

Submission for the establishment of registries and hearing of matters from all divisions of the NSW Civil & Administrative Tribunal in Newcastle

January/ February 2014

We refer to the recent establishment of the NSW Civil & Administrative Tribunal (“NCAT”).

1. Mr Hon Greg Smith SC, Attorney-General, on 22 November 2012 stated when introducing the *Civil & Administrative Tribunal Bill NSW (2012)*:

By taking advantage of existing tribunal facilities, the New South Wales Civil & Administrative Tribunal will also be able to provide greater access for people in rural and regional communities. The economies of scale that come with a tribunal of this size will also provide opportunities to share resources more effectively.

2. Currently only the Consumer & Commercial Division of NCAT has a registry in Newcastle and hears matters in Newcastle on a permanent basis. This does not achieve the stated goal of the Attorney-General of “greater access for people in rural and regional communities”.
3. On 31 December 2013 Acting Minister for Justice Michael Gallacher in announcing that NCAT would start on 1 January 2014, said:

The NSW Civil and Administrative Tribunal is a one-stop shop for almost all State tribunals making it easier for people in New South Wales to access the services they need.

4. Whilst it is widely promoted that NCAT will have a “single contact point” with one registry and one website, this should not be limited to only one contact point in a geographical sense. It is submitted that NCAT should not limit its service to Sydney but should expand its reach to regional areas of New South Wales in the very way proposed by the Attorney-General.
5. This submission calls for the establishment in Newcastle of a registry in each of the divisions of NCAT and for the facility for hearings in all divisions of NCAT on a permanent, if not necessarily on a full time, basis in Newcastle.

Profile of Newcastle and the Hunter Region:

6. In 2011 Newcastle and the surrounding Local Government Areas¹ (**the “Hunter Region”**) had a population of approximately 651,667 people. Further, the Hunter Region experienced the largest population increase and had the fastest growth rate (1.2%) of any area outside of Sydney². Of this population approximately 318,300 people are employed within 43,085 businesses operating across 19 different industries³.
7. The Hunter Region has employment industry profiles that are comparable to the rest of the state. For example the Health Care/Social Assistance industry represents 12.4% of employment in the Hunter Region compared to a rate of 11.5% across NSW. This statistic shows that the Health Care/Social Assistance industry has a relatively large presence in the region that would benefit from having local hearings in matters in the Regulatory Division.

¹ Lake Macquarie, Maitland, Port Stephens, Cessnock, Great Lakes, Singleton, Muswellbrook, Upper Hunter, Dungog & Gloucester.

² ABS Website, www.abs.gov.au, Statistic 3218.0 ‘Regional Population Growth, Australia, 2010-11’

³ NSW Parliamentary Library Research Service, November 2011, ebrief, 16/2011 ‘The Hunter Region: An Economic Profile’ John Wilkinson.

8. It is clear that the Hunter Region has a large population with high growth rates and would potentially benefit from the provision of registry services and hearings in all four divisions of NCAT within its geographic area.

Resources:

9. Currently NCAT has a registry for, and hears, matters only in the Consumer & Commercial Division from the location of the now subsumed CTTT in Scott Street in Newcastle.
10. There is scope for the provision of services by NCAT in all four divisions in regional areas of NSW. In particular Newcastle has the facilities to have a registry, or registries, servicing all four divisions and to accommodate hearings in any of those four divisions on a permanent basis, either on a full time or part time basis.
11. The Newcastle community is currently awaiting the construction of a new Court complex on Hunter Street that is expected to be completed in late 2014. This complex will provide significant growth in the resources available to Courts, the public and the local legal profession. A larger Court complex and the related facilities provides a rare and timely opportunity for NCAT to expand. Should NCAT take advantage of such an opportunity there is scope for Newcastle to be used as a central hub for the Hunter Region.
12. The experience of the Family Court of Australia, which has a registry and full time Courts sitting in Newcastle, is that many litigants who live on the North Coast of NSW prefer to file and have their cases heard in Newcastle rather than in Sydney. On the basis of that experience there is clearly potential for NCAT Newcastle based facilities to service parties outside the Hunter Region including those who live on the North Coast.

