Rights Responsibilities Restrictions (RRRs)

“Any factor which affects the use of public or private land below, or on, or above the surface of land or water”

ANZLIC minute November ‘08
Agenda

- RRR background
- What is an RRR?
- Work undertaken
- ARC/NIMLI initiative
- ANZLIC activities
- Working together
- Role of Registrars
- Future building
- Next steps
- The bigger picture: NIMLI
What are RRRs?

- RRRs are...
  any legal interest between a person and land

- They are also sometimes called:
  - Property rights, restrictions and responsibilities
  - Property rights, obligations, and restrictions (RORs)
  - Property Objects
  - Legal Land Objects
  - Real Property (as distinct from personal property)
  - Land rights
What are RRRs, continued

- Property interests
- Interests in land
- Land tenures
- Generally RRRs are not recorded on title
Who uses the term?

- Land administrators, when discussing the need for the aggregated management of land interests
- The general public is more likely to hear and talk about specific RRRs such as:
  - Land ownership
  - Leases
  - Water rights
  - Native title
  - Mining tenements
  - Fishing licences
  - Heritage properties
  - ...and hundreds of other specific variations
- At the most basic level all RRRs have five attributes
Objective
*Why* has the RRR been created?

**Objective**

Action
*What* limitation or opportunity does the RRR create?

**Action**

Spatial Extent
*Where* does the RRR apply?

**Spatial Extent**

Duration
*When* does the RRR apply?

**Duration**

People Impacted
*Who* does the RRR apply to? (2 parties are always involved)

**People Impacted**
RRR Background

- Numerous national and international studies
- Management of land information imperatives
- Commercial and conveyancing imperatives

- No authoritative catalogue of land interests exists
- Most jurisdictions have property inquiry systems for conveyancing purposes
RRR Background

A national infrastructure for management of land information

ARC Linkage Project
Dec 2009 - Dec 2012
The NIMLI Project

Australian Government
Australian Research Council

Victoria Department of Sustainability and Environment

New South Wales Government Land and Property Management Authority

PSMA AUSTRALIA LIMITED

Landgate
The project aim:

“To use an engineering approach* to design a new infrastructure for integrating disparate, state based land information and administration processes to meet national needs”

* Engineering – use scientific methods, but if it does not work, fix it
NIMLI Research Plan

Communications Plan

Identify National Drivers

Review Innovations

Conduct State Case Studies

Design National Prototype

Identify Limitations And Refine National Prototype

Test National Prototype

Refine and Document National Prototype

Strategies for Re-engineering LA for SD

Publications Plan

Publications Plan

Communications Plan

NIMLI Research Plan
ANZLIC’s Initiative - Driving RRRs

- SCoLA formed as a sub-committee to progress the RRR initiative
- Reports provided to ANZLIC meetings
- Project Manager now appointed
- Project Plan being prepared
- Report due for November meeting
ANZLIC ‘cont

- ANZLIC have been provided with a number of background documents
- For example, Common Spatial Information Initiative (CS2i)—a NSW cross agency service that will enable common e-business functions required for customers to access spatial and related information in an on-line environment.
ANZLIC ‘cont

- Spatial information is a foundation for planning and managing sustained population growth, demographic and climate change, continued land development balanced with environmental sustainability. This is the foundation for RRRs.

- Documents include:
  - “Harmonising information on property interests in Australia”
  - “Characterisation of Property Interests”
Data Dictionary and Draft Project Plan

- Industry is now contributing and delivering a number of fundamental datasets that were traditionally in the Government realm which must be incorporated as part of the RRR process.
- ANZLIC wants to increase the awareness of the value of spatial information and its value to the economy as part of the RRR initiative.
Working together

- Significant progress made by NIMLI team
- Jurisdictions represented as industry participants
- Benefits and progress of working together to achieve outcomes
- There are increasing demands for-
  - access to RRRs and
  - a reliable system to record and maintain RRRs
Role of Registrars

• Should Land Registries drive the RRR initiative?
  - Are Registries best placed?
  - What are the alternatives?
  - Do Registries want ownership of the process?
  - What are the business drivers?
  - Are there sound Business Case drivers?

