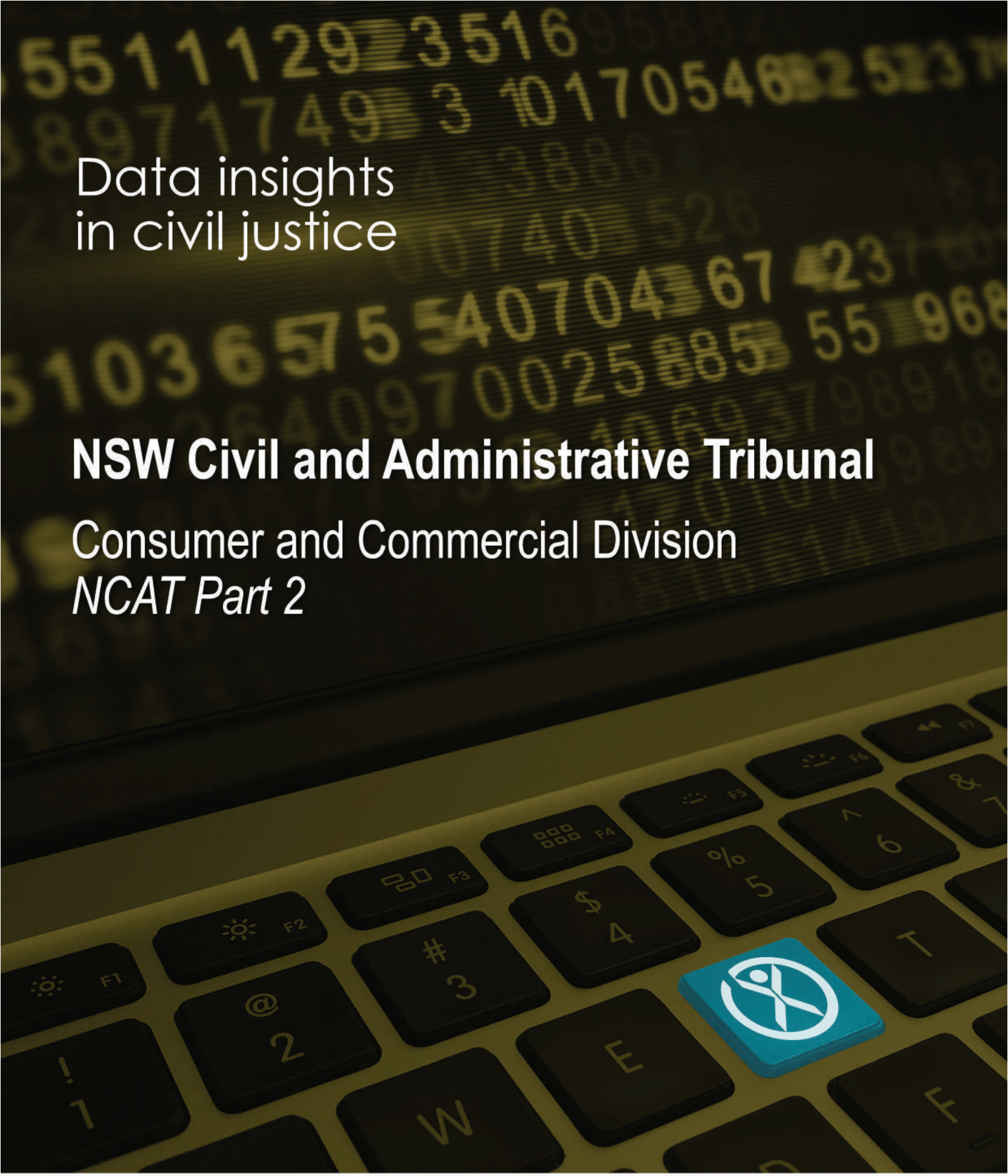

Data insights
in civil justice

NSW Civil and Administrative Tribunal

Consumer and Commercial Division

NCAT Part 2

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

Data insights in civil justice:

NSW Civil and Administrative Tribunal *Consumer and Commercial Division* (NCAT Part 2)

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Law and Justice Foundation of New South Wales

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LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

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Shortened forms

ABN	Australian Business Number
ABR	Australian Business Register
ACN	Australian Company Number
AEOD	Administrative and Equal Opportunity Division
AP	Appeal Panel (NCAT)
ASIC	Australian Securities and Investment Commission
ATO	Australian Taxation Office
CCD	Consumer and Commercial Division
CMS	Case Management System
Foundation	Law and Justice Foundation of New South Wales
GD	Guardianship Division
NCAT	New South Wales Civil and Administrative Tribunal
NFP	not-for-profit
NGO	non-government organisation
OD	Occupational Division

Key messages

Overview

The Department of Justice NSW is seeking to optimise the use of civil court and tribunal data for evidence-based decision-making, specifically the civil divisions of the Local, District and the Supreme Court, the Land and Environment Court and the NSW Civil and Administrative Tribunal (NCAT). The Law and Justice Foundation of NSW has been engaged by the Department to investigate the quality and utility of each court and tribunal's data in informing policy and practice. This is a report on the data of NCAT's Consumer and Commercial Division (CCD).

The CCD

The CCD is the largest of the four NCAT Divisions, dealing with more than 80% of all NCAT matters. 57,653 matters were finalised in the CCD in 2015. The CCD deals with a wide range of matters across nine lists, though half (51%) of the CCD's work is in the *Tenancy* list and a further 26% in the *Social housing* list.

Data source

The CCD holds information about each matter in paper files and electronically. Electronic data is stored on the CCD Case Management System (CMS).

Electronic filing is available for 6 of the 9 lists, including the *Tenancy* and *Social housing* lists. More than two-thirds (68%) of all CCD applications finalised in 2015 were filed online. Applications are otherwise made on paper. While relevant documents and forms (e.g. record of hearing forms) are stored on hardcopy files, in several lists the Member hearing the matter can enter orders made directly onto the CMS. If information is not entered directly onto the CMS through electronic filing or by Members, it is entered from hardcopy forms by registry staff. The CMS stores information about the parties, the type of matter and list, orders sought, classification, orders made, events and listings.

Data quality

While our review is concerned with the utility of the data for policy purposes, this is *not* the purpose for which the CMS was designed. The primary purpose of the CCD CMS is to support the administration of matters in the CCD. We also note that a new data system is proposed for use by all NCAT divisions. The Foundation recommends that data capture, extraction and reporting is considered early in the development of any replacement system, and that appropriate account is taken of the issues raised and recommendations made in this report. We are advised that a number of the issues raised are already being taken into consideration in the development of the new CMS.

Overall, the CCD dataset is generally comprehensive and *within* relevant lists, is complete. However, there is variation in the range of details recorded for matters in each list, with information relevant to and collected for some lists but not others (e.g. monetary amount

sought, product code, practice code, type of respondent). This reflects the administrative needs of particular lists and an appropriate focus on requesting relevant information only. However, in any division-wide analysis, this can create apparent gaps in the data and can mask missing data (data that should have been entered, but was not).

Another broad issue for consideration, particularly if matters in the CCD are to be compared to matters in the other Divisions or other jurisdictions, concerns what constitutes a 'matter'. For instance, a matter in the CCD arises from an application for an order. An application for a new order, even if related to an existing issue, will be a new matter – e.g. an application to set aside the previous decision. Any cross-claim will also be a separate application and therefore counted as a new matter. In other jurisdictions these orders may fall within a single matter. When comparing counts of matters and length of matters across Divisions, and across jurisdictions in any broader review, this would need to be taken into account.

Specific data quality issues are discussed where relevant, below.

Findings

Findings in this report are framed around 9 key questions. Each is a heading below and a section of this report. Importantly, in answering these questions, the analysis has indicated considerable variation between lists. Any figures reported for the CCD as a whole tend to mask these differences. Further, because the *Tenancy* list and, to a lesser extent, the *Social housing* list dominate in size, overall figures tend to reflect those two lists. This is an issue when considering any data reported for the CCD as a whole. This is also the reason that in this summary we focus on list-specific findings in response to each question. All data concerns matters finalised in the CCD during the 2015 calendar year.

Who are the parties in CCD matters?

Data on parties is based on first applicants and first respondents only.

In all lists but the *Social housing* list, most applicants were classified as 'persons' (individuals) rather than 'organisations' for the purpose of calculating fees.

In the *Tenancy* list, 91% of matters involved individual applicants against individual respondents.

A sample of matters coded by the Foundation by detailed 'entity type' indicated that:

- in the *Social housing* list, 95% of matters involved government or community housing organisations (landlords) taking action against individuals (tenants).
- most frequently, it was individuals making claims against businesses in the *Residential communities* (86%), *Motor vehicles* (86%), *General* (72%) and, to a lesser extent, in the *Retirement villages* (56%) and *Home building* (50%) lists.

There is potential to classify entity type by matching the Australian Business Number (ABN) of organisational parties with information held on the Australian Business Register (ABR). However, as party ABN data is not always required, it is not currently complete or of high quality on the CMS.

The CCD CMS records valuable information about the 'types of applicants' in each list. More than three-quarters (77%) of applicants in the *Tenancy* list were landlords, as were 95% of applicants in the *Social housing list* (in the form of housing agencies). Consumers dominate as applicants in the *Motor vehicles* (98%), *General* (96%) and *Home building* (79%) lists.

Do parties attend hearings?

Parties can be individuals, businesses, non-government agencies or government agencies. When an individual attends a hearing, they do so in their own capacity. An organisational party attending a hearing 'in person', may be the owner or employee of a business, or an officer or legal officer of an agency, acting in their professional capacity. The CMS records party attendance at each hearing but not the role of the person attending. We suggest that this is a key data point to inform policy and practice, in a jurisdiction where representation is not encouraged and the capability of different types of parties to self-represent may vary.

Attendance by the parties varied considerably by list. Key observations included:

- both parties attended 42% of all hearings in the *Tenancy* list, while 41% were attended by the applicant only
- in the *Social housing* list, both parties attended only 30% of hearings. Nearly two-thirds (65%) of hearings were attended by the applicant only
- both parties attended more than 70% of all hearings in all other lists, except for the *General* list (in 53% both parties attended).

Are parties represented and by what types of representatives?

Parties are encouraged to conduct their own cases in the CCD *without* representation. However, with the consent of the Tribunal, parties can be represented by lawyers, advocates, agents, friends or others.

While the CMS records whether each party was represented at *each* hearing, the *type* of representative (including whether the representative is a lawyer) is not recorded. Also of concern was a lack of clarity in the recording of representatives on the paper forms (from which information on the CMS is drawn. Together these factors limit the utility of the data on representation to inform policy development in this area and to explore relative rates of *legal* representation across jurisdictions.

Noting these limitations, the CMS data indicated that:

- Neither party was represented in 73% of hearings in the CCD. This figure varied from 63% in the *Social housing* list to 86% in the *General* list.
- The 'applicant only' was represented in 18% of CCD hearings. This ranged from 30% for the *Social housing* list matters, to 18% for each of the *Tenancy* and *Residential communities* lists matters and 3% in the *Motor vehicles* list.
- 'Both parties' were represented in 6% of CCD matters, ranging by list from 4% in the *Tenancy* list to 31% in the *Residential communities* list.
- 'Organisations' were more likely to be represented than 'persons', both as applicants (35% vs 19%) and respondents (17% vs 7%). For applicants, this difference was particularly pronounced in the *Motor vehicles* list (26% of organisational applicants were represented compared to 7% of individual applicants), the *Social housing* list

(37% compared to 19%) and the *Home building* list (35% compared to 18%). For respondents, the differences were most pronounced in the *Residential communities* list, where 43% of organisational respondents were represented but only 13% of individual respondents), and the *Social housing* list (24% compared to 7%).

Given the policy interest in self-representation, it would be beneficial to be able to identify both the types of attendees and the type of representatives (e.g. individual party, officer of an organisation, agent, lawyer, advocate etc.) appearing in the CCD for different matters.

What types of matters are heard in the CCD?

Each matter in the CCD commences with an application for an order. Orders ***sought*** are grouped by 'classification', according to the primary order sought. One classification is recorded per matter. While some classifications are quite specific, others are broad (e.g. *general orders* or ≤$30,000). Broad classifications provide less insight into the nature and range of issue being dealt with in the CCD. Key observations include:

- 61% of all *Tenancy* list matters and 63% of *Social housing* list matters finalised in 2015 concerned the termination of residential tenancy agreements. Together, termination of residential tenancy agreements in these two lists comprised nearly half (48%) of the CCD work.
- 79% of orders sought in the *General* list and 71% in the *Home building* lists were money or work orders valued at up to $30,000. Together, these made up 11% of all CCD matters.
- In the *Motor vehicles* list, 73% of orders sought concerned repairs, faulty used cars and faulty new cars, although together they made up only 2% of all CCD matters.

What is the monetary value of orders sought in the CCD?

Many of the orders sought in the CCD do not concern a particular sum of money or work to be completed to a particular value. The value of the orders sought is only recorded on the CMS for four lists (*General*, *Home building*, *Motor vehicle* and *Commercial* (dividing fences only), which together dealt with 18% of all CCD matters in 2015. The CMS indicates that the median amount sought was highest in the *Home building* list ($9,748) and lowest in the *General* list ($1,885). 11% of matters in the *Home building* list were worth between $100,000 and $500,000.

While there were orders sought in other lists which had monetary values, these were not recorded in a format reportable from the CMS database.

How do matters progress to finalisation?

The progress of matters through the CCD can be identified through orders ***made***, both procedural orders such as *adjournments, reserved decisions* and *directions* orders, and orders that are flagged as 'final orders' (e.g. *termination*, *money order* and *interim order*).

- Three-quarters of all *Tenancy* (75%), *Social housing* (76%) and *Strata and community schemes* matters (77%) were finalised in one order. More than 80% of orders in the *Tenancy* and *Social housing* lists were final orders.

- Overall, nearly one-quarter (24%) of all orders in the CCD were for adjournment, with adjournments most common in the *Retirement villages* (60% of all orders in that list), *Home building* (58%), *Commercial* (43%) and *Motor vehicles* (41%) lists.
- At least one conciliation listing was recorded in 43% of all CCD matters finalised in 2015. For those listings flagged as conciliations, 24% had 'consent' noted as the outcome. However, these figures should be considered with caution, due to concerns about the quality of the conciliation data.

How are matters finalised or resolved?

- Of matters finalised in 2015, 7% had more than one 'final order' recorded. Looking at the *last* 'final order' made in each matter, more than 20% (and up to 43%) of all matters *within* each list were dismissed, except for the *Social housing* list, in which 11% of matters were dismissed.
- *In addition*, between 11% and 21% of all matters within each list were withdrawn.
- Overall, and in the *Tenancy* list, nearly one-quarter (24%) of all last final orders were finalised by consent. The proportion of matters finalised by consent ranged from 4% in the *Strata and community schemes* list to 44% in the *Residential communities* list.
- For the CCD overall, 7% of dismissals, 5% of withdrawals and one-third (33.4%) of all other last final orders were made by consent. The proportion of matters dismissed by consent varied from 3% in the *Strata and community schemes* and *Tenancy* lists, to 53% in the *Residential communities* list.
- Matters may be dismissed for a range of reasons, including administrative reasons (e.g. non-payment of fees), agreement between the parties (consent) and lack of merit. To better understand why matters are dismissed, more detailed categories (as used in the AP) would be beneficial.
- Further, while discrete categories are provided in the data for 'withdrawal' and 'dismissal' we note that, in practice there may be overlap between these categories (i.e. matters which are withdrawn and dismissed). More detailed categories for dismissal would also enable matters which are withdrawn *and* dismissed to be more consistently recorded in a single category.

How do orders sought compare to orders made?

Noting the very broad range of orders which can be sought and made in the CCD, the following provide some examples. When considering these, bear in mind that only one classification (order sought) and one order made per matter are recorded. This can mean that where there were two orders made (e.g., for termination of a lease *and* for payment of unpaid 'rent/water', the second order will not be reported. It also blurs the comparison of orders sought and orders made, because the primary order made may relate to the unrecorded secondary order sought. Key findings are as follows.

- Of the matters classified as 'termination of residential tenancy agreement', only one-third (33% in the *Tenancy* list and 15% in the *Social housing* list resulted in 'termination' as the primary order made.
- In the *Social housing* list, 38% of matters classified as 'termination of residential tenancy agreement' resulted in an order made for 'rent/water' (e.g. to pay unpaid rent) as the primary order made.

- In the *General* list for matters worth less than or equal to $30,000, one-third (33%) resulted in a money order and one-third were dismissed. Another 19% were withdrawn.
- For orders relating to excessive rent or increase in the *Residential communities* list, 28% were dismissed, 27% had orders made relating to excessive rent or increase, and 19% were withdrawn.

Information on the value of orders made compared to the value of orders sought is not possible using the CMS database. We were able to examine limited information in the casefile analysis.

How long do matters take?

A 'time to first hearing' is calculated within the CMS database, based on the 'first hearing event' (which may include orders made at hearing or on paper). Key observations are as follows.

- The median number of days from lodgement to the first 'hearing event' in the CCD varied by list, from 17 days in the *Tenancy* list, to 49 days for matters in the *Residential communities* list.
- More than 90% of matters in the *Tenancy* (93%) and *Social housing* (90%) lists were first heard within one month of lodgement. By way of comparison, less than 40% of matters in the *Home building* (39%), *Strata and community schemes* (38%) and *Residential communities* (32%) lists were first heard within one month.

Time to finalisation is also calculated in the CMS database. This varied considerably by list, ranging from a median of 20 days (*Tenancy* list) to 120 days (*Retirement villages* list).The two largest lists in the CCD were the quickest to finalise matters, with 75% of matters in the *Tenancy* list and 72% of matters in the *Social housing* list finalised within a month.

The median time to finalisation for CCD matters as a whole did not vary considerably by last final order type. The median time to withdrawal was 21 days, 24 days to dismissal and 22 days to 'other orders'. Equally, whether or not a matter was finalised with consent also did not appear to make a difference to days to finalisation, when examined for the CCD as a whole. However, there was considerable variation when we drilled down further. For instance, dismissals with consent finalised in a median of 62 days, compared to 23 days for dismissals without consent. This also varied by list. More sophisticated regression analyses would be required to explore the relative impact of different factors upon time to finalisation.

The times reported here commence when an application is lodged in the CCD. However, applicants may be required to have undertaken previous actions before they could lodge their application. For instance, applications can only be lodged in the *Home building* list, after the applicant has sought to have the matter resolved by the government agency, NSW Fair Trading. From the perspective of a Tribunal user, the length of time it takes to resolve an issue through NCAT includes these prior steps.

Examples of the different pathways into NCAT, and the possible progress thereafter, are provided in section 9 of this report. A key observation is that there is no single pathway into the CCD (or to NCAT more broadly), with prior steps varying by list and, in some cases, by specific matter type. This variation reflects the broad range of matters dealt with by NCAT and legislation, regulations and principles relevant to the management of each matter type.

Introduction

The Department of Justice NSW is seeking to optimise the use of civil court and tribunal data for evidence-based decision-making, specifically the civil divisions of the Local, District and the Supreme Court, the Land and Environment Court and the NSW Civil and Administrative Tribunal (NCAT).

To facilitate this, the Law and Justice Foundation of NSW (the Foundation or LJF) has been engaged by the Department to investigate the utility of administrative data collected by the four NCAT Divisions, ***for the purpose of informing policy relevant decision-making***. This report provides findings and observations from the analysis of NCAT **Consumer and Commercial Division (CCD)** data. Separate reports cover the Administrative and Equal Opportunity Division and Occupation Divisions (AEOD and OD in one report), the Guardianship Division (GD) and the Appeal Panel (AP).

Scope of the task

The Foundation was asked to:

1. assess the content and quality (reliability, validity) of NCAT data, as evidence for the purpose of policy making, and
2. suggest any changes to data definition, collection, entry, analysis and/or retrieval that would improve the quality and utility of the data for this purpose.

Key questions addressed

In order to explore the content and quality of NCAT data, for the purpose of policy making, we examined the utility of data from each division to address a series of questions. In this report on the CCD we ask:

1. Who are the parties in CCD matters?
2. Do parties attend hearings in CCD matters?
3. Are parties represented and by what types of representatives?
4. What types of matters are heard in the CCD?
5. What is the monetary value of CCD matters?
6. How do matters progress to finalisation?
7. How are matters finalised or resolved?
8. How do orders made compare to orders sought?
9. How long do matters take?

In each case we provide a snapshot of data analysed to date, and raise key issues that impact upon the reliability and validity of that data. It is important to bear in mind that information and data are primarily collected by the CCD to support the administration of the division, and systems have been primarily designed for that purpose.

Also important, a new data system is proposed for use by all NCAT Divisions. The Foundation recommends that data capture, extraction and reporting is considered early in

the development of any replacement system, and that appropriate account is taken of the issues raised and recommendations made in this report. We are advised that a number of the issues raised in this report are already being designed into the new NCAT CMS.

An overview of the methodology

To assess data quality in the CCD and answer the priority questions, the Foundation used the following sources.

