by the colonisers that dispossession hinged on the use of the formal institution of law to create or negate property rights (Forman & Kedar, 2004).

So is it realistic to actually do away with the established notion of freehold tenure within Australia, and indeed a city like Sydney, and have it replaced with a long leasehold model? For many, indeed for the majority, this would provoke an unprecedented reaction. In the iconic Australian movie *The Castle* a suburban Melbourne family is threatened with the forced eviction from their home – their 'castle' – because of the proposed expansion of the international airport. Though essentially a feel-good comedy,



it captures a great deal of the modern city's complicated milieu of competing and complementary property rights (Boydell & Arvanitakis, 2007). The complex nature of these claims is highlighted by Darryl Kerrigan (played by Michael Caton), who draws parallels between his own experience and that of Australia's Aboriginal population: forced to leave their homes in the name of progress. Not only are property rights and land areas of contestation, in Australia, this is underscored by an indigenous population forcibly removed from their homes and never appropriately compensated.

Property rights provide a coherent legal, economic, and social framework for the relationship between people, place and property. Unfortunately, they are often misunderstood and misinterpreted by the multiplicity of stakeholders sharing a particular space (Boydell et al., 2007). Obviously, with the granting of a 99-year lease, there is little concern in the early years of tenancy regarding the 'wasting asset' nature of a term of years absolute (see Figure 1). Indeed, given the time-preference of money, in valuation terms there is not a significant difference in the right to receive rental for 99 years or for perpetuity. However, there is some unverified evidence from Singapore that a long leasehold interest is worth some 2-4 percent less than a comparable freehold interest. If this is indeed the case, and if it could be proven, there would be grounds for a class action against the Crown for what is actually only a perceptual value differential. We say perceptual in this context given that there would be (on the assumption that the Singaporean example is proven) a diminution of value across all comparable evidence.

Insert Figure 1 here

Under a leasehold model, the real impact is in the last 25-30 years of the term, when it becomes difficult to secure mortgage funding (with no lender prepared to lend beyond the expiration of a terminating lease). In the UK leasehold examples, the large numbers of these building leases that were due to expire in the 1970s-1990s were in no small part a factor in the degeneration of inner urban areas

England at that time. Given the uncertainty of lease renewal and the declining value of the tenant's interest in the wasting asset, there was no incentive to maintain or inject capital into the improvements.

Politically, a range of issues emanate out of the UK example, with tenants seen as victims and local governments faced with urban decay attributable to the leasehold regime. The response, in a country where the dominant tenure is freehold, was to enact legislation to allow enfranchisement enabling tenants to acquire the freehold interest through a formula-based payment that compensated the landlord for improvements with a discount based on length of occupancy (to avoid speculation), or obtain an extension of the lease on 'fair' market-based terms. A key lesson is that the English building-lease model was clear on the issue of improvements – they belonged to the landowner on lease expiry and were to be returned in good and tenantable repair as compensation for the land having been tied up at a low/nominal rent for 99 years. This ensured some intergenerational equity for the landowners (albeit that in many examples the landowner comprised the 'city fathers' and so there were political implications to reconcile at the level of local government). In the English example, the lease clearly places the onus on the tenant to return the well-maintained improvements as well as the land component to the landlord at lease expiry.

From a libertarian perspective, some see 'ownership' as the highest level of right to act, and that property rights vest only with the individual. In contrast, Lyons et al.'s (2007) view is that with property rights at any level come roles, obligations and restrictions. All we are proposing is a change in those same roles, obligations and restrictions. There are few concepts in economics that are more central, or more confused, than those of property, rights and, in particular, property rights (Bromley, 1991). Recent property rights discourse is dominated by the Chicago School's (Alchian, 1965; Cheung, 1969; Demsetz, 1967; Gordon, 1954; Umbeck, 1977) position and that of new institutionalists (such as Coase, 1960), who focus on property rights in the firm, rather than specifically in landed property and real estate.

More recently, Alchian suggested that the purported conflict between property rights and human rights is a mirage, as property rights *are* human rights (Alchian, 2006). This concurs with Pejovich's view that property rights are not physical things, but rather relationships between individuals surrounding scarce goods and their use (Pejovich, 1990). The emphasis on economics is balanced by the legal view that property rights are, 'the creation of positive law whatever social or political theory may presuppose about their metaphysical origins in the natural or supernatural order of things' (Denman, 1978: 3).

