

# TRANSCRIPT

## STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

### Inquiry into the proposed long-term lease of land titles and registry functions of Land Use Victoria

Melbourne — 5 July 2018

#### Members

Mr David Davis — Chair

Mr Cesar Melhem — Deputy Chair

Ms Melina Bath

Mr Richard Dalla-Riva

Mr Nazih Elasmr

Mr Daniel Mulino

Ms Huong Truong

Mr Daniel Young

#### Participating Members

Mr Jeff Bourman

Ms Samantha Dunn

Mr James Purcell

Mr Simon Ramsay

Dr Samantha Ratnam

Ms Jaclyn Symes

#### Witnesses

Ms Karen Batt (affirmed), Secretary, and

Mr Julian Kennelly (affirmed), Media and Communications Manager, Community and Public Sector Union.

**The CHAIR** — I declare open the hearing of the Standing Committee on the Environment and Planning with its reference on the commercialisation of the titles office and first apologise for my delay. The joys of the Monash Freeway — I am not the only one who has ever been caught on that.

I welcome Karen Batt, the Secretary of the CPSU, and Julian Kennelly, the Media and Communications Manager for CPSU Victoria, to the hearing. I indicate that evidence given here is protected by parliamentary privilege, but evidence or comment outside is not. Karen, you might wish to lead off with just a short statement, and then we will follow with some questions.

**Ms BATT** — Thank you. I would like to begin by acknowledging the traditional owners and the custodians of the land on which we meet today, the Wurundjeri people of the Kulin nation. I pay my respects to their elders past and present, to emerging leaders and to elders from other communities.

The decision to commercialise Land Use Victoria is short-sighted and ignores the very foundations our land titles system is built on. Land Use Victoria is a monopoly asset. Our land titles office has been responsible for scrutinising every mortgage, title and survey on Victoria's 4 million-odd properties for over 145 years without any issues. The titles office provided more than \$380 million in annual revenue to the budget in 2016–17. That is why privateers will pay between \$1 billion and \$2 billion to secure this each year in part or whole over a 40-year contract.

Land Use Victoria plays an important role in Victorian society as the regulatory body for land titles and ensures that every Victorian's land rights are protected. Further, a stable and impartial land titles office helps maintain our robust economy. In commencing the privatisation of Land Use Victoria through commercialisation, the state government is putting the integrity of our land registry system at risk. CPSU is making a submission on behalf of not only our Land Use Victoria members but also all our members who are deeply concerned about the commercialisation of Land Use Victoria and what it could mean for their home, property rights, their own jobs and the privacy of their personal information.

CPSU values the hard work and experience of public sector workers and believes they are best placed to keep providing this quality service to Victoria. CPSU continues to strongly oppose this commercialisation of Land Use Victoria functions and believes that Land Use Victoria should remain wholly in public hands, with the government investing in the new technologies and then using the increased revenue opportunities to create more jobs for Victorians.

Originally the proposal to privatise Land Use Victoria was an election promise made by the Napthine government in 2014, prior to the election. CPSU was surprised that the proposition was then picked up by this government when the proposal appeared in the 2017 budget and a scoping study commenced without consultation with the public or other affected groups. CPSU is concerned about public service jobs and the longevity of careers currently in Land Use Victoria. CPSU has been wary of the impacts the proposal will have on the land titles system, the economy and Victoria as a whole. For employees able to keep their jobs, commercialisation of components of Land Use Victoria will devalue their knowledge and experience in a complicated area of legal and property rights.

Finally, some of CPSU's apprehension comes from analysing other jurisdictions that have either sold their land registry offices or considered privatising the services. Consequences that followed the sale of land registry offices in New South Wales and South Australia have highlighted why CPSU is averse to this step on the way to the privatising of land title services. Internationally, sales of land title registries have not fared much better. The Victorian government would be prudent to take these experiences into consideration before choosing to proceed with the proposed commercialisation of Land Use Victoria. Thank you, Chair.

**The CHAIR** — Can I thank you for your evidence and your preparedness to give that evidence. You have asked for the land titles office to remain wholly in public hands. Is there any component that you feel is suitable for commercialisation? Are there any activities that you feel could be safely, as it were, and reasonably put into a commercial mode?

