



Northern Territory Consumer Affairs

Annual Report 2021–2022

NORTHERN TERRITORY

CONSUMER

AFFAIRS

The Hon Chanston Paech
Attorney-General and Minister for Justice
Parliament House
DARWIN NT 0800

Dear Minister

Re: ANNUAL REPORT 2021-22

The Department of the Attorney-General and Justice 2021-22 Annual Report includes performance reporting on Consumer Affairs in conformity with requirements of the *Public Sector Employment and Management Act 1993* and the *Financial Management Act 1995*.

The Commissioner of Consumer Affairs is a statutory officer and is required to report to the Minister annually pursuant to:

- section 12 of the *Consumer Affairs and Fair Trading Act 1990*
- section 15 of the *Residential Tenancies Act 1999*
- section 11 of the *Retirement Villages Act 1995*
- section 14 of the *Business Tenancies (Fair Dealings) Act 2003*
- section 20 of the *Caravan Parks Act 2012*
- Part 5A of the *Building Act 1993*

In accordance with the requirements outlined above, I have pleasure in presenting the Commissioner's Annual Report for the year ended 30 June 2022.

Yours sincerely



Sandra Otto
Commissioner
Northern Territory Consumer Affairs

6 October 2022

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MESSAGE FROM THE COMMISSIONER



I am pleased to present the 2021-22 annual report for Northern Territory Consumer Affairs.

We had some significant staffing changes this year. After commencing with NT Consumer Affairs in May 2009 as the Manager Client Services, from January 2013 as Deputy Commissioner and acting Commissioner from September 2020, I was very proud to be appointed as the Commissioner of Consumer Affairs for the Northern Territory in July 2021. The consequential vacancy for the Deputy Commissioner position was duly advertised, with Rebecca Davey being appointed and commencing in the role in January 2022. We were also very pleased to add Janet Bell, Executive Support Officer, permanently to our team.

Janine Mitchell commenced as the Outreach Officer in April 2022. This role is vital to assist in sharing consumer protection education to urban, regional and more remote areas of the Territory. We also had a new Fair Trading Officer, Danielle Price, commence in June 2022.

It was another challenging year with COVID-19 and other factors causing staff absences. Despite this, our dedicated consumer protection professionals continued to provide the high level of customer service that we pride ourselves on delivering.

Our call centre received increased calls in relation to residential tenancy matters, particularly around increases in rent and bond queries regarding lease breaks.

Reports regarding scams continued to rise, with a particular increase of reports from remote communities. Scammers are using more sophisticated methods to trap people into giving out their personal information or luring them into wasting money on the promise of winning non-existent cash or goods, or even the promise of love that often results in financial loss.

Our Compliance Unit has had reduced staff in the last six months of this year but have continued to enforce the consumer protection laws with investigations occurring in relation to the *Residential Tenancies Act 1999*, the *Accommodation Providers Act 1981*, the Australian Consumer Law and MyFuel NT. The team continued to find and post warnings on our Facebook page for over 70 identified fake websites, which purport to sell big ticket items such as farm equipment, caravans and RVs.

I acknowledge the hard work, flexibility and dedication of all 16 staff that ensure a high level of customer service across the Northern Territory is maintained. So thank you to the staff who all have varying roles in administration, the call centre, outreach, education, the website, Facebook, residential building complaints, compliance, the Alice Springs office and management.

A handwritten signature in black ink, appearing to read 'Sandra Otto'.

Sandra Otto
Commissioner

ABOUT CONSUMER AFFAIRS

NT Consumer Affairs is an independent office within the Department of the Attorney-General and Justice that administers a regulatory framework to protect community interests through promotion and regulation of business conduct and informs the community of their consumer rights and responsibilities through education and conflict resolution services.

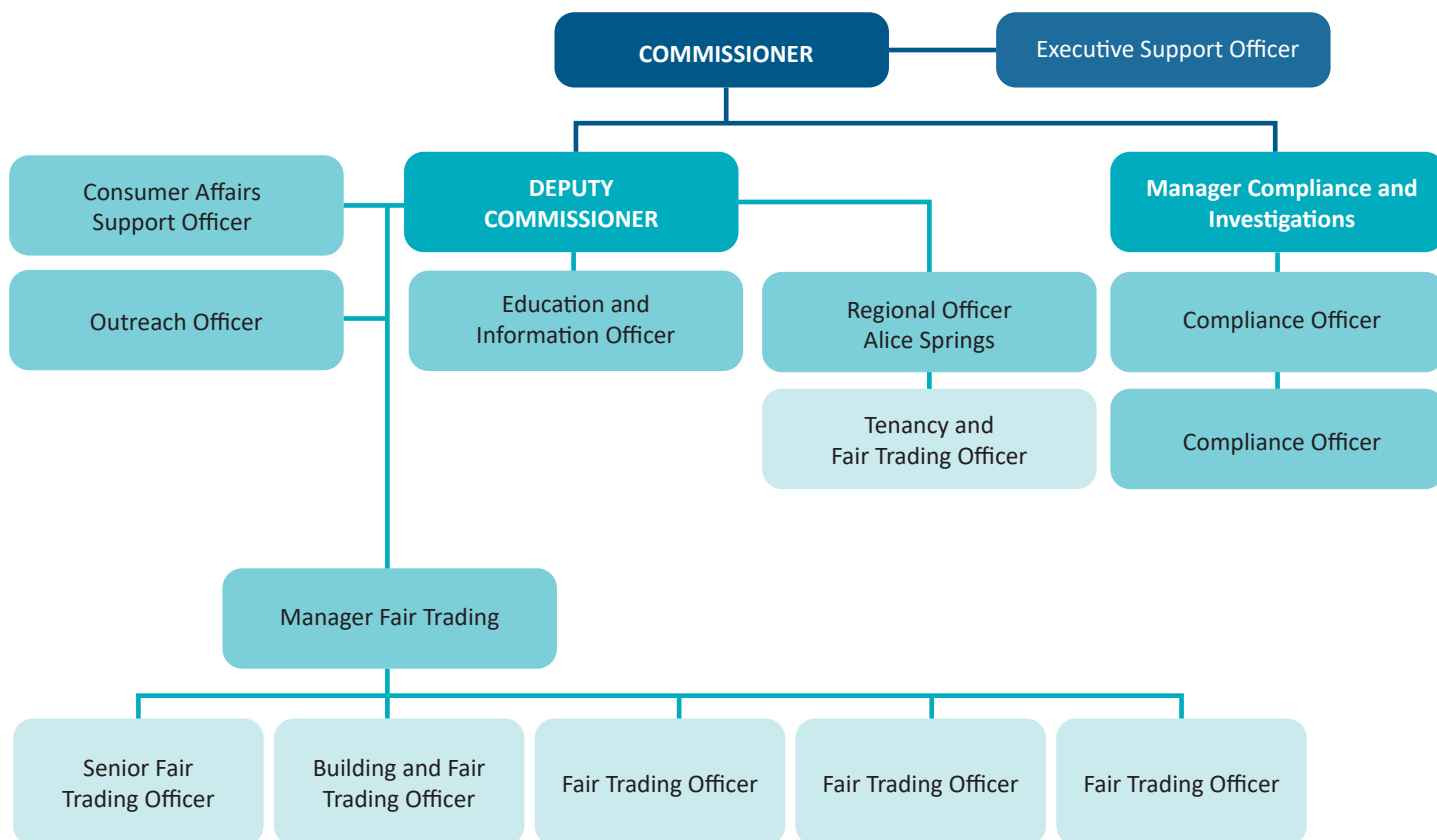
The Commissioner of Consumer Affairs reports directly to the Attorney-General and Minister for Justice as a statutory officer under the *Consumer Affairs and Fair Trading Act 1990* and other statutory appointments including the Commissioner of Tenancies, Commissioner of Residential Building Disputes, Commissioner of Business Tenancies and Controller of Prices.

