



19 December 2008

The Hon. John Della Bosca BA MLC  
Minister for Health  
Governor Macquarie Tower  
Level 30 Farrer Place  
Sydney NSW 2000

**Subject: Proposed Merger of the Public Trustee NSW (PT) and the Office of the Protective Commissioner (OPC)**

Dear Minister,

The Mental Health Coordinating Council (MHCC) is the state peak body for non-government organisations (NGOs) working for mental health throughout NSW representing the views and interests of over 200 NGOs. Our member organisations specialise in the provision of services and support for people with a disability due to mental illness. MHCC provides leadership and representation to its membership and seeks to improve, promote and develop quality mental health services to the community. Facilitating effective linkages between government, non-government and private sectors, MHCC participate extensively in public policy development.

MHCC wish to add its voice to concerns raised by the Reverend the Hon. Dr Gordon Moyes in the Legislative Council on 27 November 2008 to the Attorney General, the Hon. John Hatzistergos, regarding the proposed merger of the Public Trustee NSW (PT) and the Office of the Protective Commissioner (OPC) announced as part of the mini-budget earlier in November. We also endorse the People with Disability Australia (PWD) Position Statement, which we understand was sent to your office this month.

We appreciate that in other jurisdictions the two offices are merged and that there is potential to rationalise the operations of the two bodies whose roles may in some instances (investments) overlap. We are supportive of concerted and comprehensive reform in this area, but are uncomfortable with the absence of a transparent broad stakeholder consultative process.

Of particular concern is that the Independent Pricing and Regulatory Tribunal's [IPART] report and recommendations to government which examines these issues in detail has not been released, although we understand that the report will recommend increased funding (rather than cost cutting) to the OPC. The savings estimated of \$100,000 seem a somewhat small inducement for a merger. We suggest that possibly the recommendation for OPC core funding enhancement to the tune of \$7

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million under the IPART recommendations (to be made public) could be pre-empted by the merger. In any event, the Government's agenda needs to be made clearer than merely stating the potential synergy between the two offices.

There has long been discussion around the pressing need for reform to all aspects of the supported financial management for people with decision making disability, particularly with regard to the *Protective Estates Act 1983*, which is the principal legislation in this area, which explicitly "*violates fundamental human rights set out in Article 12 of the United Nations Convention on the Rights of Persons with Disabilities,*" (Moyes). For over a decade, proposals for reform have been presented to government by its own agencies and other stakeholders, and yet service delivery in this area deteriorated.

We understand that the appointment of Imelda Dodds as Protective Commissioner late in 2007 has brought about strategies to enhance the structure and services of the OPC, particularly in relation to devolving to regional offices with some specialist units centrally located. We suggest that it is important to report on improvements to service delivery since Oct 2007 and evaluate outcomes prior to merging the two organisations without any other reform process in place.

MHCC concur with PWD's view that the central organising principle in a reform process must be to uphold the human rights of people with disability. With this in mind, we propose that as a matter of urgency a full inquiry be referred to the Social Issues Committee (SIC). In this way parliament and all interested stakeholders will be able to ascertain all the ramifications of the proposed merger, and the public debate will inform the SIC's deliberations to provide the legislative amendment necessary in order to accommodate the merger.

For further information regarding this letter please contact Corinne Henderson, Senior Policy Officer at [corinne@mhcc.org.au](mailto:corinne@mhcc.org.au) or Tel: (02) 9555 8388 ext 101.

We look forward to your response on this matter.

Yours sincerely,



Jenna Bateman  
Chief Executive Officer  
c.c. The Hon. Paul Lynch M.P. NSW Minister for Disability Services  
Mr Bruce Barbour, NSW Ombudsman  
Ms Imelda Dodds, The Protective Commissioner  
Mr Peter Whitehead, The Public Trustee  
Ms Diane Robinson, The President of the NSW Guardianship Tribunal  
The Hon. Greg James Q.C. The President of the Mental Health Review Tribunal

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