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The government is proposing that the private sector will be invited to operate the Torrens Title registration system. The safeguards proposed include restricting the successful operator by way of contract and legislation to limit the increase in fees that may be imposed on the registration of documents.

The title system in New South Wales is second to none and has been the subject of continual upgrading and introduction of new technology to the point where it is recognised as the best titling system in the world and is operated as a business.

This business is a monopoly and is a critical infrastructure upon which the security of commerce and business are based. The integrity of the system includes the titling and the security of the Cadastre (the survey definition of the State). The system has been developed and improved to the point where a person owning land need not concern themselves about identity theft and fraud. If this occurs, and it does rarely, then there is a facility to claim compensation from the "Guarantee Fund" maintained by the government. This guarantee fund costs the consumer \$4.00 on each dealing. There are between 3 and 4 claims per year.

There has not been an independent assessment of the proposal. An independent assessment would draw attention to the profit made each year by the office and which is returned to the government for use by the government in their consolidated revenue. Last year \$47 million was returned to the government.

The suggested sale price for the concession is between \$700 million and \$1 billion for a period of 35 years, a one off payment, together with an agreed return from the office, subject to contract. The impact of any private insurance required will not raise the incidence of claims unless the system is allowed to deteriorate and become corrupted.

The successful operator will need to cover the immediate outlay and this will most likely be by the imposition of title insurance becoming a necessity and which cannot be regulated by the government. At present title insurance is available, though rarely taken advantage of. The cost on a purchase of a \$1.4 million home is approximately \$990.00. Last year 213,000 transfers were lodged thus if title insurance is required then, on a conservative estimate, \$210 million would be raised by the successful operator, mounting to \$744 billion over a period of 35 years in the absence of factoring in an increase of sales over that period.

It is likely that the successful operator will include a consortium of companies including a Bank, an Insurance Company, a Foreign Sovereign Fund and an International Superannuation Fund.

The consumers of New South Wales, concerned as they are with the rising costs of purchasing property, will bear the cost of this impost and will lose the benefit of an efficient, reliable title system and the profit that it now generates.

The title system is efficient, makes full use of available technology and is moving towards electronic lodgement and ultimately electronic settlement. In the absence of reliability on that integrity and accuracy then land dealings will be prone to the difficulties encountered in countries that do not have this secure system.

Reference: The Guardian 7 September 2016 – Land Registry sell-off plan put on hold

The proposal has been resoundingly set aside by the new government of the UK and it has been rejected in a number of other jurisdictions. This has been the subject of public debate in the UK over the last year. There has been no public debate in New South Wales.

Media Release: 13 September 2016 by Gladys Berejiklian

See attached.

Reference: Canberra property scam victim sues government for compensation

The case name is Astell v Australian Capital Territory [2016] ACTSC 238 Judgement – 22 August 2016.



Gladys Berejiklian
Treasurer
Minister for Industrial Relations

MEDIA RELEASE

Tuesday, 13 September 2016

LPI TRANSACTION LEGISLATION INTRODUCED

The private sector will be invited to operate the administration of the titling and registry business of Land and Property Information (LPI) under legislation introduced by the NSW Government.

Treasurer Gladys Berejiklian said the legislation provides a range of legislative and regulatory safeguards to protect the integrity of the property titling system while also protecting staff.

“Under this legislation, the NSW Government will retain full ownership of all land title data and data must be stored in Australia,” Ms Berejiklian said.

“The Government will also have strong step-in-powers to operate the business under the concession where it is in the public interest to do so. These safeguards will ensure the integrity of the system and will protect the data collected by LPI.”

The Government is transacting LPI's titling and registry division under a 35-year concession while its land valuation and spatial mapping divisions will not be transacted. A newly created regulator will monitor and enforce the operator's performance in respect of defined service levels, KPIs and the security of the data.

“It is important to note that the land title register is a public register – anyone can currently conduct a title search to access information stored on the register,” Ms Berejiklian said.

The private sector will be best placed to invest in new technology which will have major benefits for consumers. The legislation includes a two-year employment guarantee for award staff. Prices of regulated services will only be permitted to increase by up to CPI.

Net proceeds from the LPI transaction will fund new infrastructure across NSW including the stadia package.

South Australia in its 2016-17 Budget announced it was also looking to invite the private sector to operate title registry functions.

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