NT Consumer Affairs administers the following legislation:

- *Accommodation Providers Act 1981*
- *Building Act 1993 (Residential Building Dispute Function)*
- *Business Tenancies (Fair Dealings) Act 2003*
- *Caravan Parks Act 2012*
- *Consumer Affairs and Fair Trading Act 1990 (inclusive of the Australian Consumer Law)*
- *Partnership Act 1997*
- *Price Exploitation Prevention Act 1949*
- *Residential Tenancies Act 1999*
- *Retirement Villages Act 1995*
- *Sale of Goods Act 1972*
- *Uncollected Goods Act 2004*
- *Warehousemen's Liens Act 1969*

Organisation Chart

NT Consumer Affairs has 17 staff, including two people in Alice Springs that oversee our range of functions in the southern region of the Territory.



Core Functions




Promote consumer awareness through consultation, education and conciliation



Respond to consumer policy issues of local and national importance



Provide a compliance and enforcement service to protect Territorians



Administer the MyFuel NT scheme

2021–22 SNAPSHOT

**16 037**

Total enquiries

**54 882**

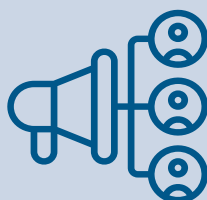
Website sessions

**5 803**

Emails

**4 046**

Facebook followers

**378 412**

Facebook reach

**7 261**

YouTube views

**55%**Residential tenancy
phone enquiries**140**

Consumer Conciliation Requests

**236**

Trader visits

**17**

Staff

**97 071**

MyFuel NT web app users

**2 483**

Compliance actions

PROMOTING CONSUMER AWARENESS

Education

Educating consumers and businesses about consumer protection is a primary function of NT Consumer Affairs. Empowering consumers with information and tools for resolving matters assists in safeguarding their rights and gives them confidence that when dealing with businesses they will receive an appropriate remedy under the applicable legislation. Information supplied to businesses ensures increased compliance with consumer laws and as a consequence, more satisfied consumers.

We achieve this by operating a call centre and fair trading offices in Darwin and Alice Springs, using various digital platforms, in addition to conducting education and outreach activities within the community.

Call Centre and Fair Trading Offices

The Fair Trading team at NT Consumer Affairs has had a productive year responding to enquiries and complaints and providing education and up to date information in relation to the 12 pieces of legislation administered to stakeholders across the Territory and beyond. As with previous years, fair trading related matters equated to almost half of all contacts received by NT Consumer Affairs.

The call center received a total of 8 924 telephone calls from clients requesting advice throughout the year. With COVID-19 still having an impact on goods and services, common topics were travel and event cancellations, delayed or non-supply of goods and services and issues relating to motor vehicle sales and repairs.



Our Fair Trading Officers are available daily from 8:30am to 4:00pm to answer consumer and rental enquires from the public.

Staff also responded to 5 803 email enquiries, which was a significant increase of almost 10% compared to the last financial year.

This was offset by a reduction in the number of clients who attended our offices in person, likely due to the prevalence of COVID-19 in the community.

Notwithstanding, our Fair Trading Officers provided one on one specialist advice to 276 clients who visited the Darwin and Alice Springs offices during the financial year.

**8 924**

Phone calls received

**5 803**

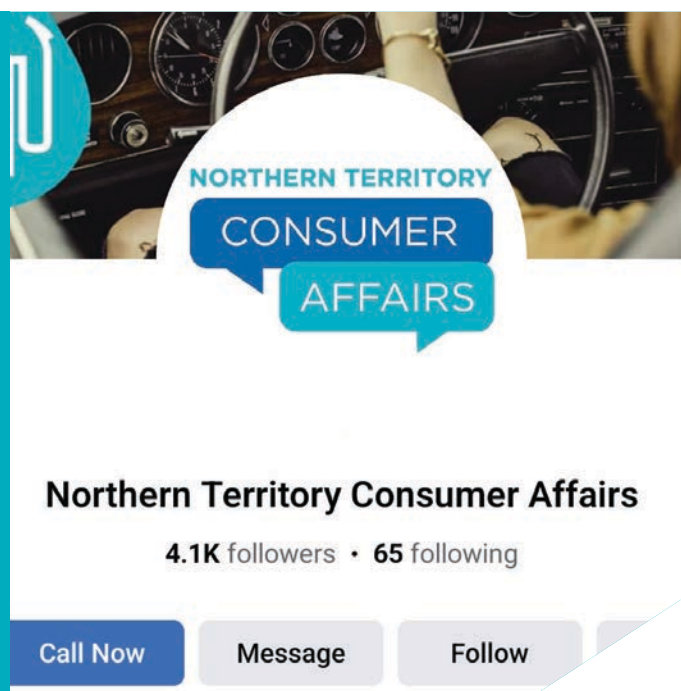
Email enquiries

Social Media

NT Consumer Affairs has an active social media presence that provides detailed and timely consumer and rental information to the public.

FACEBOOK PAGE

facebook.com/NorthernTerritoryConsumerAffairs



Our Facebook page was very active in 2021-22, achieving a 12% increase in the number of followers compared to the previous year. Facebook is an efficient and effective tool to communicate directly with Territorians irrespective of location, as well as a wider Australian audience. This was particularly important due to the ongoing impacts of the COVID-19 pandemic which made face-to-face stakeholder engagement challenging.

