

ELECTRONIC CONVEYANCING BILL 2013

Second Reading

Resumed from 26 February.

MR C.J. TALLENTIRE (Gosnells) [9.08 pm]: I rise to speak to the Electronic Conveyancing Bill 2013 and I want to begin by stressing to the house the significance of this legislation. After all, it deals with a very considerable amount of money that is transferred within our Western Australian community each year; in his second reading speech, the Minister for Lands noted that it was about \$43 billion in the last financial year. That was the total value of transfers that were effected by Landgate using the current conveyancing system; \$43.8 billion is an enormous sum, and that reflects the scale of real estate and property activity that goes on in our economy. It shows that Western Australia's property sector, even when those in the real estate industry might say that it is in a fairly subdued stage, is still a major part of our economy. We all know that property transactions generally represent the most significant part of our personal finances, so this is significant legislation because it is about how transfers from one entity to another will be effected. It is hoped that by enabling an electronic system to be introduced, the whole process will be improved and be more efficient. There is every indication that that will be the case. That is why this side of the house will be supporting the legislation. I note that the upper house, the Legislative Council, looked at this bill and passed it. It was also subject to some careful study by the Standing Committee on Uniform Legislation and Statutes Review. Its report 85 recommended that the bill be passed. It comes with a high commendation.

I take this opportunity to raise a number of important matters relating to this bill that need to be reflected on properly. I mentioned that the bill will facilitate the task of those who work in the settlement and conveyancing area; in fact, it will speed up their task. At the moment a settlement agent, a lawyer who is working on a property transfer or a finance company is required to physically go to a Landgate office—either in Perth, Bunbury or Midland—to effect the transfer. That will not be necessary under the electronic system. Clearly, there is a time-saving benefit. I would like to talk about the passing on of that saving. Have we checked to see whether that saving will be passed on to the consumer? I do not know whether it is necessarily clear from the work that has been done on this bill whether that saving will be passed on. I have a feeling that in time the saving will be absorbed by those in the business as an extra aspect of their profit margins, and perhaps that is reasonable. In many other cases in which there are changes to regulations, we see a great emphasis on regulatory impact statements because we want to see the consequences of a regulation on an industry sector. That is fair enough. We then work out the flow-on effects. In this case, I would like to have seen how those savings will be passed on to consumers. That is just one issue that I wanted to raise during consideration of this legislation.

We currently operate, and we still will, under the Torrens system of certificates of title in which there is a single register and a certificate of title, which is a copy of what is on that register. The Torrens system was designed in South Australia in the 1850s and has been adopted around the nation. It was picked up by Western Australia in the latter part of the nineteenth century and it continues to serve us well. The changes proposed here—this switch to an electronic system—does not change the fact that we will still be operating under the Torrens system. The changes will enable people who have met the necessary criteria to access this national electronic conveyancing system. An intergovernmental agreement for electronic conveyancing national law was created under the Council of Australian Governments arrangements. It first came into operation in November 2011 and is already working well in a number of states. We could say that it has been road-tested; it is in operation and working well. As I said, it does nothing to compromise the indefeasibility of a certificate of title; it is consistent with that. It enables those people who are necessarily qualified to access this electronic system. I want to take the opportunity to say a little about those people. Settlement agents have to operate under a licence but I know that members in this place will have had varying experiences with settlement agents. I purchased an investment property recently; that will be a matter of parliamentary record. I had an excellent experience with the settlement agent that I chose, a very competent group called Elizabeth Reiss and Associates. They were fantastic. I was disappointed by the quality of advice provided by the settlement agent acting for the vendor. To give an example of the sort of advice that filtered through to me, I had some remarks to make about the structure of the building and the state of repair following a building inspector's report. The settlement agent suggested to me via my real estate agent that I might like to phone the vendor and discuss these matters directly. I thought that was quite unprofessional. One of the reasons we have settlement agents is so that we can be at arm's length from such an important transaction so that comments and concerns and things that need to be repaired can be properly dealt with and documented. That is the correct way to proceed. That was not the case with one settlement agent who was acting for the vendor. The settlement agent that I engaged was excellent.