**Ms BATT** — I do not believe there is any evidence to suggest that should be the case.

**The CHAIR** — Right; so there are none. Parallel with this process we have heard evidence that the PEXA system is moving forward to allow electronic — virtual, in a sense — movement of titles and financial

settlements parallel with that. Do you see any risks in the PEXA date of 1 October that the state government has mandated occurring parallel with a commercialisation of the titles office?

**Ms BATT** — Mr Kennelly will answer that question.

**Mr KENNELLY** — Thank you, Chair. It is hard to be qualitative at the moment in respect of the date for implementation —

**The CHAIR** — Although it is a hard date that the state government has put on it.

**Mr KENNELLY** — Yes, correct. But about the security of the PEXA system. I would suggest that it is probably worth analysing that in the context of a commencement date.

**The CHAIR** — So you think a later commencement date may be wiser in and of itself with PEXA, or do you think that there is a risk that any commercialisation that happens with the titles office, which is proposed by the state government — and we have heard evidence that there is a risk of this occurring parallel with the PEXA implementation dates?

**Mr KENNELLY** — Yes, I think my comments were that the PEXA irregularities that have been in the public domain need to be fully investigated first. Whether that impacts on the start-up date would be based on the response.

**The CHAIR** — And you mentioned the experiences in other states. Do you want to detail those in the case of New South Wales and South Australia?

**Mr KENNELLY** — We have covered a fair bit in the submission. I do not know whether you want us to read through that.

**The CHAIR** — I am interested to hear the evidence; that is all.

**Mr KENNELLY** — Do you want us to read from the submission?

**The CHAIR** — Sure, yes, or you can add more to it if you wish.

**Mr KENNELLY** — In New South Wales the government was incredibly secretive about the terms of the sale, claiming that the sale was commercial-in-confidence. Further, in the lead-up to privatisation, public servants in the land titles office in New South Wales were made redundant. Consequently hundreds of families unknowingly bought property along the path of a future freeway. The error was not picked up because the people responsible for checking registration problems were those that had been made redundant, and there is a reference to a story that ran in the News Ltd papers in respect of that.

In South Australia the then government secretly sold off a motor vehicle registry as part of the sale of their land titles office, the details of which have only come out recently. If the current South Australian Liberal government were to refuse to go ahead and privatise the motor vehicle registry, they would have to repay \$80 million plus 10 per cent interest per year.

The experiences from both our counterpart organisations in those states have not been good in respect of the consultation around the sales. New South Wales seems to be the worst example we have seen, where price gouging occurred not only prior to it being sold but subsequently.

**The CHAIR** — So that was fees being jacked up ahead of the sale?

**Mr KENNELLY** — Prior to the sale and then subsequently, with the structure they put in place, the fee increases that have occurred through the system of people accessing titles online that has been established.

In South Australia our counterpart body fought a long campaign to determine the bona fides of the actual purchaser of the land registry system, and I understand they sold the Valuer-General's office as part of the single package. We understand that there was a company established that had a number of directors but no staff and that they were forced to go back and forth to tribunals and courts to establish some contact to even have a discussion about what lay ahead for the staff who worked for the department-based service if in fact they were going to be transferred or sold as part of the sale. I do not believe that went exceptionally well.

**The CHAIR** — So I have two questions to follow up there. The first is: the costs of the virtual PEXA system appear to be greater than the cost of doing a land transfer under the longstanding paper transfer system; do you think that the costs that have been built in and now mandated at certain levels for the electronic transfer are actually part of a step to increase costs and prices ahead of commercialisation?

**Ms BATT** — We actually do not have much information in respect of that question, Chair.

**Mr KENNELLY** — I would be unable to answer.

**The CHAIR** — So that takes me to my next question. We have heard from a number of other organisations that they have not been consulted on this process. So it appears, for example, that the conveyancers, who have got a very significant stake in the system, had a very preliminary discussion but have not heard the details of the model that is proposed by the state government for commercialisation. Indeed at a hearing we had to relay to them what we had heard in the hearing. Have you had a formal briefing on the exact model that is proposed by the state government?