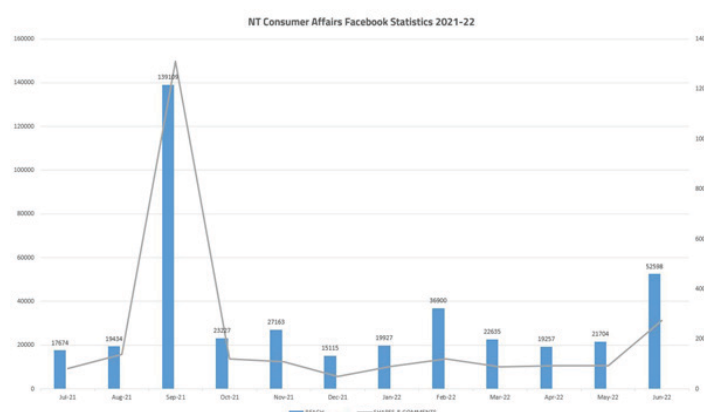
There were 335 individual posts on the NT Consumer Affairs Facebook page throughout the year, an average of 28 per month. These posts contained a wide range of useful material, including emerging issues like legislative amendments, scam warnings, MyFuel NT, product recalls and general consumer advice.

The Commissioner continued to use Facebook to deliver public warnings, which were widely shared by our followers. Our page was particularly successful in alerting consumers around Australia about fake websites selling new and used farm machinery, RVs, caravans and other big-ticket items.

During 2021-22, NT Consumer Affairs posted 62 warnings about fake websites, saving ordinary Australians significant sums of money.

Whilst some posts were part of national campaigns developed by the Consumer Education Network, most of our Facebook content is created internally, such as information regarding:

- residential tenancies
- scams, particularly new and emerging scams
- motor vehicle purchases and repairs
- protecting personal information, computer security and online safety
- warnings about travelling con-men
- door-to-door sales, especially in Aboriginal communities
- promotion of the MyFuel NT web app



This graph highlights the impact that social media can have when content goes viral. Facebook posts about Flubot and personal information scams in September 2021 and the Commissioner's Dinosaur Festival Darwin Public Warning in June 2022 resulted in significant reach to local, national and international followers.

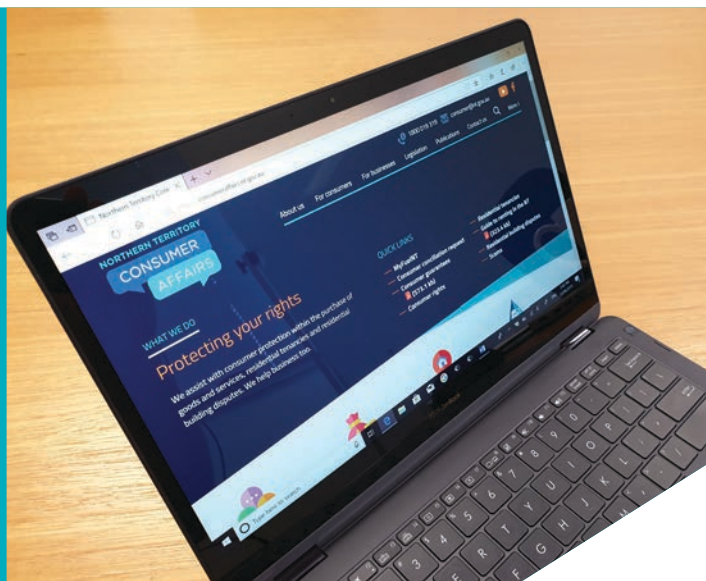
YOUTUBE CHANNEL

youtube.com/channel/UCADr3Kyruhd52ftuGoi2Kw

The NT Consumer Affairs YouTube channel has now had a total of 80 914 views up to the end of the 2021-22 financial year. Numerous educational videos targeting Aboriginal consumers continue to be very popular on our YouTube channel. Available in both English and the Yolngu Matha language of east Arnhem Land, these videos play an essential role in providing education to some of the Territory's most vulnerable consumers in remote areas.

Website

The NT Consumer Affairs website is configured for all mobile devices including desktops, tablets and mobile phones. Much of the information and resources provided on our website is aimed at reducing landlord/tenant and business/consumer conflicts. The more Territorians understand their consumer and tenancy rights, the less chance that disputes will result in legal action.



The NT Consumer Affairs website is configured for desktops, tablets and mobile phones and contains a wide range of useful consumer and rental information.

Whilst we administer several acts, the Australian Consumer Law (ACL) and the *Residential Tenancies Act 1999* are particularly complex pieces of legislation that require information to be set out in plain English so that the average Territorian consumer, renter, landlord or business can understand their rights and obligations in a given situation.

The website has an engaging, simple layout which allows users to navigate to their topic of interest with ease. The contact details for our Casuarina and Alice Springs offices also provide Territorians direct phone access to the Fair Trading Officer's in our call centre, where they can seek additional information and specific advice.

The website is frequently updated in line with legislative amendments and as new resources are developed. This year, the website was critical in allowing tenants and landlords to understand the modifications to residential tenancies and the transitional rules in place since the Declaration of Public Health Emergency ceased. A new scam section was also added to our website, alerting Territorians about different types of scams, how to identify them and avoid becoming ensnared.

Media

One of the key ways that NT Consumer Affairs can engage with Territorians and educate them about their consumer and rental rights is by maintaining a strong presence in local media.

Regular monthly ABC radio segments give the Commissioner the opportunity to speak directly to Territorians and provides listeners with the ability to call in and ask for advice about their specific consumer or rental issues. This program promotes the agency and helps Territorians understand the role of Consumer Affairs and where they can go to seek assistance. The segments are also used to discuss important changes to consumer law, highlight topical issues with traders and emerging scam threats. Our call centre, website and social media platforms are also promoted to encourage contact with our office.

We engage with a multitude of media organisations besides ABC Darwin Radio, ensuring we connect with a range of audiences from across the Territory.

The Commissioner and the Deputy Commissioner were interviewed by the following media organisations 39 times during the year:

- Mix 104.9
- Hot 100
- Channel Nine
- NT News
- Cape Talk 567AM, Republic of South Africa
- NT Independent
- News Corp Australia
- ABC Darwin
- ABC Alice Springs
- ABC 7:30 Report
- Top End Aboriginal Bush Broadcasting Association
- A Current Affair



The NT Consumer Affairs Commissioner Sandra Otto conducting a monthly 30-minute talk back radio segment in the ABC Darwin 105.7 studio.

NT Consumer Affairs gained national exposure when the Commissioner was interviewed for an episode of Channel Nine's A Current Affair. The Commissioner was approached by the top rating television show to discuss our compliance work identifying fake websites selling high value items such as farming equipment and caravans.

Also of particular note was the Commissioner's appearance on Cape Talk 567AM, a radio station in Cape Town, South Africa, to discuss the public warning issued about the Dinosaur Festival Darwin.