1. Unit record data for all matters finalised in the CCD during 2015, taken from the CCD Case Management System (CMS), including information on applicants and respondents, their representatives, orders sought and made, processes, outcomes and relevant dates. A total of 57,653 matters were finalised in 2015. Finalised matters are those in which a final order has been made and the matter closed. A list of CCD datasets provided to the Foundation is provided in Table T1, in the Technical notes.
2. A stratified sample of 1,000 cases selected from the cases above and coded by the LJF by the entity type of first applicants and first respondents. The selection process involved a random sample from each of the 9 lists, but smaller lists were oversampled to ensure a reasonable picture could be gathered for each list. Weighting was used to appropriately adjust for this oversampling whenever results are aggregated across the Division.
3. A stratified sample of electronic and paper files held by the CCD, drawn to check the accuracy of information on the databases and collect relevant details that these databases do not hold. As the sample of 200 was drawn from early data provided, they were matters lodged (rather than finalised) in the CCD during 2015.
4. The examination of relevant documents, including legislation, forms, instructions and procedure manuals relevant to paper applications, NCAT Online and the management of matters within the CCD.

Please note that no tests of statistical significance have been used in the analysis presented here, as the data describes *all* of the matters finalised in the CCD in 2015. However, small differences between numbers/percentages *and* findings based on a small number of cases are the least robust and the least likely to be replicated in another year of data. More reliance can be made on findings where there are large percentage differences and/or where the number of cases on which the finding is based is large.

Factors affecting data quality

As was the case for Local Court data (Forell & Mirrlees-Black 2016), the utility of NCAT data to answer policy questions and to accurately inform decision-making may be compromised in a number of discrete ways. Quality may be affected by:

- relevant information not being collected or recorded (e.g. on applicant and respondent entity types, representatives)
- how data or information is defined (e.g. definitions of matter types and of representatives)
- how data is collected and then entered onto the NCAT databases (e.g. forms being completed and/or data entered by a range of different individuals, with varying interest and skill in data accuracy)

- how data is stored and retrieved (some information is only available on the paper files)
- the sheer amount and complexity of the data held and how the data systems have been built, documented and maintained over time to accommodate this complexity
- how data is analysed, cleaned and reported.

Differences between the three separate data systems used within NCAT (one for the CCD and AP, one for the AEOD and OD and one for the GD) will also impact upon the consistency, completeness and quality of the data across the Tribunal.

The CCD

In 2014-2015, the CCD dealt with 82% of all applications to NCAT.[1] The CCD operates 9 separate lists: the *Commercial, General, Home building, Motor vehicles, Residential communities,*[2] *Retirement villages, Social housing, Strata and community schemes* and *Tenancy* lists.

Making an application in the CCD

In 2015, applications could be lodged online for *Tenancy, Social housing, Consumer claims (general), Home building, Residential communities* and *Motor vehicles* matters. For applications to the CCD on paper, there are 24 different application forms, for different CCD lists and different types of applications within lists.[3] Each application form is designed for a specific issue, to make it easier for applicants to complete the forms accurately. Applications on paper can be made by post or in person at an NCAT registry. Applications by fax are no longer accepted.

Figure 2 indicates the proportion of matters finalised in each list in 2015, which were lodged electronically, by post (including fax and courier) or at the registry.

Overall, more than two-thirds (68.4%) of applications to the CCD were made online, and 31.0% were made by post, with the post category including 0.6% of matters lodged by fax or courier. In addition, less than 1% (0.6%) of applications were lodged at the registry counter.

One area for future enquiry is how opportunities for providing procedural assistance and legal advice to Tribunal users may vary with the application pathway used. A second question concerns how the availability and type of assistance provided might in turn affect the progress and outcome of applications thereafter (also see 'Orders made' section).

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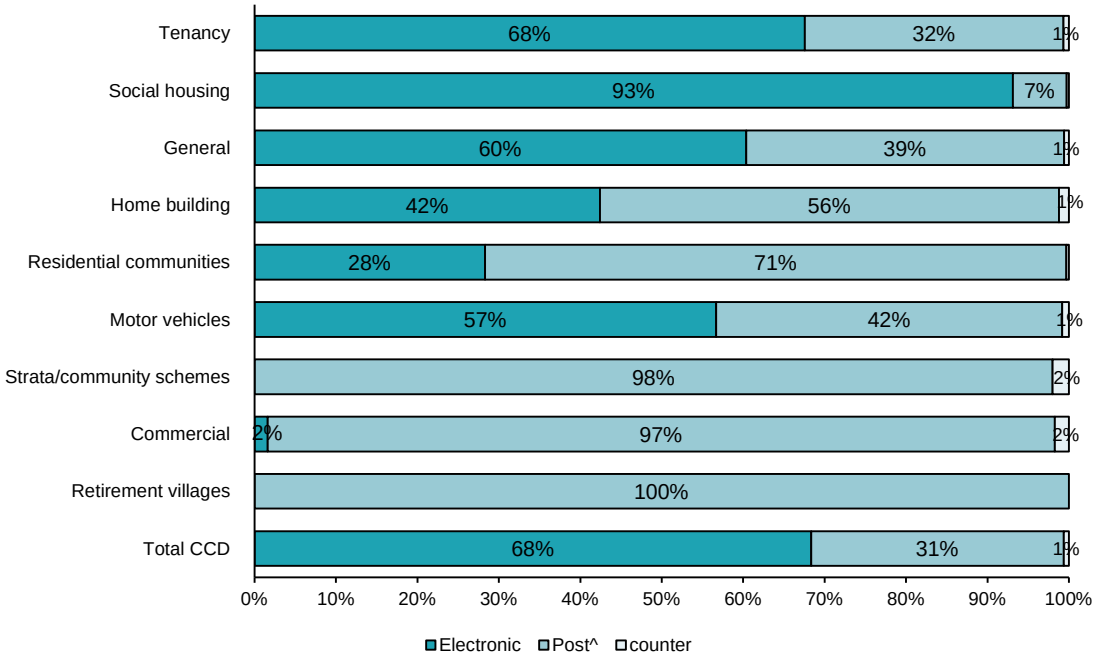
[1] NCAT (undated) *Annual Report 2014-2015,* p. 7. http://www.ncat.nsw.gov.au/Documents/ncat_annual_report_2014_2015.pdf

[2] The '*Residential Parks*' list was renamed as the '*Residential communities*' list on 1 November 2015 when the *Residential (Land Lease) Communities Act 2013* came into effect replacing the former residential parks laws (see http://www.ncat.nsw.gov.au/Pages/announcements/20151102_new_residential_communities_legislation.aspx).

[3] There are 24 application forms listed under CCD 'application forms' on the NCAT website (as well as one form which is a 'residential communities schedule of home owners'). There are also other CCD forms for warrant for possession, summons, application to withdraw matters and appeal related forms.

Figure 1: Lodgement method by list, matters finalised in the CCD, 2015



Source: CCD CMS, all matters finalised in the CCD, 2015, n=57,653.
Notes:^ Includes 0.6% of matters which were lodged by fax or courier.

The data system

Information from online and paper applications is entered and stored on the CCD Case Management System (CMS). The information from paper applications is entered by registry staff. Categories to be applied are coded by a team leader.

Once entered on the system, information may be updated by registry staff. The Member hearing the matter can enter orders directly onto the CCD CMS at the hearing in the *Tenancy*, *Social housing, General, Motor vehicle* and *Home building* lists (and for interlocutory orders in some matters in the *Commercial* list).

The CCD CMS is managed and maintained by a technical support team within NCAT. This team also create reports on the data for management and reporting purposes. The significant benefit of having in-house expertise to manage and report from the data system was evident in this review.

What constitutes a matter

A matter in the CCD arises from an application for an order. An application for a new order, even if related to an existing issue, will be a new matter – e.g. an application to set aside the previous decision. Any cross-claim will also be a separate application and therefore counted as a new matter. ‘Related files’ are noted on the CMS. A matter is related if ‘the

dispute involves the same contract/agreement'.[4] Interlocutory decisions are dealt with under the same matter number.

In this report a 'matter' is an application finalised in the CCD during the 2015 calendar year. Given the diversity of matters that are heard in the CCD, matters are organised into lists.

Lists in the CCD

In total, 57,653 matters were finalised in the CCD in the 2015 calendar year, across the 9 different lists.

Table 1 indicates that together, the *Tenancy* (51.0%) and *Social housing* (25.7%) lists accounted for just over three-quarters of all matters finalised in 2015.

The next highest volumes were for the *General* (9.1%) and *Home building* (5.3%) lists.

We are advised that while the CCD registry manages Strata adjudications (in the *Strata and community schemes* list), these are not strictly NCAT matters, unless applicants lodge an external appeal. They are, however, included in the registry statistics and are therefore included in this report.

Table 1: Number of matters by list, finalised in CCD, 2015

List	N	%
Tenancy	29,390	51.0
Social housing	14,800	25.7
General	5,273	9.1
Home building	3,067	5.3
Residential communities	1,582	2.7
Motor vehicles	1,448	2.5
Strata and community schemes	1,294	2.2
Commercial	746	1.3
Retirement villages	53	0.1
Total CCD matters	**57,653**	**100.0**

Source: CCD CMS, all matters finalised in 2015.

[4] NCAT procedures on *Registering an application.* Last updated 22/06/2011. The procedures note that in most cases the parties will be the same.

1. Who are the parties in CCD matters?

Source of the data

Information about the parties involved in each CCD matter is drawn from the application form (or online screen) submitted to commence a matter. In all matters the CMS records: the name, address (including postcode) and contact details for each applicant and respondent; whether each party is an *individual* or an *organisation;* and the 'applicant type' (e.g. tenant, landlord, consumer etc.). While 'respondent type' is collected on the application forms for the *Commercial, Home building, Social housing and Strata and community schemes* lists, it is recorded on the CMS for *the Strata and community schemes* list only. Most application forms ask for the ABN of parties that are organisations, but this is not a compulsory field on the CMS. The data on the CMS will only be as complete as data initially collected.

Applicants and respondents in the CCD

Table 2 indicates that, in more than 4 out of 5 of the 57,653 matters finalised in the CCD in 2015, there was a single applicant and/or a single respondent. In total, 67,111 applicants, 69,783 respondents and 3,588 other parties were involved in matters finalised in the CCD in 2015.

Table 2: Number of applicants and respondents per matter

Applicants per matter	N=57,651	Respondents per matter	N=57,652
	%		%
1 applicant only	84.7	1 respondent only	81.2
2 applicants	14.5	2 respondents	17.0
3+ applicants	0.8	3+ respondents	1.8

Source: CCD CMS, all matters finalised in 2015.
Note: The number of applicants was missing for 2 matters and number of respondents was missing for 1 matter.

To describe the parties involved in CCD matters, we include the first applicant and the first respondent only.[5] This section discusses parties':

- broad entity type ('person' or 'organisation' as noted on the CMS)
- detailed entity type (e.g. business, government, not-for-profit/non-government organisation (NFP/NGO), as classified by the Foundation

[5] The Foundation was provided with a number of separate unit record files, including a Matters by finalisation file, which has only one applicant for each matter, and a Matters parties organisations file, which has all entities for a matter. Note that, depending on the analysis conducted, the 'first applicant' is taken to be the only applicant that is listed on the Matters by finalisation file or the first applicant listed on the Matters parties organisations file. Similarly, the 'first respondent' is taken to be the only respondent that is listed on the Matters by finalisation file or the first respondent listed on the Matters parties organisations file.

- role in the matter (e.g. landlord, tenant. This is recorded in the CMS data as 'applicant type' or 'respondent type')
- fees paid (concession, standard, corporate – as noted on the CMS).

Person versus organisation

When lodging an application in the CCD, parties need to identify whether they are a 'corporation' (rather than an individual) *for the purpose of calculating fees*.[6] On the CCD CMS, parties are identified as either a *person* or as an *organisation*. Companies, businesses, government agencies and non-government organisations are all entered as 'organisations' in the CMS data.

Table 3 indicates the proportion of first applicants and first respondents in each list that were identified in the CMS data as organisations and as persons. Overall, more than two-thirds (67.7%) of the first applicants and 79.8% of the first respondents were identified in the CMS data as 'persons'. However, this varied considerably by list, with 94.5% of applicants in *the Social housing* list being organisations (largely the Department of Housing, as well as community and Aboriginal housing organisations).

The majority of respondents in the *Motor vehicles* list (85.1%), *Residential communities* (66.2%) and *Home building* lists (61.2%) were identified as organisations.

Table 3: CCD classifications of applicants and respondents as 'persons' or 'organisations' by list

List	Matters	First applicant		First respondent	
		Person	Organisation	Person	Organisation
	N	%	%	%	%
Tenancy	29,390	91.2	8.8	92.8	7.2
Social housing	14,800	5.5	94.5	96.0	4.0
General	5,273	88.9	11.1	22.6	77.4
Home building	3,067	76.8	23.2	38.8	61.2
Residential communities	1,582	91.8	8.2	33.8	66.2
Motor vehicles	1,448	93.2	6.8	14.9	85.1
Strata and community schemes	1,294	76.4	23.6	64.6	35.4
Commercial	746	76.8	23.2	72.4	27.6
Retirement villages	53	67.9	32.1	52.8	47.2
Total CCD matters	**57,653**^	**67.7**	**32.3**	**79.8**	**20.2**

Source: CCD CMS, all matters finalised in 2015, first applicant and first respondent in each matter.
Note: ^ Data was missing for 1 applicant in the *General* list and 1 respondent in each of the *Motor vehicles* and *Social housing* lists. However, the total matters provided counts all matters.

[6] NCAT has a three-tiered fee structure. There is a 'standard fee', a 'corporation fee', and a 'reduced or concession fee' for those on benefits or a pension, or those in receipt of a grant of legal aid or who are being assisted by a community legal centre (NCAT website *fees and charges*).

Data quality

The only information captured on the CCD CMS about the entity type of applicants and respondents is whether they are identified by the applicant on their application as a 'person' or an 'organisation', primarily for the purpose of fee payment. Any error made by the applicant in identifying themselves or the respondent as a person or organisation will be reflected in the data. To gain more insight, we therefore reviewed and coded a 'detailed entity type' for each first applicant and first respondent in a sample of 1,000 CCD matters.[7] This sample was used to:

a) check the types of entities included as persons or organisations on the CMS, and
b) provide a more detailed profile of applicants and respondents by entity type.

The comparison of the CCD codes used to identify a party as either a 'person' or an 'organisation', in our sample of 1,000 cases indicates agreement as to the overall profile of applicants and respondents (A1 in Annex).

Applicants were classified as persons in 67.7% of the CCD matters on the CMS compared to 66.7% in the LJF review. Respondents were classified as persons in 79.8% of the CMS matters compared to 79.1% in the LJF review. However, the analysis indicates that in some lists, the findings appeared to differ. Higher raw proportions of applicants were identified as persons in the CMS data compared to those in the LJF analysis in the following lists:

- *Strata and community schemes* (76.4% versus 56.0%)
- *Commercial* (76.8% versus 59.3%)
- *Home building* (76.8% versus 69.0%).

Similarly, notably higher raw proportions of respondents were identified as persons in the CMS data compared to the LJF review in the following lists:

- *Residential communities* (33.8% versus 13.0%)
- *Commercial* (72.4% versus 55.3%)
- *Retirement villages* (52.8% versus 30.0%).

These may be lists where there are entities that do not neatly fit the categories of 'person' or 'organisation' – such as small businesses. There may also be applicants which describe themselves as persons rather than organisations, to pay the standard, rather than corporate fee (which may not apply in their case).

The utility of this data for policy purposes would be enhanced by greater guidance for applicants, and clarity for those using the data, about which types of entities are defined as persons on the CMS and which are described as organisations.

[7] Smaller lists were oversampled, to ensure a reasonable picture of entity types could be gathered for all lists. Totals for the Division have been weighted to reflect the true proportion of matters within each list.

Detailed entity type

To further explore the types of entities classified as persons or organisations, we compared the CCD CMS classifications to the LJF codes for the sample of 1,000 CCD matters.

Focusing just on the 1,000 matters, Table 4 indicates that 93.2% of first applicants and 79.5% of first respondents identified as persons in the CCD CMS data were also identified as 'individuals' in the LJF analysis. However, among respondents that were identified as persons in the CCD data, were entities coded by the LJF as 'strata managers and owners corporations' (4.1%), 'retirement villages' (3.7%) and a range of 'other businesses' (11.2%). This is discussed under 'data quality' above.

Table 4: Applicants and respondents, by CCD entity type and the LJF entity type

	First applicant		First respondent	
	CCD 'Person'	**CCD 'Organisation'**	**CCD 'Person'**	**CCD 'Organisation'**
LJF Entity type	N=734 %	N=265 %	N=516 %	N=484 %
Individual	93.2	3.8	79.5	2.9
State/Commonwealth government organisation	0.0	24.2	0.2	1.0
Local Council	0.1	0.0	0.2	0.4
Non-Government/not-for-profit	0.3	13.2	0.6	2.1
Business – Strata manager/ owners corporation	1.8	14.0	4.1	7.9
Business – Retirement village	0.1	3.0	3.7	9.7
Business – Other	4.4	39.2	11.2	73.3
Mixed type	0.0	0.8	0.6	1.4
Other	0.1	1.9	0.2	1.2

Source: Sample of 1,000 CCD matters finalised in 2015, stratified by list.
Note: entity class was missing for one applicant in this sample.
The business sub-categories of *Strata manager/owners corporation* and *Retirement village* are separately identified on this table as they had the highest proportion of matters that appeared to be misclassified as person.

Tables A2 to A10 in Annex 1 provide, by list, the LJF categorisations of entity types involved as first applicant and first respondent for the sample of 1,000 matters.

Who sought orders against whom in the CCD?

To examine who took action against whom in each CCD list, we used the sample of 1,000 matters, in which we had classified the first applicant and first respondent by detailed entity type.

Table 5 indicates that matters most commonly involved:

- individuals taking action against individuals in the *Tenancy* list (91.0% of matters in that list) and the *Commercial* list (42.7%)
- individuals taking action against businesses in the *Motor vehicles* list (86.0%), *General* list (71.5%), *Home building* list (50.0%) and the *Strata and community schemes* list (45%)

- individuals taking action against retirement villages, caravan parks and other businesses In the *Residential communities* list (86.0%).
- individuals taking action against retirement villages and other aged care facilities in the *Retirement villages* list (56.0%)
- government (Housing NSW, NSW Aboriginal Housing Office) or non- government community housing organisations taking action against individuals in the *Social housing* list (63.0% and 31.0%, respectively).

Table 5: Who is taking action against whom in the CCD, by entity type, sample of 1,000

List	Most frequent		Second most frequent		Third most frequent	
		%		%		%
Tenancy (n=100)	Individual vs Individual	91.0	Business vs Individual	4.0	Individual vs Business	3.0
Social housing (n=100)	Government vs Individual	63.0	Community housing vs Individual	31.0	Individual vs Government	3.0
General (n=200)	Individual vs Business	71.5	Individual vs Individual	13.5	Business vs Business	9.0
Home building (n=100)	Individual vs Business	50.0	Individual vs Individual	19.0	Business vs Individual	18.0
Residential communities^ (n=100)	Individual vs Business	86.0	Business vs Individual	11.0	Individual vs Individual	2.0
Motor vehicles (n=100)	Individual vs Business	86.0	Individual vs Individual	6.0	Business vs Business	5.0
Strata and community schemes (n=100)	Individual vs Business	45.0	Business vs Individual	32.0	Business vs Business	12.0
Commercial (n=150)	Individual vs Individual	42.7	Business vs Business	22.0	Individual vs Business	14.0
Retirement villages^ (n=50)	Individual vs Business	56.0	Business vs Individual	30.0	Other organisation vs Business	6.0

Source: Sample of 1,000 CCD matters finalised in 2015, stratified by list. Data based on first applicant and first respondent only.
Notes: ^ The businesses in the *Residential communities* list were a mix of retirement villages and leisure parks. In the *Retirement villages* list the businesses were retirement villages and aged-care facilities.

Using ABN/ACN to identify entity type

The CCD CMS has fields in which to record the ABN and ACN for organisational entities.[8] One potential benefit of recording all ABNs for organisations is that data matching with the ABR would enable the consistent classification of these entities (and indeed, any entities in any other jurisdiction in NSW) into categories. This method is one way to profile

[8] An Australian Business Number (ABN) is issued to all businesses, including those registered as companies, but also to sole traders, partnerships, trusts and non-profit organisations. The ABN is an 11-digit number issued by the Australian Taxation Office and is a unique identifier for each business used for dealings with ATO and government. An Australian Company Number (ACN) is issued only to businesses whose structure is registered as a company and is a unique identifier for each company. It is a 9-digit number issued by the Australian Securities and Investment Commission (ASIC). The ATO uses the ACN as the basis for the company's ABN.

organisations involved in matters within the CCD (and the civil justice system more broadly).

Although the CCD CMS has fields for capturing both ABN and ACN for organisations, this information is not a compulsory field on the CMS and is often missing or entered incorrectly. Overall, there was *something* recorded in the ABN and/or ACN field for 74.0% of first applicants identified as organisations and 32.5% of first respondents identified as organisations (Table 6).