**Ms BATT** — It was announced. There was something announced in the December *AFR*, but that is as much as we have had.

**Mr KENNELLY** — I have only got the Treasurer's press release from 4 December 2017 that made comments in respect to some of the future proposals that they were looking at at the time.

**The CHAIR** — So there has been no formal meeting with the CPSU by the state government to discuss the model and the details and the structure of the proposed commercialisation?

**Ms BATT** — We have met with the department but not on the structure.

**Mr KENNELLY** — The department only has the same information that we have — that we have been in discussions with around the fact that they are now talking about only a few functions, and I understand from the evidence that was given by the department —

**The CHAIR** — To our committee?

**Mr KENNELLY** — Yes — that they have firmed up on the functions, the numbers and the process for the timetable of transfer.

**The CHAIR** — So, for example, the 110 staff that were referred to in the briefing that we were provided, that has not been formally conveyed to your —

**Mr KENNELLY** — Yes, we have had that information provided to us.

**The CHAIR** — From the department?

**Mr KENNELLY** — By the department, yes.

**The CHAIR** — Government officials have not met with you — government, as in the Treasurer or the planning minister?

**Ms BATT** — I have met with all members of Parliament that would see me to talk about this.

**Mr KENNELLY** — Including the Treasurer and the planning minister, yes. I believe we even spoke with representatives of your political party as well.

**The CHAIR** — And are you satisfied with their consultation process on this matter?

**Mr KENNELLY** — We have been in negotiations for probably the last four to six weeks in respect of arrangements for staff, and I understand that those arrangements are subject to discussion with the staff this week. The details are being circulated this week — they are going through processes at the moment.

**Dr RATNAM** — Thank you very much for both your evidence today and your very comprehensive submission; that was really useful. Can I start off by asking a more general question. What does your expertise or experience in this area indicate about the impact of privatisations on the quality of jobs?

**Mr KENNELLY** — We provided a bit of an overview of some of the items that were privatised during the 1990s in our submission to the parliamentary inquiry at the time. Clearly there is some experience in our organisation dealing with either governments in respect of proposals to sell off, privatise or, in this particular case, enter into commercial arrangements to lease. But our experience and most Victorians' experiences around services that have moved from state-run to privately run operations would see a diminution of service delivery, increased costs, a failure of many providers to go the distance and on a number of occasions the state having to step in to either prop up the private organisation or retake the service.

**Dr RATNAM** — Any further comment on the impact on the quality of the work itself for employees who might have to move to the commercialised function and/or job security?

**Mr KENNELLY** — Probably a question better directed to the department in respect of the arrangements that we have now come to with them, but just briefly, we have successfully concluded an agreement that will see a voluntary opt-in process for staff identified. As was pointed out by our colleague, the matching and EOI processes are underway at the moment. The bare details are that there will be a four-year right of return —

**The CHAIR** — To the public sector.

**Mr KENNELLY** — Of course — and payments structured to encourage the staff to opt in to the process. Clearly there has been concern that in a monopoly asset and a specialised area, whoever is successful and the government chooses, they will not have any people to run the service, so the existing staff will have to continue. We understand from our discussions with the department that that is the proposal, and on that basis they are the arrangements that we have only just reached agreement with them on.

**Dr RATNAM** — Does the CPSU or staff believe that the two-year contract period that has been guaranteed with the private operator is sufficient, the four-year right of return? Is it a two-year contract and then a four-year right of return?

**Ms BATT** — Four.

**Dr RATNAM** — It is a four-year contract, is it. Okay. Do you believe that is sufficient?

**Mr KENNELLY** — It is what we agreed to.

**Dr RATNAM** — Are your staff or the CPSU concerned that changes will have an impact on codes of conduct, ethics with a private operator or data being sensitively being handled? Has that been canvassed in the discussions at all?

**Mr KENNELLY** — Because the receiving entity, the private operator, has not been disclosed — we are not sure whether they have been chosen yet — there have been no discussions with that party. We understand that the commitments that the department has given to the staff would indicate that they would be treated in exactly the same way as they are being treated currently. They were the understandings we had when we reached agreement last week in relation to the arrangements for transfer. I am reading into the question that if in fact a person decides to return within the four years, they will still have standing within the public service and that the private company, if the people continue, will continue to recognise their conditions of employment, their superannuation and therefore, I am presuming as well, although yet to be confirmed, that public sector ethics, codes of conduct and the like would also continue to overlay their employment arrangement.

