

Hon Colin Holt MLC

Member for South West Region

Our Ref: 103

13th April, 2018

Hon Matthew Swinbourn MLC
Chair
Standing Committee on Environment and Public Affairs
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005
Via email: env@parliament.wa.gov.au

Dear Mr Swinbourn

PETITION NO. 047 – TORRENS TITLE SYSTEM

I write in response to your letter of 19 March 2018 inviting a submission with regard to issues raised in petition No. 047 tabled in the Legislative Council on 13 March 2018. I understand this issue has been raised by the principal petitioner with the Parliamentary Commissioner for Administrative Investigations (Ombudsman).

The petition primarily requests the Legislative Council look into two aspects of information captured and communicated through the transfer of land process. First, it calls for the State's land title registry, which is the responsibility of Landgate, to introduce a system that makes information contained on Certificate of Title documents more informative for property owners. Second, it calls for an investigation into whether the process of lodging notification of legislative changes affecting landowners by way of the Government Gazette is adequate.

In relation the petitioners first request, it is my understanding that the 150-year-old Torrens Title System does not capture or disclose interests held by all parties with respect to individual Certificates of Title vested in property owners. Examples of interests that are currently excluded from titles are easements for underground and above-ground public utilities infrastructure such as drainage, sewerage, water supply and electricity, and privately owned assets such as telecommunications infrastructure. Although these interests are not captured on titles, private landowners are obliged to allow Government agencies and private enterprises that manage this infrastructure access their property and conduct works as required. Examples of organisations regularly seeking access to private property to conduct works include Water Corporation, Western Power, Telstra, NBN Co. and local government authorities. Some of these works can impact the condition and value of properties.

While I realise there are publicly available sources of information describing Certificates of Title, accessing property interest reports even a full *Land Title Registration Practice Manual* published by Landgate, the question



Unit 2/8 Cassowary Bend Eaton WA 6232

E: colin.holt@mp.wa.gov.au | www.colinholt.com.au

Ph: (08) 9724 1181 Fax: (08) 9724 1148 Freecall: 1800 758 458

should be asked that perhaps much of this information would be more appropriately captured in the Certificate of Title. Doing so would create a one stop document for current and prospective property owners and eliminate the timely (and at time costly) requirement to seek out information that could influence decisions around buying, selling or developing land.

It has come to my attention that other Australian jurisdictions have made moves to capture and note government utility interests on certificates of title. My preliminary investigations have not confirmed this but it may be pertinent for the committee to seek some information on this and how if it may be a useful system for adoption in Western Australia.

In relation to the petitioners second request, they wish to see a more informative process to notify landowners of legislative changes that may impact their properties. Currently changes are published in the Government Gazette. Perhaps there are alternative approaches to notify landholders of proclamations that can complement the existing system?

The petitioners have suggested the option of individually notifying to all landowners in the event of legislative change that affects them. This may be a cost-prohibitive method of notification, but I see no harm in the Committee investigating other options such as electronic notification or advertising in applicable community and media publications as an alternative or complimentary to using the Government Gazette.

If you require any further information please do not hesitate to contact my electorate office on 9724 1181 or email colin.holt@mp.wa.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH', with a large, sweeping flourish extending to the left.

Hon Colin Holt MLC
MEMBER FOR SOUTH WEST REGION