We have a situation in which, as in many areas, there is a high degree of variability in the quality of work that is done. We have an issue with these people who are able to access this electronic system. They access it by going through the Department of Commerce. They get their settlement agents' kits from someone in the agency who

has the necessary diploma and they are then able to obtain a licence. There is probably a need for those licensing arrangements to be toughened up. I note that in March 2013 the government put out a document entitled “Compulsory professional development: a guide to the Compulsory Professional Development program for the real estate and business broking industries in Western Australia”. There are various aspects to that. I am not sure that the standards that are being presented as the industry norms are necessarily what Western Australians expect. That is why we often hear people say that one can go to a settlement agent for a property transaction when things are going relatively smoothly but once there is some sort of difficulty, we need to switch to somebody who can give legal advice. That is the situation—people acting as settlement agents are not allowed to give legal advice but they are supposed to know when they should advise people to consult someone about that legal advice.

Licensed settlement agents will continue to have access to this system of electronic conveyancing. Many people in the community are concerned about potentially fraudulent circumstances—we have heard of these—in which a contract of offer and acceptance has been signed by someone purporting to be the vendor of a property when, in fact, they were not. That has happened on two occasions. I understand that the previous Minister for Lands made moves to toughen and tighten the situation. I also note that in this legislation some further work is being done to ensure the system can avoid the potentially fraudulent sale of a property. Clause 77 proposes to insert proposed section 181B into the Transfer of Land Act 1893. Clause 77 proposes to insert a string of new sections into the act, but the bit I am concerned about is contained in clause 77. Proposed section 181B is headed “Commissioner and Registrar may require verification by statutory declaration”. This proposed section relates to what happens when there is some doubt as to the credentials of someone selling a property. The heading already contains the word “may”—“Commissioner and Registrar may require”—which, to me, does not sound quite compelling enough for something that is as grave as the potential fraudulent sale of a property. Section 181B(1) is proposed to be inserted into the act and states —

For the purposes of performing any function under this Act or any other Act, the Commissioner or the Registrar may require any person to verify any document, information, evidence, certification or other matter by statutory declaration.

It is still “may” and is not an absolute. Proposed section 181B(2) states —

If a requirement under this section is not complied with within the period allowed by the Commissioner or Registrar, the Commissioner or Registrar may refuse to take any action or, as the case requires, any further action in relation to the matter to which the requirement relates.

It lacks the clarity that people would expect when it comes to the transfer of land. These are amendments to the Transfer of Land Act 1893, which has been with us for some time, but in this day and age I believe its language needs to be much more categorical when we are dealing with a situation of fraud. I should say as well that there is an issue here about not only settlement agents, but also those who work in the real estate industry. I have had good experiences with real estate agents, and I have also had some disappointing ones, particularly when it relates to real estate agents not doing their due diligence in checking on the worthiness or capacity of someone to act as a vendor for a property. One particular case that I have seen involved somebody selling a property as the executor of a deceased estate when they were not entitled to. The various processes that have to be gone through for a deceased estate had not been concluded and this person was never going to be the executor for that estate and was never going to be the person entitled to sell the property. That again was a case in which a real estate agent had not done the necessary work to check the credentials of someone selling a property. That poses enormous problems. I know that offer and acceptance contracts contain provisions that allow for penalties to be imposed on people when there is a delay on settlement, and those amounts can be quite hefty. That is a necessary disincentive to stop people being careless about meeting the settlement date. Unfortunately, we still find that there are those who do not heed the warnings and inevitably it is necessary for someone to take legal advice and employ a lawyer, and then they find that those penalties are absorbed in legal fees. The whole thing becomes a little circular and the honest consumer ends up losing. That is an unsatisfactory situation, all because we need to seek higher standards not only in our settlement conveyancing sector, but also amongst our real estate agents and real estate industry professionals. We need to constantly make sure that the regulatory framework around the operation of this very important sector that is worth, as I said before, over \$43 billion a year is of the highest standard and is not something in which there is a temptation to wind back and cut red tape or to eliminate and reduce regulation. Nothing like that is satisfactory here. We need a rigorous regulatory framework that can deal with the potential problems that arise. We need to have the highest standards and in that way people can feel confident about the nature of their property transactions and that their investment is safe, and that their money will be invested wisely and not lost in any way through fraudulent deals.