The negation of customary and/or traditional land tenures and the transfer of control to the settler society not only confirms the imported property rights regime, but also as Kedar (2003: 415) notes,

... [s]ettlers' law and courts attribute to the new land system an aura of necessity and naturalness that protects the new status quo and prevents future redistribution. Formalistic legal tools play a meaningful role in such legitimisation. Courts apply 'linguistic semantics, rhetorical strategies and other devices' to disenfranchise indigenous peoples.

More importantly, the property of the conquered is often regarded as 'public land', which can be dealt with by the State without referral to the traditional owners. However, the colonial legacy of flawed property rights is nowhere more apparent than in with the indigenous communities' struggle to overcome this legacy in the most critical rights area of all, access to land.

In considering property, as explained above, 'rights' cannot be taken in isolation from relationships, roles, responsibilities and revenues. The importance of incorporating these 4Rs (IIED/Dubois, 2005) allows us to rise above a purely economic view of the world to incorporate the environmental (or ecological) and the sociological (or human) component into any analysis of property rights, which are fundamental to indigenous societies. Critical to the process is the realisation that just as there is a diversity of property rights, there is also a diversity of stakeholders influenced by any property rights situation. This multi-stakeholder reality of overlapping and competing rights is at odds with the concept of individualised property rights.

A lease is a proprietary interest in land that provides certain property rights to temporarily pass on to another party for a term of years absolute (i.e., a fixed-term estate) in the land/property, in return for equitable rental payment. The purpose of leases is to create an opportunity for those who hold a 'superior' interest in land to provide access to land for those who have the capacity to make it economically productive, while retaining their higher rights in the 'reversionary' interest in the land (Farran & Paterson, 2004). The equitable rent is, taking the Ricardian model, the surplus of productivity from the land having taken out the costs of production and labour on the part of the tenant, a notion that we expand on below.

### **Restoration Rent / Tax Framework**

The title and tenure to land is but one of many considerations in the restoration, maintenance and provisioning of both land and its occupants, past and present. Since the invasion of Australia, land rent in one form or another has existed as a signature tax for all interests in land. Brennan (1971) discusses the importance of taxes on land post settlement as an equitable way of providing and maintaining services to land which, in turn, maintains land, services to it and amplifies its value.

Under the prevailing land-tenure regime in Australia there is significance placed on the land title framework for the raising of revenue that accommodates both freehold and leasehold interests (see Figures 2 & 3). In this example we use of the term *indigenous freehold* to replace the notion of Crown within the Republic model. With ongoing gravitational tendencies towards consumption-based taxes, explicit taxes and revenue raised from land have become far less popular as many land holders view these taxes as a challenge to the perceived sovereignty of freehold title. In the model of indigenous freehold shown in Figure 3, leasehold is granted with remuneration depicted as restoration rent or tax.

Insert Figure 2 here

Insert Figure 3 here

In adopting the indigenous model of land tenure, Wilkie (1985) defines the doctrine of settlement, which asserted that lands inhabited only by uncivilised inhabitants in a 'primitive state of society' were, in fact, *terra nullius*, that is, land owned by no-one. On the basis of the myth of *terra nullius*, the model in Figure 2 currently prevails. In contrast, Figure 3, vests title in *indigenous freehold* in which land rent, conversely known as land tax is payable. In its initial phase, the income raised from these payments would fund the social restoration and infrastructure of the Sydney Restored ideal. Once established, ongoing payment would fund the upkeep and maintenance of this ideal.

### **Ideology of Dedicated Funding**

The importance of dedicated funding from primary tax sources is the recognition of an organised and functional society. This is highlighted in the view that 'Taxation has been described as the primary vehicle which government uses to fund itself' (Case & Fair, 1996: 463). In a presidential speech, Roosevelt (1941) described taxation as dues paid for the privileges of membership of an organised society. What remains unqualified in mandated taxation is the allocation and distribution mechanism of tax revenue which impacts on society to varying degrees. The importance of explicit taxation revenue dedication is best demonstrated through an observation of the rise and fall of funding of local government in Australia.

Local government rate revenue in NSW and Australia has not been a steady and reliable source of revenue for local government or impost for ratepayers during its history. The Australian Council of Australian Local Government Associations (ACALGA, 1963) highlights public concern in the post-World War II era of 1947-1960, in which local government rate revenue across Australia rose by 406 percent, while the population increased by 35 percent. During this period the ACALGA rallied the Commonwealth for a fixed share of Commonwealth income tax revenue.