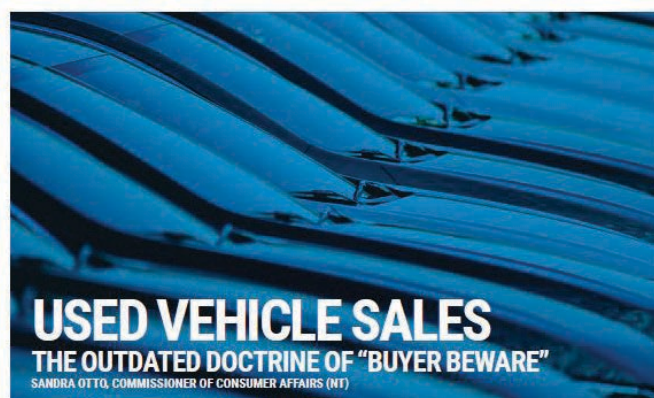
The Commissioner's warning, announced via media release and on the NT Consumer Affairs website and Facebook page, created international media interest due to the event organiser operating the Dinosaur Festival in several other countries, including his native South Africa.

A new initiative during the year was the Commissioner contributing consumer law articles to the Motor Trade Association (MTA) SA/NT's quarterly magazine. The MTA SA/NT is the only employer based organisation dedicated to protecting and growing South Australia and the Northern Territory's automotive retail, service and repair industry.

Our call centre receives many enquiries regarding vehicle servicing and sales, and connecting with this peak body and communicating with its members is a good opportunity to mitigate trader–consumer issues.

CONSUMER AFFAIRS

19



In most industries you have to advertise in order to stay ahead of the game when running your own business. Catchy phrases and bold statements are usually more effective in getting people's attention.

Some second-hand car dealers may advertise that they offer "the best deals on used cars in the world". While such puffery in advertising has always been permitted to an extent under the Common Law, car dealers need to be careful that their advertising and any other conduct is not misleading under the Australian Consumer Law.

Misleading and deceptive conduct that is not clearly exaggerated puffery is prohibited under the Australian Consumer Law.

Conduct, which can include omission, is considered to be misleading if it has the potential to lead a consumer into error or misconception.

For example, where a repairable write-off has been fully repaired and is roadworthy, it would be misleading for the dealer to advertise the vehicle as being "flawless" or "absolutely nothing wrong with it". At the same time, if a consumer was interested in a particular vehicle because it has a tow bar, and the consumer mentions to the dealer that they need to tow a trailer that weighs 3,000 kilograms, the dealer is misleading the consumer by omission if they remain silent despite their better knowledge that the vehicle and tow bar have a lesser towing capacity.

It is important to bear in mind that it does not matter whether the car dealer had any intention to mislead or

not. It also does not matter if any consumer has actually been misled or not. The important thing in this situation is whether the dealer's conduct creates a real chance that anyone may be misled or deceived.

The importance of making accurate and precise representations about the car continues into the drafting stage of the sales contract once the consumer and the dealer have agreed on a particular vehicle. Any vehicle sold must be road worthy and fit for any disclosed purpose. A clause such as "sold as is" shouldn't be used, as it is too broad and doesn't alert the consumer to any existing flaws. To protect themselves from liability, it would be in the dealer's best interest to list any known defects in the sales contract.

Apart from the buyer's and dealer's details, the sales contract must also spell out the essential particulars for the vehicle to be sold. Among other parameters, these include the make and model, colour, odometer reading, VIN, engine number, date of manufacture, compliance date, sale price etc.

Cooling-off periods vary between Australian jurisdictions. Vehicle purchases in South Australia are subject to a cooling-off period of two business days. In the Northern Territory, once the contract has been signed by both parties, the deal is done.

NT Consumer Affairs
1800 019 319 | consumer@nt.gov.au

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Outreach Program



Janine Mitchell, the new NT Consumer Affairs Outreach Officer

Outreach activities were adversely impacted in 2021-22 due to the Outreach Officer position remaining vacant for a period of time and the COVID-19 pandemic continuing to restrict face to face engagement in the community.

In April 2022 Janine Mitchell was appointed to the vacant Outreach Officer position, which has since led to an increase in overall engagement with consumers and businesses within the Top End region.

A total of 236 trader visits were made to businesses during the financial year, including 159 by our Alice Springs staff in the southern region incorporating remote locations such as the Ross River Homestead, Hale River Homestead, Kulgera, Erldunda, Stuarts Well, Tilmouth Well and Gem Tree. These visits provide valuable information and distribute publications in relation to a business' rights and responsibilities under the ACL and other applicable legislation.

The Outreach Officer and other Darwin and Alice Springs based staff attended a number of community organisations and events to engage with the public, provide information relating to our role and services, and to offer advice on the legislation administered by NT Consumer Affairs.

Visits included:

- COTA Seniors Expo - Darwin, Katherine and Alice Springs
- All Abilities Expo
- Over 55 Group
- Tourism NT
- Sanderson Ladies Group
- Probus Palmerston
- Sunrise Centre
- Association of Independent Retirees
- Youthworx
- Senior Relationship Services Relationships Australia
- NT CAWLS
- Alice Springs Plaza
- COTA Christmas Morning Tea, Alice Springs
- Yeperenye Shopping Centre



NT Consumer Affairs Outreach Officer, Janine Mitchell at COTA NT's Katherine Seniors Expo 2022.



The Sanderson Ladies Group invited the Commissioner of NT Consumer Affairs, Sandra Otto, to discuss consumer and rental concerns.

The offices of Members of the Legislative Assembly (MLA) continued to be an effective conduit for distributing educational materials and providing consumer information to Territorians.

During the financial year, NT Consumer Affairs staff provided information to the offices of the member for Sanderson the Hon Kate Worden MLA, the member for Katherine the Hon Jo Hersey MLA, the member for Arnhem the Hon Selena Uiibo MLA and the member for Gwoja the Hon Chanston Paech MLA.

Since commencing in the role the Outreach Officer has increased the profile of NT Consumer Affairs, building relationships with other government agencies, service providers, non-government organisations and other relevant networks to facilitate and grow the outreach program.

Having staff on the ground in Alice Springs is also essential to ensure we service our southern regional clients who may have differing consumer related issues to those located in the Top End.

The Outreach Officer will continue to work with our Alice Springs office to explore avenues to connect with Territorians living in remote communities, particularly where face to face engagement may be limited.



236
Trader visits



159
Alice Springs
trader visits

Conciliations and Complaints

Fair Trading Officers received a total of 140 formal complaints with over 55% of those conciliated and resulting in a positive outcome with consumers receiving either full or partial redress in those instances.

Some examples of successful outcomes are listed below:

CONCILIATION - Motor vehicle repairs

A consumer purchased a brand new vehicle in June 2018 from a reputable dealer at a cost of \$39,661.

