



Legislative Council

Conveyancing Legislation

Amendment (E-Plan) Bill Hansard - Extract

20/03/2002

Second Reading

The Hon. CARMEL Tebbutt (Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment) [5.00 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

In 1979, this Parliament passed the Real Property (Computer Register) Amendment Act. That Act enabled New South Wales to introduce the first computerised land title registration system in Australia on 31 October 1983.

Whilst title creation has been automated since 1983, the lodgment of subdivision and other plans in Land and Property Information New South Wales has remained a largely manual process. It requires a lodging party, who may be a private person but more often a solicitor or professional lodging agent, to attend the Sydney office of Land and Property Information and produce the plan and the associated documents.

The Conveyancing Legislation Amendment (e-plan) Bill 2002 will formally establish the first Internet facility in Australia for the remote electronic lodgment of plans and associated instruments, for registration by the Registrar General.

I must point out that electronic lodgment will not be compulsory. People will still be able to lodge their plans manually, if they so choose.

To provide an understanding of electronic lodgment I will first outline the principal features of the proposed legislation. Then, I will explain how the e-plan system is to operate in practice.

The e-plan bill will amend the plan registration provisions of the Conveyancing Act 1919, the Real Property Act 1900, the Strata Schemes (Freehold Development) Act 1973, the Strata Schemes (Leasehold Development) Act 1986 and the Community Land Development Act 1989.

The amendment of the Conveyancing Act sets the pattern for the amendments that are to be made to the other Acts I mentioned.

The Bill inserts a new section 6A in the Conveyancing Act. This section authorises plans and accompanying instruments, such as section 88B instruments creating easements and covenants, to be lodged electronically.

Whilst documents accompanying an electronically lodged plan will normally be lodged electronically, there will be exceptions in the case of certificates of title or old system deeds, which are generally lodged by mortgagees. On occasions, court orders, statutory declarations and other prescribed documents will also be produced manually.

The new section 6A also provides for a special approved form for signatures which is to be used for both electronic and manual lodgments. This form must be signed by the surveyor, the local council representative, the landowner, the landowner's mortgagee or lessee and others to indicate their consent to the purpose of the plan.

A further section to be included in the Conveyancing Act is section 195AA. This provision sets up the e-plan system. Under this system, a person can lodge plans and accompanying instruments electronically only if he or she is authorised to do so by the Registrar General. Approvals will be subject to conditions, and may be cancelled by the Registrar General.

The Bill amends section 195H of the Conveyancing Act to allow the Registrar General to require the electronic lodging of a replacement plan, if a plan that was lodged electronically is to be amended after being registered.

The Bill includes a new section 196AB in the Conveyancing Act to allow the Registrar General to require production of a copy of an electronically lodged plan, or the originals of any electronically lodged documents, or the original approved form for signatures. The production may be required either before, or for a period after, a plan is registered. It is envisaged that this power will be used to ensure that the plan

and instruments which are lodged are of the highest quality, and to check on any alleged irregularity in a plan or document.

The second last amendment to the Conveyancing Act is the inclusion of section 203A. This deals with the evidential value of an electronic plan or document. The section provides that a hard copy version of any plan or other document that is registered in electronic form has the same validity and effect as an original plan or document if the copy is issued by the Registrar General.

The final amendment to the Conveyancing Act involves the insertion of a validation clause in Schedule 9 of the Act. The purpose of this amendment is to validate retrospectively the registration of certain proposed road acquisition plans, which were lodged with the Registrar General by the Roads and Traffic Authority, in order to test and develop the electronic plan lodgment system.

The amendments to the Real Property Act parallel those made to the Conveyancing Act which I have just outlined. They are particularly concerned with authorising the electronic lodgment of "delimitation plans". These are survey plans that are registered to establish the true boundaries of parcels in limited folios of the Torrens Register.

The amendments proposed for the Strata Schemes (Freehold Development) Act 1973 and the Strata Schemes (Leasehold Development) Act 1986 also parallel those of the Conveyancing Act. However, there are two additional changes to the strata schemes legislation that I should mention.

The first of these repeals obsolete provisions which require the Registrar General to send copies of registered strata plans to various rating, taxing and valuing authorities. Since this information is now made available automatically under administrative arrangements, the legislative requirement is unnecessary.

The second amendment to the strata legislation allows the Registrar General to apply the same presumptions of regularity to strata plans, as he applies to deposited plans registered under the Conveyancing Act. Those presumptions are, firstly, that a signature or consent given under a power of attorney has been authorised; and, secondly, that a subdivision certificate that has been given by the local council has been duly endorsed.

The last group of amendments to be made by the Bill are to the Community Land Development Act 1989. Again, these changes simply parallel those in the Conveyancing Act.

In the operation of the e-plan system, surveyors and solicitors will each have an important role to play, as they do now under the present land development and plan registration process.

Because surveyors are responsible for their plans, and have the capacity to prepare subdivision and other plans in electronic format, they are best placed to lodge plans electronically. However, before a surveyor or other person can lodge a plan electronically, he or she must be approved by the Registrar General and obtain a user-id and password from him.

As is mostly the case now, solicitors will be responsible for obtaining the signatures and consents required on the approved form for signatures. They will also continue to have the task of preparing the instruments to accompany a plan, such as instruments creating easements, covenants and strata or community title by-laws.

The surveyor (or other authorised person) will scan the completed approved form for signatures and any accompanying instrument in a Tagged Image File Format (called a TIFF file), and transmit them and the plan electronically to the Registrar General, using a secure Internet facility.

An on-line lodgment form is to be completed by the surveyor or other authorised person. When a plan is lodged, notice of the successful lodgment and the plan number, together with an invoice for the fees payable, will be forwarded by electronic means to the lodging party. The fees are to be paid within seven days by traditional means or Electronic Funds Transfer.

The certificate of title or old system deeds and any statutory declarations (eg, establishing adverse possession) must be lodged manually for connection to the plan. A plan cannot be registered without the production of these documents.

At lodgment, councils will be sent an electronic copy of a plan affecting land in their areas. This will enable councils to ensure that there have been no unauthorised changes to a plan after they approved it.

As has been the case since 1993, when a plan is examined and registered by the Registrar General, an image of the plan and the accompanying instruments will be stored in the Plan Imaging System of Land and Property Information New South Wales. As well, an electronic copy of the newly registered plan will be sent to the council for the area affected, and to other rating or taxing authorities.

The procedures I have outlined were formulated, as I said earlier, with the benefit of experience gained in pilot projects undertaken with the Roads and Traffic Authority and with private surveyors.

There has been wide consultation with user groups on the proposed e-plan system. I am pleased to say that the proposals have the support of the Law Society of New South Wales, the Institution of Surveyors, the Association of Consulting Surveyors, Law Stationers, the Major Banks and Licensed Conveyancers.

In excess of 12,000 plans are registered each year in Land and Property Information, New South Wales, by

the Registrar General.

When implemented, the proposed legislation will deliver savings to Land and Property Information, New South Wales in processing plans and recording data. It will facilitate the direct lodgment of plans by councils and public authorities. And it will benefit landowners by reducing the time taken to lodge plans and have them registered.

The e-plan is yet another example of this Government's commitment to excellence in electronic Government.

I commend the bill to the House.