Table 6: ABN/ACN potentially recorded for parties, CCD matters finalised in 2015

	First applicants		First respondents	
	Total organisations	ABN/ACN entry	Total organisations	ABN/ACN entry
	N	%	N	%
Tenancy	2,583	24.9	2,106	15.3
Social housing	13,990	88.5	585	2.4
General	586	39.4	4,081	41.7
Home building	711	48.9	1,877	49.8
Residential communities	129	34.1	1,047	26.3
Motor vehicles	99	39.4	1,232	36.4
Strata and community schemes	306	1.0	458	0.4
Commercial	173	35.8	206	36.9
Retirement villages	17	0.0	25	4.0
Total CCD matters	**18,594**	**74.0**	**11,617**	**32.5**

Source: CCD CMS, all matters finalised in 2015.

However, as indicated in Table 6, the overall picture is skewed by the 88.5% of organisational applicants in the *Social housing* list that provided an ABN (Housing NSW and community housing organisations). In all other lists, less than half of all organisational applicants provided a number in the ABN field.

Data quality

Because ABN is not a compulsory field for organisations on the CMS, data is often missing or entered incorrectly (e.g. such as entries with the wrong number of digits) by the applicant (for themselves and the respondent). Noting that this information may be entered directly through e-filing, there are also inconsistencies in entry practices that make it difficult to use the data for aggregate reporting of business/company type. For example, some entries are simply a consecutive string of digits, while others have spaces or hyphens between digits or have letters (‘ABN’, ‘ACN’, ‘BN’, ‘C’) included in the entry. Much more careful and complete data entry in these fields would be required before this information could be used to identify entity types for policy purposes.

Party type/role

The CCD CMS records the **applicant type** for all lists and the **respondent type** for the *Strata and community schemes* list only. Information on the respondent type is also recorded on the application forms by applicants for other lists (e.g. the *Commercial*, *Home building*, and *Social housing* lists) but not captured on the CMS.

Here 'type' refers to the role played by the party in that matter. The party type data reported Table 7 provides very valuable insight into those seeking orders in the CCD. Again, data is reported for the *first* applicants or respondents only.

The *Tenancy* and *Social housing* lists are dominated by applicants who are landlords: private landlords in the *Tenancy* list (76.7% of applicants in this list) and government and non-government social housing services in the *Social housing* list (95.3%). By contrast, 89.9% of the applicants in the *Residential communities* list are residents. In the *General* list (95.9%) and the *Motor vehicles* list (97.9%), nearly all applicants are 'consumers'. Note that party types such as 'consumer' may be include entities that are 'persons' *and* entities which are 'organisations'.

As evident in Table 7, in the *Strata and community schemes* applicants tended to be either lot owners (67.3%) or owners/strata corporations (31.1%). Respondents in this list included owners/strata corporations (57.4%) or their managers (2.1%), lot owners (34.7%) or tenants (4.8%).

Data quality

There is no missing data for **applicant type** and the casefile analysis did not raise concerns about the overall quality of this data.

In some lists, the likely **respondent type** can be deduced from the applicant type (e.g. in the *Tenancy* list, a landlord applicant will generally mean that the respondent is a tenant or occupier). However, overall it would be helpful to record respondent type to summarise who is seeking orders against whom. This would answer questions such as 'who are the traders in the *Home building* list seeking orders against – consumers or sub-contractors?' It is recommended that respondent types are recorded in future for all lists.

Table 7: Party type in matters finalised in the CCD 2015, by list

List and party type	First applicant	First respondent
Tenancy	**N=29,390**	
Landlord	76.7	
Tenant/co-tenant/prospective tenant	22.6	
Other person	0.5	
Occupant	0.2	
Social housing	**N=14,800**	
Housing NSW	56.7	
Community Housing	29.4	
Aboriginal Housing	9.2	
Tenant/co-tenant	4.6	
Other person	0.1	
General	**N=5,273**	
Consumer	95.9	
Proprietor/former proprietor	0.9	
Resident/former resident	1.3	
Other party	2.0	
Home building	**N=3,067**	
Consumer	79.1	
Trader	19.8	
Sub-contractor	0.5	
Other person/party	0.7	
Residential communities	**N=1,582**	
Resident/occupant/tenant	89.9	
Park owner/community owner/operator	9.8	
Home owner	0.3	
Motor vehicles	**N=1,448**	
Consumer	97.9	
Motor dealer	1.5	
Other person/party	0.6	
Strata and community schemes	**N=1,294**	**N=1,293**
Lot owner	67.3	34.7
Owners/strata corporation	31.1	57.4
Strata manager/managing agent	0.4	2.1
Lessor	0.3	0
Tenant/occupant	0	4.8
Other person/party	0.9	1.1
Commercial	**N=746**	
Owner/mortgagee	47.9	
Lessee/debtor	28.7	
Lessor/credit provider	11.7	
Consumer	10.5	
Tenant	1.3	
Retirement villages	**N=53**	
Resident/ former resident/occupant	52.8	
Operator	39.6	
Administrator/executor of estate	3.8	

Source: CCD CMS, all matters finalised in 2015.
Note: Based on first applicant or first respondent for all 2015 finalisations. Data were missing for 1 respondent type in the *Strata and community schemes* list.

Fees paid by different types of applicants

The fees paid by applicants vary by the type of application (e.g. for adjudication, interim orders or final orders), type and/or value of the matter and by the type of applicant.[9] For different applicant types there is a standard rate, a corporation rate and a concession rate.

The corporation fee applies to all organisations defined as a corporation by s. 57A of the *Corporations Act 2001 (Cth)*. Those paying a corporation fee are identified in the CMS data as organisations. We did not examine the proportion of parties identified as organisations on the CMS that paid a corporate rate.

The concession rate is available to those who receive social security benefits, a service pension or who are receiving a grant of legal aid or assistance from a community legal service. There is also scope for the full or partial waiver of fees for special circumstances.

A field on the CMS indicates 'fee amount' paid. It includes 7 categories of fees, 2 of which are concession fees. Based on these categories, in 3,125 applications (5.5%) finalised in 2015, the first applicant initially indicated they were entitled to a concession.[10]

A second field of data was provided indicating the amount actually receipted through the CMS. Unfortunately, the utility of these data to indicate the proportion of concession fees actually paid is limited by a number of factors. First, 25.2% of the entries did not include an amount, as the fees were not receipted by the CCD CMS. Instead, in these cases there was a code indicating *where* the fees were collected. These include direct fund transfers, fees paid to other registries (e.g. the Local Court or other NCAT Divisions) and fees paid online.

Second, 3.6% of the receipted amounts (with a figure specified) did not match (within $1) any of the fee amounts listed on the website (e.g. they were $1 or more different from any set fee amounts listed). Contributing to these figures may be those granted full or partial waivers. Noting these limitations, in those matters where a receipted amount was indicated, 82.3% of those who applied for a concession fee paid a concession amount. Another15.6% of those who applied for a concession paid another amount (that was not a standard fee amount) and 2.1% paid a standard fee.

Interestingly, of those for whom a concession was *not* indicated in their application, 4.7% were receipted for a concession amount.

Table 8 shows the fee types receipted for those who indicated that they *were* entitled to a concession fee.

[9] See http://www.ncat.nsw.gov.au/Pages/apply_to_ncat/fees_and_charges/fees_and_charges.aspx

[10] This figure is based on the 'Fee_amount' field in the data provided. This is a figure calculated by the CMS based on the type of application (and applicable fee) and whether or not the applicant indicated they were entitled to a concession fee. This field does not indicate the corporate rate.

Table 8: Applications indicating a concession fee, by fee type receipted

Concession indicated on application			
	All concession applications N=3,125		Concession applications with amount paid indicated N=2,384
Fee paid	N	%	%
Concession fee paid	1,963	62.8	82.3
Standard fee paid	49	1.6	2.1
Other amount paid	213	6.8	15.6
Amount not recorded^	886	28.4	-
Fee not paid	14	0.4	-
Total concession applications	**3,125**	**100.0**	**100.0**

Source: CCD CMS, all matters finalised in 2015.
^Not receipted in the CCD CMS as the fee was paid online, in another registry (Division or Local Court), through Service NSW or by a direct fund transfer, or because the matter was re-registered.

Data quality
The proportion of clients actually paying a concession amount or receiving a fee waiver/ variation (or a corporate amount) could potentially provide some insight into the profile of those using NCAT. The fee data available is currently of limited value for this purpose due to the high proportion of receipted fee amounts for which no figure is recorded (as it was not receipted on the CMS). The proportion of those seeking a concession (5.5%) amount is undermined by the 4.7% of those who appeared to seek a standard fee but received a concession. Potentially, however, it is one way to monitor the use of the CCD by people who are economically disadvantaged.

Improving the quality of data about NCAT parties

Person/organisation

The data on entity type (person or organisation) would be improved by greater clarity for those making applications to NCAT, about what is a 'corporation' for the purpose of fee paying.

If it is the case that only corporations pay the corporate fee, and all corporations pay that fee, then the data category should be changed to 'corporation', to ensure any data reported is accurately understood.

Entity type

As recommended in the Local Court report[11], to better understand the types of people and organisations using courts and tribunals, more detailed information is required on entity

[11] Forell, S & Mirrlees-Black, C 2016 *Data insights in civil justice: NSW Local Court,* Law and Justice Foundation of NSW, Sydney

type. One approach is to have applicants or their representative select from a more detailed list of entity types, including, for instance:

- Commonwealth government or agency
- State government or agency
- Local government
- Not-for-profit organisation
- Business
- Individual
- Other (specify)

Any categories created need to be applicable across all courts and tribunals.

Another approach is to use ABN (or ACN) numbers to link organisations to the categories already defined through the ABR. This would require that ABN is a compulsory field, correctly completed, for all parties that have an ABN. A limitation of this approach may be that the categories used by the ABR may not match the information needs of the Department of Justice NSW.

Party type (role)

Information on the party role (e.g. landlord, tenant, occupant) of each of the applicants (and some respondents) is unique to the CCD and provides valuable information about those using the Tribunal in this division and for what purpose. It would be valuable to consider collecting this information in other Divisions and jurisdictions.

Data quality: Interpreter, language required

If applicants require an interpreter, they tick a box on the application form to indicate an interpreter is required and are then asked to indicate the language and dialect required. In an online application they are asked to specify the interpreter language, if required. As most applicants do not indicate that they require an interpreter and/or specify the language required, there is no language recorded for the vast majority of first applicants (98.1%).

The current recording of non-English languages for required interpreters would require re-categorisation to allow for meaningful reporting. For example, Cantonese is variously captured as ‘able to read Chinese’, ‘Cantonese’ and ‘Chinese-Cantonese’. There are also a variety of categories which appear to relate to languages which were not adequately specified. It is recommended that first applicants’ main non-English language is in future recorded according to meaningful and mutually exclusive categories using the Australian Standard Classification of languages, for example via a drop-down menu.

The same issues apply to the recording of language spoken by respondents.

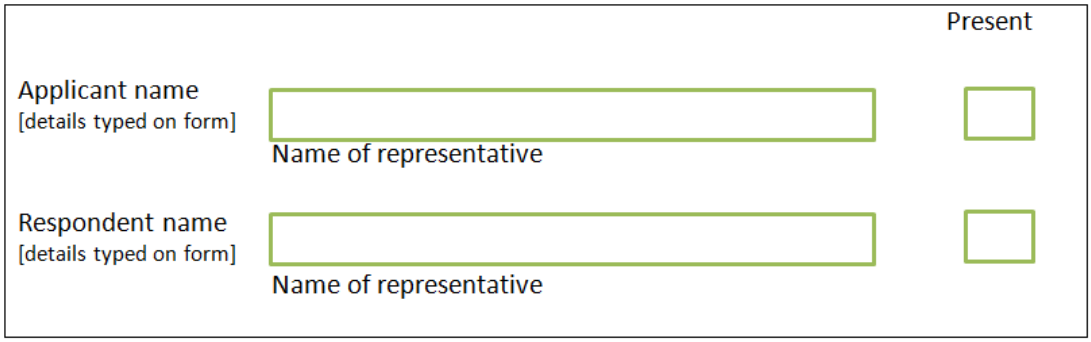
2. Do parties attend hearings in CCD matters?

CCD processes are designed for people to act on their own behalf, without legal representation. Party attendance at hearings is therefore a key data point, and is captured by the CCD CMS for each order (at hearing and on paper).

Scope and quality of data

In the CCD, the attendance of parties at hearings (together with representation) is first recorded on a green paper form which is completed at each hearing. As illustrated in Box 1, the form is ticked to indicate if each of the applicant and the respondent are present.

Box 1: Hardcopy recording of party attendance and representation for each hearing in the CCD



Based on the forms, attendance by the parties is then recorded on the CMS for each hearing.

Because party attendance and representative attendance is recorded separately and for each hearing, there is more comprehensive information about the participation of parties in CCD matters compared to other Divisions/jurisdictions.[12] However, the case file analysis suggested that data quality may be compromised by a lack of clarity or shared interpretation of the difference between a 'party' and a 'representative', particularly when the party is an organisation. The boundary between party and representative becomes blurred when the applicant or respondent is an organisation, and a person, such as an officer (or legal officer) working for that agency, appears for the party in the matter. Further review is suggested to assess:

- when and what types of employees or officers appear for organisations

[12] In contrast to the CCD, the AEOD & OD and the Local Court only record representation. So party attendance in those jurisdictions is only apparent *if* there is no representative attending.

- whether real estate agents representing landlords at hearings may at times be noted on the form (and therefore the CMS) as the party attending, rather than as a representative.[13]

Attendance by parties at hearings – CMS data

Party attendance (by at least one applicant and one respondent) is recorded for every order made in the CCD. As some of these orders are 'on paper', this field has to be cross-tabulated with the database field 'order_mode' (at hearing, on paper) to produce the data in Table 9.

The CMS data on party attendance at each hearing indicates that, overall, both parties attended 45.3% of all CCD hearings, while a further 41.9% were attended by an applicant only. Again, however, the picture varies considerably by list. Key observations from Table 9 indicate:

- hearings were most commonly attended by both parties in the *Retirement villages* (88.9%), *Residential communities* (84.5%) and the *Strata and community schemes* lists (78.1%)
- across all lists, applicants more commonly attended hearings than respondents
- a respondent did not attend in nearly 70% of *Social housing* list hearings and 54.4% of *Tenancy* hearings (combining 'applicant only' and 'no parties' columns). As noted earlier, 96.0% of respondents in the *Social housing* list and 92.8% of respondents in the *Tenancy* list were individuals (tenants), taken to the Tribunal by housing providers or landlords.

Table 9: Attendance by parties at CCD hearings, by list

List	Hearings	No parties	Applicant only	Respondent only	Both parties
	N	%	%	%	%
Tenancy	33,608	13.0	41.4	3.7	41.8
Social housing	17,837	5.1	64.3	1.1	29.5
Home building	6,717	5.1	19.1	3.1	72.6
General	6,471	11.5	29.6	6.2	52.7
Motor vehicles	2,078	5.9	15.1	6.1	72.9
Residential communities	1,293	3.5	8.7	3.3	84.5
Commercial	1,078	7.2	15.3	3.9	73.6
Strata and community schemes	649	4.8	15.4	1.7	78.1
Retirement villages	150	5.3	3.3	2.7	88.7
Total CCD hearings	**69,881**	**9.5**	**41.9**	**3.3**	**45.3**

Source: CCD CMS, all matters finalised in 2015. Orders with 'Order_mode' recorded as 'at hearing'.

[13] In the casefile analysis it was evident that applications on behalf of landlords were often completed by real estate agents. However, 'no representation' commonly was noted on the CMS for hearings in these matters. While it may be the case that agents complete the forms but do not attend hearings, this does warrant further exploration.

3. Are parties represented and by whom?

In the CCD, a party can be represented by a legal practitioner, a real estate agent on behalf of a landlord, an advocate, or a friend or relative with authorisation to act on behalf of the party. Organisational parties can be represented by an employee, partner or agent. While NCAT encourages parties to conduct their own cases *without* representation, parties can apply in writing to be represented. Members can also grant leave to appear at hearings. [14]

The scope of data

How representation is recorded at hearings

Legal representatives need to seek leave to appear in the CCD. Details of leave granted can be captured within order written in a text field on the CMS by the Member, or may be evident on the file from the correspondence sent. However, this is not captured in a separate field on the CMS and it not possible to separate legal representatives from other representatives in the data.

Party attendance and representation at each hearing is originally recorded on a green paper form, which is then included in the hardcopy file for that matter. The format on that form for recording this information is illustrated in Box 1 in the previous section.

In our review of a sample of CCD case files we observed that if something was written in the box, it was most commonly just a name. If the name written in the box differed from the typed name of the applicant or respondent, we assumed it was a representative. However, we also observed completed forms in which:

- the name written in the box appeared to be the name of the applicant/respondent – or one of the applicants/respondents
- the words 'In Person' were written in the box (to indicate no representative).

We also observed that in cases where the applicant/respondent was an organisation, the name written in the box could be the name of the person representing the company (e.g. employee, director of company) or a lawyer, agent, advocate or other representative. There is no place to indicate the *type* of representative appearing. On some forms, Members had written the type of representative (e.g. solicitor).

Sometimes the writing in the box was illegible (like a signature). In these cases it was not clear who this 'representative' was.

[14] Section 36 of the *Consumer, Trader and Tenancy Tribunal Act 2001* sets out the provisions by which a party may be represented. See also **http://www.ncat.nsw.gov.au/Pages/cc/Dispute_resolution/ccd_representation.aspx**. See NCAT Guideline: Representation of parties Consumer and Commercial Division September 2015. http://www.ncat.nsw.gov.au/Documents/ccd_guideline_representation.pdf

There were examples among our case file sample in which no representative was noted on the hearing form, but it was evident from the files (e.g. email addresses, letters etc.) that representatives were involved in the matter (but may or may not have been at the hearing).

How this information translates to the CMS

Information from the form appeared to be, at times, inconsistently interpreted and entered onto the CMS. In most cases (but not all), if there something written in the box (in some cases, even the words 'in person' or the name of the party), this was taken to indicate that the party was represented. If nothing was written in the box, then this was taken to indicate that the parties were not represented. In a small proportion of cases, information recorded on the form was inconsistent with the information recorded on the CMS.

Recording of representation on the CMS

Information from the form above is recorded on the CMS, in a 'representation' field attached to each order, even if the order is 'on paper', rather than at a hearing. To avoid conflating those matters where there was no representative at a hearing, and those where there was no hearing and therefore no representative, the 'representation' field must be cross tabulated with the 'order mode' field (at hearing/on paper).

The 'representation' field records whether the *applicant*, the *respondent*, *both* (applicant and respondent) or *neither* were represented at the hearing. The *type o*f representative (e.g. lawyer, agent, advocate, friend, other) is not recorded.

There are separate fields in the CMS party details screen (applicant details, respondent details) for the name and details of the representative and the *type of* representative. However, these fields did not appear to be used. For this reason, if there was a representative involved (e.g. in completing the application) but there was no hearing, the involvement of this representative will not be recorded on the CMS.

Data quality
Attendance at each hearing is recorded on the CMS, for each party and a representative for each party. However, the accuracy and value of the data for policy purposes is limited by the following:

- the design of the form on which party attendance and representation is recorded
- the ambiguity in who is being recorded on the green forms as a party or as a representative (particularly when the party is an organisation)
- some concern about whether real estate agents representing landlords at hearings may at times be noted on the form (and therefore the CMS) as the party attending, rather than as a representative
- to a small extent, some transcription errors to the CMS (in part due to the ambiguity of the form)
- no details recorded on the CMS about the type of representative (which is important given that a range of representative types are possible), including no separate identification of legal representatives.

Changes to the green form, and the use of the 'type of representative' field on the CMS would improve the quality and utility of this data for policy purposes.

Representation – CMS data

The CCD CMS records whether each of the parties were represented, for *each* hearing. Representation on the CMS is noted once each for 'applicant' and 'respondent', irrespective of the number of applicants and respondents per matter. As the type of representative is not recorded (e.g. legal, advocate, agent, friend), it is not possible to say what proportion of parties had *legal* representation.

Noting the data limitations above, the CMS data indicates that in nearly three-quarters of all CCD hearings, there were no representatives recorded for either party (Table 10). While this is consistent with NCAT's policy of encouraging parties to appear in person, this varied considerably by list.

In the *General* and *Motor vehicles* lists, neither party was noted as represented in 85.8% and 84.2% of matters respectively, while there was no representation for either party indicated in less than half (48.9%) of *Residential communities* matters.

Overall, applicants were more commonly represented than respondents, particularly in the *Social housing*, *Tenancy, Residential communities* and *Strata and community schemes* lists. However, respondents were more commonly represented than applicants in the *General* and *Motor vehicles* lists.

