

CAI

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The Role of Government in Community Association
Dispute Resolution

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Australian Perspective

- Government sponsored systems in 4 jurisdictions
- First started in 1973
- Replaced State Supreme Court
- All are funded by Government
- Can be used by owners, tenants and associations
- Full range of qualifying disputes

NSW – Lead Jurisdiction

- 60,000 Associations
- 600,000 units
- 1844 applications in 2003
- Applicants –
 - 54% unit owners
 - 41% Associations
 - 5% others
- Mediation success rate = 73%

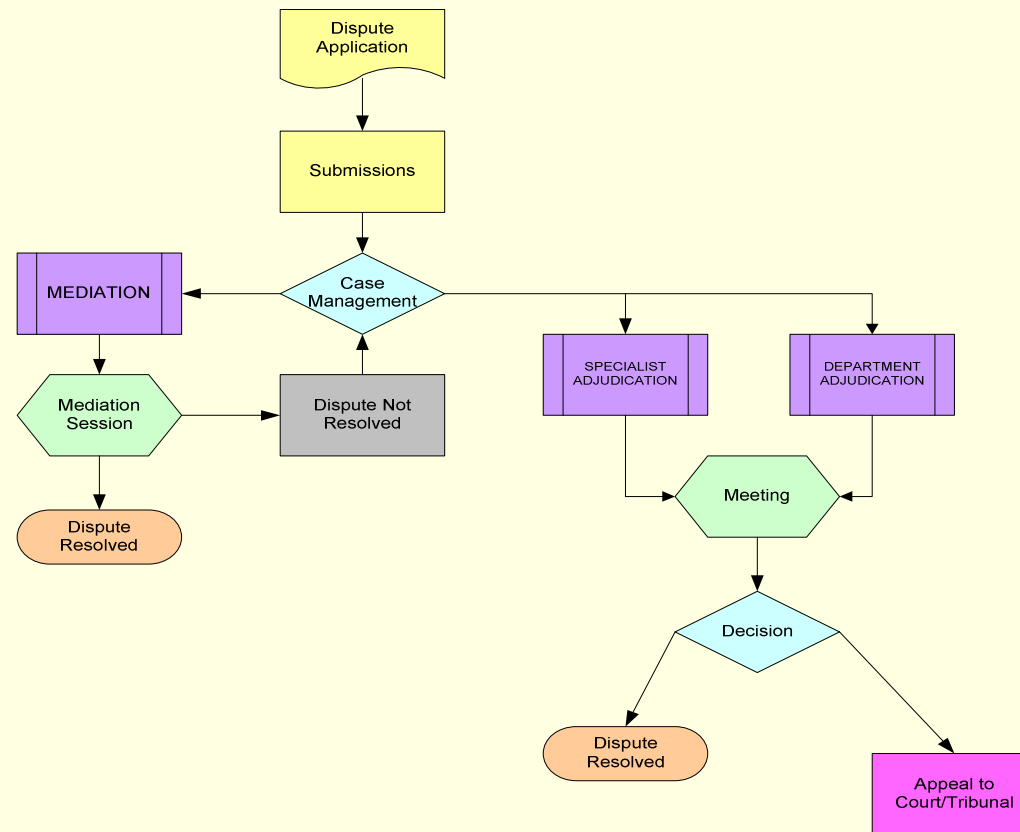
Cost of NSW System

- Application fee A\$56.00
- Parties pay for their own legal representation
- Cost to Government – A\$438 per application in 2003
- How funded by Government?
 - Fees – 7%
 - Trust interest – 30%
 - Bonds interest – 30%
 - General taxes – 33%

Dispute Resolution Mechanisms

- Department mediation
- Department conciliation
- Specialist mediation
- Specialist conciliation
- Department adjudication
- Specialist adjudication
- State District and Supreme Courts (These being outside the specialist system.)

Typical Process - Mediation



Final Points

- Process takes 6 to 12 weeks
- Provision for “interim orders”
- Each party bears own costs
- Penalty for breach of orders
- By-law enforcement notices are an additional mechanism
- Appeals are on questions of law
- Administrator may be appointed
- Limited damages can be awarded