• Consider existing systems and integration of data-use of “source of truth” data as a baseline
Role of Registrars ‘cont

- Revenue potential
- RRRs are not a one size fits all approach, each jurisdiction will have its own unique requirements. Common standards will, however underpin the process.
Future building

- Decision of July ANZLIC meeting
- Form a new working group
- Role of working party
- Reporting responsibilities
- Funding
Next Steps

- Convene jurisdictional workshop
- Promotion to other government agencies
- Continue initiative as a cooperative process with NIMLI team to achieve project objectives
- Jurisdictional group to identify local issues and compile “Interest Inquiry Dictionary”
- Regular reporting
- Other Registry partners?
Next Steps

- Conduct Market Research
- Investigate available technologies
- Obtain mandate from Registrars and prepare a project plan that complements the NIMLI direction
National Initiatives in Land Information

ANZLIC
SCoLA
PCCR
NECS
Development Assessment Forum
PSMA
Australia Limited
crc·si
Australian Government
Office of Spatial Data Management
Council of Australian Governments (COAG)
spatial@gov
CSDI Project
Australian Government
Geoscience Australia
NIMLI FRAMEWORK
The ‘Land Management Paradigm’

Williamson and others (2010)
The situation in Australia
The desired situation?
See Cadastre 2014, Bennett and others 2008, and Kalantari and others 2008
NIMLI believes in ‘Property Objects’

- The concept has flexibility and the ability to drive wider sustainability accounting

- Within the approach, parcel based objects are a sub-class (the biggest)

- Land registries use authoritative information about property objects that are land parcels in the register

- The authoritative information is the basis of the infrastructure, useable by other public, community and private agencies to manage their rights restrictions and responsibilities
NIMLI - Research Streams

• National Property Market Infrastructure
  - Using state land administration systems to support national monetary and fiscal policy

• Land Administration for Housing Production
  - Using housing production processes to improve links between land tenure, value, use, and development

• Property Risks: The 4th RRR
  - Improving the risk management processes of government, business, and citizens by better incorporating land administration systems
Are we using our land registries to their full potential?
Land registry information is different

- Essential for land markets and the wider economy
- Legally authoritative
- Insured by government
- Spatially accurate (cadastral verification)
- Highly dynamic
- Maintenance intensive
- Large scale
- Central to the business model of the registry
- Sensitive in terms of privacy
- Spatial in nature
- In demand
These characteristics make SDI involvement challenging for land registries

...but, some are taking on the challenge
The ‘Key Registers’ Concept - EU context

1. Natural Persons
2. Legal Persons
3. Buildings
4. Addresses
5. Basic Register Cadastre
6. Maps [Topographical Base Map (TBM)]
7. Registration Numbers (for vehicles)
8. Wage, Employment and Benefit Relationships and Income and Assets

And possibly:

- the Large Scale Base Map of the Netherlands and subsoil geo-data (DINO)

10. WOZ (tax) value of real properties
Linking the ‘Key Registers’

- Natural Person
- Non-Natural Person/Company
- Address
- Building
- Parcel
- Map
Registers of Scotland

RoS Free House Price Search

Get all of Scotland’s property prices, first and free.

ros.gov.uk – the home of house prices

Weekly house price updates
Quarterly Housing Market Statistics
Land Registration Bill Consultation
Multipurpose land registries
Building coherent national land information functions

- What comes next?
  - More shared services and standards?
  - The Key Register Concept?
  - Spatial Enablement?
For instance:

Example: A GFC Early Warning System

The real world...

Build a cadastre...

Add a mortgage layer (grey)

Record foreclosures spatially (red)

Monitor spatially for clustering

Aggregate nationally and respond promptly...

...most countries, including the US, do not have this capacity yet
Beyond the basics

Incorporating RRRs into the framework
The “Objective” Attribute

1. Environmental Conservation
   • Example: Tree clearing restrictions
2. Social Conservation and Equity
   • Example: Native title rights
3. Economic growth and Savings
   • Example: Land tax responsibilities
4. Tenure organization and legal procedure
   • Example: Compulsory acquisition of land
5. Industry Management
   • Example: Gambling outlet and liquor retail restrictions
6. Public safety and order
   • Example: Tobacco consumption restrictions
The “Action” Attribute

1. Access
   - Example: Surveyors/ police offices

2. Management
   - Example: Building regulations that dictate standards for the construction of dwellings

3. Withdrawal
   - Example: Fishing licence

4. Exclusion
   - Example: A five year site for a retailer

5. Alienation
   - Example: Private ownership rights
The Spatial Attribute

Parcel based
- Specific
- Patchwork
- Blanket

Non-parcel based
- Point/Object
- Network
- Polygon
- Dynamic

$t=1 \rightarrow t=2$
The ‘Duration’ Attribute

- **Once**
- **Repeat**
- **Ad hoc**
- **Indefinite**
The “People Impacted” Attribute

1. Private
   - Example: Taxation of private land by government

2. Public/Government
   - Example: Creation of national parks for the benefit of the community

3. Communal
   - Examples: Native title restrictions on use and management, Owners corporation members

4. All
   - Example: Acquisition over any parcel of land by government

5. Open Space / Other jurisdiction
   - Example: By definition no RRR can be readily in these areas
Statutory requirement to publish RRRs