Table 10: Parties represented at CCD hearings, by list

List	Hearings	Neither party represented	Applicant represented	Respondent represented	Both parties represented
	N	%	%	%	%
Tenancy	33,608	76.5	17.8	2.2	3.5
Social housing	17,837	62.8	29.9	1.2	6.1
Home building	6,717	73.2	7.0	3.8	16.0
General	6,471	85.8	3.9	6.2	4.2
Motor vehicles	2,078	84.2	3.2	8.5	4.1
Residential communities	1,293	48.9	17.7	2.3	31.1
Commercial	1,078	78.8	4.9	4.5	11.9
Strata and community schemes	649	69.5	13.7	2.9	13.9
Retirement villages	150	68.0	6.0	7.3	18.7
Total CCD hearings	**69,881**	**73.2**	**17.9**	**2.7**	**6.2**

Source: CCD CMS, all matters finalised in 2015. Orders with 'Order_mode' 'at hearing'. Representatives may be lawyers, advocates, agents, friends or others.

Someone in attendance

To identify the extent to which *someone* attends hearings (the party or the representative) we drew together the attendance and representation data available on the CCD for each hearing (Table 11). Most commonly, each party and/or their representative attended hearings.

Of interest there was no attendance by parties or representatives in nearly 10% (9.3%) of hearings. Further analyses of these matters indicated that these hearings tended to result orders for dismissal (66.9%), withdrawal (22.0%) or adjournment (9.0%) (see 'Orders' section to come).

Table 11: Attendance OR representation at CCD hearings by list

List	Hearings	For neither party	For applicant	For respondent	For both parties
	N	%	%	%	%
Tenancy	33,608	12.7	40.8	3.6	42.8
Social housing	17,837	4.9	62.6	1.1	31.4
Home building	6,717	4.9	18.7	2.9	73.5
General	6,471	11.3	29.1	6.0	53.5
Motor vehicles	2,078	5.9	14.7	6.0	73.4
Residential communities	1,293	3.5	8.7	3.2	84.6
Commercial	1,078	7.2	15.0	3.8	73.9
Strata and community schemes	649	4.8	15.4	1.7	78.1
Retirement villages	150	5.3	3.3	2.7	88.7
Total CCD hearings	**69,881**	**9.3**	**41.1**	**3.2**	**46.4**

Source: CCD CMS, all matters finalised in 2015. Orders with 'Order_mode' 'at hearing'. n= 69,881.

Attendees/representatives – casefile analysis

Because information is not recorded on the CMS about *who* exactly appears at hearings as the applicant or respondent, or about the type of representative, we examined paper files (record of hearing forms, application forms and correspondence) and information recorded on the CMS for our 200 casefiles. Key observations include:

- Applicants and respondents include individuals acting in a private capacity as well as officers of organisations, who appear for their organisations in hearings. While these officers may appear at the tribunal on a regular basis, they are there (and therefore recorded in the data) as the party rather than as a 'representative' of the party. For this reason, officers of organisations are often not visible in the data as 'representatives'.
- In most of the *Tenancy* files reviewed, where the application had been lodged by a real estate agent for the landlord, no representative was noted on the file for the first hearing (10 of the 13 matters of this type). While it may be the case that the landlord appeared at the hearing rather than the agent, this could not be easily gleaned from the information available.
- As might be expected, legal representatives were not common in the files reviewed.

The casefile analysis is presented to illustrate the potential of more detailed information about who attends as a 'party' and the types of representatives. Such information informs decision-making in a setting where self-representation and unbundled legal assistance are encouraged, and policies to support these practices are being developed.

Representation by party status (person vs organisation)

Returning to the CCD CMS data, we also explored representation status, by whether applicants and respondents were persons or organisations. The CMS data indicates that, for both applicants and respondents, organisations were more likely than individuals to be represented by an advocate, agent, lawyer, friend or other representative (Table 12).

For applicants, the difference was particularly pronounced in the:

- *Motor vehicles* list (26.2% of organisational applicants represented compared to 6.1% of individual applicants),
- *Social housing* list (37.0% compared to 19.1%), and
- *Home building* list (34.8% compared to 18.4%).

Of interest, the pattern was reversed in the *Residential communities* list, where 41.5% of organisational applicants were represented and 50.0% of individual applicants.[15]

For respondents, the differences were most pronounced in the *Residential communities* list, where 42.7% of organisational respondents were represented but only 13.1% of individual respondents, and in the *Social housing* list (24.0% compared to 6.5%).

Table 12: Organisational and individual applicants and respondents 'represented' at CCD hearings, by list

List	Applicants represented		Respondents represented	
	Persons	Organisations	Persons	Organisations
	%	%	%	%
Tenancy	20.6	29.4	5.4	9.8
Social housing	19.1	37.0	6.5	24.0
Home building	18.4	34.8	18.1	20.9
General	6.7	19.7	7.3	11.2
Motor vehicles	6.1	26.2	7.9	13.4
Residential communities	50.0	41.5	13.1	42.7
Commercial	14.3	24.5	15.1	19.5
Strata and community schemes	26.7	29.0	15.5	19.8
Retirement villages	18.1	32.8	22.0	28.0
Total CCD hearings	**18.6**	**35.1**	**6.7**	**16.6**

Source: CCD CMS, all matters finalised in 2015. Orders with 'Order_mode' 'at hearing'. N= 69,881.

When considering these findings, however, it is also important to bear in mind that while some 'organisations' were *not* represented (e.g. by a lawyer, agent, advocate or other representative), they would have an officer appearing as the party on their behalf. In the case of an organisation that appears regularly at the tribunal, this may be an officer with repeat experience in appearing at the tribunal. The 'in person' experience is therefore

[15] We are advised that as *Residential communities* matters are usually brought by a group of residents, either one of them or an agent will act on behalf of the group.

different to that of an individual who may be appearing in the tribunal for the first time. This again suggests the value of:

a) further defining the entity type of parties (e.g. government, business, NFP/NGO)
b) clarifying the role of who is appearing for each of the parties (particularly organisations), either as the party or as the party's representative.

Representation by party entity type

To gather more detailed information about the types of parties who were represented and those who were not, we examined representation status by entity code, in a sample of 1,000 matters finalised in the CCD in 2015.[16]

Table 13 indicates the proportion of different types of first applicants and first respondents, who were represented at their *final* hearing (last 'final order' delivered at hearing).

Table 13: Entity types of applicants and respondents represented at final hearing, matters finalised in CCD, 2015

Entity type	First applicants	First applicants represented	First respondents	First respondents represented
	N	%	N	%
Individual	591	15.4	722	2.5
Government	152	32.2	8	37.5
Business	55	10.9	129	11.6
NFP/NGO	75	34.7	11	0.0

Source: Sample of 1,000 CCD cases, with first applicant and first respondent classified by entity type. Data for last 'final order' per matter, with 'Order_mode' 'at hearing.'

The weighted figures[17] for the CCD indicate that around one-third of government (32.2%) and NFP/NGO (34.7%) applicants were represented at their final hearing, compared to 10.9% of business applicants and 15.4% of individual applicants (first applicants). Focusing on first respondents, 37.5% of government respondents were represented at their final hearing, compared to 11.6% of businesses, 2.5% of individuals and no NFP/NGOs.

Of note for future consideration is the apparent disparity between the proportion of government agencies and NGOs (largely community housing organisations in the *Social housing* list) represented, compared to other party types.

Representation by applicant type (role)

Information is collected on the CCD CMS on 'applicant type' for all lists (and respondent type for the *Strata and community schemes* list only).

[16] An entity code was attributed by the Foundation to the first applicant and first respondent in the sample of 1,000 cases. With nine lists and several entity types we did not have enough cases to report representation status for applicants and respondents in each list.
[17] To ensure figures combined from the list samples are representative of the whole division, the figures reported here are weighted.

Table 14: Applicant representation at final hearing, by type of applicant

Applicant type	Applicants	Applicants represented
	N	%
Tenancy		
Landlord	20,626	25.1
Tenant/occupant^	5,310	7.1
Other party	119	8.4
Social housing		
Aboriginal Housing	1,282	40.8
Community Housing	4,053	34.5
Housing NSW	7,781	35.6
Tenant/occupant^	478	16.5
Other party	5	40.0
General		
Consumer	3,924	6.7
Proprietor (or former)	26	19.2
Resident (or former)	41	7.3
Other party (including conveyancer)	46	26.1
Home building		
Consumer	1,777	9.3
Trader	436	16.7
Other party (including insurer)	15	15.4
Sub-contractor	15	6.7
Residential communities		
Park/community/home owner/operator	141	39.0
Resident/tenant/occupant	598	48.7
Motor vehicles		
Consumer	1,118	6.4
Motor dealer	2	0.0
Strata and community schemes		
Association-Strata Corporation	6	33.3
Owners Corporation	130	36.2
Lot Owner/proprietor	110	10.1
Other party#	7	0.0
Commercial		
Consumer/tenant	66	10.6
Property/farm owner	276	9.8
Lessee	95	23.2
Lessor	34	23.5
Other	4	0.0
Retirement villages		
Operator	11	27.3
Resident/Former resident	16	6.3

Source: CCD CMS, all matters finalised in 2015. Data for last 'final order' per matter, with Order_mode 'at hearing'. 'Applicant type' for first applicant only.
^ including co-tenants, prospective tenants and occupants.
# Including lessor, managing agent and occupant.

Table 14 reports representation at final hearing, by applicant type, for the first applicant in each matter. In reviewing the data, it is important to bear in mind: the data limitations relating to representation described earlier; and that an 'in person' organisational applicant may be an employee, who may have experience in this jurisdiction. Again, representatives include lawyers, agents, advocates and other representatives.

The CMS data reported in Table 14 indicates that representation varied considerably by applicant type. In particular:

- one-quarter (25.1%) of landlord but only 7.1% of tenant applicants in the *Tenancy* list were represented
- between 34.5-40.8% of housing organisation applicants in the *Social housing* list were represented compared to 16.5% of tenant or occupant applicants
- 9.3% of consumer applicants and 16.7% of trader applicants were represented in the *Home building* list
- nearly half (48.7%) of all resident/tenant applicants and 39.0% of owner/operator applicants were represented in the *Residential communities* list.

Factors relevant to representation status

With greater clarity around *who* is attending CCD hearings on behalf of parties (that is, individuals, officers, advocates, agents, lawyers), it would in future be possible to assess what factors (e.g. list, order classification, party entity type, organisational status, claim amount etc.) may, independently of other factors, affect the likelihood of applicants and respondents being represented at CCD hearings. These are questions of considerable policy interest.

4. What types of matters are heard in the CCD?

On the application forms and if e-filing, applicants are asked to specify what order(s) they seek the Tribunal to make. The types of orders sought are grouped into classifications for reporting purposes. There are some classifications (and orders) which are common to all lists (e.g. stay/set aside, renewal) and some which are unique to one or more particular lists (e.g. defective/faulty used cars, rental bonds). The classification is a broad category based on the primary order sought.

Orders sought by classification

Table 15 (over page) indicates that a wide variety of orders were made across the various lists. Key observations, based on classification, include:

- 61.3% of all *Tenancy* list matters and 63.1% of *Social housing* list matters finalised in 2015 primarily concerned the termination of residential tenancy agreements
- together, termination of residential tenancy agreements in these two lists comprised nearly half (47.5%) of all CCD matters
- nearly 80% (78.9%) of matters in the *General* list and 71.1% of matters in the *Home building* lists were money or work orders valued at up to $30,000. Together, these made up 11.0% of all CCD matters
- 1,326 (1.5%) of all matters were classified as 'set aside' or 'vary other orders', while 538 (0.6%) were for renewal.

As indicated in Table 15, while some classifications are very specific, others do not give a clear impression of what the matter might relate to (e.g. 'general orders' and '≤$30,000'). Such broad categories mask the wide range of matters dealt with in the CCD. However, for particular lists there are data fields which do provide further insight into these broad categories: 'specific orders sought'; 'product code'; and 'practice code'.

Specific orders sought

Information on the specific order sought is entered on the CCD CMS for only two lists – the *Social housing* and *Tenancy* lists. Outcomes for these lists are prescribed in the *Residential Tenancies Act 2010* (NSW) and therefore readily identifiable. We are advised that orders are not recorded in other lists because the range of orders sought is more varied and can be challenging for applicants to identify accurately. This explains the 23.4% of matters finalised in 2015 that are missing information on the specific order sought.

Table 15: Classification of orders sought, CCD

List and classification	% of list	% of all CCD N=57,653
Tenancy	N=29,390	51.0
Termination of residential tenancy agreements	61.3	31.3
General orders	17.4	8.9
Rental bonds	13.5	6.9
Rent and other payments	2.6	1.3
Set aside/vary order	1.6	0.8
Repairs	1.4	0.7
Pre-agreement matters and residential tenancy agreements	0.4	0.2
Abandonment of residential premises	0.4	0.2
All other classifications	1.4	0.7
Social housing	N=14,800	25.7
Termination of residential tenancy agreements	63.1	16.2
General orders	26.8	6.9
Access to residential premises	5.5	1.4
Repairs	1.4	0.3
Set aside/vary order	1.1	0.3
Rent and other payments	0.9	0.2
All other classifications	1.1	0.3
General	N=5,273	9.1
<= $30,000	78.9	7.2
<= $40,000	11.2	1.0
> $30,000	2.9	0.3
Holiday park	1.9	0.2
Set aside/vary order	1.9	0.2
Renewal	1.2	0.1
All other classifications	2.2	0.2
Home building	N=3,067	5.3
<= $30,000	71.1	3.8
> $30,000	23.3	1.2
Renewal	2.8	0.2
Set aside/vary order	2.3	0.1
All other classifications	0.4	0.0
Residential communities	N=1,582	2.7
Rent increase excessive	82.1	2.3
Termination	6.1	0.2
Breach	5.4	0.1
Other	2.0	0.1
Renewal	1.4	0.0
All other classifications	3.0	0.1
Motor vehicles	N=1,448	2.5
Repairs	27.5	0.7
Defective/faulty used cars	26.2	0.7
Defective/faulty new cars	19.0	0.5

Contractual	11.5	0.3
Warranties-used car	3.8	0.1
Warranties-new car	3.1	0.1
Overcharging	3.0	0.1
Renewal	2.7	0.1
Set aside/vary order	2.6	0.1
All other classifications	0.5	0.0
Strata and community schemes	N= 1294	2.2
General orders	30.5	0.7
Interim order	14.5	0.3
Penalty	14.2	0.3
Appoint strata manager	11.5	0.3
Strata appeal	9.6	0.2
By-laws	7.7	0.2
Property	2.9	0.1
Unit entitlements	2.2	0.0
Meetings and decisions of owners corporation	2.0	0.0
All other classifications	5.0	0.1
Commercial	N=746	1.3
Dividing fences	45.8	0.6
Retail lease	39.0	0.5
Property stock & business agents	9.4	0.1
Agricultural tenancy	2.7	0.0
Travel compensation fund	1.5	0.0
Set aside/vary order	1.1	0.0
Renewal	0.5	0.0
Retirement villages	N=53	0.1
Payment of money & compensation	28.3	0.0
Termination & vacant possession	17.0	0.0
Recurrent charges	13.2	0.0
Village rules	13.2	0.0
Village contract	7.5	0.0
Annual budgets & accounts	5.7	0.0
Capital maintenance & replacement	5.7	0.0
Renewal	5.7	0.0
All other classifications	3.8	0.0
Total CCD matters	**57,653**	**100%**

Source: CCD CMS, all matters finalised in 2015, classification.
Notes: Classifications which numbered less than 100, or made up 1% or less of the list have been combined into the category of 'All other classifications' within each list.

'Product codes' and 'practice codes'

The CMS data provided the additional fields of 'product code' and 'practice code' which further described matters in *some* lists. Product codes included categories such as 'advertising/publishing', 'business opportunities' and 'children's toys' and 'lay by sales'. Practice codes included 'failure to account', 'defective goods', 'landlord enquiry' and 'refunds'. The accuracy or utility of these fields, and how they might work with other data to answer policy questions has not yet been considered in this review. We are advised, however, that these are no longer used due to concerns with the quality of the data. However, codes describing the types of goods and services in dispute have been developed for the *General* list.[18] We did not analyse product code or practice code data.

Data quality

In the casefile analysis, the matters reviewed were all in the correct lists for the orders being sought. However, as classification is based on the first order only, the prevalence of common but subsequent orders may be underrepresented. For example, matters classified as 'termination of a residential tenancy agreement' may have also involved orders for compensation for rent arrears. This second order is masked by the primary classification.

A second issue concerns how broad some of the classifications are, for instance 'general orders' or '≤$30,000', While the utility of high-level categories is acknowledged, 'classification' alone does not well illustrate the range of orders sought by applicants in this Division.

However, more detail *is* recorded on the CMS for the *Tenancy* and *Social housing* lists, in the form of the specific 'order sought' (but again, only the primary order sought is recorded).

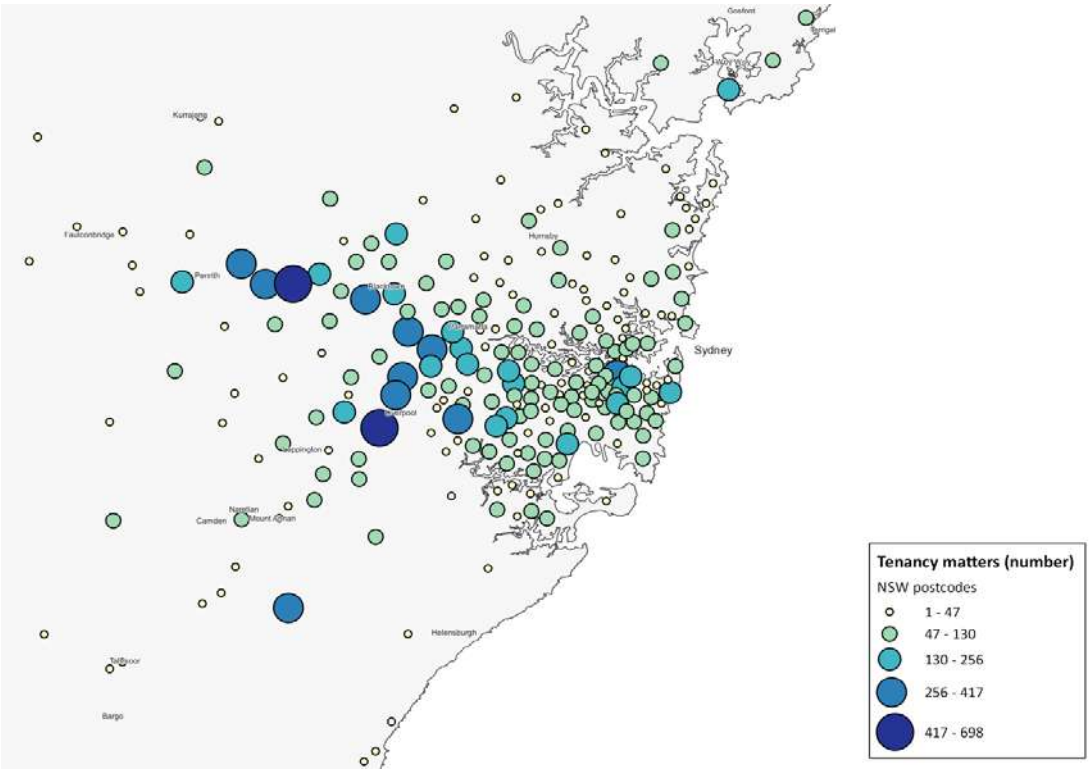
To better understand the range orders sought in the CCD, it would be beneficial to have more specific order categories (for up to two orders per matter) in all lists.

[18] Categories are: Household goods; Furniture/furnishings; Clothing/footwear; Personal/Domestic Services; IT/Telecommunication, Health/Medical; Leisure/Fitness; Trade/Utilities; Travel/Tourism; Entertainment; Hire arrangements, Advertising/Publishing).

How are matters distributed in NSW?

The CCD CMS records the postcode of the 'place of dispute'. The 'place of dispute' postcode was collected for virtually all matters finalised in the CCD in 2015 (only 7 missing). To demonstrate how postcode information can be mapped, Maps 1 and 2 show the distribution of the place of dispute in matters finalised during 2015 in the *Tenancy* list, in Sydney and in NSW more broadly.