Another dimension to this legislation is that a growing portion of the property sector is now taken up by transactions for properties that come under strata titles. I have indicated to the minister that this is an area the Parliament needs to turn its attention to, because the whole strata sector requires much better regulation. Many

strata title properties will be transacted through this electronic conveyancing system. They will become an increasing percentage of the whole property market. It is my understanding that currently in Western Australia, well over 200 000 dwellings are in some form of strata title. That means that we have a very high percentage of people who live in strata properties. In some cases, people find that they are buying into strata complexes without really knowing what that involves and what payments need to be made to a body corporate. That is not good enough. People are not made sufficiently aware of how their strata title is going to operate. They also need to be confident about strata title managers. They play a very important role, but I understand that currently strata title managers do not operate under any form of licensing. I mentioned that settlement agents come under a form of licensing, but there is no licensing arrangement for strata title managers. I do not think that is satisfactory at all. I am aware of some excellent strata title managers, but I am also aware of some who are highly inexperienced and inept and who cause all kinds of problems for people living in strata title properties. That is simply not good enough. Landgate has put out a discussion paper on this very issue; there are various iterations of it. It certainly raises some interesting points that I do not see in this current discussion paper. The document was passed to me informally, and I can see no discussion in it about the future licensing of strata managers. I think that is a real shame; I would certainly like to see that in the future.

I will dwell on this a little more because I do not think the Parliament gets enough of an opportunity to consider this important sector of the property market. As I say, electronic transfers will apply just as much to strata titles as to other parts of the property market. My understanding is that Landgate's target is to complete the major consultation on a review of strata titles in the first half of this year, have a draft bill available by the end of this year and proceed with enactment by June 2015. I hope that schedule is stuck to, but I do not know whether there is a broad enough consultation going on about this at the moment. I am also aware of the discussion paper's interest in insurance and liability matters. For some people that could be an alternative to actually requiring the licensing of strata titles. I would say that both are needed and that insurance and public liability should be required of various strata companies and their managers, but a very clear regulatory framework around those who operate in the sector is also needed. The discussion paper reads —

... the laws will require the Primary Strata Company and subsidiary strata companies to take out the usual insurance and public liability cover.

This is not even worrying about the strata managers, but it is setting up the situation for the strata company. The discussion paper continues —

Although the Act sets out a minimum public liability cover, this was inserted to cover non-layered schemes.

We are looking at contemplating all kinds of complexity with the new strata arrangements. I would like the minister to provide some assurance that the electronic conveyancing system will be able to deal with these multilayered strata title schemes in the future. The discussion paper continues —

In some larger developments, strata companies may be misled by a minimum insurance requirement and inadvertently take out inadequate cover [the minimum cover], whereas in a mixed use development containing commercial and retail outlets, for example, a much higher amount of cover may be appropriate. Stakeholders are giving consideration to whether a separate minimum level should be prescribed for layered schemes, with the requirement for schemes to take out insurance at an appropriate level in excess of the minimum, or if reference to a minimum level of cover should be removed from the Act.

The discussion paper raises many complex issues, but it is certainly a matter that needs to be dwelt upon by this Parliament, I think, very soon. As we move towards more efficient property conveyancing, we need to make sure that the various types of ownership situation that people may be involved in are properly understood, and that the potential for things to be done via computer transfer does not remove from people the opportunity to be fully informed and aware of the details.

Another aspect contemplated in the discussion paper that I find very interesting does not, I think, exist in Western Australia; that is, the idea of a leasehold strata complex. We see that famously in London, for example, where the whole district of Belgravia is owned by the Duke of Westminster, I believe, with those addresses like Chester Square, Eaton Square and Cadogan Place. Those very expensive properties are on 99-year leases, and are considered very desirable by those who live in the United Kingdom; they are often described as terraced houses, but they are very desirable properties and very expensive. There is clearly a demand for them in the UK. They are quite different accommodation to that found in most parts of Western Australia; nevertheless, the model is that of a leasehold strata title that we need to contemplate. I need assurance that our electronic conveyancing system will be able to deal with that type of property ownership in the future. The issues around those properties, how we generate leasehold certificates of title and whether they really do have a place in Western Australia need important consideration. The Minister for Lands is coming to grips with the details of

this portfolio. It is certainly a complex area, but nevertheless a fascinating one that touches on so many people's lives.

I will dwell a little further on the issue of strata titles. At a very practical level it is important that people should be able to make their homes as energy efficient and comfortable as possible. I was surprised to learn that if someone in a strata complex would, for example, like to put photovoltaic panels on the roof of their townhouse, they can put that to the body corporate, but if one person votes against the addition—it might not be photovoltaic panels; it might be the addition of an awning to keep out the afternoon sun or something as simple as that—they are not allowed to make that change to their dwelling. That is unfortunate. The governance arrangements in body corporate and strata title situations really need a major overhaul. It is clear that people want to make their homes as energy efficient or green as possible, but if they are restricted because of the current governance arrangements for strata title properties, that is not good enough. We need to update the Strata Titles Act to accommodate people's desires and needs. Some broad reforms are definitely needed. I understand that the Property Council of Australia is contemplating this matter, but I think it needs to be part of a public discussion. As complex as it is, we need to be getting on with it. I understand that the Australian Capital Territory has the potential for strata titles to have by-laws that enable people to make conversions to their properties that, in turn, enable them to have lower electricity bills for air conditioning and heating just by enabling them to do simple modifications. That is on the relatively minor scale of living in a strata complex.

