

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [3.57 p.m.]: I move:

That this bill be now read a second time.

The Real Property Amendment (Public Lands) Bill 2012 makes important changes to the Real Property Act that will have a positive impact on the goal of achieving conversion of all land in New South Wales to Torrens title. The Real Property Act governs the Torrens system of title registration in New South Wales. Owners of land under the Torrens system enjoy the benefits of one of the most robust and reliable land title systems in the world. Most land in New South Wales is held under the Torrens system, the object of which is to provide certainty of title. This is achieved through the provisions of the Real Property Act, which establishes the Torrens register. The register is a public register that records current title ownership and other interests affecting land.

An owner who has an interest recorded in the register can rest assured, subject to a few exceptions, that their interest cannot be defeated by another unregistered interest, nor can the registered owner's title be set aside because of some defect in the history of the title prior to the registration of the interest. This is known as the principle of indefeasibility and is the cornerstone of the Torrens system. All land recorded in the register is guaranteed by the State Government as to its accuracy and completeness. The Torrens system underpins billions of dollars of economic activity in New South Wales each year. Because of the benefits the Torrens system provides over other titling systems or Crown title, it is in the public interest that all land in New South Wales be held under the Torrens system.

The Registrar General, through the Land and Property Information Division of the Department of Finance and Services, is working to achieve this goal of bringing all parcels of land in New South Wales to Torrens title by undertaking a series of conversion projects. Since 1981 part 3 of the Real Property Act authorises the Registrar General on his own motion to bring Crown lands under the provision of the Real Property Act. The conversion process under part 3 involves an investigation of the Crown title for each parcel to be converted, which, if suitable for conversion, will enable the Registrar General to issue a distinctive folio reference on the register. A certificate of title is then issued recording the State of New South Wales as the owner.

Additionally, any interests that may affect the land are recorded.

In 2007 Land and Property Information, under instructions from the Registrar General, undertook a large-scale project aimed at converting all remaining Crown title to the Torrens system. As a result of this conversion project, the Registrar General has issued Torrens titles to over 60,000 parcels of Crown land. Land and Property Information has now turned its attention to the conversion of State forest and national park land as a future phase of the project. However, in order for the conversion process to proceed, an amendment to the Real Property Act is required. The Real Property Act authorises the Registrar General to convert only Crown lands under the Crown Lands Act 1989 or Crown land under the Acts listed in schedule 2. Lands that have been dedicated as State forest and lands that have been reserved as national park are Crown land, but they are not land that can be dealt with under the Crown Lands Act. Also, neither Act is listed under schedule 2 of the Real Property Act. The result is that State forest and national park lands are not lands that can be converted to the Torrens

system.

The Real Property Amendment (Public Lands) Bill 2012 extends the land to which part 3 applies by adding the Forestry Act 1916 and the National Parks and Wildlife Act 1974 to schedule 2 of the Real Property Act. I have touched on the benefits of the Torrens system; however, there are other benefits that the Crown conversion project will provide if it is to continue with conversion of national park and State forest land. Land Property Information has been developing a digital cadastral database, which provides detailed mapping information for all land within the State. When the digital cadastral database is linked with information from the Torrens register a large amount of information relating to each parcel of land can be aggregated and easily searched. By contrast, land that has not been converted and for which no title has issued requires a more manual search process and needs to be performed by an experienced searcher with access to the paper records.

Further, there are benefits to the State as a whole in having one form of title for all land recorded on a computerised database that links spatial information with the title details. Conversion also will improve the comprehensiveness and accuracy of the Government Property Register, which is maintained by Land Property Information. Forests NSW, which is part of the Department of Primary Industries and is responsible for the management and care of State Forests, together with the New South Wales Office of Environment and Heritage, which is responsible for national parks, has requested the Registrar General to convert parcels of State forests and national parks and issue titles. The current land holdings of Forests NSW and the Office of Environment and Heritage are a mix of Torrens title, old system and Crown title. This adds complexity and uncertainty to the management of the land. Non-Torrens parcels rely heavily on paper records and need experienced staff who understand its complexities. Moving towards one computer-based title system will encourage best practice in asset management and savings in the ongoing management cost of the land records.

Whilst the conversion of titles will be facilitated through this bill, the conversion of the title will have no impact on claims by an Aboriginal Land Council under the Aboriginal Land Rights Act 1983. Generally, that Act enables an Aboriginal Land Council to make a claim for claimable Crown land, which is vacant Crown land and not required for an essential purpose or for residential land. Whether or not Crown land is held under Crown title or Torrens title will have no impact on whether the land is "claimable Crown land" within the meaning of the Aboriginal Land Rights Act. This bill gives clarity to ensure that the important services provided by Land Property Information can continue and to ultimately see that all land in New South Wales will be under the Torrens system. I commend the bill to the House.

Debate adjourned on motion by the Hon. Lynda Voltz and set down as an order of the day for a future day.