The peak in Commonwealth government financial support for local government followed during the Fraser Government which introduced the Local Government (Personal Income Tax Sharing) Act 1976 (Cth). The Oakes Inquiry (1990) highlights that between 1980/81 and 1985/86 the guaranteed share of income tax moneys to local government by the Commonwealth reached a high of 2 percent. 'The Hawke Government abandoned this system adopting a macroeconomic policy of fiscal restraint and by 1988/89 Commonwealth income tax receipts represented 1.32 percent of grant revenue provided to Local Government in Australia and grant revenue having declined in real terms' (Oakes Inquiry, 1990: 58).

The importance of the allocation of defined tax revenue is a benchmark of well-structured and considered tax system designed to serve the community who contribute to it. In the context of our Sydney Restored approach to a Republic, the contribution of land and the return from it in the form of a restoration tax is best defined as an earmarked dedicated return on the interests in land forgone. The dedication of a defined allocation from land tax revenue is an important starting point the Sydney Restored ideal.

### **Revenue Framework and reformation**

In 1965, the NSW government established the Joint Committee of the Legislative Council and Legislative Assembly upon Aborigines Welfare. Attwood and Markus (1999) discuss the role of this committee, which was required to consider and report upon the welfare of Aborigines in NSW, with particular reference to the education and housing of Aborigines, and legislation 'or other proposals necessary to assist Aborigines to attain an improved standard of living'.

In meeting the revenue needs of the committee's recommendations, Wilkie (1985) highlights that, in 1985, the NSW government allocated 15 percent of all land tax revenue to funding this objective. In reinforcing recognition and significance of this funding, a further symbolic aspect was the exemption of all Land Council land from liability for land tax. Two considerations support this exemption: Aborigines

ought not to be taxed on their own land by a government which, they perceive, has stolen that land from them; and, because land tax forms the basis of funding for land rights, Aborigines ought not to be asked to partly finance their own 'compensation'.

The Green Paper on Land Rights recognised that 'if self determination is to be realized and if Land Rights are to have real meaning by giving Aborigines an economic base then there will need to be an assured source of adequate funding over a long term' (New South Wales Ministry of Aboriginal Affairs, 1982). In doing so, the Green Paper echoed the Select Committee's belief (at s.13) that, 'the policy underlying funding should be based on the following principles:

- certainty of funding;
- adequate level of funding;
- the adoption of the policy of self-determination'.

In the earlier years of the Land Council, Wilkie (1985) discussed the lack of detail and understanding of what the Land Council of NSW required in meeting its needs when considering the allocation of revenue needed to fund its programs.

Do the finance provisions of the Land Rights Act satisfy this aim? Before turning to a consideration of the nature of land tax as the base of funding, it should be noted that neither the Select Committee in drafting its Report nor the Ministry of Aboriginal Affairs in drafting the Act, conducted any research whatsoever on what amount of funding would be 'adequate' to meet perceived needs. Nor has any research been conducted on what amount of money would compensate Aborigines for the loss of their land. (Wilkie, 1985: 20)

The allocated percentage of 7.5 percent of land tax revenue highlighted by Wilkie (1985) was chosen because it was perceived to be politically acceptable. The actual amounts have, at all times, been discussed in a vacuum without any reference whatsoever to the value of what has been lost to

Aborigines as a result of the invasion, or to the amount that would be necessary to meet existing and future needs. At all times, the rate has been a token, the actual amount uncertain, and predictions, e.g. of a total commitment of \$400 million, manipulated for political purposes.

The Select Committee believed that 'the actual value of [the] funds will keep abreast of movements in land values'. Certainly, land tax is calculated by reference to the unimproved value of land. The Committee further suggested that land tax would increase regularly, and be a reliable source of money to finance land purchases. In fact, however, land tax increases irregularly. A valuation was made in 1982-83, which would mean an increase in receipts for 1984-85. But revaluation is not an annual event, and it does not occur automatically. It would be expected, then, that land tax receipts would level off for a period after 1984-85. Indeed, the State Treasury guaranteed that it would pay the NSW Land Council \$13 million for 1984-85, and only slightly more, \$13.9 million, for 1985-86. The Treasury would not predict what the amount payable would be beyond that year.

