

INQUIRY INTO OPPORTUNITIES TO CONSOLIDATE TRIBUNALS IN NSW

Organisation: Caravan and Camping and Manufactured Housing Industry
Associaiton of NSW

Date received: 25/11/2011

The Director
Standing Committee on Law and Justice
Parliament House
Macquarie Street
Sydney NSW 2000

25th November 2011

Dear Director

**Caravan and Camping Industry and Manufactured Housing Industry
Association of NSW – submission on inquiry into opportunities to consolidate
Tribunals in NSW**

This Association commends any proposal to consolidate Tribunals in NSW to provide better outcomes for our members who are users of the Consumer, Trader and Tenancy Tribunal. We ask that you take the following into account in your Inquiry so that we can all benefit from a more responsive and effective decision making process.

On 1st October 1986 the Residential Tenancies Tribunal (RTT) was established to deal with excessive rent cases under the Residential Tenancies Tribunal Act 1986. The Minister for Consumer Affairs was the responsible Minister.

On 30th October 1989, the RTT was given the extended jurisdiction for residential tenancies, including caravan parks, under the Residential Tenancies Act 1987 and Retirement Villages Act 1989. The Minister for Housing was the responsible Minister until March 1995 when it was transferred to the Minister for Fair Trading by the incoming Labor Government. Although the RTT was changed to the Residential Tribunal during this time it effectively kept the same jurisdiction but with the addition of strata and community schemes jurisdictions.

The Consumer, Trader and Tenancy Tribunal (CTTT), a super jurisdiction tribunal responsible for residential tenancies, social housing, residential parks, home building, motor vehicles, commercial, retirement villages, strata and community schemes and general consumer claims was established under the Consumer, Trader and Tenancy Tribunal Act 2001 and started on 25th February 2002. It was responsible to the Minister for Fair Trading.

It has been this Association's position that the appropriate responsibility for the CTTT and its predecessors is the Attorney General.

Our position is based on the following:

1. A judicial decision-making body should be outside the responsibility of the area responsible for policy development of the subject matter of the disputes, in this case, the Minister for Fair Trading.
2. Any recruitment by Fair Trading for members of the CTTT establishes a consumer protection bias, which further distorts the position of the traders (in our case the park owners) and the consumers (park residents).
3. Because the CTTT is outside the courts and legal system it does not get access to the developments in the judicial training and education areas. Any developments, including improvements are not automatically passed onto the CTTT. For example, a triage type process is not part of the CTTT's administrative setup although it is a matter being implemented within the courts and legal systems throughout Australia. This is a very important issue for our members who have to deal with the tyranny of distance throughout the State and the inability to the CTTT to adequately serve their needs.
4. The complaints handling mechanism for the CTTT is dependent on an internal mechanism unlike the Judicial Commission. This is unsatisfactory from the participants' point of view and gives the impression that there is no real complaints mechanism.
5. Education of members of the CTTT is done outside the courts and legal system. This does not provide the CTTT with access to resources such as the Judicial Commission.

This is an important issue that has a significant impact on the delivery of services provided by our members to the tourism and housing industries in New South Wales.

We would like the opportunity of further putting our position at your Inquiry on 15th and 16th December 2011.

Yours sincerely

R J Browne
Legal Counsel