**The CHAIR** — Or their equivalent.

**Mr KENNELLY** — However it is structured. It is not different, Chair, in respect of questions about, 'Well, how does the private company respond under the freedom of information legislation?'. We have not seen how that is going to be structured yet, but the noises are being made that of course that will apply where we have not seen it, so we do not know. But clearly that is one of the concerns we would have about the private entity taking over the operation. Is it going to be subject to exactly the same transparency requirements as the public sector agency is now?

**Dr RATNAM** — Connected to that question: are there concerns about loss of rights and conditions along with the other potential impacts for workers?

**Ms BATT** — Not anymore as a result of the agreement.

**Dr RATNAM** — Can I ask: have you been consulted on or do you have a view on what would occur if there were insufficient staff who took up the voluntary offers? What would the impact of that be?

**Mr KENNELLY** — We have tried to structure the arrangements to satisfy the views that were put forward by the employees through us and through themselves to the department over the last six months. I understand from the presentation we made last week, or the Friday prior to that when the general outline of the structure of the agreement was presented, that — there are probably a number of cynics in the workplace — they were generally relieved and accepting that that gave them the option to be able to make an informed choice. We have structured the agreement to assist in bringing the maximum number across in the designated positions as being represented that way purely for that purpose.

One of the issues that we had in discussions with the department and when we were making representations to members of Parliament was our concern that the age demographic in that office had not been taken into consideration when the announcement was first floated. There were a number of senior public servants who worked in the service that had many, many years of service and much skill, and many of them might have been thinking that this provided an opportunity for them to exit. That might still be a consideration for some, but we are hoping from the feedback that we have received that they may stall that retirement and go across based on the fact that they have this four-year right of return that will be made available to them.

**Dr RATNAM** — Are any of the staff concerned that there might not be options should they not voluntarily opt into the system? So in a way, if you like, they have fewer options but to take up the voluntary option? Have they made representations in that respect to you?

**Ms BATT** — There has been a commitment that there will be options made available to staff who choose not to opt in.

**Dr RATNAM** — May I ask what type of support the CPSU is providing to the staff during this transition process? I also note that the consultation in your submission, as you have spoken to as well today, has been quite late in the piece, so I anticipate that there has been quite a lot of anxiety around it. What kind of support has been sought and provided through that process?

**Mr KENNELLY** — We have been representing our members. Probably by way of retort, with respect, the parliamentary committee is very late in the process. We have had this floated since May 2017 and we have been seeking representation regularly through all the channels that we have available so that we could provide information to the membership in the office. It has probably been us carrying the load in respect of the lobbying and representations being made to members of Parliament that led to the decision by the government and the Treasurer's announcement in December to limit the scope. That would indicate to us that we have been successful on a number of fronts with the arguments that we have been making. Only at that stage, I suppose, did we have clearer detail as to what government were then intending to do, so that relieved a little bit of pressure because initially of course we were thinking that they were talking about 400 to 500 staff. Then they started to talk about specific functions, so the shift in our representation focused on the registry staff and the issues that they wanted us to pursue. We did include in our submission the only — what we were able to find — external source of information on this whole process from as far back as May 2017, and that was the selective leaking of information to the 'Street Talk' column in the *Australian Financial Review*. Everything that we were able to gather was only through information that was being presented there for public consumption. We have not had any engagement with any of the consultants that Treasury have engaged and —

**The CHAIR** — They have not consulted you — the various consultants?

**Ms BATT** — No.

**Mr KENNELLY** — It would be unusual for them to, but no.

**The CHAIR** — Well, not really; you would think if you were employed to scope up something of this nature, you might actually have some engagement with the workforce.

**Mr KENNELLY** — Possibly so, Chair, but we would be surprised considering that was not a process that you followed in government either —

**The CHAIR** — I am just a simple fellow.

**Mr KENNELLY** — Maybe you do not want to talk about that.

**The CHAIR** — Well, we often did.

**Mr KENNELLY** — There is room for improvement on all sides, there is no doubt.

**The CHAIR** — One question I have to ask you — I think many in the Parliament thought that if the government proceeded in this direction there would likely be legislation. It appears that is not going to be the case now. Had you expected this to be done through a legislative process, and ought it be done through a legislative process?