Following a period of uncertainty in land tax revenue raised in NSW between 1984 to 1991, Mangioni (2006) discusses the reintroduction of annual valuations which reinstated land tax revenue movement in line with property values. The provisions for annual revaluations were introduced in 1992, which provided greater certainty of continual growth in funding from land tax revenue. It was at this time that the agreement of allocated funding from land tax revenue expired. As government struggled with budget deficits in NSW in the early 1990s the earmarked allocation of land tax revenue to the NSW Land Council as a direct percentage of land tax revenue ceased. Like the ceasing of explicit funding of local government by the Commonwealth through a defined allocation of income tax, the defined income from NSW to land Councils met a similar end.

Insert Figure 4 here



In restoring the land tax revenue base and certainty of funding, a restoration tax framework has been developed for discussion (see Figure 4). Two important features are critical in this model. The first being the embedded and defined statutory rate in the dollar earmarked specifically for the purposes of 'restoring' Sydney to the Gadigal people. The second feature is the Republic Differential Allocation Grant (RDAG), which makes up the shortfall between the budgetary needs of the NSW Land Council and income from State land tax revenue.

The key contribution of the NSW Land Council would be the ongoing commitment to the restoration of Sydney through a co-contribution accumulated sinking fund for the ongoing maintenance of key indigenous services and infrastructure. Until such time as the sinking fund was sufficient, the shortfall, while referred to as a Republic Differential Grant, is more aptly defined as a Quiet Rent in the transition of land to indigenous freehold.

### **Analysis of our Restoration Models and moving forward**

We acknowledge that both of the leasehold and the restoration tax models presented here are contentious. Given that land tenure systems are man-made social definitions designed to serve the needs of society there is a need for further work to analyse a real impact on the stakeholders who have existing rights or interests in a system. This can include primary or secondary stakeholders; internal and external stakeholders; and interface stakeholders. In exploring the commercial use of indigenous land to achieve economic development, stakeholders can be identified through asking, among others, the following questions:

- Who are the potential beneficiaries?
- Who might be adversely affected?
- Who has existing rights?
- Who is likely to be voiceless?
- Who is likely to resent change and mobilise resistance against it?

- Who is responsible for intended plans?
- Who has money, skills or key information?
- Whose behaviour has to change for success?

As our research develops, these questions will be refined by considering a range of parameters: The basics – men/women, rich/poor, young/old; Location – rural/urban dwellers, near to the issue/far away; Ownership – landowners/landless, managers, staff; Function – producers/consumers, traders/suppliers/competitors, regulators, policy makers, activists, opinion-formers; Scale – small-scale/large-scale, local/international communities; and Time – past, present, future generations (for an expanded overview on stakeholder analysis and related tools see, for example, IIED, 2005; Ramírez, 2002).

Our research, like Australia's debate on a Republic model, is a work in progress (see <http://sydneyrestored.com/2008/11/06/hello-world/>). We acknowledge that our models are contentious. However, it is important that these questions be asked, modelled, analysed and debated openly. An Australian Republic is far more than a mere change of Head of State and some minor variations to the Constitution. We concur with McKenna (2004) that a reconciled Republic is no panacea; nor is it a step backward. The only way forward is a reconciled Republic founded on the full recognition of Australia's history.

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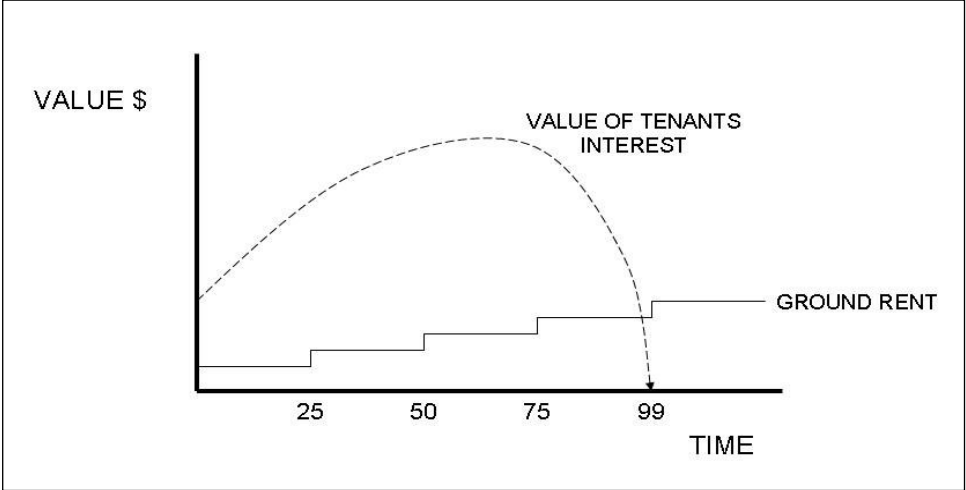