The vehicle suffered multiple faults with the vehicle spending 15 weeks in the workshop for the most recent fault, with no estimated date for completion due to a lack of or delay in available parts.

The consumer lodged a Consumer Conciliation Request with NT Consumer Affairs seeking assistance in gaining a full refund for the vehicle.

We were able to offer guidance and direction to the consumer, who was then able to negotiate an acceptable buy back offer with the vehicle dealer directly for \$34 000.

The matter was successfully resolved prior to any formal conciliation taking place.

CONCILIATION - Travel costs

A consumer booked and paid for an overseas holiday for two in December 2020 that was cancelled due to COVID-19.

The cost of the trip was in excess of \$5,000. Initially the travel provider had advised they would provide a refund when the associated airline refunded them the money; however, ceased all contact with the consumer shortly after.

Following contact by NT Consumer Affairs, the travel provider promptly refunded the consumer in full, less the associated non-refundable fees and charges.

What our clients have to say

"Thanks again for your assistance and for the valuable work you do for the community." - Anon

"Thank you very much for your help. It was an amazing service from your end –in fact we thought that we lost the money but you helped us to get that back – really wonderful job." – BM

"As per today I have received the refund into my bank account. I am extremely happy, thanks to you and your team." – Anon

"I want to thank you from the bottom of my heart for all your help and effort. I appreciate it very much." – CS



Residential Building Disputes

The Commissioner of Residential Building Disputes role has remained largely unchanged, with responsibilities for providing information and education in relation to the *Building Act 1993* and associated Regulations, and determining building dispute applications lodged by home owners in relation to their builds.

The Fair Trading staff on behalf of the Commissioner received 61 enquiries from home owners requesting advice in relation to various building issues, 10 formal Applications to the Commissioner for Decision, one Technical Inspection Application and three Applications for Mediation during the financial year.

Retail Tenancies

Despite government support for business, the Covid-19 pandemic continued to have an ongoing effect on retail tenancies in the Territory during 2021-22.

Consistent with the previous financial year, the Commissioner of Business Tenancies received a higher than usual number of business tenancy applications associated with the *Business Tenancies (Fair Dealings) Act 2003*, with 18 applications received for determination.

NT Consumer Affairs was able to resolve two applications prior to any formal action, with a further 50% of accepted applications successfully conciliated, with the parties reaching a negotiated agreement.



Home owners sometimes face a variety of challenges with their build.

Residential Tenancies

Over 40% of all enquiries received by NT Consumer Affairs and 55% of calls to our call centre during the year were in relation to residential tenancies.

With two further amendments to the *Residential Tenancies Act 1999* Modification Notice, the official lifting of the Declaration of Public Health Emergency, and a tight rental market, it certainly made for an eventful year for the Commissioner of Tenancies and staff.

As a consequence of the lifting of the Declaration of Public Health Emergency, new tenancies being entered into on or after 16 June 2022 are no longer subject to the modifications.

Only certain procedural steps where there was an associated modified timeframe continue to apply to tenancies in existence on 15 June 2022, with modifications to all other procedural steps ceasing from 16 June 2022.

NT Consumer Affairs worked diligently to ensure the updated information was available to stakeholders via various mediums such as Facebook, radio presentations, publications on our website (including changes to associated forms), and continued to provide advice via the call centre and email facility.

Ensuring real estate agents and private landlords are properly educated aims to reduce the number of residential tenancy disputes.

Several educational sessions were undertaken by NT Consumer Affairs in relation to the rights and obligations of landlords/agents with various real estate agencies upon request, and two Q & A sessions were undertaken at the Real Estate Institute of the Northern Territory (REINT) with approximately 190 participants in total reached either in person or by Zoom.

Our Alice Springs staff also conducted annual tenancy information sessions over the reporting year for five of the seven real estate agents in the southern region, as well as eight one on one sessions with private landlords.

In addition, several presentations to community groups were conducted with a focus on information relating to renting in the Territory, which involved more than 108 participants.

The Commissioner of Tenancies also received and processed eight formal claims for tenancy bonds held in trust.



NETWORKS AND COLLABORATION

The Commissioner, Deputy Commissioner and other senior NT Consumer Affairs staff regularly participated in national networks and other working groups throughout the year to consider and respond to consumer policy issues of local and national importance, and to ensure that common legislation is administered consistently across all jurisdictions.

Australian Consumer Law (ACL)

The ACL is a national law that protects consumers from unfair and unsafe business practices when buying goods and services. The Australian Competition and Consumer Protection Commission (ACCC) and consumer protection and fair trading offices from all Australian states and territories are jointly responsible for administering and enforcing the ACL.

Collaboration between agencies across key streams of work is critical to ensure the consistent provision of information about the ACL and to address emerging policy, compliance and enforcement issues affecting all jurisdictions.

Consumer Ministers Network (CMN)

All consumer protection and fair trading Ministers across Australia and New Zealand from the Commonwealth, states and territories are members of the CMN. To ensure collaboration and coordination occurs, the Ministers meet at least once per year to discuss emerging national consumer protection issues, ACL reforms and to receive updates on other applicable matters.

Every year the chair of CMN rotates between the states, territories and New Zealand with South Australia (SA) currently the chair having taken over from the Australian Capital Territory (ACT).

The Ministers met virtually on 3 November 2021. The meeting was chaired by the ACT Attorney-General and Minister for Consumer Affairs, the Hon Shane Rattenbury MLA. The discussions at this meeting included:

- emerging issues for consumers caused by the COVID-19 pandemic – such as travel disputes and cancellations, and protections for vulnerable consumers
- ACL reform
- progress regarding Commonwealth Credit reforms
- the Productivity Commission's inquiry into the Right to Repair

The next face-to-face meeting is due to be held in early September 2022.

On 23 May 2022, the Hon Chanston Paech MLA was appointed the Attorney-General and consequently became the Minister responsible for consumer protection in the Northern Territory, taking over from the Hon Selena Uibo MLA.



The ACL is Australian wide legislation, protecting consumers (as well as businesses) when they purchase goods or services.

Consumer Senior Officials Network (CSON)

The head of each state and territory consumer protection and fair trading agency in Australia and New Zealand as well as the Commonwealth Treasury, the ACCC and the Australian Securities and Investment Commission (ASIC) all form the CSON.

The CSON met virtually several times during the financial year with the last meeting held on 1 March 2022. These meetings discuss and agree on strategies for matters of national focus and outcomes from CMN meetings. The CSON also receives progress updates from the education, compliance, policy, product safety and Indigenous networks.

Regulatory Compliance Network (RCN)

The RCN enables officials from the Commonwealth Treasury, and Commonwealth, state, territory and New Zealand consumer affairs and fair trading agencies to collaborate on issues of national consumer regulatory compliance. This includes supporting the Intergovernmental Agreement and Memorandum of Understanding for the ACL, discussion of emerging compliance trends and priorities, sharing information and supporting other consumer networks as required.