More complicated, though, is the matter of sinking funds. It is a real concern that at the moment someone could be living in a strata complex and be aware that, say, the lift system needs a complete replacement—a major overhaul. The person might think: I am not going to be here that much longer. I am going to move out of this strata complex, so at the next body corporate meeting I am going to vote against the refurbishment of the lift system so that I do not have to incur those costs. It will be for the future owners to puzzle over how the funding will be achieved to pay for such a major overhaul. That can happen with the current governance arrangements. There are ways around this to do with sinking funds, but my understanding is that sinking funds are not compulsory; that is unfortunate. We need some special arrangement that requires funds to be set aside for those major works that might be necessary in strata complexes.

Contemplating the whole issue around electronic conveyancing gives us an opportunity as the Legislative Assembly to contemplate some other very serious issues relating to property in Western Australia. The transaction point is the best point at which people can be made aware of the issues they face. I am not sure whether that is really happening and I worry that in an electronic system people may be even further removed from getting the necessary detail. Hopefully, they will be fortunate and will have a good real estate agent who explains all the details, the ins and outs, and the benefits of a sinking fund if they are purchasing into a strata title property. I hope they also have the benefit of a good settlement agent. Those sorts of services are provided, and I hope that the benefits brought on by the Electronic Conveyancing Bill will be useful to the Western Australian public. The benefits of the legislation as it stands are definitely there, but we want to be ahead of the game and perhaps we are still catching up with the other aspects of property development, especially in relation to strata titles.

I want to conclude my remarks by noting a few things, especially the electronic platform that will be used. It is effectively a company of which the state of Western Australia is a shareholder. We saw in our state budget that money had been put aside so that we could buy into this electronic national conveyancing system. That is certainly an interesting use of our public funds, but when we look at the scale of economic activity in this area, we can see that the benefits that will be passed on to people using the system means that it is money well spent. I get back to the point I made early on that it strikes me that the beneficiaries will probably be the settlement agents, the lawyers and the financial institutions that will find they can do property transfers much more quickly and easily. Their profit margins will go up because the state has put money into being involved in this electronic platform. As I said, I am not convinced that the savings will be passed on to consumers, necessarily. We have not been provided with information about the direct benefits the system will have on individuals. The former National E-Conveyancing Development Ltd—I understand the system is now called PEXA—is already in operation. We are partnering with the Victorian, New South Wales and Queensland governments and financial institutions are involved as well. To have us buy into this system is certainly an interesting use of public funds. I conclude my remarks by saying that we support this legislation, but we hope the government will address those many issues relating to property in Western Australia in the near future, especially in relation to strata titles, otherwise I think we will find people making major investments and being disappointed, frustrated and indeed scared by the consequences of an investment gone wrong. We need only a few scams and a few stories about people having disappointing circumstances to remove or damage the confidence that currently exists in our property market. We support the bill, but we look forward to the minister responding, hopefully, at the second reading stage, to some of the issues I raised in this speech.

MS R. SAFFIOTI (West Swan) [9.45 pm]: I rise to make some brief comments in support of the lead speaker of the opposition on this Electronic Conveyancing Bill 2013, the member for Gosnells. As the member for Gosnells has highlighted, we support the bill, but we have some concerns about the need to ensure that the new form of conveyancing will not be misused to misrepresent people through their transactions. I note that the process behind this bill was agreed to in 2008 through an intergovernmental agreement; it always takes a long time for many of these intergovernmental agreements to come into place and it seems that a number of other states have passed the necessary legislation.

I want to put on record that I think that Landgate, particularly when it was, as I remember, under the stewardship of Mr Grahame Searle, was probably the only agency across the public sector that ever did information and communications technology well, in a sense. It did not waste taxpayers' money and it actually project-managed the digitalisation of material very well over the years. Again, I particularly congratulate Mr Grahame Searle, who headed the agency throughout some of the more significant technology changes. I think it has done a very good job and Landgate is probably one of the best agencies I have seen in the way it provides information electronically and in the information that is available to purchase online about properties around the state. I just wanted to put that on the record.