Areas of Law:

13. There is scope for all matters that NCAT deals with to be heard in Newcastle.
14. Because of the large number of Local Government Areas (11) within the Hunter Region, many administrative decisions are made which, should they be subject to hearings within NCAT, can also be heard in Newcastle.
15. A table outlining a very small sample of local firms who have had matters in both the old Guardianship Tribunal and the old ADT within the past twelve months is annexed and marked "A". The matters listed are outside the scope of the CTTT.
16. The statistics at annexure "A" exemplify a small picture of the work which could be undertaken in Newcastle should the facilities be available.
17. Of the firms asked, all indicated that had the relevant tribunal been able to deal with these matters locally they would have been filed and heard in Newcastle.
18. These hearings were conducted in Sydney and the parties were put to considerable and avoidable expense and inconvenience. It would be expected that the conduct of such cases would be cheaper and more efficient for the parties involved if the hearings could be held in Newcastle.
19. The numbers clearly indicate there is scope for matters outside of the Consumer & Commercial Division of NCAT to be heard in Newcastle. The demand certainly exists. Further, it is clear that should registries be established in Newcastle those registries, as opposed to those in Sydney, would be used for filing, case management and other support services. Newcastle has the capacity to hear and manage matters from the Hunter

Region, and potentially the North Coast, and this would decrease the load on NCAT within the greater Sydney area.

Accessibility:

20. The establishment of registries which service all four divisions of NCAT in Newcastle would further promote one of the fundamental purposes of NCAT - accessibility for the public.

21. Accessibility, when used in the context of NCAT, means not only “ease of contact” via a single phone number and a single website but should also mean accessibility in a geographical sense. Accessibility involves decentralising the services and hearing venues of NCAT away from Sydney and promoting registry services and hearings in major regional areas. The cost savings and convenience promoted by that decentralisation, in particular in relation to with appearances before the tribunal are obvious, especially in the Hunter Region which is serviced by over 600 practicing solicitors and over 50 barristers.

Appropriation of Funding:

22. Whilst it is acknowledged that establishing facilities for permanent hearings and registries in the Newcastle region would require funding, it is clear that any such expenditure would greatly benefit the users of NCAT and would assist in the development and growth of the tribunal system in NSW.

23. The current opportunity presented by the establishment of the new Court complex, is rare and unlikely to be repeated; it is an opportunity not only to achieve efficiencies, but for NCAT to be identified as part of the new facility and the improvements and benefits which it brings to the community.

24. The population, and consequent revenue base, of the Hunter Region justify local expenditure to establish registries and hearings of all divisions of NCAT on a permanent basis. Whilst Newcastle will not ever hear as many matters as Sydney there is scope for Newcastle to be a central hub for both the Hunter Region and, potentially, the North Coast of NSW, thus providing a tribunal which is accessible to larger numbers of users in this State.

25. Whilst it cannot be ascertained that there would be any immediate net saving of expenditure to the NSW Government it is submitted that the likely benefits to both the users of NCAT, and NCAT itself justify such expenditure in the medium to long term.

Submission:

26. It is respectfully submitted that it would greatly benefit those who live in this region, NCAT, and the NSW Government itself, if facilities for a registry, or registries, servicing all divisions of NCAT, and for the conduct of hearings effecting local people and businesses were established in Newcastle. There presently exists an ideal window of opportunity to efficiently establish a highly beneficial service for the people of this region.

Dated 7th February 2014

Peter Cummings SC
President
Newcastle Bar Association

Simon J. McMahon
Author
Barrister, Hunter Street Chambers

Annexure “A”

Sample of matters (outside CTTT) dealt with in Sydney which would have been dealt with in Newcastle had their been provision to do so with various Tribunals

<u>Firm</u>	<u>Administrative & Equal Opportunity Division (Old ADT)</u>	<u>Guardianship Division (old Guardianship Tribunal)</u>	<u>Total matters in last 12 months which would be heard in divisions other than the Consumer & Commercial Division</u>
MRM Lawyers	3	1	4
Burke & Mead	5	2	7
Moray & Agnew	3	-	3
Reid Commercial Law	4 – 6	1	5 - 7
Cantle Carmichael Lawyers	4	1	5
McDonald Johnson	2 – 3	-	2 - 3
Rankin Ellison	5 - 6	-	5 - 6
Bilbie Dan Lawyers	5 – 6	-	5 - 6
Kilmurray Lawyers	-	5 - 6	5 - 6
OWP Law	2	1	3
Baker Love	-	6	6
O’Hearn Lawyers	-	3 - 4	3 - 4
Catherine Henry Partners	-	5	5
TOTAL	33 - 38	25 - 27	58 - 65