

# Land and Property Information NSW (Authorised Transaction) Bill 2016

## Second Reading

Mr SCOT MacDONALD ( 11:56 ): On behalf of the Hon. Duncan Gay: 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.

The Land and Property Information NSW (Authorised Transaction) Bill 2016 enables the private sector to invest in and operate the titling and registry business of Land and Property Information [LPI] for a period of 35 years.

Until July 1 this year, LPI was comprised of three main divisions—Titling and Registry Services, Spatial Services and Valuation Services. Titling and Registry Services administers the land title register in NSW while Valuation Services assesses land values to help determine rates and land tax, and Spatial Services creates and maintains mapping data for NSW.

This bill authorises the granting of a concession to operate the titling and registry services of LPI. The Valuation Services and Spatial Services divisions will not be included in this transaction. They will be retained within the Department of Finance, Services and Innovation.

### Benefits

In May this year, the Government announced its intention to proceed with this transaction after accepting the recommendations of a comprehensive scoping study into the business. The study found that the involvement of the private sector would be of long-term benefit to consumers, industry, and to taxpayers generally. The private sector will have strong incentives to invest in new technology, resulting in significant improvements to the system—and benefits for consumers.

Expected benefits of private involvement in LPI titling and registry services could include:

- Faster processing times;
- The introduction of new services for customers;
- Providing a better B2B experience for business customers;
- Greater investment in technology and innovation.

In addition, the transaction would free up valuable government funds to invest the net proceeds of the transaction into new infrastructure across the State, including the stadia package. This will help boost economic growth and productivity throughout NSW.

### Transaction

This bill provides for the term of the concession to be 35 years and for titling and registry services to return to Government after that period. Should the initial concession be terminated before the end of the 35 years, this Bill authorises the Government to re-tender with a term of up to 35 years or to return the titling and registry services back to the Government.

The re-tendered concession cannot be granted to the same entity that held the original authorised concession.

The bill sets out the roles and powers of the Treasurer and the portfolio Minister. The Treasurer has overall responsibility for the transaction, with the portfolio Minister having responsibility for the ongoing oversight of the concession arrangements.

The bill provides a range of legislative and regulatory mechanisms to protect both staff and the integrity of the property titling system in NSW.

The bill requires the concession arrangements to include provisions specifying the standards which the operator is required to comply with, and establishes a penalty regime should the operator fail to comply. In addition to the service standards, the concession arrangements are to provide for the authorised operator to operate and maintain the register, the delegation of the titling and registry functions from the Registrar General to the operator, and the functions of the Minister and the Registrar General in overseeing the authorised concession.

#### Staff protections

The Government has also moved to ensure the rights of employees affected by the transaction are protected—as we always do when it comes to private involvement in the operation of public assets.

Award employees will be provided with an employment guarantee of two years after transferring their employment to the new operator. For temporary employees the employment guarantee is the remainder of their current term of employment immediately before the transfer date or a period of two years after the transfer date, whichever period ends first.

Transferring employees will of course also have continuity of entitlements, including those relating to superannuation, annual leave and long service leave.

#### Regulatory Protection

The need to maintain the integrity of the Torrens system has been at the forefront of the Government's considerations during the design of this legislation.

Over the past months, the Government has consulted with the wider industry on this matter, such as the bodies representing conveyancers and the legal profession. We acknowledge their input and feedback, in particular, from the Law Society of NSW. The assistance of the Society is greatly appreciated.

The bill establishes the mechanisms for the Registrar General to be the regulator of the titling and registry business. The Registrar General will be a public sector employee. The bill introduces new provisions to allow the Registrar General to monitor and enforce the authorised operator's

performance in operating the titling and registry services. Performance will be monitored through clearly defined service levels, KPIs and obligations that ensure the security of the data.

The Government will continue to guarantee the Torrens titling system backed by the Torrens Assurance Fund. All applications for compensation from the Torrens Assurance Fund will continue to be made to the Registrar General. This will ensure the continued strong backing of the Torrens system by the State's guarantee of title.

#### Price Guarantee

The Government is committed to ensuring transparent and stable prices for regulated services provided by LPI Titling and Registry Services. The Government will monitor and regulate the price of services, so that price increases for regulated services will be limited to a maximum of CPI during the concession period. This will provide users and industry with additional certainty and stability.

#### Security of Data

Paramount in the Government's considerations has been the security of the data collected and managed by the operator. That is why the LPI transaction will mandate, through the concession arrangement, that the Government will retain full ownership of all land title data. The bill stipulates that data must be stored in Australia, and that the operator must adopt appropriate data security and fraud detection practices. The Registrar General will have regulatory oversight of these matters through the concession deed.

In order to ensure the integrity of the Register, the concession arrangements will include robust step-in-powers. In addition to these contractual powers, the bill includes statutory step-in powers. These can be exercised where there is a threat or a likely threat to the integrity of the Register and will allow the Government to operate the business if this becomes necessary in emergency circumstances. These safeguards will ensure the integrity of the system, the protection of data collected, and guarantee transparency and certainty for the industry.

The Government is committed to protecting and promoting competition and innovation amongst information brokers, service providers and others who are in the business of providing access to titling and registry services or offer products which use information from the Registry. The Bill requires that the concession includes measures that protect competition in downstream markets.

Under the concession deed, the Registrar General will approve the standard terms on which the concession holder is to deal with its wholesale customers and intermediaries and the Registrar General will have power to resolve any disputes over access. The Government will continue to make property sales information available under the Open Data Policy.

The bill specifies that the Privacy and Personal Information Protection Act 1998 applies to the private operator as if it were a public sector agency in the same way that it currently applies to LPI titling and registry services.

This bill makes amendments to the Real Property Act 1900 (RPA) and other land titles legislation to allow the operator to perform the operational functions of the Register, but under the oversight of the Registrar General. Under the new arrangements, the Registrar General will be

responsible to ensure that the requirements of the Real Property Act are performed. The power and duty to register dealings and plans will be delegated to the authorised operator, who will be required to comply with all Acts and laws applying to land registration.

Rules and requirements will be put in place by the Registrar General to enable stakeholders to engage effectively with the registry business. These requirements will take the form of Lodgement Rules. The Registrar General's Directions, which have been a valuable source of information for all users of the system for many years, will continue to be provided as guidelines.

The bill makes a significant amendment to the Real Property Act to give the Registrar General administrative review powers. Any person dissatisfied with a decision of the authorised operator can apply to the Registrar General for review. The operator will be required to give effect to any decision of the Registrar General made as a result of a review.

#### General Transaction Provisions

Finally, the rest of the bill is very similar to other transaction bills which have passed through this Parliament. It includes provisions which allow the Government to take the necessary steps to facilitate the transaction, including arrangements for the transfer of assets and functions.

The Government is confident that this transaction will result in better outcomes for customers, for the industry and ultimately for the taxpayers of NSW.

This bill provides an opportunity for the State to increase innovation in the land and titling industry, and to unlock capital to invest in infrastructure.

I commend the bill to the House.