Led by New South Wales Fair Trading, the RCN met virtually throughout most of 2021-22, culminating in an annual planning day in Sydney on 10 May 2022. Key discussions included recommendations for improved collaboration between national ACL networks and other regulators, lessons learned from joint compliance working groups, as well as how to better promote the outcomes of coordinated reactive compliance activities.

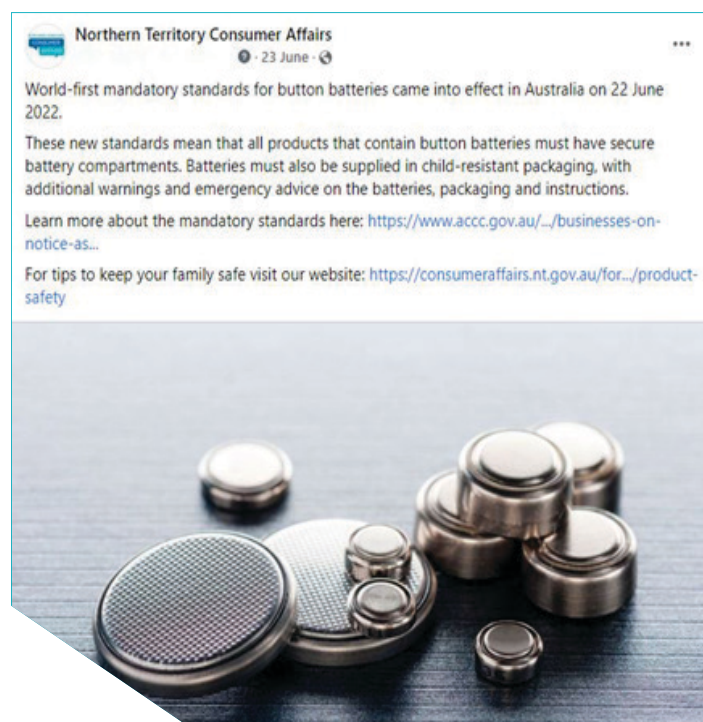
Consumer Education Network (CEN)

The CEN consists of representatives from all state, territory and New Zealand agencies responsible for consumer affairs or fair trading, along with the Commonwealth Treasury, ACCC and ASIC.

The CEN focuses on producing coordinated information and education campaigns to raise awareness of the ACL, including consumer rights, product safety and business obligations regarding matters of national importance.

The CEN identifies possible campaigns through data and insights from other network referrals, input from external consumer and business stakeholders, and an awareness of emerging consumer issues. NT Consumer Affairs participated in the following national consumer education campaigns across our social media platforms and website during 2021-22:

- Well Winter – two campaigns on either end of the financial year, focused on product safety for items commonly used during the winter months
- Halloween – a campaign focused on unsafe toys and products used during the Halloween celebrations
- Scams Awareness Week 2021 – a series of posts warning about different scams
- Don't Duck Out Make it SAFE – a child water safety campaign
- Online Sales – focused on shopping safely online leading into Christmas
- Safe Summer – a safety campaign targeting a range of summer safety issues for Australian families
- Unit Pricing – posts educating Territorians about how unit pricing can aid consumer choice
- Mother's Day – a campaign focused on general consumer advice about purchasing presents



The Well Winter CEN campaign focused on product safety and included information about the dangers of button batteries and the new packaging and warning requirements.



One of the three posters developed to engage with Aboriginal people and increase awareness of phone based scams.

National Indigenous Consumer Strategy Reference Group (NICS)

The NICS includes representatives from the ACCC, state and territory consumer protection agencies and relevant non-government organisations.

The NICS objective is for members to collaborate on consumer protection issues of significance to Aboriginal Australians, including promoting basic consumer rights, and coordinating outreach and educational activities to improve access to consumer protection services and information relevant to Aboriginal people.

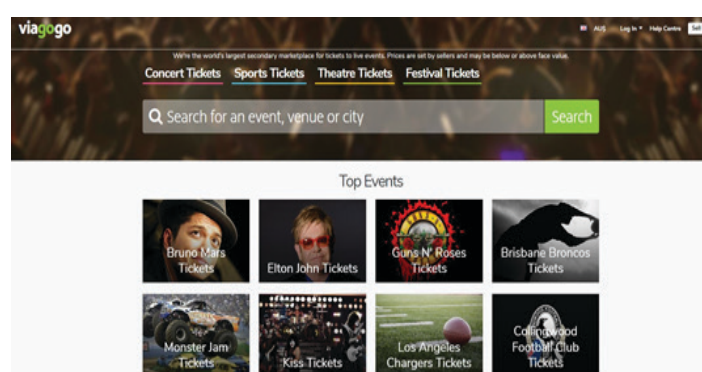
Due to the continuing COVID-19 pandemic, NT Consumer Affairs participated virtually in the five meetings held by NICS during this financial year. Inspired through this collaboration with other fair trading offices and the rise of scams affecting Aboriginal Territorians, NT Consumer Affairs developed a series of posters for culturally and linguistically diverse people to highlight the dangers of scams.

Fair Trading Officers Group (FTOG)

Throughout the 2021-2022 financial year, NT Consumer Affairs participated in the FTOG with other Australian fair trading offices, the ACCC and ASIC. In this forum, held every two months via teleconference, jurisdictions share details and seek input about traders of concern that likely operate in multiple states and territories.

This forum enabled NT Consumer Affairs to identify a trader proposing to host the Dinosaur Festival in Darwin, whose conduct had caused consumer detriment interstate, resulting in us being the first regulator in Australia to issue a public warning against this trader by way of media release. We also conducted some investigation activities regarding a trader of national interest whose principal place of business (as registered with ASIC) was in Darwin. The intelligence gained from these activities was shared within the FTOG for the benefit of other jurisdictions.

The ACCC originally initiated proceedings in the Federal Court against ticket reseller Viagogo AG in August 2017, after consumers all around Australia, including in the Territory, were adversely affected by their conduct. The ACCC regularly provided updates to all Australian Consumer Law regulators through the FTOG. This included advice that the Full Federal Court dismissed an appeal by Viagogo AG in April 2022, upholding the previous finding that the company had misled consumers on their website in relation to reselling of tickets to music and sport events.



When imposing the \$7 million penalty, the Justice noted that Viagogo's conduct was deliberate and that some of Viagogo's misleading claims were made 'on an industrial scale'.

Other Working Groups

Interagency Building Reform Working Group

The Commissioner of Residential Building Disputes continued to be involved with the Interagency Building Reform Working Group. Building reform has been a key focus of the Northern Territory Government. The working group is considering ways to improve safety and compliance in the building environment, enhance consumer protections and give the public greater confidence in the local building industry.