The main purpose of this bill is to increase efficiency and reduce costs, and I note that a study shows that from 2011 to 2028 the estimated savings from the new system will be worth about \$580 million. The study states that as Western Australian property transactions represent about 14 per cent of all those anticipated, there will be approximately \$580 million in benefits. The member for Gosnells asked whether that benefit would flow on and how we could recoup some of it through the private company, and I will discuss that company in a minute; however, there will be significant savings. I also want to put on record issues about the cost of holding, transferring and purchasing property. I will touch on that in a minute and, in particular, I will talk a bit about land costs in WA and how they continue to increase.

I found it quite interesting that the state has purchased 15.9 per cent of a private company called National E-Conveyancing Development Ltd.

Mr W.J. Johnston interjected.

Ms R. SAFFIOTI: I will go through it. The conveyancing system is known as PEXA—Property Exchange Australia. Western Australia, Victoria, New South Wales and Queensland were established and initial investors in National E-Conveyancing Development Ltd. The four major financial institutions—ANZ Bank, Commonwealth Bank, the National Australia Bank and Westpac—have subsequently invested in the company. The state, through Landgate, has a 15.9 per cent shareholding in this company and has invested a total of \$22.4 million. The shareholder benefits this investment are expected to return to the state are significant, together with the business efficiency reforms through a digital platform for conveyancing, fund settlement and lodgement of documents that will be delivered to Landgate and the conveyancing industry. Picking up from what the member for Gosnells highlighted, I would like more details in the response to the second reading debate from the minister about how this private company will work and its actual returns. I know we are talking about business efficiency, which is, of course, a very good thing and if that can lead to lower land costs that is also a good thing. Has any quantum been determined for the return to state taxpayers for buying into this company and being a key funder, as the share is 15.9 per cent, which is a lot bigger than our population share? That is an interesting development—a company has been developed to organise electronic conveyancing, with WA being a major shareholder. I require further clarification about how that company works, how it interacts with the state's balance sheet and its expected return in future years.

As the member for Gosnells outlined, we support electronic conveyancing. About three or four years ago, there were identity scams related to the transfer of properties. It is front of mind that security is of utmost importance in the new systems. One feature of this law is that the subscriber is taken to have signed an electronic document unless the subscriber can prove that the digital signature was not created by the subscriber or one of its employees, agents, officers or contractors acting on its express or implied authority. It seems the rule is that the subscriber is deemed to have signed the document in the first instance and it is up to the subscriber to prove they have not signed the document if there are cases of fraud or any other issues. We require more clarity about that.

The issue of land costs in Western Australia is something that I have been looking at and monitoring quite closely. I am glad the Minister for Planning is in the chamber. He is nodding; I love it when the Minister for Planning nods! We are seeing an interesting issue in WA; that is, land prices have increased significantly in recent years and are continuing to increase. At the same time we are seeing average block sizes reduce. That has to come to an end eventually. This is just off the top of my head: the average block size was approximately 520 square metres about eight years ago. It is now moving down to the mid-400s; probably about 430 to 440 square metres. The price per square metre is increasing quite significantly. There will be a limit to how small

block sizes can go. Many of us who represent growing suburbs are seeing a real contraction in block size, particularly through the Lord Street growth corridor, through Ellenbrook and many of the members for Butler and Gosnells' areas, and through areas of growth throughout the southern area. That is basically in response to a market in which land costs continue to increase. Developers and home purchasers go for smaller block sizes to allow some affordable housing. The question I have is: how low and how small can these blocks go, and what will be the impact of land prices from then on? The average increase in the cost of blocks has been masked a little by the decrease in the average block size. We were seeing significantly higher costs per square metre. I do not think this government has the answer. I do not think its current process is delivering the affordable housing that is needed throughout the state.

Significant issues continue in infrastructure coordination, including the "who pays?" principle. There was a recent debate about Western Power's investment. There is no-one in government whose job it is to look after housing affordability. That is a major issue that continues to be a problem in what is being experienced in the suburbs. We have a Minister for Lands, a Minister for Planning and a Minister for Housing, but there is absolutely no-one looking at what government does to impact the price of land on a day-to-day basis. This government, more than any government, operates in a bit of a silo mentality.

Mr P. Papalia: A bit!