Map 1: Distribution of place of dispute in Greater Sydney, Tenancy list, 2015

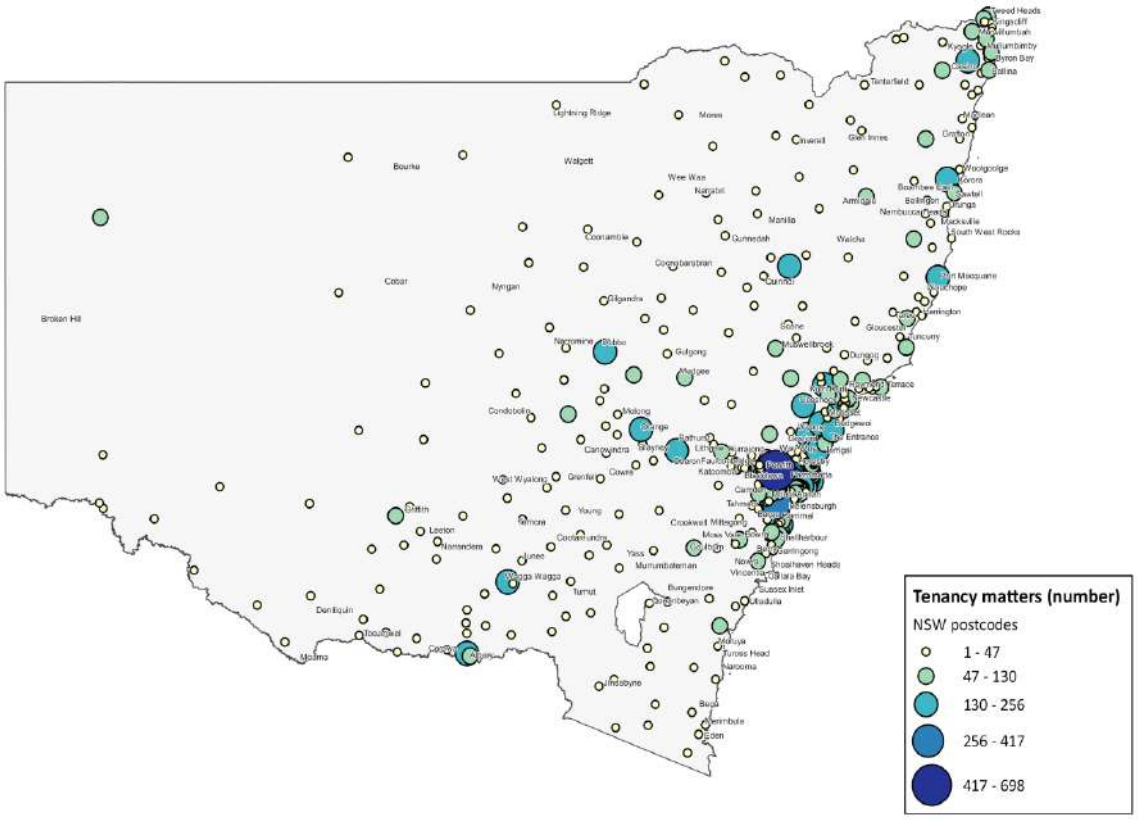


Source: CCD CMS, *Tenancy* list matters finalised in 2015, 'place of dispute' postcode.

The maps illustrate postcodes with much higher numbers of residences in dispute. A key factor reflected in these maps is the overall population and location of housing.

Similar maps can be created to show the *rate* of dispute per number of households in the postcode.

Map 2: Distribution of place of dispute in NSW, Tenancy list, 2015



Source: CCD CMS, *Tenancy* list matters finalised in 2015, 'place of dispute' postcode.

5. What is the monetary value of CCD matters?

As indicated by the data so far, a wide variety of disputes are dealt with in the CCD. Many of the orders sought in the CCD concern actions which are to be taken (or not taken) by the respondent and do *not* relate to a monetary amount.

The value of orders sought in the CCD

Data on the value of orders sought is collected from the 'value of the claim' field on the hard copy or online application form for the *General*, *Home building* and *Motor vehicles* lists, and the 'estimated cost of the fencing work' field on the application form for dividing fences orders (part of the *Commercial* list). The total value sought includes:

- money orders (that the applicant is to be paid a monetary amount or that the applicant does not have to pay a monetary amount), and
- work orders (that the respondent is to do work, provide services, repair, replace or refund faulty goods or return goods) of a specified value.

There is no 'value of the claim' field on the application forms used in the *Tenancy,*[19] *Social housing*, *Residential communities*, *Retirement villages* and *Strata and community schemes* lists. Accordingly, while amounts may be specified on the application forms in the description of the orders sought, the total value of claims in these lists is not recorded on the CCD CMS.

Information on the monetary value of the orders sought by the applicant is recorded in a discrete numeric field on the CMS for four lists: *General*, *Home building* and *Motor vehicles* and *Commercial*. As these four lists together make up only 18% of all matters finalised in the CCD, there was no amount specified in this field for 84.1% of the CCD matters finalised in 2015. The missing data will include matters in which a monetary amount is not relevant *and* matters in which an amount is claimed, but the data has not been entered in this field.

In the 15.9% of matters finalised in which the value of the orders sought was entered, 72.8% of those matters involved orders worth up to $10,000. 21.7% of orders sought that had a specified monetary amount were worth less than $1,000. However, the value of amounts sought is best understood by list.

Table 16 indicates that there were amounts listed for around 90% or more of the *General*, *Home building* and *Motor vehicles* lists, but for only 36.1% of matters in the *Commercial* list (matters relating to dividing fences only). Overall, the value of orders sought was highest in the *Home building list*, where the median amount was $9,748. Nearly 11% (10.9%) of matters that had monetary amounts specified in this list concerned orders sought for amounts of more than $100,000. In comparison, the median value of orders sought in the *General* list was $1,885 and 87.9% of matters were worth less than $10,000.

[19] In the data there were two tenancy matters which had a monetary amount included in this field on the CMS.

Table 16: Monetary amounts sought in CCD matters finalised, by list 2015

List	General	Home building	Motor vehicles	Commercial
Total matters	**N=5,273**	**N=3,067**	**N=1,448**	**N=746**
% missing	10.2	9.7	7.9	63.9
Amount specified	**N=4,734**	**N=2,768**	**N=1,334**	**N=269**
	%	%	%	%
<$1,000	33.5	6.2	10.3	11.5
$1,000 - <$10,000	54.4	44.3	49.9	78.8
$10,000 - <$20,000	6.4	15.6	15.4	4.8
$20,000 - <$50,000	4.8	16.5	17.4	3.3
$50,000 - <$100,000	0.5	6.4	5.3	1.1
$100,000 - <$500,000	0.4	10.9	1.6	0.4
Total, amount specified	100.0	100.0	100.0	100.0
Median amount	$1,885	$9,748	$6,300	$2,790

Source: CCD CMS, matters finalised in 2015 in the *General*, *Home building*, *Motor vehicles* and *Commercial* lists.
Notes: the *Commercial* list matters are only those concerning dividing fences. The median is reported here rather than a mean as the values of orders sought are extremely varied and skewed.

Data quality

The value of the monetary amount sought that is entered on the CMS is that written on the relevant application form by the applicant. The information will be as accurate as the assessment made by that individual.

For online applications, it is mandatory for the applicant to specify a total amount claimed in the General, Home building and Motor vehicles lists. If applicants fail to include this information on the PDF form, then the information will also be missing in the CMS.

Our analysis indicates that in those cases where the order 'classification' was an amount (e.g. the category <$30,000), the value of orders sought was usually consistent with this.

Importantly, because information collection practices vary between lists within the CCD, the value of the claim is not routinely recorded in this field for the 5 other CCD lists (including the two largest lists – Tenancy and Social housing), even where monetary amounts are specified in the orders sought. The casefile analysis indicated, for instance, that specific amounts were entered on application forms, such as the amount of rent or compensation sought, or the value of repairs. To properly assess the value of the orders sought in the CCD, and in NCAT more broadly, this information would need to be recorded on the CMS in a retrievable form for all relevant matters. If the monetary value of the order sought is not relevant, the field should include an 'n/a' value, to differentiate these from orders for which an amount is relevant, but is missing.

Value of orders in the Tenancy and Social housing lists – Casefile analysis

We used our detailed casefile analysis to explore the monetary amounts in dispute in two of the lists for which this information is *not* recorded on the CMS, *Tenancy* (n=50) and *Social housing* (n=49).

A monetary amount sought was specified in 32 (64.0%) *Tenancy* and 28 (57.1%) *Social housing* list files reviewed. These amounts were generally for rent arrears, damages or repairs and bond monies in dispute. Commonly, there would be more than one order sought, for instance, termination of the lease and compensation for the amount specified. Orders to set weekly rent or daily occupation amounts are not included here.

The most notable feature of the amounts specified was how much they varied. In the *Tenancy* list amounts recorded in this small sample varied from $14 to just over $30,000. The median value of orders sought in this sample of *Tenancy* matters was $1,470.

In the *Social housing* list sample, the amounts specified varied from $60 to just over $22,000, with a median value of orders sought of $1,600. As these figures were drawn from a small sample, they are not necessarily representative of the overall amounts sought in the respective lists.

6. How do matters progress to finalisation?

The progress of matters through the CCD can be tracked in a range of ways. Information on listings provides insight into the range of activities involved in a matter. Our initial assessment of the listing data was that, for this purpose, further work may be required to ensure the categories used are mutually exclusive and complete. Another approach is to examine elapsed time (see section 9). In this section we instead track the progress of matters in the CCD by examining the orders made in each matter.

There are two broad groupings of orders *made* in the CCD. The first could be described as procedural orders. These include orders such as *adjournments, reserved decisions* and *directions orders*.[20] The second are those flagged as 'final orders'. These orders relate to outcomes for the matter (such as *termination*, *money order*, *works order* and *interim order*).

All orders made, procedural and final, are recorded on the CCD CMS. In most lists and matters, orders can be entered directly onto the CMS by the Member making the order. This method has the considerable advantage of reducing transcription errors from handwritten orders. It also means that orders are available to the parties at the conclusion of their hearing. The CMS also records whether the orders were made 'at hearing' or 'on paper'. Here we use orders – *procedural* and *final* orders – to describe the progress of matters in the CCD.

How matters progress to finalisation, by list

Table 17 indicates that more than three-quarters of matters finalised in the Tenancy, Social housing and Strata and community schemes lists in 2015 were finalised in a single order. In contrast, matters in the Retirement villages, Home building and Commercial lists, in particular, more commonly involved multiple orders.

[20] In the CMS, 'final orders' are identified as those which are 'finalised' in the 'next status' field. An 'end result' flag is applied and these orders are reported as a 'yes' in a 'Final _order' flag in the CMS data. The orders we have identified as 'procedural orders' are all other orders (next status: adjourned, reserved, at liberty, not accepted, passed or blank).

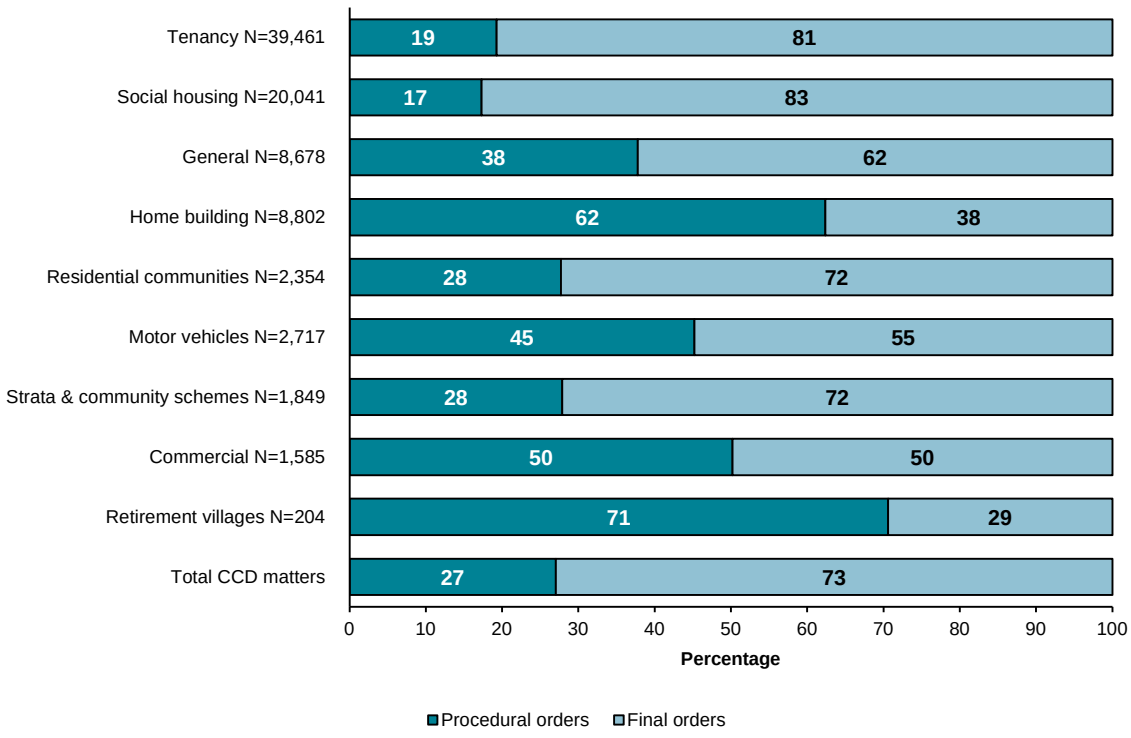
Table 17: Number of orders made per matter by list, matters finalised in the CCD, 2015

List	Matters	1 order	2 orders	3 orders	4+ orders
	N	%	%	%	%
Tenancy	29,390	74.8	19.0	4.5	1.8
Social housing	14,800	76.4	16.8	4.2	2.6
General	5,273	56.9	29.0	9.7	4.4
Home building	3,067	40.0	26.1	12.3	21.6
Residential communities	1,582	67.8	22.8	5.4	4.0
Motor vehicles	1,448	44.8	35.9	12.2	7.1
Strata and community schemes	1,294	77.2	13.4	5.0	4.4
Commercial	746	42.8	32.8	13.3	11.1
Retirement villages	53	13.2	32.1	20.8	34.0
Total CCD matters	**57,653**	**70.3**	**20.3**	**5.7**	**3.7**

Source: CCD CMS, all matters finalised in 2015, orders made. Total orders =85,691.

Figure 2 indicates that overall, nearly three-quarters (72.9%) of all orders in the CCD were final orders. This varied considerably by list. With most matters finalised in one order in the *Tenancy* and *Social housing* lists, it was not unexpected that more than 80% of orders in these lists were final orders. This again contrasted to the *Home building* and *Retirement villages* lists, in which most orders were procedural orders (62.4% and 70.6% respectively). As indicated in Table 18, nearly 90% (89.4%) of all procedural orders are adjournments.

Figure 2: Procedural versus final orders made by list, CCD



Source: CCD CMS, all matters finalised in 2015, orders made. Total orders =85,691.

Types of procedural (non-final) orders

Overall, 89.4% of all procedural orders in matters finalised in 2015 were adjournments. Adjournments made up nearly one-quarter (24.2%) of all orders (procedural and final).

Table 18: Types of procedural orders (non-final orders) made, CCD

Order^	Percentage of procedural orders N=23,185	Percentage of all orders N=85,691
	%	%
Adjourned	89.4	24.2
Reserved decision	2.6	0.7
Stay of proceedings	2.3	0.6
Adjournment refused	2.0	0.5
Submissions requested	1.6	0.4
Directions orders/procedural	1.3	0.4
Stay lifted	0.7	0.2
Other orders	0.1	0.0
All orders	100.0	100.0

Source: CCD CMS, all matters finalised in 2015, orders not flagged as a 'final order'.
Notes: ^ There were a small proportion of orders (<100) which used Appeal Panel categories (e.g. AP– Adjourned). As they were data entry errors, they were reclassified to the appropriate order above.

Of note, if more than one order was made by a member (on a given occasion), the order selected for inclusion is based on an 'order hierarchy' defined by the CCD. As 'adjournment' is at the top of that order hierarchy, this may have contributed to the relatively high number of adjournments.

Adjournments are reported by list in Table 19, as a proportion of all orders (not just procedural orders). 60.3% of all orders in the *Retirement villages* list, 57.5% in the *Home building* list and 43.4% in the *Commercial* list were for adjournment.

Table 19: Adjournments as a proportion of all orders made, CCD

List	All orders	Adjournments	
	N	N	%
Tenancy	39,461	6,706	17.0
Social housing	20,041	3,097	15.5
General	8,678	2,912	33.6
Home building	8,802	5,057	57.5
Residential communities	2,354	614	26.1
Motor vehicles	2,717	1,111	40.9
Strata & community schemes	1,849	430	23.3
Commercial	1,585	688	43.4
Retirement villages	204	123	60.3
All orders	85,691	20,738	24.2

Source: CCD CMS, all matters finalised in 2015, orders.

Reserved decisions were the second most common procedural order. Reserved decisions were most common in the *Retirement villages* list (8% of all orders).

Data quality
Data for CCD and for the Appeal Panel (AP) are both kept on the CCD CMS. In comparing the CCD and AP data on orders, it appears that the orders for the CCD and those for the AP are selected from a single drop down list. Most of these orders (in CAPS) appear to relate to CCD matters, while some orders are specific to the AP, such 'AP- Adjourned', 'AP-Allowed' and 'AP-Dismissed - Application withdrawn'. However, in reviewing the data we found a small number of orders in the CCD data that used AP codes (n=132). We are advised that, while Members can only select orders relevant to their division, registry staff are able to inadvertently select orders not relevant to the division (e.g. AP-Dismissed, instead of 'Dismissal' for a CCD matter). This issue relates to both procedural and final orders.

Types of 'final' orders

In 93% of matters, there was only one 'final order' per matter. There were 2 final orders in 6% of matters and between 2 and 7 final orders in the remaining 1% of files. Multiple final orders may occur, for instance, when there was an interim order in a matter and then a subsequent final order, such as a money order.

Table 20: Final orders made (summarised list), CCD

Final orders	Percentage of 'final orders' N=62,506	Percentage of all orders N=85,691
	%	%
Dismissal	18.9	13.8
Withdrawal	12.8	9.4
Ex Parte hearing	10.7	7.8
Notice of order	1.6	1.2
Set aside granted	0.7	0.5
Set aside refused	0.6	0.5
Interim orders made	0.1	0.1
Money order	16.0	11.7
Rent/Water	14.5	10.6
Termination	13.2	9.6
Other orders	3.0	2.2
Rental Bond	2.4	1.8
Specific performance orders	1.7	1.2
Works order	1.5	1.1
Other issue specific orders[^]	1.1	0.8
Excessive rent or increase	0.7	0.5
Other orders - final process[#]	0.3	0.2
All final orders	**100.0**	**72.9**

Source: CCD CMS, all matters finalised in 2015, orders. There can be more than one final order per matter.
Notes: [^]Includes less common orders such as abandon premises, change tenant and appoint strata manager.
[#] Includes less common final orders relating to NCAT processes such as transfer to a court, cost order, rehearing approved and rehearing refused.

Table 20 indicates that nearly 1 in 5 (18.9%) 'final orders' in the CCD (and 13.8% of all orders) were for the matter to be dismissed. A further 12.8% of final orders were withdrawals (9.4% of all orders). However, as these orders can be made in *all* lists, their prevalence is likely to be higher than orders such as 'termination' or 'rent/water' which are only relevant in some lists. See section 8 for data on the most common orders by list. Of note, among the 'final orders' listed, are categories such as 'notice of order' and 'ex parte hearing', which are not in fact 'orders', but other descriptors (e.g. mode of hearing).

Rather than report all final orders by list, we discuss how matters are finalised by list in the following section. There, the analysis is based on the *last* final order that ends the matter, rather than all 'final orders'.

Data quality
7.0% of matters had more than one 'final order'. However, for all but 117 (0.2%) of the 57,653 matters, there was only one order that occurred on the 'finalised date' that was coded as a 'final' (or 'outcome') order (rather than as a procedural order). All of the 57,653 matters had a 'final' order on the finalised date.

Conciliations

NCAT encourages parties in the CCD to resolve their dispute by conciliation. For most matters, 'conciliations' are scheduled to occur immediately before the first hearing. [21] Some matters may involve more than one conciliation.

Conciliation statistics are generally recorded by the Deputy Registrar (but may also be recorded by Members where they attempt conciliation) and are stored on the CCD as a 'listing'. The CCD has fields to record a) whether conciliation occurred and b) the outcomes of the conciliation. Listing information (including information on conciliations), appears to be recorded in a different part of the CMS to information on orders made. In the time available, we have not linked the information on conciliations to information on orders made.

[21] Conciliation is not offered for most matters in the *Strata and community schemes* list because parties have already come through a compulsory mediation process in NSW Fair Trading.

Data quality

The analysis has raised some concerns about the accuracy of the conciliation data. There were 80,855 listings in matters finalised in 2015.[22] Of these listings, 28,766 (35.6%) were flagged with a 'yes' for 'conciliation' – that is, that a conciliation process had taken place. 214 of these listings (0.3%) were flagged as a 'no' for 'conciliation'. Overall 64.2% of these listings were blank in the conciliation field, and did not indicate whether or not a conciliation had taken place. The proportion missing in each list ranged from 58.0% of listings in the *Tenancy* list to 98.5% in the *Strata and community schemes* list. The low proportion of conciliations in the *Strata and community schemes* list reflects the fact that, at present, strata matters are generally adjudicated on paper. Strata adjudication matters are not NCAT matters but are managed by the NCAT registry. Only a small proportion of strata matters come directly to NCAT and may be subject to conciliation.

While blanks in the 'conciliation' field would suggest that no conciliation process took place, a cross-tabulation with 'conciliation outcomes' data indicates that this may not have always been the case, and/or that there were problems in data entry. Table 21 indicates there were:

- conciliation outcomes for some matters where the 'conciliation' field was blank (6.6% of listings where conciliation was not specified) and for some matters where 'no' was entered in the 'conciliation' field (4.2% of matters which were flagged as 'no' for 'conciliation')
- no conciliation outcomes recorded for matters flagged as having conciliation (62.2% of listings flagged as conciliations had no conciliation outcome).