Figure 1: Leasehold interests as a wasting asset

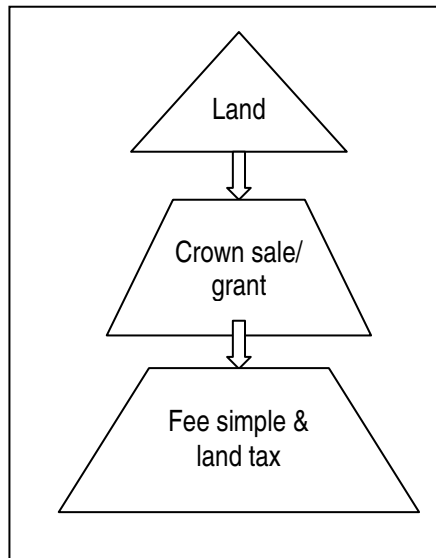


Figure 2: Traditional models of Land Tenure

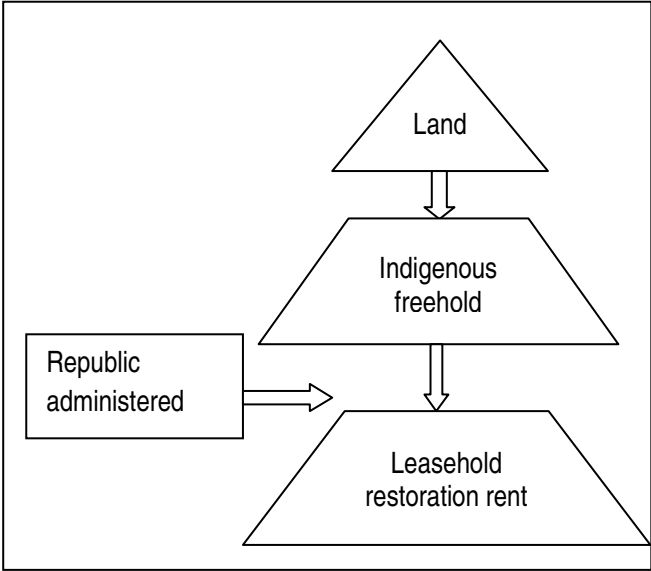


Figure 3: Model of Indigenous Land Tenure

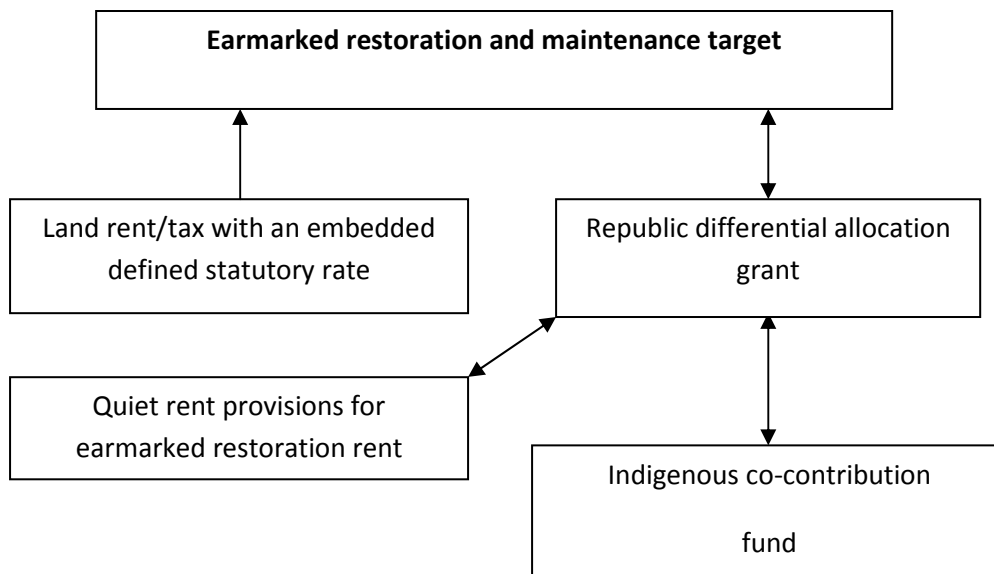


Figure 4: Restoration Tax Framework