Ms R. SAFFIOTI: A bit! We do not see the ministers asking questions of each other. There really is little coordination. Decisions are being made on a daily basis, whether it is public transport plans that are complete junk or utilities undertaking different policies. A classic example is the issue to do with active open space in new developments, which I think is very interesting. A study came out recently saying that the amount of active open space available to people living in the newer suburbs is a lot less than the amount in suburbs that were built in the 1960s through to the 1990s. Current policy actually redirects a lot of open space away from active open space. We sit here and agree that sport and recreation is very important and that we need to have space for children to play. That is something that particularly relates to newer suburbs. Block sizes are contracting, so people moving to the newer suburbs have a greater need for active open space. Policy on that is going the other way; that is, less active space per person in newer suburbs. The Minister for Water said we have a water efficient active open space policy, which means less water for our playing fields in the suburbs. That completely contradicts the whole push to get children out and participating better in the community. It is another example of government members not talking to each other about land costs, housing affordability and unlivability in the suburbs.

We have a Minister for Planning who is in charge of planning, we have a Minister for Housing—I am not sure what he is responsible for but I do not think it is housing!—and a Minister for Lands, but not one person making sure we are keeping the lid on land prices, and that we are doing what we can in a structured way to make housing affordable for people throughout Western Australia.

Mr W.J. Johnston: Even after what they said in opposition.

Ms R. SAFFIOTI: In particular after what they said in opposition.

An issue that has arisen recently is that the decreasing block size is hiding the magnitude of the increasing land prices in Western Australia. Although we are not seeing a 20 to 30 per cent increase in land prices, when the two are combined, we are seeing significant increases in the price per square metre.

I want to quickly raise the strata title issue, which the member for Gosnells referred to. I think it is an area of policy that is absolutely underdone in this state. It does not reflect the fact that more and more people are purchasing both homes and commercial properties in the strata title environment. I will illustrate a classic case about a commercial property, member for Gosnells, which the minister would possibly be interested in analysing. In the industrial commercial area of Malaga, an existing property had approximately eight units on it. It was a property that comprised shops. The eight units were built approximately 20 to 25 years ago all under one roof in a strata title complex. About five years ago, someone purchased the vacant land that was right next to that existing strata. They were unaware —

Mr D.T. Redman interjected.

Ms R. SAFFIOTI: Yes. It is a really interesting case about how people can be treated so unfairly. A person has purchased a property right next door as part of the strata title. They were quite unaware of their obligations or the nature of what they were purchasing. A unit was built on it; the unit comprises 25 per cent of the total space. The owners of the previous unit, who have the majority of votes, voted a number of years ago to replace the entire roof of the existing unit. The person who had just built their unit now has to pay 25 per cent of the total cost to replace the roof. It is an incredible situation.

Mr W.J. Johnston: Did the real estate agent disclose to the purchaser the potential liability?

Ms R. SAFFIOTI: I do not think so.

Mr W.J. Johnston: That is one of the problems. People do not realise the real estate agents —

The SPEAKER: Member for Cannington, the Hansard reporter has to follow the debate. You might want to speak later, member for Cannington. Carry on, member for West Swan.

Ms R. SAFFIOTI: As the member for Cannington has said, there was no proper disclosure by the real estate agent. Ultimately, it is about a person who had used their retirement earnings now forking out thousands of dollars for a unit in which they really do not have any share because they have built this brand new unit. I will be looking forward to a response to the letter because it is a particular example of an unfair case.

Mr D.T. Redman: The response is that we need performance.

Ms R. SAFFIOTI: We need significant change. This problem seems to occur quite a lot to people who have bought units in commercial precincts, particularly when there are two stages of a development—some development done 20 or 30 years ago and a new development this year. I will look forward to that response.

Mr Speaker, you will be happy to know, because I saw you nodding off a little bit, that that concludes my comments on the second reading debate on the bill.

MR W.J. JOHNSTON (Cannington) [10.01 pm]: I did not intend to speak on the Electronic Conveyancing Bill 2013, but I want to follow up on strata titles. After the member for Willagee resigned his frontbench responsibilities, for a brief period I took on the responsibility for planning and housing for the Labor Party. One of the Labor Party's election commitments at the 2013 election was a parliamentary inquiry into strata titles. I know that the Department of Lands is working on these issues, but the strata title laws have got to the limit of their capacities and it is time to look at this matter in more detail. The problem that the member for West Swan highlighted is similar to the example of a strata unit in my electorate in the little bit of Thornlie not in the member for Gosnells' electorate. There were 41 units in a development and the purchasers did not realise that they were purchasing only the strata unit and not the physical infrastructure, and they had to come up with \$40 000 to replace the roofs and gutters. It led to one of my constituents selling and moving to another place because she could not come up with the money to replace the roofs and gutters. There is a lack of disclosure by real estate agents of the obligations of strata companies.