It is also not clear where the 'conciliation' field was blank, whether this was because no conciliation was scheduled or because a scheduled conciliation did not eventuate.

The clarity of this information, for policy use, would be improved if 'conciliation outcomes' could only be recorded only when a 'conciliation' is listed on the system, and that if a conciliation is listed, that the system required outcomes to be recorded (even if a 'not known' category is necessary). Conciliations scheduled but not eventuating could be added as an option in the 'conciliation outcomes' available on the CMS.

As discussed above under data quality, Table 21 indicates that there were listings for which a conciliation outcome was recorded even though the listing was not flagged as conciliation, as well as listings flagged as conciliations but with no conciliation outcome recorded. Indeed, no conciliation outcome was recorded in 62.2% of conciliation listings flagged. Within this figure may be conciliations in which consent was not reached, as well as conciliations in which consent was reached – partially or fully, but that this was not recorded on the database. Table 21 indicates that consent or consent to adjourn was reached in one-quarter of all listings which were flagged as conciliations on the CMS.

[22] 2,713 matters had no information on listings. We have not yet explored why, but these may include matters which were withdrawn before the matter could be listed.

Table 21: Conciliations flagged by conciliation outcome recorded, CCD

Conciliation?	Yes N=28,766	No N=214	Not specified N=51,875	Total listings N=80,855
Conciliation outcomes	%	%	%	%
Blank (no outcome recorded)	62.2	88.3	93.4	82.3
Consent	23.9	4.2	1.6	9.6
Consent Adjourned/Directions	0.7	0.0	0.4	0.5
Consent Adjourned	1.3	0.9	0.4	0.7
Referred to Hearing on all Issues	8.1	3.7	3.4	5.1
Referred to Hearing on some Issues	1.8	1.9	0.6	1.1
Withdrawn	2.0	0.9	0.1	0.8
Total outcomes	100.0	100.0	100.0	100.0

Source: CCD CMS, all matters finalised in 2015, listings.

We also examined conciliations by matter. The data indicate that at least one conciliation process was recorded in 43.4% of all CCD matters finalised in 2015. 'No conciliation' was recorded for 0.8% of matters and there was nothing specified in the conciliation field for 56.3% of matters. Of the 24,994 matters that had at least one conciliation recorded, nearly 90% involved only one single conciliation (Table 22).

Table 22: Conciliations recorded per matter, CCD

Number of conciliations recorded	Matters	Conciliation recorded N= 24,994	All matters N=57,653
	N	%	%
1 conciliation	22,369	89.5	38.8
2 conciliations	2,079	8.3	3.6
3 conciliations	217	0.9	0.4
4 conciliations	249	1.0	0.4
5+ conciliations^	80	0.3	0.1
Total matters 1+ conciliations	24,994	-	43.4

Source: CCD CMS, all matters finalised in 2015, listings.
^Within the 5+ conciliations category were 49 matters with 6 conciliations recorded, and 9 matters with 12 conciliations recorded.

Due to data concerns, analysis has not been undertaken of conciliations and conciliation outcome per matter by list.

7. How are matters finalised?

To establish how matters are finalised in the CCD, we reviewed the *last* final order made in each matter. These are identified in the data as the 'final order' made on the 'finalised date'.

Noting the range of last final orders that can be made, we created three broad categories: orders for dismissal; orders for withdrawal; and all other last final orders (see Table 20 above for examples of these orders). In practice there may be overlap between matters which are dismissed and those which are withdrawn (i.e. matters which are withdrawn and dismissed), even though discrete categories are provided in the data.

Based on the data available, Table 23 indicates that orders for dismissal comprised more than 30% of last final orders in the *Strata and community schemes* (31.1%), *Motor vehicles* (31.3%), *General* (31.6%), *Commercial* (36.2%) and *Retirement villages* (43.4%) lists. Only 10.6% of last final orders in the *Social housing* list were for dismissal. Matters can be dismissed for reasons ranging from lack of payment of fees, to lack of merit in the claim, to dismissal as part of a consent agreement by the parties (see data on consent, below). Last final orders for withdrawal ranged from 10.6% in the *Strata and community schemes* list to 20.8% in each of the *Commercial* and *Retirement villages* lists.

Table 23: Last final order made by list, CCD

List	Matters	Dismissal	Withdrawal	Other last final order
	N	%	%	%
Tenancy	29,390	20.7	12.1	67.2
Social housing	14,800	10.6	12.7	76.7
General	5,273	31.6	19.5	48.9
Home building	3,067	22.5	19.7	57.8
Residential communities	1,582	29.8	16.8	53.4
Motor vehicles	1,448	31.3	17.2	51.5
Strata & community schemes	1,294	31.1	10.6	58.3
Commercial	746	36.2	20.8	43.0
Retirement villages	53	43.4	20.8	35.8
All CCD matters	57,653	20.1	13.7	66.2

Source: CCD CMS, all matters finalised in 2015, orders flagged as 'final orders' on the 'finalised date' ('last final orders').

The policy implications of high volumes of dismissals and withdrawals in certain lists may warrant further consideration. For instance, what impact may legal assistance prior to, or representation in hearings have on the rates of withdrawal or dismissal? Future analyses could explore types of final orders by factors such as applicant role or type, party appearance, lodgement method and the representation status of the applicant.

Data quality
There is only one broad order description for 'dismissal' for CCD matters and another for 'withdrawal'. To gain more insight into factors relevant to dismissal and withdrawal, it may be beneficial to have more granulated categories for dismissal and withdrawal (as is the case for Appeal Panel matters), which detail the various reasons for dismissal (e.g. Dismissal – after hearing; Dismissal – by consent; Dismissal – non-payment of fees). Further, while discrete categories are provided in the data for 'withdrawal' and 'dismissal' we note that in practice there may be overlap between these categories (i.e. matters which are withdrawn and dismissed). More detailed categories for dismissal would also enable matters which are withdrawn *and* dismissed to be more consistently recorded in a single category.

Last final orders by consent

The CCD CMS includes a 'consent flag' to indicate whether the order was made with consent between the parties. Where this is the last final order, consent is the equivalent to a settlement between the parties. Parties may come to agreement at conciliation prior to a hearing (see Table 21, Conciliation section).

Consent by list

Across the CCD, there was only a small proportion of missing entries in the 'consent' field for the last final order (3.4%), but this varied by list. Overall, and in the *Tenancy* list, nearly one-quarter (24.7% CCD, 24.3% *Tenancy*) of all last final orders were finalised by consent. As indicated by Table 24 (final column), this ranged by list from 4.2% in the *Strata and community schemes* list to 43.7% in the *Residential communities* list.

Table 24: Types of last final orders made by consent, by list, CCD

List	Dismissals	Withdrawals	All other orders	All last final orders
	% by consent	% by consent	% by consent	% by consent
Tenancy	3.3	4.5	33.6	24.3
Social housing	5.0	1.8	28.0	22.6
General	3.8	9.2	40.8	23.6
Commercial	13.6	20.0	35.7	24.6
Motor vehicles	4.8	9.8	58.5	34.3
Residential communities	53.1	0.8	52.6	43.7
Home building	13.0	11.1	47.3	33.4
Strata and community schemes	2.9	2.4	5.0	4.2
Retirement villages	19.0	18.2	10.5	15.7
All final orders	6.5	5.2	33.4	24.7

Source: CCD CMS, all matters finalised in 2015, orders flagged as 'final orders' on the finalised date ('last final order').
Note: Overall 1,951 (3.4%) of last final orders for matters were missing a consent flag, and excluded from analysis. This varied from 2.1% missing in the *Social housing*, 6.7% in the *Commercial* and 18.2% in the *Strata and community schemes* list.

Consent by orders made

The proportion of matters finalised by consent also varied by order type. Focusing on last final orders, Table 24 indicates that, for the CCD overall, 6.5% of dismissals and 5.2% of withdrawals were made by consent of the parties. However, one-third (33.4%) of all other last final orders were by the consent.

Examined by list, there was again considerable variation. For instance, in the *Commercial* list, 13.6% of dismissals, 20.0% of withdrawals and 35.7% of all other last final orders were made by consent. In the *Motor vehicles* list, few dismissals and withdrawals occurred by consent, but nearly 58.5% of all other last final orders were made by consent. There appeared to be few last final orders made by consent in the *Strata and community schemes* list (though there was a relatively high proportion (18.2%) of missing data in this list).

Relevant to the levels of consent may be the use of conciliation in each of these lists, whether applicants and/or respondents were represented and the types of applicants and respondents involved (e.g., individuals, businesses, government). These are areas for further examination.

8. How do orders made compare to orders sought?

As indicated earlier, specific orders sought in the CCD are grouped into 'classifications'. Some classifications are list-specific and others are more generic. A matter's classification is based on the main order *sought*. Each matter has only one classification. Similarly, only one final order *made* per matter is reported on the CMS.

The following analysis presents the first order *made* organised by the first order *sought*. However, with numerous lists, classifications and orders, it is not feasible to present here every combination classification and final orders made. Rather, Tables 25 to 27 include the most common order classifications per list, together with the most common orders made by the Tribunal for these classifications. The order made reported here is the 'final order' made on the 'finalised date' – that is, the 'last final order'.

Table 25: Last final order made for most common order types sought, CCD *Tenancy* list

Classification (order sought)	Last final order made	%
Termination of residential tenancy agreement		N=18,020
	Termination	33.3
	Dismissal	18.7
	Ex parte hearing	13.6
	Rent/water	13.1
	Withdrawal	11.8
	Money order	7.3
	All other orders^	2.4
General orders		N=5,117
	Money order	40.8
	Dismissal	21.1
	Withdrawal	11.3
	Ex parte hearing	10.8
	Rental bond	5.6
	Rent/water	4.2
	Termination	1.8
	All other orders^	4.3
Rental bond		N=3,976
	Money order	28.2
	Rental bond	26.9
	Dismissal	24.4
	Withdrawal	13.3
	Ex parte hearing	3.8
	All other orders^	3.3

Source: CCD CMS data for matters finalised in the *Tenancy* list, 2015, where the order sought classification was 'termination of residential tenancy agreement', 'general orders' or 'rental bond'. The order made is the 'final order' made on the 'finalised date' ('last final order').Note: ^All other orders made combined.

In reading these tables bear in mind that, because only 'first' or 'primary' orders are reported here, there may be higher numbers of certain types of *orders made* than appear. To explain by example, in some of the 13% of matters in the *Tenancy* list and the 38% of matters in *Social housing* list which resulted in a 'rent/water' order (to pay unpaid rent or rates), there may have *also* been orders made to terminate the lease. Because 'rent/water' was recorded as the primary order made in these cases, the termination orders in these cases were not counted and the total number of termination orders made is masked. That noted, key observations include that:

- of the matters classified as 'termination of residential tenancy agreement', only one-third (33.3% in the *Tenancy* list and 15.3% in the *Social housing* list had 'termination' as the primary order made
- in the *Social housing* list, 38.0% of matters classified as 'termination of residential tenancy agreement' resulted in an primary order made for 'rent/water' (e.g. to pay unpaid rent)
- a relatively high number of orders in each of the following lists and classifications were dismissed, ranging from 9.3% of general orders sought in the *Social housing* list, to 53.3% of orders for payment of money and compensation in the *Retirement villages* list
- withdrawals were also common in most of the lists and classifications reported below.

Table 26: Last final order made, for most common order types sought, CCD *Social housing* list

Classification (order sought)	Order made	%
Termination of residential tenancy agreement		N= 9,340
	Rent/water	38.0
	Termination	15.3
	Ex parte hearing	14.8
	Withdrawal	14.6
	Dismissal	9.9
	Specific performance orders	4.1
	Money order	1.6
	All other orders^	1.6
General orders		N=3,972
	Money order	31.5
	Ex parte hearing	21.1
	Rent/water	16.9
	Dismissal	9.3
	Withdrawal	8.0
	Specific performance orders	6.8
	Access	3.2
	All other orders^	3.2

Source: CCD CMS data for matters finalised in the *Social housing* list, 2015, where the order sought classification was 'termination of residential tenancy agreement' or 'general orders'. The order made is the 'final order' made on the 'finalised date' ('last final order').
Note: ^All other orders made combined.

Table 27: Last final order made for most common order classifications sought, other CCD lists

List and classification	Order made	%
***General*: <=$30,000**		**N=4,160**
	Money order	33.1
	Dismissal	32.6
	Withdrawal	19.2
	Ex parte hearing	5.3
	Works order	4.3
	All other orders^	5.5
***Home building*: <=$30,000**		**N=2,182**
	Money order	39.6
	Dismissal	22.3
	Withdrawal	18.7
	Works order	7.6
	Ex parte hearing	4.3
	All other orders^	7.4
***Residential communities*: Rent increase excessive**		**N=1,299**
	Dismissal	27.7
	Excessive rent or increase	26.9
	Withdrawal	18.6
	Specific performance orders	12.7
	Works order	5.5
	All other orders^	8.6
***Motor vehicles*: Repairs**		**N=398**
	Money order	37.9
	Dismissal	33.2
	Withdrawal	14.8
	Works order	6.3
	All other orders^	7.8
***Motor vehicles*: Defective/faulty used cars**		**N=380**
	Dismissal	33.7
	Money order	30.0
	Withdrawal	13.9
	Works order	10.5
	All other orders^	11.8
***Strata and community schemes*: General orders**		**N=395**
	Notice of order	57.5
	Dismissal	26.6
	Withdrawal	6.1
	All other orders^	9.9
***Commercial*: Dividing fences**		**N=342**
	Dismissal	37.4
	Withdrawal	20.5
	All other orders^	42.1
***Retirement villages*: Payment of money & compensation**		**N=15**
	Dismissal	53.3
	All other orders^	46.7

Source: CCD CMS data for matters finalised in 2015, for only the lists and classifications detailed in the table. The order made is the 'final order' made on the 'finalised date' ('last final order').
Note: ^All other orders made combined.

Data quality
Further investigation is required to assess whether the categories of orders made above are mutually exclusive and explicit enough for policy purposes – that is, to indicate what the outcomes were for the parties.

For policy purposes, it would also be useful to have at least two orders made recorded on the CMS, so that any orders that do commonly co-occur (e.g. termination and rent/water) are both visible in the data when there is more than one order made. For instance, in the data reported here, there may have been 'termination' orders made at the same time as some of the 13.1% of 'rent/water' orders in the *Tenancy* list and the 38.0% of 'rent water' orders made in *Social housing* list. In these examples, the true proportion of termination orders made could be masked because only one order made per matter had been recorded on the CMS.

A related issue for consideration in any upgrade to the CMS or NCAT data collection more broadly concerns how first (and potentially second) orders sought (and the resulting classification) and first (and potentially second) orders made are selected. It is important that the order hierarchy applied for classification is also applied to orders made, in those selected for reporting on the CMS database.

Finally, while 'ex parte hearing' describes a type of hearing, it is included and used as an outcome type in the CCD data. For policy purposes, all outcome values should only describe outcomes, ideally in terms which indicate the difference made to the parties.

Value of orders sought compared to orders made

The monetary value of orders *sought* is recorded on the CMS in a discrete numeric field for four lists, but not the other five lists, including the two largest lists, *Tenancy* and *Social housing*.

The value of orders *made* (where relevant) is only recorded on the actual order made. As a text field, this cannot easily be reported in aggregate form from the database. It is therefore not easy to routinely compare the value of orders sought to the value of orders made using the CMS data.

The following analysis of the case file data is used to illustrate how information on the monetary value of orders sought and made (where applicable), could be used for policy purposes, if it were available on the CMS. Here we report the monetary amounts sought and the value of orders made from our case file sample of matters in the *Tenancy* and *Social housing*. The information has been drawn from application forms and from descriptive information on the CMS of orders made. The figures below only show the lump sum amounts, which are usually for unpaid rent, compensation or repairs. Orders setting daily occupation fees or weekly rent amounts are not included in the values specified in Table 29.

As the following information is only drawn from a small number of randomly selected cases per list, these may not represent the overall profile of matters in these lists, and should not be used for this purpose. Rather the findings are provided to indicate the type of

information that could be reported if the data is was accessible from the CCD CMS in a form that enables collation.

In the case file analysis we identified matters in which:

a) an amount was specified for the orders sought, and in the orders made
b) an amount was specified for the orders sought but *not* in the orders made (e.g. order was dismissed, withdrawn or a non-monetary order was made)
c) no amount was identified for the orders sought but an amount was specified in the order made (e.g. order to pay rent arrears)
d) no amounts were specified for orders sought or made (including non-monetary orders, and orders without amounts specified).

The numbers of matters in each of these groups, and the relevant average (mean) amounts are detailed in Table 28. Table 28 indicates that where amounts were specified for both orders sought and made in the *Tenancy list*, the average amount sought in our case file sample was $2,080, and the average amount awarded was $1,635 (a difference of $445). These figures exclude one matter for which there was an outlier, a significantly higher claim of $30,000 (see table note for details).

Where amounts were specified for both orders sought and made in the *Social housing* list, the average amount sought in our case file sample was $2,555, and the average amount awarded was $2,015 (a difference of $540). These figures exclude one matter for which there was an outlier, a significantly higher claim of $22,000 (see table note for details).

Table 28: Value of orders sought and made, sample of *Tenancy* and *Social housing* list matters

$ amount specified	Matters	Average value order sought	Average value order made
Tenancy list	N= 50		
a) Order sought & order made^	22	$2,080	$ 1,635
b) Order sought only	9	$1,715	N/A
c) Order made only	6	N/A	$ 2,980
d) Neither order sought or made	12	N/A	N/A
Social housing list	N=49		
a) Order sought & order made#	23	$2,555	$ 2,015
b) Order sought only	4	$1,480	N/A
c) Order made only	6	N/A	$ 375
d) Neither order sought or made	15	N/A	N/A

Source: Case file analysis of 50 *Tenancy* matters and 49 *Social housing* matters.
Notes: figures rounded to nearest $5
Orders to set weekly rent amounts and daily occupation fees have been included as 'non-monetary orders'.
^ One order sought was significantly higher than the others and has been removed to calculate the averages. This was an order sought for $30,000 in which the applicant was awarded $410. With this matter included, the average amount sought for these *Tenancy* matters was $3,295 and the average amount awarded was $1,580 (a difference of -$1,715).
# One order sought was significantly higher than the others and has been removed to calculate the averages. This was an order sought for $22,000 in which the applicant was awarded $15,000. With this matter included, the average amount sought for these *Social housing* matters was $3,365 and the average amount awarded was $2,555 (a difference of $810).

Costs claimed and awarded

As there is no right to costs in most CCD matters and costs orders are rare, information on the costs claimed by representatives is not routinely collected. There were no order classifications in the 2015 data which referred to 'costs'.

Information on costs awarded is recorded on the CMS either as a 'costs order', or the details are included within the text record of the order made. The order text cannot be reported from the database, so there is no way, at present, to identify how often costs are sought or awarded, or the value of those costs.

Among the 62,506 final orders were 25 'costs orders', 9 'dismissal and costs' and 2 'withdrawal and costs'. Half of the various costs orders recorded (18 of 36 orders) were in the *Home building* list, with others in the *Commercial* list (9 orders), *Strata and community schemes* list (4 orders), *Residential villages* list (3 orders) and *General* list (2 orders).

9. How long do matters take?

Estimating how long matters take

Before discussing how long a matter takes, it is important to consider what constitutes a 'matter'. As discussed earlier in this report, a matter commences with an application for an order. If one dispute involves several different types of orders, including administrative orders such as a stay/set aside order or a renewal order, a dispute may actually run over several matters (e.g. original application, application to set aside or application for renewal, appeal). If there is a cross-claim, this is also a separate matter.[23] An internal appeal is also a discrete matter.

To accurately gauge, from the client's perspective, the length of time it takes to finalise a dispute from the time it is lodged in NCAT, we would need to measure the length of time from the lodgement of the first application related to that dispute to the finalisation of the last related application related to that dispute. While the CMS records other related matters for each matter, we have not yet tested whether this information could be used to link files and better gauge the length of time a complete matter actually take to finalise through NCAT.

The following data is based on each single matter.

Time from lodgement to first 'hearing'

Overall, a first 'hearing event' was recorded for nearly 90% (89.5%) of CCD matters. The 'time to first hearing' was calculated within the CMS database, and appears to be based on the time from lodgement to the 'first hearing event'.

A 'hearing event' is recorded in the 'events' section of the CMS database, and does not directly relate to a 'hearing' to which an order was attached. For this reason, the data reviewed indicates that orders made 'on paper' appear to be included as 'hearing events'[24] and therefore included among matters for which there is a 'time to first hearing' calculated.