As part of the Tranche 1 reforms, Minister Eva Lawler MLA announced that from 31 January 2022, all projects categorised as “complex” will be required to be reviewed by an independent third party before the building permits can be issued. In April 2022, the Department of Infrastructure, Planning and Logistics prepared a further consultation paper inviting feedback from stakeholders to nominate a preferred option of the registration of building contractors.

Residential Tenancies Act Review Working Group

A representative from NT Consumer Affairs on behalf of the Commissioner of Tenancies was also involved in the Residential Tenancies Act Review Working Group that was formed as a direct result of the Northern Territory Government reform agenda to ensure the *Residential Tenancies Act 1999* provides a framework that balances the interests of tenants and landlords as identified through the 2019 Discussion Paper: Review of the Residential Tenancies Act 1999.

The purpose of the Working Group was to enable stakeholder members to engage directly and work collaboratively to develop an evidence based report on the Working Group’s deliberations to the Attorney-General and Minister for Justice. The final report, which was released in January 2022 and includes recommendations for legislative change, can be accessed at justice.nt.gov.au/_data/assets/pdf_file/0009/1083528/report-to-the-attorney-general-by-the-residential-tenancies-act-review-working-group-january-2022.PDF



COMPLIANCE

NT Consumer Affairs administers a variety of legislation that aims to ensure a fair and safe trading environment for both consumers and businesses in the Territory. We undertake a range of compliance activities including proactive operations, case assessments and investigations of alleged breaches of consumer protection laws.

Our compliance unit uses a proportionate, risk-based approach to assist businesses to meet their statutory obligations through pre-emptive engagement and education. Other compliance strategies and enforcement powers are used when necessary. Some of the more significant compliance and enforcement actions undertaken in 2021-22 include:

Residential Tenancies

On 1 January 2021, section 116A of the *Residential Tenancies Act 1999* came into force, which declares it to be an offence if a landlord or real estate agent submits unclaimed bond monies to the Tenancy Trust Account outside of legislated timeframes. This offence is also punishable by way of Infringement Notice. The Commissioner of Tenancies is the Accountable Officer for the Tenancy Trust Account.

Despite education delivered to real estate agents following this legislative change, NT Consumer Affairs has continued to observe some late submissions of bond monies. While we have provided additional trader education in these instances, further non-compliance in this regard will likely see the issuing of Infringement Notices in future.

In a separate matter, NT Consumer Affairs issued one formal warning to both the landlord and the real estate agent for entering into a residential tenancy contract with a tenant despite the property being unsafe and uninhabitable at the time the tenancy was entered into.

We received evidence that both the landlord and the real estate agent had knowledge of the state of the property at the time of signing the lease. The property was suffering from a leaking and unstable roof, with debris from the ceiling falling onto the cook top and into the food that was being prepared there, while the cooking appliances generated excessive smoke.

An application by the agent to the Northern Territory Civil and Administrative Tribunal to review the initial Orders as being too harsh was partially successful. However, the order entitling the tenant to a refund of rent paid and the order to terminate the tenancy for reasons of the property being unsafe and uninhabitable were upheld. The property obtained a completely new roof immediately after the end of the tenancy.



Public Warning – Dinosaur Festival Darwin

In April 2022, NT Consumer Affairs became aware of several advertisements with conflicting information promoting the Dinosaur Festival Darwin, an event promising large animated dinosaur models.

While reviews for previous events by the same organiser were mixed, there was initially no evidence to indicate the event was a scam, given that the festival had taken place in other Australian locations previously.

The Terms and Conditions set out by the event organiser were of concern; however the event organiser, who is located in the Republic of South Africa, assured NT Consumer Affairs that his company would do the right thing by its customers, particularly with a view to refunds.

In the following weeks, we received concerning reports from other jurisdictions where the most recent events had been cancelled at very short notice, while online ticket sales continued and refunds to consumers were being denied by the event organisers.

Shortly after these reports, the NT Consumer Affairs investigation revealed that the event organiser had withdrawn their permit application to host the Dinosaur Festival Darwin at the Jingili Water Gardens, and that there was no other confirmed venue booking.

Nonetheless, they continued to sell tickets online and to advertise the event as taking place at the Jingili Water Gardens.

Based on the ongoing advertising without any confirmed venue, the Commissioner issued a public warning as a media release. This was the first public warning to be issued by an ACL regulator regarding the event.

The warning gained significant national and international media attention, including Cape Town radio station Cape Talk 567AM interviewing the Commissioner via telephone.



The terms and conditions of the Dinosaur Festival Darwin exclude the possibility for refunds even in circumstances where consumers are entitled to get their money back. Such terms and conditions have the potential to mislead consumers about their rights to a refund.

Online Shopping Scams Disruption

Scam websites purporting to be selling tractors, other farming and construction machinery, as well as caravans and motorhomes continued to be an area of concern.

In an effort to minimise consumer detriment, the NT Consumer Affairs compliance unit persisted with detection and exposure efforts to have those websites removed.

In the 2021-22 financial year, 73 new scam websites were detected and most of them were shut down even though the domain hosts were based off-shore, outside Australian legal jurisdiction.

Reported losses from these sites amounted to \$485 400; however actual losses are considered to be much higher as many people do not report these crimes to government authorities.

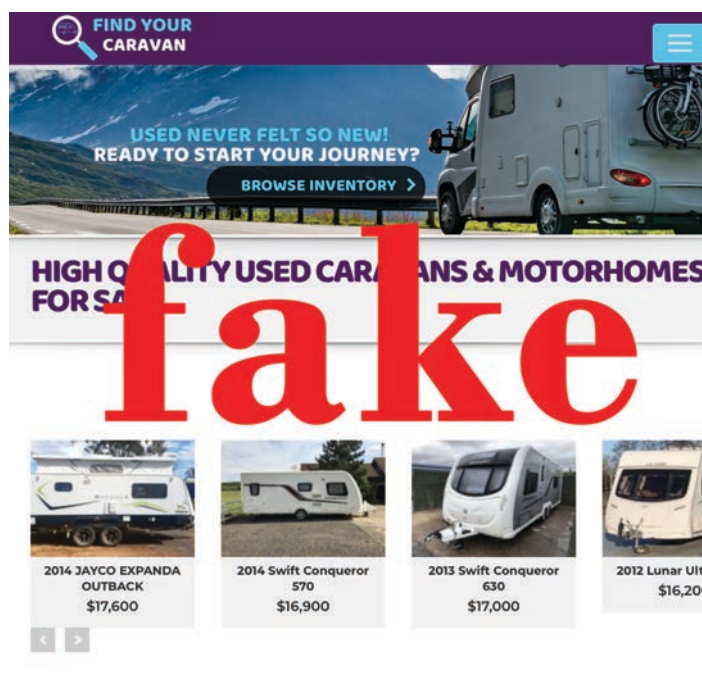
NT Consumer Affairs Facebook posts played a pivotal role in saving many potential victims before they handed over any money, along with collaboration and information sharing among consumer protection and cybercrime organisations within Australia and overseas.