The Economics and Industry Standing Committee of the last Parliament, chaired at the time by the member for Riverton and deputy chaired by me, conducted a review of the caravan industry and made a series of recommendations in respect of disclosure for tenants in long-term caravan parks. I think that that type of clear language disclosure is needed in strata titles so that there is a much better understanding of what people are buying. I am frightened to think what is going to happen in 20 or 30 years with the new, large, high-rise apartment tower complexes being built in the city. Potentially there could be serious problems. What will happen in a strata tower of, say, 100 apartments, 20 retail tenancies and 20 office tenancies if suddenly a lift needs to be replaced? Imagine the complexities involved in funding the replacement of a lift! There will be some people in commercial business with absentee landlords, some investors in the residential part who might have been there for only three years, people who have been residing there for 30 years and people who have been there for only two years, yet their obligations will be identical. This is a serious problem.

As I said, the Labor Party identified this problem in the lead-up to the 2013 election. Had we been elected, which we were not, we would have directed a parliamentary inquiry into the matter. I will be interested to hear from the Minister for Lands what the department is doing in terms of strata titles. I know that the Economics and Industry Standing Committee of the last Parliament had discussions briefly with the Commissioner for Consumer Protection about some of these issues, but I am sure a comprehensive review would be worthwhile. I encourage the government to think about doing it through a parliamentary committee. That is what parliamentary committees are very good at—looking at complex issues and bringing together lots of different perspectives so that the Landgate people are talking to the consumer protection people and the Department of Housing people are talking to the planning people. The minister might choose another way, but I think that would be a good approach. With those few remarks, which I could have made by way of interjection but was prevented from doing a moment ago, I will say no more.

MR D.T. REDMAN (Warren-Blackwood — Minister for Lands) [10.05 pm] — in reply: I thank members for their contributions to the debate on the Electronic Conveyancing Bill 2013. They have all indicated their support, and given that this is part of an arrangement through the Council of Australian Governments to get a nationally consistent approach to electronic conveyancing, and given that the world is moving away from paper-based transactions to electronic-based transactions, this is an appropriate bill to bring to the house to support that position.

The member for Gosnells said that the matter had also been referred to a committee in the upper house, which, for the most part, gave the bill its full support. Nothing came out of that committee's review, and on the back of the member for Cannington's point that parliamentary committees have a robust approach in assisting how these things work, or what should change or what issues might arise from particular bills, and given that this bill came through that process with a clean bill of health, that should give us extra confidence that the bill before the house now has been through the upper house and should have our full support.

I talked to the member from Gosnells earlier and he was happy for me to respond to some of the questions raised. I am going to attempt to do that. I do not have my advisors here, but for the most part I have a reasonable response to his questions. The member for Gosnells talked about a range of things, but I will pick out the bits I believe he was chasing responses to. One concerned the process of speeding up the task of conveyancing. Although this bill replaces with an electronic process what was a paper-based process, the process is still dependent on all the parties doing their bits. People will be able to electronically log into the system—in this case, Property Exchange Australia—and all the respective parties to the transaction will log in and do their business. It will depend on their coming to the table and doing the bit when they need to do it, so the speed of it is dependent on all the different parties involved in a transaction.

The member for Gosnells talked about cost savings, and, yes, there are cost savings involved in this, as people would expect, when moving away from a paper-based system to an electronic-based system. The member's question was whether those savings will be passed on to the consumer rather than being taken up by a government agency or something else. The savings are mostly to the subscribers. The subscribers to the process are lawyers, conveyancers and banks. They are industry people, and if there are savings in industry by having efficiencies of process, it is up to industry to pass on those savings should they wish to do so. It is a competitive market, so I would expect that those competitive tensions within industry would dictate that those who pass on those savings and can get more efficient processes would indeed pass on those savings to consumers and, therefore, be a preferred conveyancer or bank or lawyer to support a transaction. I would be surprised if savings were not passed onto the consumer, simply because there is a market process in play and the consumer would choose those people in the market who are putting up the most cost-effective process to support their particular transaction.