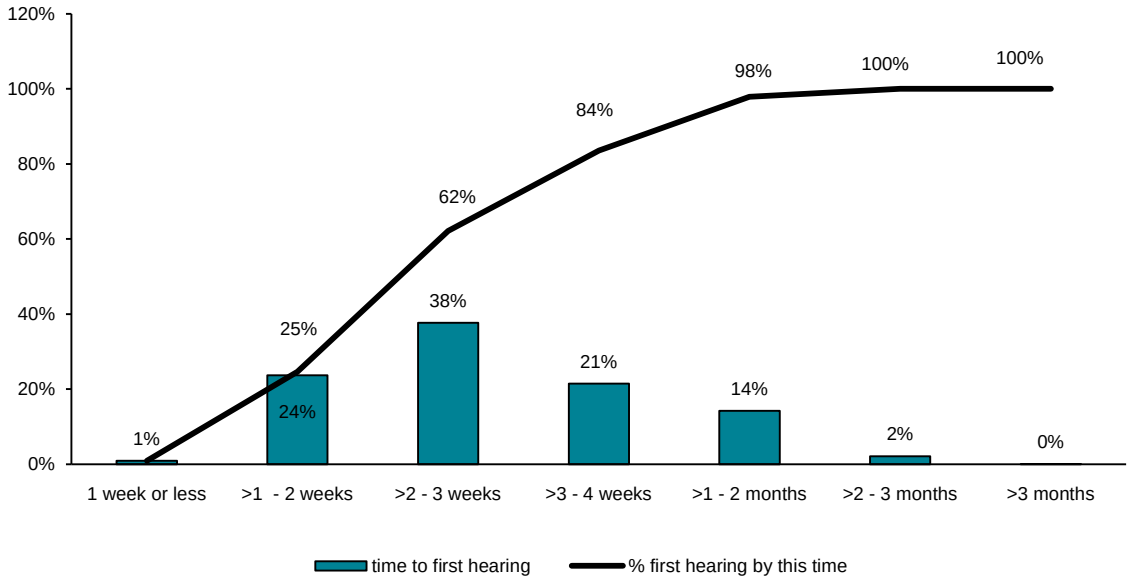
A 'time to first hearing' was not entered on the CMS system for 10.5% of the matters, because the matters were either cancelled by the registry (e.g. when the application fee was not paid) and/or because there was no 'hearing event' recorded (e.g. the matter was withdrawn and dismissed before a 'hearing event' occurred).

Figure 3 indicates that, in those matters that involved a 'first hearing event' in the CCD, 62.2% of first hearings took place within three weeks of lodgement. 83.6% of matters had a 'first hearing event' within four weeks of lodgement.

[23] While 'related files' are noted on the CMS, there is no 'cross claim' flag in the database that allows cross-claims to be easily identified. A related file is any file that relates to the same contract or dispute (e.g. another/earlier issue in the same dispute or a claim by another party).

[24] We are advised that this occurs, as these events were scheduled to account for Members' time.

Figure 3: Time to the first hearing event, CCD



Source: CCD CMS data, all matters finalised in 2015.
Notes: N= 51,570 for time to 'first hearing event'. Overall, 10.5% of matters did not have a 'first hearing event' date and are therefore missing from the 'time to first hearing event' data. 55% of these matters were cancelled by the registry and the remaining 45% had no listing.

Data quality
Time to first hearing is a field created in the database, and counts the number of days between the date the matter was registered in CMS and the date of the first 'hearing event'. Cancelled 'hearing events' are not counted; however, some orders made 'on paper' appear to be included as a 'hearing event' (see description above). The clarity of this variable might be improved if it were either a) calculated to the first hearing, only for those matters where a hearing was held, or b) described as 'time to first order' and counted days to first order, whether delivered on paper or at hearing.

Time to first hearing event by list

Overall, it took an average (median) of 19 days from lodgement to the 'first hearing event' in the CCD. The mean average for all CCD matters was 23 days.[25] However, Table 29 indicates that this varied considerably by list, from a median of 17 days to first hearing event in the *Tenancy* list to 49 days for matters in the *Residential communities* list.

More than 90% of matters in the *Tenancy* (93.3%) and *Social housing* (90.1%) lists had their 'first hearing event' within four weeks of lodgement. By way of comparison, less than

[25] The mean is higher as it is inflated by a small number of matters which run for much longer periods of time than the rest.

40% of matters in the *Home building* (39.4%), *Strata and community schemes* (37.7%) and *Residential communities* (32.1%) lists had their 'first hearing event' within four weeks.

There was no 'hearing event' recorded for 72.6% of the *Strata and community schemes* list. This is because the list includes include strata adjudications, which while not strictly NCAT matters, are managed by the registry and therefore included in the data. These matters are adjudicated on paper, and therefore have no hearing.

Table 29: Time to first hearing event, by list, CCD

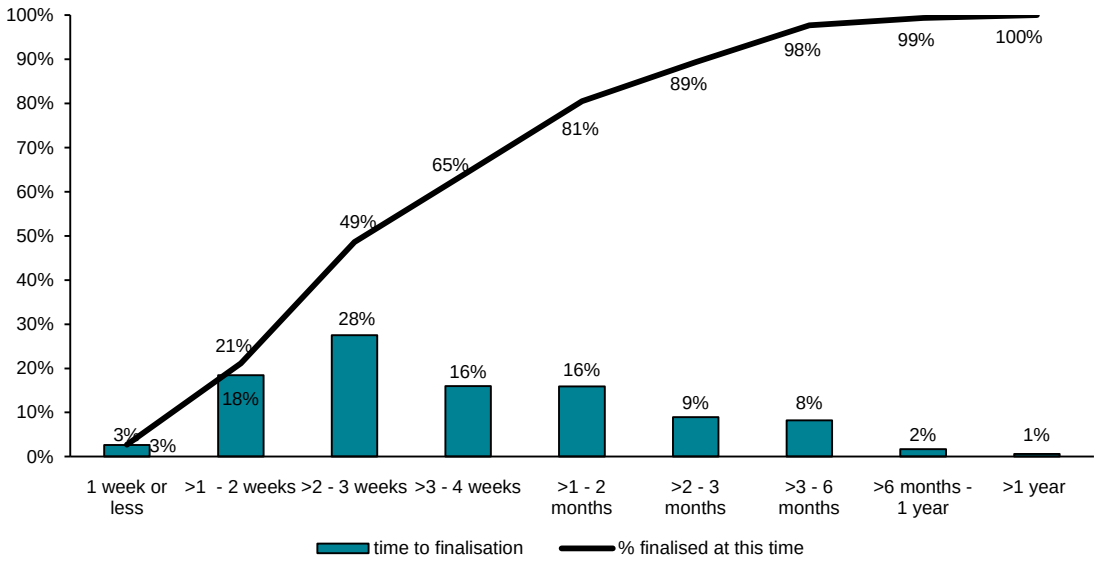
List	No hearing event recorded	Hearing event recorded	Median	Mean	Within 4 weeks
	%	N	Days	Days	%
Tenancy	8.5	26,893	17	19	93.3
Social housing	5.9	13,928	19	21	90.1
General	14.3	4,518	28	29	59.9
Commercial	8.8	680	22	25	72.2
Motor vehicles	9.4	1,311	29	31	53.8
Residential communities	33.8	1,048	49	68	32.1
Home building	8.8	2,791	34	37	39.4
Strata and community schemes	72.6	353	35	43	37.7
Retirement villages	7.5	48	29	32	60.4
Total CCD matters	**10.5**	**51,570**	**19**	**23**	**85.4**

Source: CCD CMS data all matters finalised in 2015. N= 51,570 for time to 'first hearing event'.
Notes: Of the 10.5% with 'no hearing listed' 55% were cancelled by the registry and the remaining 45% had no listing.

Time to finalisation

Time to finalisation counts the number of days from when lodgement is recorded on the CMS until the final order on the 'finalised date' (the 'last final order'). Figure 4 indicates that across the CCD, nearly half (48.6%) of all matters were finalised within three weeks and two-thirds (64.5%) of matters were finalised within four weeks.

Figure 4: time to finalisation, CCD



Source: CCD CMS data, all matters finalised in 2015.
Notes: N=57,634 for time to finalisation. 19 matters were missing a finalisation date or this date was prior to the lodgement date). 70 matters which were lodged and finalised on the same day are included.

Time to finalisation by list

Time to finalisation varied considerably by list, ranging from a median of 20 days (*Tenancy* list) to 120 days (*Retirement villages* list). The median number of days to finalisation is notably higher in most lists (particularly in the *Home building* and *Retirement villages* lists) compared to the *Tenancy* list, due to a small number of matters which took a significantly longer amount of time. Three-quarters (75.4%) of matters in the *Tenancy* list and 72.1% of matters in the *Social housing* list were finalised within 4 weeks (Table 30).

Table 30: Time from lodgement to finalisation, by list, CCD

List	Matters	Median	Mean^	Within 4 weeks	Within 3 months	Within 6 months
	N	Days	Days	Cumulative %		
Tenancy	29,386	20	30	75.4	95.2	99.4
Social housing	14,797	21	36	72.1	91.6	98.1
General	5,271	34	49	43.7	86.5	98.2
Commercial	746	41	70	37.7	77.7	92.9
Motor vehicles	1,447	44	63	30.8	77.3	97.0
Residential communities	1,582	76	83	24.7	66.6	97.5
Home building	3,064	64	132	22.3	61.0	81.2
Strata and community schemes	1,289	81	82	21.2	63.4	95.7
Retirement villages	52	120	192	9.6	40.4	73.1
Total CCD matters	**57,653**	**22**	**43**	**64.5**	**89.4**	**97.7**

Source: CCD CMS data, all matters finalised in 2015.
Notes: N=57,634 for time to finalisation. 19 matters were missing a finalisation date or this date was recorded as occurring prior to the date for the 'first hearing event'). 70 matters which were lodged and finalised on the same day, are included.
^ The means are highly skewed by a small number of outliers – that is, matters which took considerably longer than all other matters. For this reason, the medians are the better measure of the *typical* length of matters.

Time to finalisation by last final order type

The data here is based on the 'last final order' per matter.

A small number of last final orders appeared to be made very quickly. For instance, looking at all matters finalised in the CCD during 2015, 97.4% of the 39 interim orders made were finalised within one week of lodgement, as were 48.9% of the 399 orders of 'set side refused'. These are likely to be matters identified as priority matters.

More generally, however, median number of days from lodgement to withdrawal was 21 days, and to dismissal, 24 days. Within these figures will be considerable variation from matters which may be withdrawn before hearing or dismissed for non-payment of fees, to matters dismissed with the consent of the parties (settlement), to matters which were dismissed after a full hearing. The median number of days for all other last final orders was 22 days from lodgement (Table 31).

Table 31: Time to finalisation by last final order type, all matters finalised in the CCD, 2015

Order type	Orders	Median	Mean^	Within 4 weeks	Within 3 months	Within 6 months
	N	days	days	Cumulative %		
Withdrawal	7,885	21	39	66.5	91.4	97.6
Dismissal	11,610	24	46	59.0	87.8	97.4
All other final orders	**38,139**	**22**	**43**	**65.8**	**89.5**	**97.8**

Source: CCD CMS data, all matters finalised in 2015, 'final orders' made on the 'finalised date' ('last final orders'). N=57,653.
^ The means are highly skewed by a small number of outliers – that is, matters which took considerably longer than all other matters. For this reason, the medians are the better measure of the typical length of matters.

Again, these overall CCD figures mask key differences between lists. To further explore, for instance, why the number of days to dismissal was longer than the number of days to other final orders, we need to examine figures for each list. However, even at list level we note there may be variation in the times to finalisation, affected, for instance, by the urgency of particular matters (e.g. the urgency of an impending eviction compared to a home building matter), legislative requirements placed on the progress of other matters and NCAT's own time standards for different matter classifications (e.g. matters involving termination compared to matters not involving termination).

Table 32 indicates that in all lists but the *Commercial* list, matters tend to be withdrawn more quickly than matters were dismissed or finalised by other orders. However, the median number of days to withdrawal varied from 17 days in the *Tenancy* list to 90 days in the *Retirement villages* list.

Withdrawal aside, orders to dismiss a matter typically occurred more quickly than other last final orders as a single category in all lists except for the *Motor vehicles* and *Home building* lists. Time to dismissal ranged from a median of 19 days in the *Tenancy* list to 113 days in the *Retirement villages* list.

Table 32: Median number of days to withdrawal, dismissal or other final order, by list, CCD

List	To withdrawal	To dismissal	To other orders
	Median days	Median days	Median days
Tenancy	17	19	20
Social housing	20	21	21
General	28	35	36
Commercial	46	38	42
Motor vehicles	43	56	40
Residential communities	29	76	91
Home building	58	70	63
Strata and community schemes	56	79	84
Retirement villages	90	113	135
All CCD	**21**	**24**	**22**

Source: CCD CMS data, all matters finalised in 2015, 'final orders' made on the 'finalised date' ('last final order'). N= 57,653.

Time to finalisation by consent or lack of consent

Orders made with consent indicate agreement between the parties. We examined whether length of time to last final order differed for matters in which parties reached consent compared to matters in which consent was not reached.

As Table 33 indicates, overall (including all CCD matters and all order types together in the analysis), there is no difference in the number of day to last final order between matters finalised with consent and those that were finalised without consent (a median of 22 days each).

However, we drilled down further to examine whether time to final order by consent or otherwise varied by order type. Table 3 indicates that length of time varied by consent or otherwise for last final orders which were 'dismissals'. While the median number of days to dismissal without consent was 23 days, it took a median of 62 days for matters to be dismissed with consent.

Table 33: Median days to final order, by order type and consent flag

	With consent		Without consent	
	N	Median	N	Median
Dismissal	719	62	10,402	23
Withdrawal	347	26	6,335	21
Other order	12,675	21	25,224	22
All orders	**13,741**	**22**	**41,961**	**22**

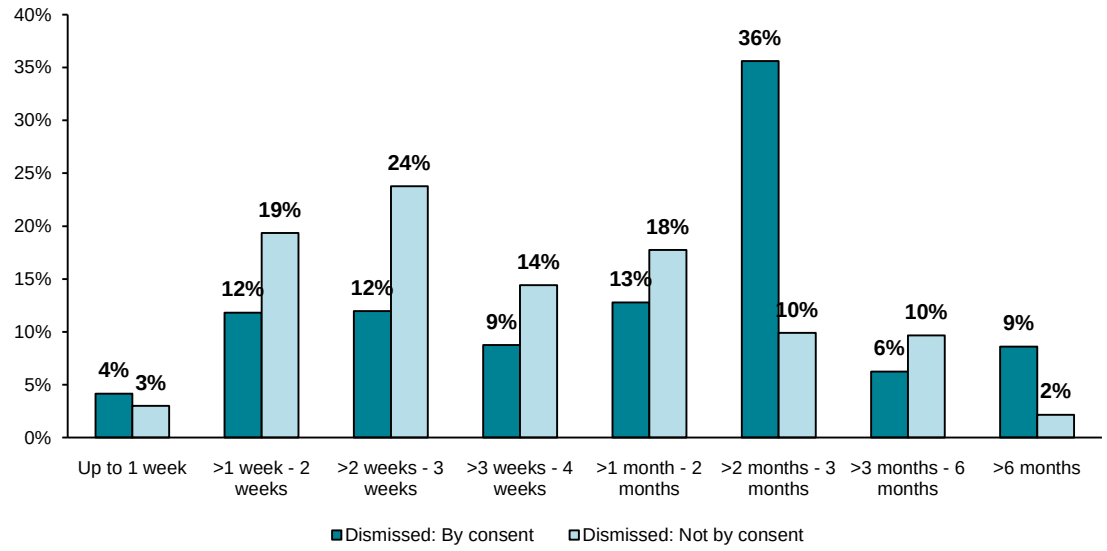
Source: CCD CMS data, all matters finalised in 2015.
N=55702. 1951 (3.4%) missing as consent or order type not specified.

We therefore looked at *when* matters were dismissed with consent or otherwise. Figure 5 indicates that 36.7% dismissals (as last final orders) made by consent were finalised within 4 weeks of lodgement, and another 35.6% were finalised between 2 and 3 months after lodgement.

By comparison, matters dismissed *without* consent tended to be finalised earlier, with 60.5 % finalised within four weeks.

The variation is likely to reflect the very different reasons for dismissal (e.g. administrative reasons, settlement, lack of merit) as well as the various timetables to which different lists run and the timing of hearings (noting an impending hearing as a possible motivator to settlement). This observation is supported by a further and deeper analysis that we undertook of dismissal orders, by consent within list. While not reported in detail here, it did indicate notable variation in length of time by consent or otherwise within lists.

Figure 5: Median days to last final order 'dismissal', by order type and consent flag



Source: CCD CMS data, all matters finalised in 2015.
N=55702. 1951 (3.4%) missing as consent or order type not specified.

Factors related to length of time to finalise claims

The tables above indicate that time to finalisation is affected by a range of factors, including list, the type of final order made and, within dismissals, whether the matters were finalised by consent (or otherwise). Time to finalisation may also vary by other factors such as the priority assigned to certain matter types, applicant/ respondent type and representation status for different parties. A regression analysis would help to identify the relative impact of each of these factors on the length of time taken to resolve matters.

Further, any discussion of the length of time it takes a client or applicant to resolve a dispute must also take into account the steps applicants may be required to take *before* the matter reaches NCAT (e.g. make a complaint to NSW Fair Trading), and any steps that may follow to resolve the issue .

Pathways into and out of the CCD

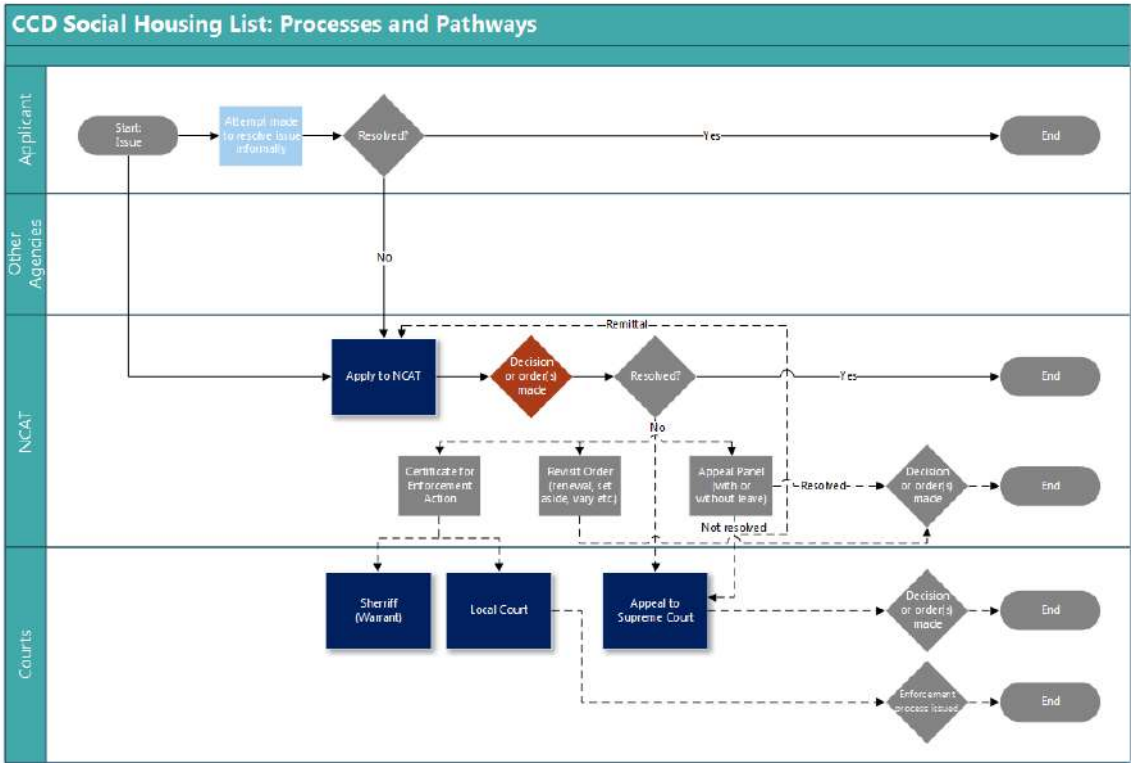
To better understand – from the client's perspective - how long it takes to resolve a matter through NCAT (specifically the CCD), we explored the steps applicants can or must take before they can lodge an application in the CCD. The first observation is that there is no single pathway into the CCD (or to NCAT more broadly), with prior steps varying by list, and in some cases, by specific matter type. This variation reflects the broad range of matters dealt with by NCAT, and legislation, regulations and principles relevant to the management of each matter type. Applicants can lodge an application in the *Social housing* list (Box 2) with no prior action. However, applicants cannot lodge an application in the *Home building list,* until it has been dealt with first by NSW Fair Trading (Box 3). In the *Motor vehicles* list, some matters have to go via NSW Fair Trading, and some do not (Box 4).

In the diagrams below, a pale blue box indicates an optional step prior to submitting an application to NCAT. A pink box indicates a compulsory step prior to accessing NCAT.