In most cases, the scammers named their websites after legitimate Australian companies that do not have any online presence.

They then fraudulently display the ABNs of those companies on their bogus website in order to create a false impression of legitimacy.

On two occasions, consumers who lost money to the scammers erroneously pursued the legitimate company whose details had been hi-jacked by the scammers for refunds.

Consequently, we provided advice to the genuine businesses to report the corporate identity theft to the Australian Cyber Security Centre (ACSC, www.cyber.gov.au).



Find Your Caravan, Findyourcaravan[dot]com was one of the many fake websites identified by the Compliance team and taken down after a request to the hosting service was actioned.

What our clients have to say

"You guys saved me from a scam involving \$30,000 as you have listed Sandalwoodequipment.com on your social media post." - CM

"Now we have calmed down enough, we just wanted to thank your staff for your help on 21st April with our scam problem with the above company. You saved us a lot of money." - RL

"Please have a read below of what I found out yesterday after analysing the 2 websites and thank you so much for confirming my suspicions about these fake websites." - SM

Out of the Ordinary

The 2021-2022 financial year saw the compliance team apply the less commonly used *Accommodation Providers Act 1981 (NT)*. Among other scenarios, this Act regulates the liability of an accommodation provider for property belonging to a guest that has been damaged or stolen when left in the accommodation.

The accommodation provider can limit their liability to a maximum of \$200 by displaying appropriate signs throughout the premises and in the guest rooms.

Without such signage, the accommodation provider can face unlimited liability for guest property if rooms get broken into.

Following a break-in into a guest room at a Darwin hotel and a subsequent dispute over the extent to which the accommodation provider was liable, NT Consumer Affairs provided education to the hotel operator to ensure their understanding of the requirements of the Act.

2021-22 Compliance Fast Facts



157

Preliminary investigations



51

Resulting further investigations



77

Outgoing trader contacts



5

Infringement Notices issued



1

Public warnings issued



525

Other stakeholder engagement

MYFUEL NT

The Northern Territory Government introduced the MyFuel NT scheme in 2017 to improve price transparency and competition in the retail fuel market in the Territory and to assist consumers to make better informed decisions about fuel purchases.

NT Consumer Affairs is responsible for administering and regulating the MyFuel NT web application, which provides real time information about fuel prices at service stations across the Territory. As at 30 June 2022, there were 211 operating fuel outlets registered under the scheme, with website users reaching 97,071 and 964,978 hits to the site.

As the price of fuel in Australia is heavily impacted by world oil prices, fuel prices rose substantially during the latter half of 2021-22 due to global economic conditions and the conflict in Ukraine. As a consequence, the federal Government imposed a 22 cents per litre cut to the fuel excise in March 2022 for a period of six months. Following a written request from the Consumer Affairs Commissioner, the ACCC confirmed that the excise reduction had been applied appropriately in the Territory.

Given the significant increase in fuel prices, it was particularly important to ensure that fuel retailers were meeting their regulatory obligations under the MyFuel NT scheme and that fuel pricing information provided was accurate.

Compliance monitoring was conducted throughout the year via desktop surveillance and through 928 visits in person to fuel outlets, including 136 in the Alice Springs region.

In the 2021-22 year, five infringement notices amounting to \$3,877 were issued by NT Consumer Affairs to fuel outlets in the Darwin, Palmerston and Alice Springs regions for breaches of MyFuel NT scheme laws.

The breaches were for discrepancies between the prices charged to motorists at the bowser and the prices reported to MyFuel NT or prices being displayed incorrectly on the price board at the fuel outlet.

There was a significant increase in Price Mismatch Reports lodged by consumers through the MyFuel NT website in 2021-22. Of the 27 Price Mismatch Reports submitted, six led to further trader education, eight resulted in formal warnings to fuel retailers, one resulted in the issuing of an Infringement Notice, and 12 were found to be lodged in error. One report was still under investigation at the end of the financial year.



The easy to use, free MyFuel NT web app allows Territorians to navigate to the lowest fuel price in their local area.

OTHER STATUTORY RESPONSIBILITIES

The Commissioner of Consumer Affairs is the statutory officer responsible for a number of other pieces of legislation in the Northern Territory.

Retirement Villages Act 1995

The Commissioner is responsible for the administration of the *Retirement Villages Act 1995 (RVA)* and its Regulations. There are three retirement villages in the Northern Territory that fall under the provisions of the RVA. Greenfields Living has two retirement villages in the Northern Territory. Tiwi Gardens Village is located in Tiwi and Durack Gardens is located in the suburb of Durack in Palmerston. Southern Cross Care has the Pearl Retirement Resort that is located in Fannie Bay.

There were two requests for advice from village management this reporting period, which involved rent arrears and the behaviour of a resident. Whilst there were no disputes recorded for this year, the Commissioner can investigate and attempt to resolve complaints by residents or the administering authorities of the retirement village.



Pearl Retirement Resort, located in the seaside Darwin suburb of Fannie Bay, is one of the retirement villages in the Northern Territory.

Caravan Parks Act 2012

The Commissioner of Tenancies is the Commissioner for the purposes of the *Caravan Parks Act 2012 (CPA)* and its Regulations. Parts 2 to 15 of the CPA do not apply if the caravan park is advertised as “holiday accommodation” or “tourist accommodation”. The CPA is in many respects similar to the *Residential Tenancies Act 1999*.

A total of 16 requests for advice were received this financial year, mostly from residents. Some calls related to operators asking residents to leave without providing the proper notice periods or there were disagreements about the rent owed. One resident complained that he was not allowed to have a dog. In this circumstance, the park rules would apply.

A caravan park worker enquired about a vehicle that a resident abandoned at the caravan park. The caller was directed to follow the processes under the *Uncollected Goods Act 2004*, under which there are different actions that are required to be followed depending on the value of the abandoned goods. If the abandoned vehicle is sold, the balance of any money left once expenses are covered, must be paid to the Commissioner of Tenancies to be held in trust in the event the owner of the vehicle were to return and ask for its whereabouts.

Others

Due to Administrative Orders being in place or through the Commissioner delegating responsibility, Licensing NT in the Department of Industry, Tourism and Trade is responsible for administering the following legislation:

- *Associations Act 2003*
- *Commercial and Private Agents Licensing Act 1979*
- *Consumer Affairs and Fair Trading Act 1990*
– Parts 10 and 14
- *Sex Industry Act 2019* – Part 4



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