**Ms BATT** — It is actually hard to answer that question because the scope of it is not clear to us.

**The CHAIR** — Yet.

**Ms BATT** — Yet.

**Mr KENNELLY** — We have not sighted the scoping study. I see most of the other parties that have made submissions to your committee have also been in the same position, so your information to us that it looks likely that there will not be legislation is as much news to us as whether or not there would be. I am not sure how they are going to proceed. They are asking a private firm, even though it is on contract, to possibly have the staff exercise an executive power. They will be determining titles and applications and presumably making decisions in respect of disputes. So to me that indicates —

**The CHAIR** — A non-legislative —

**Mr KENNELLY** — No, the reverse.

**The CHAIR** — You think they might do a legislative —

**Mr KENNELLY** — but I am not a lawyer nor a legislator, so I would have to ring our members in parliamentary counsel. I would suggest it is probably a point that needs to be pursued. I have just given you a heads-up in respect of that.

**The CHAIR** — All right. Well, we will follow up.

**Mr KENNELLY** — Take the heads-up.

**Dr RATNAM** — Can I ask a couple more questions?

**The CHAIR** — Yes, please.

**Dr RATNAM** — I was just going to ask a question about whether you or staff had been consulted in the scoping study, but it sounds to me that no staff had been consulted during that scoping study. Is that your awareness as well?

**Mr KENNELLY** — There were a number in departmental committees that were established. I presume they were getting advice internally from their people.

**Dr RATNAM** — But not with the CPSU formally? So that was directly staff being consulted, potentially?

**Mr KENNELLY** — No. We had that as secondary information and it was then on-provided to us, but not in a formal sense.

**Dr RATNAM** — In a retrospective and ideal sense, when would the CPSU have liked to have been consulted in this process around the proposed commercialisation — ideally?

**Mr KENNELLY** — Pre the budget in 2017, I would have thought.

**Dr RATNAM** — Just one concluding question: you have outlined in your submission — which was very comprehensive and very clear, and I thank you for the work that has gone into that; it provides a very compelling case — you have very, very serious and significant concerns around the privatisation, both the concept of privatisation and the likely impacts given the domestic and international experience. That being said, it sounds like you have been in some negotiation in terms of getting some positive outcomes for your staff. Given the level of concern you have raised in your submission and the concern for your staff and the agreement that you have reached, do you believe that agreement satisfies those concerns you have raised in your submission?

**Mr KENNELLY** — It only deals with the terms and conditions of the employment side of the level of concerns.

**Dr RATNAM** — In terms of the outstanding concerns you have, if you could summarise what would be the outstanding concerns — if the staff conditions have been satisfied somewhat? Is that what you believe — that they have been satisfied somewhat or fully, and then what outstanding concerns you have about the commercialisation?

**Ms BATT** — Some of the broader questions are the impact this has on other parts of government, the impact on revenue and what it might mean for the interrelationship of different departments and how they might work. So I think that there are some systemic questions that do still need to be answered.

**Mr KENNELLY** — Just on a final point, it appears to us that the commercialisation of certain functions, even though it will be over a long period contracted, could lead to future governments looking at expanding arrangements in that space. I know the Chair's party had an interest in this area similarly. I would think that there would be great pressure from the contractor over any period of time about how they run a business, if their interest is the revenue stream, once we have the cycle of four years turn itself over, mindful of the age demographic in the office, I think is probably a fair comment. We have been around long enough to see commercialisations turn into full privatisations and bailouts. It is probably best not to have got started in the first place.

**The CHAIR** — Can I thank you for your evidence. The secretariat may come back to you with some further questions as this goes forward. I hope indeed that the parliamentary committee has actually had some effect in encouraging the government to engage fully in this area with not just your organisation but a number of others, because it seems until this stage it had not really undertaken some of that engagement. Thank you.

**Mr BATT** — Thank you, Chair.

**Witnesses withdrew.**