- Legislating the requirement for agencies creating and managing RRRs to make information publicly available

- Not just part of the conveyancing process

- The Netherlands and Switzerland are using this approach
  - Law on Registration of Public Encumbrances 2005

- EU through EULIS are heading in a similar direction
Statutory requirement to publish RRRs - Issues

- Enforcing legislation across all agencies is problematic

- Definition of RRRs needs to happen at high level of government

- A mechanism for integrating and maintaining RRRs information for the public is still required
  - The Netherlands uses the cadastre as the linking mechanism
  - This requires a single authoritative cadastre
  - Dutch Kadaster is also a prominent arm of government, but self governing agency
Potential threats: Title Insurance

• The title insurance approach transfers the risk of RRRs adversely affecting a property from the owner to an insurance company.

• The method is heavily favoured in the United States.

• Increasingly penetrating into jurisdictions with impeccably run land titling systems - Quebec, Australia. A gap is obvious.
Title Insurance - Issues

- Does not address legislative sprawl of RRRs
- Does nothing to promote better governance of land
- Private insurance companies will not take on all risks associated with property- only those identified in their search
- Doubling up on insurance
Spatially Enabled RRRs

- All RRRs have a spatial footprint (e.g. parcel/polygon)

- Geographic Information Systems (GIS) and Spatial Data Infrastructures (SDI) provide the platforms for integrating informing using the location attribute (e.g. coordinates)

- The idea was first conceptually introduced in Cadastre 2014

- In practice the approach requires the development of a single infrastructure for publishing, integrating, and accessing RRRs information

- Landgate’s ‘Interest Inquiry’ service already utilizes this approach
Potential for use at federal level

NIMLI and Energy Efficient Buildings

The Commonwealth Government has introduced a scheme of mandatory disclosure of the energy efficiency of office buildings (over 2,000m2). The scheme is part of the Building Energy Efficiency Disclosure Act 2010 (Cth) and is being implemented through the Commercial Building Disclosure Program (http://www.combd.gov.au). The Department for Climate Change and Energy Efficiency also seeks to have some buildings disclose information on how energy efficiency can be improved. The Department’s adoption of a new form of mechanism to ensure compliance is quite interesting. There is also some form of register of NIMLI.

Whether the NIFER will actually improve energy efficiency across Australia remains to be seen. Provided an energy price rise and potential tenants and buyers will seek out more efficient buildings this is the plan anyway.

Where does NIMLI come into all this? Well, the new scheme is really just another federal effort to improve the registration, monitoring and compliance process. However, a spatially-enabled register of NIMLI could enable all kinds of opportunities in the energy efficiency sector to be considered at a national level.

While NIFERs are linked to parcels and addresses, they are really about buildings. This is a challenge for NIMLI and land administration in Australia generally. There is no national register of buildings. There aren’t even state registers. Do we need a national geospatial building dataset? How would we build it?
Spatially Enabled RRRs - Issues

- Does not address legislative sprawl of RRRs
- May require legislative support
- Many RRRs are currently not spatially enabled
- Requires capacity development in non-spatially enabled agencies
- Needs identifiable ‘champion’
- Are the spatial representations legally binding OR is it just a flagging system?
Do we need a national approach?
National registry framework?
Future NIMLI Research Directions
Research focus

- Understand current initiatives at state and national levels (G-NAF, NECDL, PLRA etc. etc.)

- Understand differences in existing state RRR processes and systems (i.e. complete NSW data dictionary)

- Learn from success stories at state and national levels
  - PSMA Australia, Landgate’s SLIP, and NSW’s SIX

- Examine information policy issues
  - privacy and identification issues (gov-to-gov vs. gov-to-public)

- Engage with the federal level
  - They are putting together large people-land databases (ATO, ABS, Centrelink)
Design Data and Services

• Identify the data and service requirements

• For example
  - Merge land registration, valuation, and cadastral information
  - Understand the kind of information routinely supplied by local governments and how this is done
  - Enable access to information through address, rather than lot/plan
  - Roads in the registry/cadastre
  - Federal land in the cadastre/registry
  - Local authority land holdings/registry
  - Integrate major new sources of information: aerial photos, videos, street views, 3D information, satellite images
Explore Technical Framework

- Some form of infrastructure needs to be constructed
- Spatially enabled web portal, enable users to be publishers and suppliers?

  **Suggested actions**
  - Learn from national developments
    - SLIP, LYNX, SIX
  - Learn from international developments
    - LADM, US’s GeoSpatial Platform, NZ’s LINZ’

- Other registry partners - Singapore, Hong Kong .....
Questions