Key to this—it was an issue raised in the upper house—is the notion of fraud. Given that there have been a couple of examples—not very many, I might add, in Western Australia—of land being sold from under people, and given the current rules in place, not a lot of recourse is available for those people to get their land back for a range of reasons that I will not go into now. As I and the committee went through this matter, I am confident that the processes we have in place here, which fundamentally do not change the system—they simply allow for electronic conveyancing to occur—make the chance of fraud much harder to happen. Interestingly, by using electronic signatures, we can track back to someone, but if someone signs a bit of paper we have to make a judgement about who actually signed it. That was one of the questions I asked of the people who were advising us on this measure. Something as simple as an electronic signature is much more robust in dealing with fraud.

The member talked specifically about clause 77 and referred to proposed section 181B, “Commissioner and Registrar may require verification by statutory declaration”, and saw the word “may” as perhaps representing a softening of the government's position on having control over the activities of someone who might be fraudulent in their activities. I refer to some advice I received on that part of the legislation; it comes under the Transfer of Land Act 1893. This legislation amends the Transfer of Land Act to reduce the risk of identity fraud and other improper dealings in property transactions by conferring an express statutory power on the Commissioner of Titles and the Registrar of Titles to require the verification of identity of a person, and the confirmation of the authority of that person to deal with land. Currently the commissioner and registrar rely on an implied power to require verification of identity and authority, not an express power, so this is actually strengthening the current rules in place around the roles of the Commissioner of Titles and the Registrar of Titles. With regard to the specific point that the member made about this clause, this change is actually making it much more robust. That should answer the member's question in that respect.

Other issues were raised in relation to strata titles legislation by the member for West Swan and the member for Cannington. They talked about challenges in the strata title legislation and they are absolutely right; there is a need to reform the legislation around that. It is nothing to do with what is before us in this bill. Strata titles will go through electronic conveyancing, as they currently go through paper-based transactions, but that is something that we are putting a lot of work into now and it is something that I support. The examples that the member for West Swan raised with me highlight the need to make contemporary the current rules around strata titles. Indeed, I live in a strata in Denmark and I am all too familiar with the shortcomings; there are some strengths, but I am all too familiar with some of the shortcomings that can play through with regard to being part of a strata.

I also support the member for West Swan's comments around Landgate. Its ICT capacity, particularly under Grahame Searle's leadership and now under Mike Bradford's leadership, is outstanding. I think it is actually a leader in that area. The member for West Swan also asked why there was the need for taxpayers to invest in the platform used for an electronic lodgement network operator, which in this case is PEXA. She made the point that Western Australia is a foundation investor in that, along with a number of other states. We have done that for the simple reason that Victoria tried it on its own, invested something like \$10 million, did not get it off the ground, and there was effectively a market failure in that there was not a platform available to do it and no-one prepared to invest in it, so a number of other states did and got it off the ground. We hold a share greater than what the member might consider Western Australia should hold on a national level, but I have confidence in the value of that investment. Indeed, we have also been able to bring the banks to the table. We cannot do this, and will not get support for a platform, unless the banks come to the table, because they are a key part of the transactions.

Ms R. Saffioti: Do you expect to sell it in a few years?

Mr D.T. REDMAN: We may well do. It is an asset that the state holds, and, from what I understand, it has actually increased in value. It is an area where there is market failure; there was not a platform. If we are going to embark on having a national electronic conveyancing system and a platform that all states can operate in, we need to ensure that there is one there to be able to support the sort of legislative changes we are making here and the position we are trying to take nationally. In short, the issue was around the fact that there was market failure in that area and we have had to make that investment to get it going. I am confident that it will be a very good investment.

The member for West Swan talked about housing affordability. I could talk about a number of things around that, but the Minister for Housing is probably a more appropriate person to respond on the Liberal–National government's position on housing affordability in Western Australia.

I think I have summarised the main issues that were raised with me. As I said, this legislation has been through enough processes to ensure that we have a robust bill that supports the national position around electronic conveyancing. I am very thankful for members' support for the bill, because it is important that we get this endorsed so that Western Australia can be a party to it and so that all those industry people who are a part of conveyancing processes can come on board and have the option of electronic conveyancing. I highlight that just because we will pass this bill, Landgate will continue to operate a paper-based platform, particularly for some of the more complex transactions. It is not something that we are totally exiting from, but it is important that we make our legislation contemporary with national reform. This bill does that. I thank members for their contributions to the second reading debate.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

MR D.T. REDMAN (Warren–Blackwood — Minister for Lands) [10.17 pm]: I move —

That the bill be now read a third time.

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.

House adjourned at 10.17 pm