The pathway diagrams also indicate where matters may go *after* a decision in the CCD, including actions that take place in other jurisdictions. Note however, that the vast majority of matters are finalised with the final order or decision made by the Tribunal member. Very few matters are appealed or revisited in some other way (e.g. renewed or set aside). This is indicated with broken lines on the diagrams below. As is reported in the separate Foundation review of Appeal Panel matters, there were 544 applications lodged to the NCAT Appeal Panel in 2015 appealing decisions of the CCD.

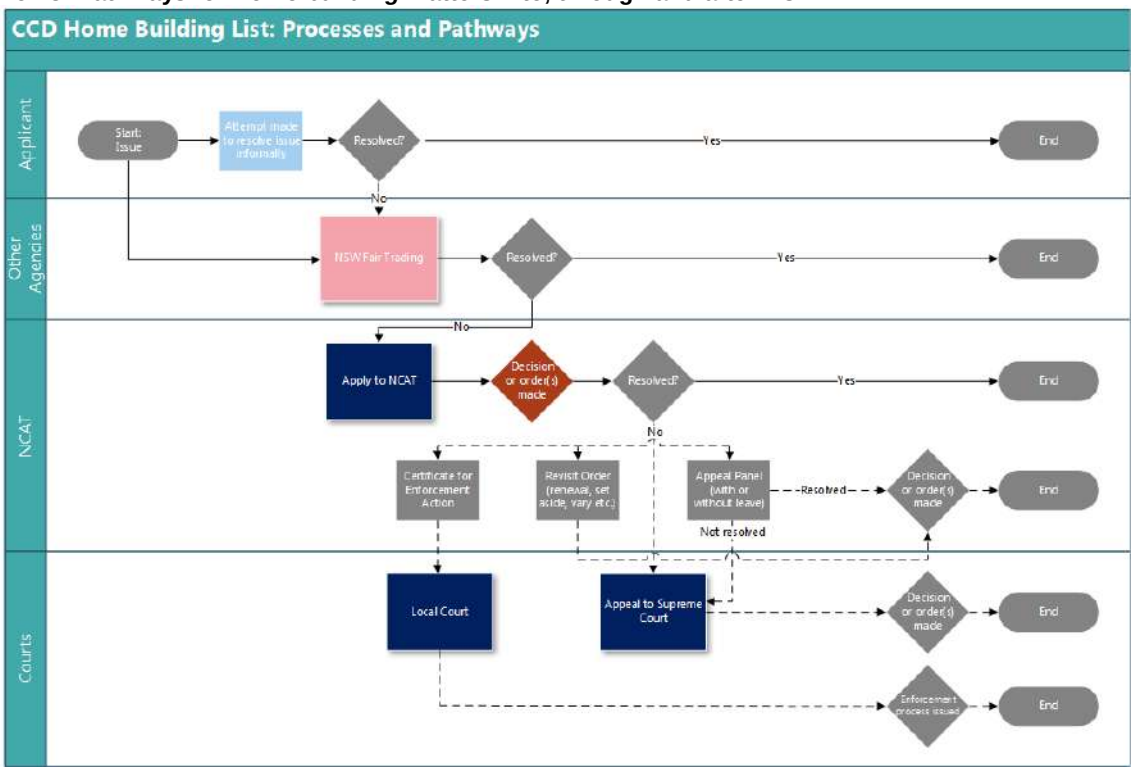
Again, note that a single dispute may run over multiple matters and this too will affect the length of time taken for the client to have a dispute resolved.

Box 2: Pathways for *Social housing* matters into, through and after NCAT



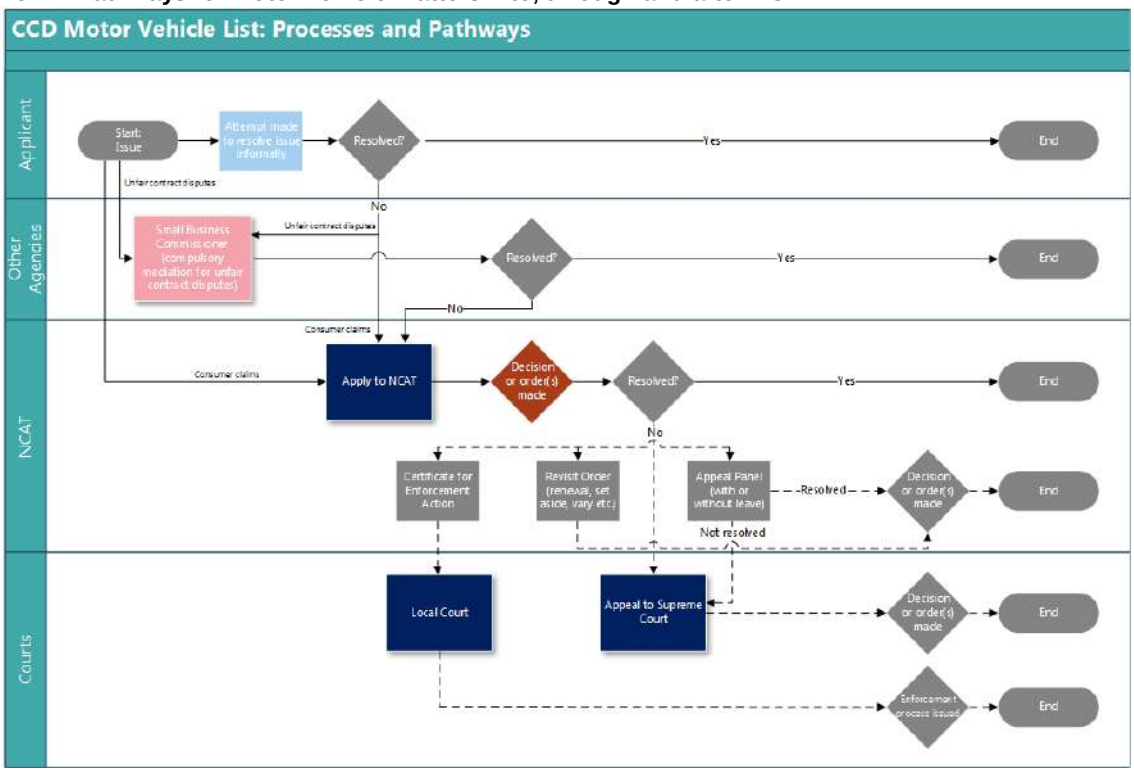
Note: Most matters coming into the *Social housing* list are resolved by way of a final order with no further action. The dashed line indicates that not all pathways after the order is made (orange triangle), including options for appeal, are relevant to all matters. Possible pathways vary by matter type and case particulars.

Box 3: Pathways for *Home building* matters into, through and after NCAT



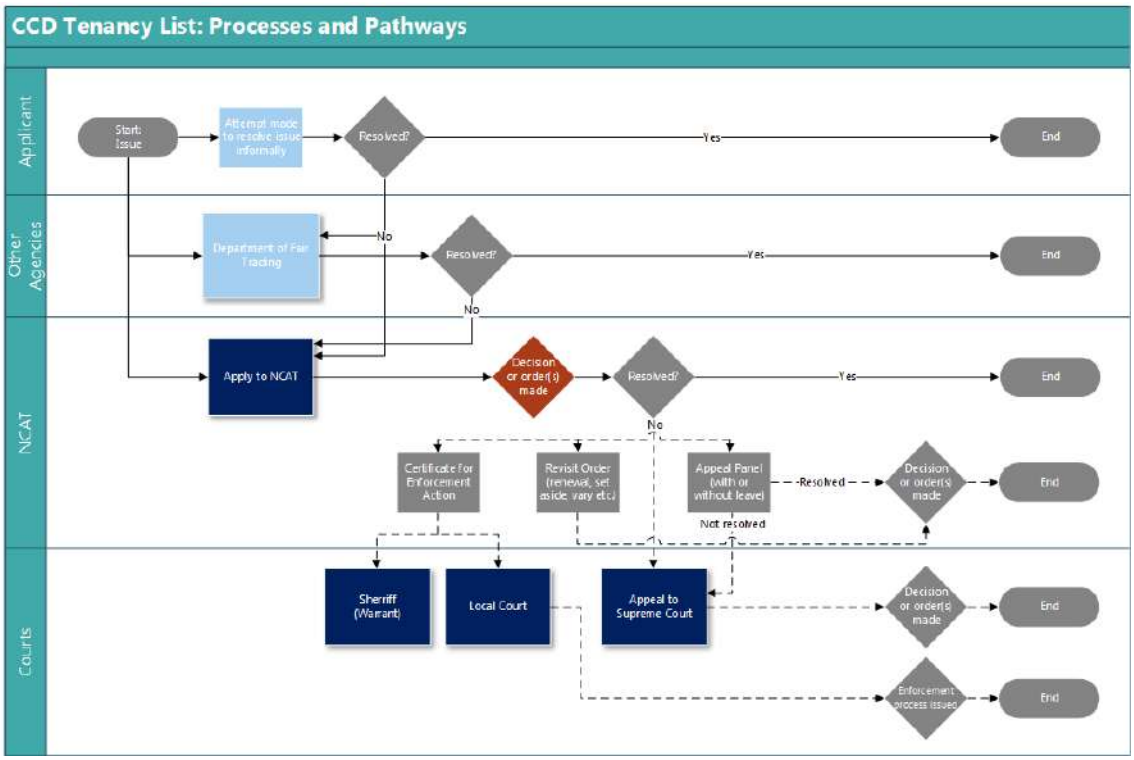
Note: Most matters coming into the *Home building* list are resolved by way of a final order with no further action. The dashed line indicates that not all pathways after the order is made (orange triangle), including options for appeal, are relevant to all matters. Possible pathways vary by matter type and case particulars.

Box 4: Pathways for *Motor vehicle* matters into, through and after NCAT



Note: Most matters coming into the *Motor vehicle* list are resolved by way of a final order with no further action. The dashed line indicates that not all pathways after the order is made (orange triangle), including options for appeal, are relevant to all matters. Possible pathways vary by matter type and case particulars.

Box 5: Pathways for *Tenancy* matters into, through and after NCAT



Note: Most matters coming into the *Tenancy* list are resolved by way of a final order with no further action. The dashed line indicates that not all pathways after the order is made (orange triangle), including options for appeal, are relevant to all matters. Possible pathways vary by matter type and case particulars.

Technical Note

Data from CMS

Data was provided for all matters finalised, by whatever means, during 2015. The fields provided for analysis are shown in Table T1. *Matter_ID* is the linking field that allows information about listings, orders and parties to be attached to information about each matter finalised. We recognise that this is not all the fields of data held in the CMS and that there may be additional information of value that could also be extracted.

Table T1 Data tables and field names provided from CMS

Matters	Listings	Orders	Parties
MATTER_ID	MATTER_ID	MATTER ID	MATTER_ID
MATTER_NUMBER	MATTER_NUMBER	FILE NUMBER	MATTER_NUMBER
DIVISION	LISTING_DATE	ORDER DESCRIPTION	ENTITY_ID
LIST	LISTING_TIME	APPEARANCE	ENTITY_CLASS
FINALISED_DATE	LOCATION_ROOM	CONSENT FLAG	PARTY_ROLE
LODGEMENT_METHOD	SPECIALNOTES	ORDER_MODE	GIVEN_NAMES
APPLICANTS	HEARING_GROUP	FINAL ORDER	LAST_NAME
RESPONDENTS	PURPOSE_OF_LISTING	ORDER DATE	ORGANISATION_NAME
APPLICANT_TYPE	NOH_COMMENTS	ORDER METHOD	ORG_ABN
APPLICANT_LANGUAGE	NOH_REASON	APPEARANCE AT HEARING	ORG_ACN
RESPONDENT_LANGUAGE	LISTING_STATUS_DESC	REPRESENTATION	
CLASSIFICATION	CONCILIATION	LAST FINALISED DATE	
PLACE_OF_DISPUTE_POSTCODE	CONCILIATION_OUTCOME	CERT MONEY ORDER SENT	
FEE_AMOUNT	FINALISED_DATE	WARRANT ISSUED	
FEE_PAID_AMOUNT			
REGISTRY			
VETTING_LOCATION			
FINALISED_LOCATION			
ORDER_SOUGHT			
DAYS FROM LODGE TO 1ST HEARING			
DAYS FROM LODGE TO FINAL ORDER			
AMOUNT_SOUGHT ($)			
RESPONDENT_TYPE			
DISPUTE_TYPE			

Sample sizes

Table T.2: Number of records in CMS from the CCD

	CCD	
All matter finalised in 2015	57,653	
All entities	140,482	
Applicants		*67,111*
Respondents		*69,783*
Other parties		*3,588*
All orders	85,691	
Procedural orders		*23,185*
Final orders		*62,506*
Last final orders		*55,702*
Listings	80,855	
Hearing events (for calculating time)	51,570	

Entity coding

The applicant and respondent for all matters finalised during 2015 were coded into entity type categories, which were collapsed for the purpose of reporting here. See Tables A2-A10 in Annex following, for details.

Casefiles

A stratified sample of 200 CCD casefiles was drawn (at random within the stratification) from the 57,927 matters *lodged* in 2015. We reviewed electronic and paper files relevant to these matters. The purpose of this review was to check the accuracy of information on the databases and collect relevant details that these databases do not hold. The sample was stratified because of the vast range in the size of all the lists, and to ensure that we reviewed a fair selection of files from each list. This was also checked to ensure we had files lodged electronically and on paper.

As the relative number of files from each list in the casefile analysis does not reflect their true distribution in the CCD, any *casefile* data reported, cannot be taken as representative of the CCD as a whole.

Table T.3 shows the number and proportion of case files reviewed by list.

Table T.3: Number of CCD case files reviewed by the Foundation, by list

		Casefiles N=200	CMS N=57,927
	N	%	%
Tenancy	50	25.0	51.3
Social housing	49	24.5	25.1
General	34	17.0	9.3
Home building	20	10.0	5.3
Residential communities	12	6.0	2.5
Motor vehicles	10	5.0	2.6
Strata and community schemes	15	7.5	2.5
Commercial	9	4.5	1.3
Retirement villages	1	0.5	0.1
Total CCD matters	200	100.0	100.0

The sample was originally drawn from matters lodged rather than finalised as that was the data available to the Foundation at the time. We also reviewed a further 11 files that were finalised in 2015, but had commenced prior to 2015, to examine files that had run for a longer period of time. Eight of these 11 files were from the *Home building* list, and one each from the *General*, *Motor vehicles* and *Retirement villages* lists. These 11 files are not reported as data in this review.

Annex Tables

Table A1: Comparison of entity type code for 'person/individual' on CCD CMS and in LJF analysis

List	Matters	CCD code for 'person'	Sample of 1,000	LJF Code for 'individual'
	N	%	N	%
		First applicant		
Tenancy	29,390	91.2	100	92.0
Social housing	14,799	5.5	100	6.0
General	5,273	88.9	200	85.0
Home building	3,067	76.8	100	69.0
Residential communities	1,582	91.8	100	89.0
Motor vehicles	1,447	93.2	100	93.0
Strata and community schemes	1,294	76.4	100	56.0
Commercial	746	76.8	150	58.7
Retirement villages	53	67.9	50	60.0
Total CCD matters	**57,651**	**67.7**	**1,000**	**66.7**[a]
		First respondent		
Tenancy	29,390	92.8	100	96.0
Social housing	14,800	96.0	100	95.0
General	5,272	22.6	200	17.5
Home building	3,067	38.8	100	37.0
Residential communities	1,582	33.8	100	13.0
Motor vehicles	1,448	14.9	100	7.0
Strata and community schemes	1,294	64.6	100	43.0
Commercial	746	72.4	150	55.3
Retirement villages	53	52.8	50	30.0
Total CCD matters	**57,652**	**79.8**	**1,000**	**79.1**[a]

Sources: CCD CMS, all matters finalised in 2015 and a sample of 1,000 CCD matters finalised in 2015, stratified by list.
a The 1,000 sample comprised 9 random samples – one from each CCD list – and is useful for estimating the proportion of entities that were organisations within each list. The total percentages for the 1,000 sample are appropriately weighted according to the proportion of all matters accounted for by each list.
Note: For all finalisations from the CCD CMS database, entity class was missing for 2 applicants and 1 respondent.

Table A2: Entity type for first applicant and first respondent, *Commercial* list

Entity type	Applicant (N=150)	Respondent (N=150)
	%	%
Person	58.7	55.3
Organisation:	41.3	44.7
Business – retail and wholesale	6.0	1.3
Business – leisure industry	2.7	4.0
Business – construction/mining	1.3	0.7
Business – property-related services	1.3	8.0
Business – transport-related services	0.0	2.0
Business – professional services	0.0	0.7
Business – agricultural/animal	1.3	0.7
Business – services (incl. recruitment, gyms)	0.7	1.3
Business – other	18.7	14.0
Strata manager/owners corporation	4.0	3.3
Local council/shire	0.0	1.3
NSW government agency	0.7	1.3
Bank/financial body	0.7	2.0
Trust	1.3	0.0
Other organisation	2.0	4.0

Source: 1000 sample.

Table A3: Entity type for first applicant and first respondent, *General* list

Entity type	Applicant (N=200)	Respondent (N=200)
	%	%
Person	**85.0**	**17.5**
Organisation:	**15.0**	**82.5**
Business – leisure industry	2.5	4.5
Business – transport-related services	2.0	10.5
Business – property-related services	1.5	5.5
Business – services (inc. recruitment, gyms)	1.5	10.5
Business – construction/mining	1.0	13.0
Business – technological/computers/software	0.5	6.5
Business – retail and wholesale	0.5	19.0
Business – health-related/aged care	0.0	1.0
Business – agricultural/animal	0.0	0.5

Business – professional services	0.0	0.5
Business – media, publishing, advertising	0.0	0.5
Business – manufacture/design/programming	0.5	0.0
Business – other	2.5	7.0
NSW government agency	0.0	0.5
Bank/financial body	0.0	0.5
Strata manager/owners corporation	0.0	0.5
Educational	0.5	0.5
Local council/shire	0.5	0.0
Retirement village	0.5	0.0
Trust	0.5	0.0
Organisation – other	0.0	1.5

Source: 1,000 sample.

Table A4: Entity type for first applicant and first respondent, *Home building* list

Entity type	Applicant (N=100)	Respondent (N=100)
	%	%
Person	**69.0**	**37.0**
Organisation:	**31.0**	**63.0**
Business – construction/mining	22.0	54.0
Business – property-related services	2.0	0.0
Business – manufacturing/designing/programming	0.0	1.0
Business – other	2.0	5.0
Strata manager/owners corporation	5.0	0.0
Insurance company	0.0	1.0
Organisation – other	0.0	2.0

Source: 1,000 sample.

Table A5: Entity type for first applicant and first respondent, *Motor vehicles* list

Entity type	Applicant (N=100)	Respondent (N=100)
	%	%
Person	**93.0**	**7.0**
Organisation:	**7.0**	**93.0**
Not-for-profit organisation/NGO	1.0	0.0
Insurance company	0.0	1.0
Business – transport-related	2.0	89.0
Business – other	4.0	2.0
Organisation – other	0.0	1.0

Source: 1,000 sample.

Table A6: Entity type for first applicant and first respondent, *Residential communities* list

Entity type	Applicant (N=100)	Respondent (N=100)
	%	%
Person	**89.0**	**13.0**
Organisation:	**11.0**	**87.0**
Business – leisure industry	8.0	27.0
Business – transport-related	1.0	0.0
Business – other	1.0	0.0
Retirement village	1.0	54.0
Community housing	0.0	1.0
Business – other	0.0	5.0

Source: 1,000 sample.

Table A7: Entity type for first applicant and first respondent, *Retirement villages* list

Entity type	Applicant (N=50)	Respondent (N=50)
	%	%
Person	**60.0**	**30.0**
Organisation:	**40.0**	**70.0**
Retirement village	14.0	24.0
Aged/residential care – NGO	10.0	18.0
Aged/residential care – Pty Ltd	8.0	16.0
Bank/financial body	0.0	4.0
Business – leisure industry	2.0	0.0
Other organisation	6.0	8.0

Source: 1,000 sample.

Table A8: Entity type for first applicant and first respondent, *Social housing* list

Entity type	Applicant (N=100)	Respondent (N=100)
	%	%
Person	6.0	95.0
Organisation:	94.0	5.0
NSW government agency	63.0	3.0
Community housing	31.0	2.0

Source: 1,000 sample.

Table A9: Entity type for first applicant and first respondent, *Strata and community schemes* list

Entity type	Applicant (N=100)	Respondent (N=100)
	%	%
Person	**56.0**	**43.0**
Organisation:	**44.0**	**57.0**
Strata manager/owners corporation	39.0	53.0
Business – construction/mining	1.0	1.0
Business – other	4.0	3.0

Source: 1,000 sample.

Table A10: Entity type for first applicant and first respondent, *Tenancy* list

Entity type	Applicant (N=100)	Respondent (N=100)
	%	%
Person	**92.0**	**96.0**
Organisation:	**8.0**	**4.0**
Business – professional services	1.0	0.0
Business – property-related services	0.0	2.0
Business – other	4.0	1.0
Trust	2.0	0.0
Community housing	0.0	1.0
Organisation – other	1.0	0.0

Source: 1,000 sample.