

Local Land Boards

New South Wales
Chairpersons Office

The Principal Council Officer
Standing Committee on Law and Justice
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms. Main,

Inquiry into opportunities to consolidate tribunals in NSW

Thank you for your letter of 25 January 2012.

I wish to clarify a statement I made in my evidence to the Committee and also to make a further response to a question I was not able to answer when giving my evidence.

Further Response

During my evidence I was asked a question by The Hon. Scot MacDonald in relation to a bill tabled by the Minister for Primary Industries in relation to rural tenancies (transcript 23 January 2012 p 67).

I was not aware of the bill and I was therefore unable to answer the question.

I have now read the bill and would like to make a short submission in relation to the jurisdiction for dispute resolution of agricultural tenancies proposed to be granted to CTTT.

It is a commendable proposal to grant jurisdiction to a tribunal to hear and determine disputes arising under the Agricultural Tenancies Act 1990, particularly when proposed Part 4 section 22 obliges the parties undergo alternative dispute resolution at first instance.

However, in view of this Inquiry and the possibility of change to tribunals in New South Wales, I question the appropriate tribunal to deal with disputes under the Agricultural Tenancies Act.

Parliament has seen fit to grant to the Administrative Decisions Tribunal ("ADT") jurisdiction under the Retail Tenancies Act. Disputes about retail tenancies have the possibility to involve significant quantum of damages for either the lessor or the lessee.

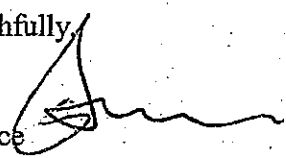
There is a close parallel between retail tenancies and agricultural tenancies. Both types of tenancies are commercial tenancies. The law of landlord and tenant is complex. The potential financial impact on agricultural lessor's and lessee's business if a dispute arises is significant, similar to the effect on retail businesses. The decision maker needs to have a complete set of rural land use skills, as well superior competence commercial tenancy law.

In my evidence to the Committee I urged your Committee to give consideration to an over arching super tribunal, with individual tribunals acting as "silo's", retaining their unique functions, special expertise, procedure and structure, all supported by a common one stop single entry registry service.

I believe that the appropriate tribunal to deal with the complexities and importance of commercial tenancies, in with I include agricultural tenancies, is the ADT. It has:-

- existing expertise in the law of commercial landlord and tenant;
- its judicial members are experienced and knowledgeable;
- it hears and determines disputes in the locality of the parties throughout rural and regional NSW;
- it provides fully expanded written reasons for its decisions;
- most importantly, it has an internal appeal panel, which has demonstrated its value by curtailing the number and cost of appeals.

Yours Faithfully


Philip Boyce
Senior Chairperson
Local Land Boards
New South Wales

2 February 2012