

Reshaping the management of property rights, restrictions and responsibilities

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Introduction

The rise and fall of property rights, restrictions and responsibilities (RRRs)

Property ownership is well managed

• Example: The Torrens System (~1850s)

– The Principles

- Mirror
- Curtain
- Insurance



– Implementing the System

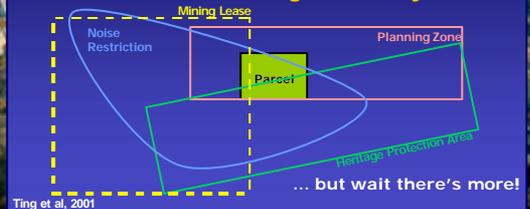


Parcel



But, there are other interests...

- The post WWII era sees the rise of environmental sustainability, social equity movements.
- This leads to creation of RRRs, outside traditional cadastral/registration systems...



Ting et al, 2001

Lots more...

- Aboriginal Land Act 1991
- Aboriginal & Torres Strait Islanders (Land Holding) Act 1985
- Acquisition of Land Act 1991
- Acquisition of Land Amendment Act 1999
- Administrative Boundaries Terminology Act 1985
- Allan And Stark Burnett Lane Subway Authorisation Act 1926
- Ambulance Service Act 1991
- Ambulance Service Amendment Act 1997
- Anzac Square Development Project Act 1982
- Associations Incorporation Act 1981
- Associations Incorporation Amendment Act 1995
- Auctioneers And Agents Act 1971
- Australia And New Zealand Banking Group Limited (Nmb) Act 1991
- Bank Of New Zealand (Transfer Of Undertaking) Act 1997
- Beach Protection Act 1968
- Brisbane City Council Business And Procedure Act 1939
- Brisbane City Council Business And Procedure Act 1939
- Brisbane Forest Park Act 1977
- Building Legislation Amendment Regulation (No. 1) 1998
- Building Units And Group Titles Act 1994
- Building Units And Group Titles Regulation 1998
- Camals Act 1988
- Central Queensland Coal Associates Agreement Amendment Act 1997
- Central Queensland Coal Associates Agreement Variation Act 1996
- P
- Z

Some of the 180 QLD ACTS including RRs over land

(Lyons et al, 02 and 04)

Three main problems...

1. Some poorly designed in legislation
 - Enforceable?
 - Incentives?
2. Some RRRs are poorly administered
 - Processing times?
 - Information Access?
3. Some do not exist where they ought to
 - No legislation
 - No controls



One root cause...

- We propose all three problems arose from the one root cause:

"...the lack of a shared, holistic and coherent land policy and administrative framework..."

- In order to solve all three problems and achieve the initial objective of sustainability, we must:

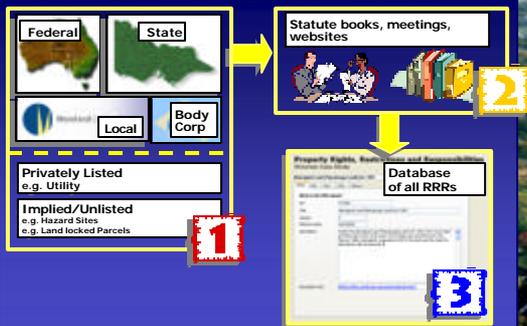
"...create a theoretical framework for understanding, discussing and comparing RRRs..."



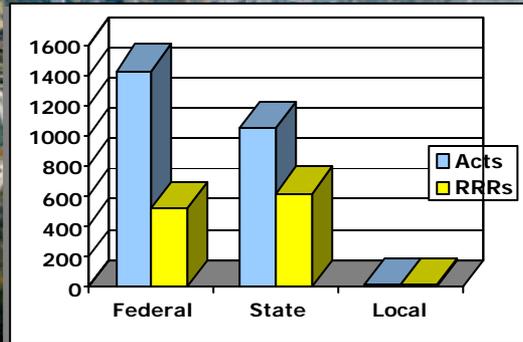
Materials and method

A tale of three case studies

The case study jurisdictions



Preliminary findings...



Results

Introducing and explaining the property object

Property Object 1

Property Object 2

Property Object 'n'

Objective

Why has the RRR been created?



Action

What limitation or opportunity does the RRR create?



Spatial Extent

Where does the RRR apply?



Duration

When does the RRR apply?



People Impacted

Who does the RRR apply to?



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

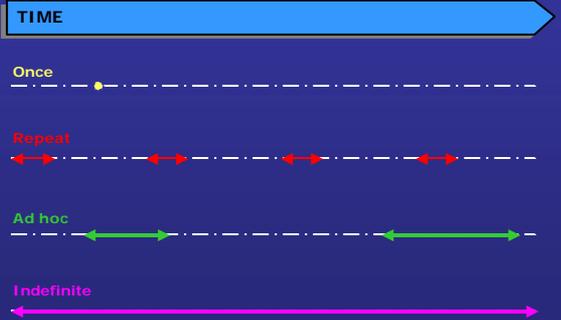
1. Access
 - Example: Surveyors/ police offices
2. Management
 - Example: Building regulations that dictate standards for the construction of dwellings
3. Withdrawal
 - Example: Fishing licence
4. Exclusion
 - Example: A five year site for a retailer
5. Alienation
 - Example: Private ownership rights



The "Spatial" Attribute



The "Duration" Attribute



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
 - Example: Native title restrictions on use and management
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



Discussion

Why is the 'property object' a useful concept ?

A current issue...

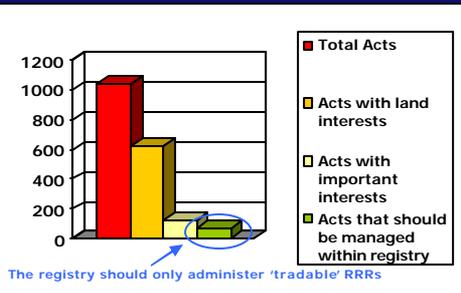
- The literature demands we reform our RRR administrative systems ...
- What role for the traditional land registry?
- One line of argument....
 - “Place all RRRs under the control of the land registry”!?
- In Victoria that would mean placing 620 Acts in control of the registry...
- But! The registry is a very good tool for some RRRs
 - Which RRRs should be managed within the registry?

What is the registry's core business?

Attribute	Characteristics of registry RRRs	Characteristics of "lesser" RRRs
Objective	Economic	Varied objectives
Action Regulated	Alienation	Access
Spatial Extent	Parcel - Patchwork	Blanket/ Specific
Duration	Ad hoc	Once/ Short term
People	Private (Public)	All

A more reasonable proposal... ?

- Example: Victoria's legislative framework



Conclusion

Where to from here ?

Conclusion

- The 'property object' is just a starting point for redesigning our land administration systems. It is not a panacea in itself.
- Further work should focus on developing different classifications of RRRs using the framework. These could be based around user needs. Different management models should be developed for different classifications of RRRs.
- The spatial and surveying profession will play a large and important role in spatially identifying RRRs.
- Sustainability will continue to be the key driver for redesigning our legislative and land administrative frameworks.



Thanks for your time

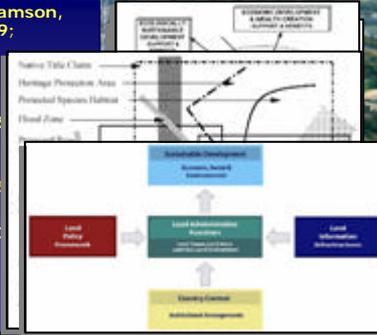
Any questions?

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 DEST, Australian Federal Government

The literature...

- Ting and Williamson, 1998 and 1999;
- Ting 2002;
- Kaufman and S 1998;
- Enemark, 2009
- Lyons et al, 2004;



Improving online searching...

Property Interest Search

Act Title:

Objective: Action Regulated:

Spatial Coverage: Duration:

Person Benefiting: Person Restricted:

Overall Importance: