

25 March 2026

Our ref: LP:MC

The Honourable David Thomas  
Reviewer  
Queensland Civil and Administrative Tribunal Act Statutory Review 2025-2026  
GPO Box 149  
Brisbane QLD 4001  
**By email:** [REDACTED]  
**Copy to:** [REDACTED]

Dear Mr Thomas

**Queensland Civil and Administrative Tribunal Act Statutory Review 2025-26: Issues Paper 8**

The Queensland Law Society (QLS) welcomes the opportunity to contribute to the Queensland Government's Statutory Review of the *Queensland Civil and Administrative Tribunal Act 2009* as the peak professional body for the state's legal practitioners.

This submission responds to Issues paper 8 – Tenancy & Community Living Disputes (**the Issues paper**).

We have had the benefit of reviewing the draft submission of Caxton Legal Centre (**Caxton**), which has provided valuable insights, particularly in relation to their Queensland Retirement Village and Park Advice Service.

**Key recommendations:**

QLS recommends:

1. An automatic right to legal representation, noting the potential impacts on a person's housing and business in these jurisdictions.
2. QCAT establish an Aboriginal and Torres Strait Islander Tenancy List to hear residential tenancy matters.
3. Increased legal assistance sector funding for civil law services including housing disputes, renting and elder law issues.
4. Establishment of a duty lawyer service to support tribunal users in navigating tenancy and manufactured home and retirement village disputes.

5. Increased resourcing of specialist triaging and ongoing case management in these jurisdictions. Early triaging to identify issues will assist to identify a matter or party needs, particularly engagement of legal or other supports.
6. Resourcing a fully functional digital case management system. The inability for QCAT users to file documents and conduct proceedings electronically has consequences for Queenslanders, businesses and QCAT staff.
7. Funding to increase understanding of capacity to improve outcomes for individuals navigating these processes whose capacity has been in question.

## Introduction

QLS supports an automatic right to legal representation, noting the potential impacts on a person's housing and business in this jurisdiction. The Issues paper identifies several barriers which exist in this area such as power imbalances.

We also recognise that many residents in the housing and tenancy jurisdictions experience intersecting vulnerabilities including age-related health conditions, cognitive impairment, disability, low literacy, digital exclusion, economic disadvantage and social isolation, which can impede the person's ability to engage with QCAT processes without targeted supports.

In our view, legal representation would significantly improve access to justice and address the imbalance of power inherent in these kinds of matters where, for example, a social housing provider or government department seeks to evict a tenant. It is also likely to improve efficiency in QCAT and support decision making.

QLS members also report that older adults may have concurrent guardianship and tenancy matters at QCAT. A right to legal representation or advocacy support is very important in these contexts (as well as others) to ensure that adults can more effectively engage in matters that have significant consequences for their daily lives. This is particularly the case in healthcare contexts where, notwithstanding that the adult's capacity has often begun to stabilize, there can still be unfavourable outcomes due to that person's unfamiliarity with the tribunal processes.

We therefore reiterate that specialist training and education regarding decision making capacity outside of the guardianship specialist jurisdiction/tribunal should be provided to other parts of the tribunal. Human rights and trauma-informed practice is also an important aspect of ensuring the triaging process is effective and does not compound existing power imbalances or party vulnerabilities.

QLS acknowledges there are often resource constraints for persons requiring legal representation to navigate the tribunal's processes. QLS continues to advocate for increased funding for civil law services such as housing disputes (including renting), and elder law issues.

We also recommend establishment of a duty lawyer service to support tribunal users in navigating tenancy and manufactured home and retirement village disputes.

Lastly, we note there have been several legislative changes in the residential tenancy sector over recent years which have conferred further jurisdiction on QCAT. We strongly recommend that any conferrals of additional jurisdiction on QCAT be accompanied by additional resourcing of specialist triaging and case management staff.

Our response to the questions contained in the Issues paper are outlined below.

### **Part 1: Social Housing**

*Q1 Should social housing tenancy matters be triaged to give priority hearing for more urgent applications, such as applications to terminate a tenancy where the tenant has engaged in illegal or dangerous behaviour?*

*Q2 If so, should this triaging be undertaken by adjudicators or can this role be delegated to registry staff?*

The Issues paper identifies that social housing tenants are typically highly vulnerable people. Their matters can be complex and involve human rights considerations.

We recommend initial triaging and ongoing case management. Early triaging to identify issues will assist to identify a matter or party needs, particularly engagement of legal or other advocacy representation or support. As noted in the question and the Issues paper, issues in social housing can be more pronounced than in the broader community, and a failure to triage and make a decision in a timely manner can have significant flow on effects (including on department or community housing provider resources, and reduced availability of housing for those on the social housing register).

QLS considers this role could be delegated to registry staff provided they are appropriately skilled and trained. Training is particularly critical in identifying vulnerable parties and arranging referrals/opportunities for appropriate support.

Staff should also be trained to identify specific risks such as elder abuse. There should also be systems in place to ensure matters are reviewed and “retriaged”, if new information comes to hand.

*Q3 Should requirements be included to protect the safety of government staff involved in social housing proceedings in QCAT?*

*Q4 If so, what should be done?*

While it is acknowledged that social housing tenants can have complex situations and needs, distinguishing all social housing tenants as posing a risk to government staff involved in QCAT proceedings is unwarranted and reductionist.

As noted elsewhere throughout this submission, we support appropriate assessment and triaging of applications to determine whether additional supports, safety measures or accelerated processes may be appropriate, though we consider this should be done for all applications, rather than only those involving social housing tenants.

Legal representation and enhanced access to legal assistance may better facilitate communication between the department and affected tenants.

As noted in the Issues paper, (for example, paragraph 54), specific process steps may also assist in addressing these concerns.

*Q5 If the minor civil disputes jurisdiction is transferred to the Magistrates Courts, including private tenancy disputes, should QCAT retain jurisdiction to hear and decide social housing disputes?*

If the minor civil dispute jurisdiction moves to the Magistrates Court, it is our view that QCAT should retain jurisdiction in other areas such as residential tenancy matters (not just social housing matters), noting these jurisdictions were in separate tribunals pre-dating QCAT, and that QCAT has the expertise in these matters.

We consider social housing matters belong in a Tribunal which is experienced in merits review, as well as experienced in considering and determining human rights claims.

There are also overlaps between housing/tenancy disputes and discrimination claims which, like in guardianship matters, can involve concurrent proceedings. These matters should logically be determined in the same place.

If jurisdiction for private tenancy disputes were transferred to the Magistrates Courts, it is our view that QCAT should retain jurisdiction to hear and decide social housing disputes, for the reasons above.

*Question 6: If so, which QCAT decision makers should hear social housing disputes?*

To deal with backlogs, we would welcome consideration of less complex matters being determined by adjudicators, provided appeal rights and appropriate supports to access appeals are in place.

Any QCAT adjudicators who transition to the Magistrates Court (following any changes to jurisdiction as discussed above), could also retain an appointment as a QCAT adjudicator (on a reduced/shared basis) so their expertise and experience can continue to be utilised.

## **Part 2: Community living disputes**

*Q7 Does QCAT adequately identify and manage the vulnerabilities of manufactured home owners, retirement village residents and onsite managers when running proceedings, interacting with parties and making decisions?*

Caxton highlights that many residents face multiple vulnerabilities, including age-related health issues, low literacy, limited digital skills, social isolation and economic disadvantage, all of which can affect their ability to meaningfully participate in proceedings without support. These factors limit the accessibility of the tribunal.

*Q8 If not, what can be done to ensure that these vulnerabilities are adequately identified and managed?*

In line with Caxton's submission, we recommend that QCAT adopt a structured vulnerability screening at the point of filing, with clear pathways for reasonable adjustments and referrals. Screening should capture indicators such as age, disability, mental health, literacy, digital capacity and cultural safety needs. A designated case manager should support vulnerable parties throughout the matter, with authority to organise adjustments. Embedding social workers within QCAT would strengthen consistent, trauma informed practice and assist with training and real time advice to registry and decision makers.

*Q10 If you have experienced delay: ...*

*(b) What do you think can be done to address these causes and minimise delays?*

QLS recommends improved triaging and case management. Efficient case management leads to fewer delays and better outcomes.

We also suggest delays could be improved by increased numbers of case managers and adjudicators.

In line with Caxton's submission, we also support establishing a targeted fast track stream for high-risk community living disputes. We agree fast-track eligibility should be triggered by indicators of vulnerability or risk of harm, with early directions hearings and compulsory conferences used to resolve or narrow the issues efficiently.

This requires specialist knowledge of vulnerabilities and screening practices to identify and adequately support individuals requiring assistance to access the tribunal.

Where participants need legal or other advocacy representation or support, fast tracking these matters must not come at the expense of ensuring they receive adequate support.

*Q11 Should manufactured home and retirement village matters be triaged and case managed (using directions hearings) and prior to hearing?*

Yes. A directions hearing (preceded by initial case management to best determine appropriate directions) would be beneficial. The member sitting in a directions hearing should have access to the tribunal calendar to enable matters to be set down for hearing at that time. The tribunal could also regularly review standard directions issued to determine whether they were able to be complied with and progressed the matter.

Case management, including a consistent contact person or central contact point at QCAT should be ongoing throughout the matter.

*Q12 – If so, should the triage process be undertaken by QCAT decision makers or can this role be delegated to registry staff?*

As for Question 2, QLS considers this role could be delegated to registry staff provided they are appropriately skilled and trained. Training is particularly critical in identifying vulnerable parties and arranging referrals/opportunities for appropriate support.

Staff should also be trained to identify specific risks such as elder abuse. There should also be systems in place to ensure matters are reviewed and "retriaged", if new information comes to hand.

Having this role performed by appropriately trained registry staff, rather than QCAT decision makers, would support efficient use of resources. The delegation could involve escalation pathways (for example, to QCAT decision makers) in appropriate circumstances.

*Q13 – Is QCAT an accessible forum for individuals to bring manufactured home and retirement village disputes?*

*Q14 – If not, what can be done to make QCAT more accessible?*

Legal representation and enhanced access to legal assistance may better facilitate communication between scheme operators/park owners and residents.

QLS agrees with Caxton that QCAT must maintain non-digital pathways, publish plain language exemplars of common filings/directions, provide assisted lodgement options, and ensure disability-inclusive adjustments to support equitable access to the tribunal.

The Fair Work Commission has developed videos for parties to see what a hearing and other processes will look like. Something similar could be developed for QCAT.<sup>1</sup>

*Q15 – Does QCAT have sufficient specialist knowledge and/or skills in manufactured homes and retirement village disputes?*

*Q16 – If not, how could this be improved?*

We have not received feedback that QCAT lacks the specialist knowledge and/or skills in these areas. However, we support ongoing training for QCAT decision makers (and relevant staff), to ensure QCAT is an accessible jurisdiction, noting it commonly interacts with people facing specific challenges and disadvantage.

Generalised soft skills training should be broadly applicable across a range of matters in which QCAT decision makers may be involved.

QLS supports Caxton's recommendation for a specialist sub-team within QCAT that is equipped to work with older people and those with intersecting vulnerabilities. A dedicated list would improve consistency, procedural clarity, and user experience.

*Q17 What has been your experience with group proceedings for retirement village and manufactured home disputes in QCAT?*

*Q18 In the context of these disputes, are group proceedings useful?*

QLS agrees with Caxton that group proceedings are an important mechanism for access to justice. Caxton explains that many older residents are only able to pursue disputes when they are part of a collective effort. Group proceedings help reduce power imbalances and allow residents to protect shared interests.

*Q19 If so, should any changes be made to improve the group proceedings framework in QCAT?*

We support Caxton's recommendations for a more flexible group-proceedings framework, including allowing late opt-in, permitting multiple lead applicants, and giving the tribunal discretion to extend outcomes more broadly where appropriate.

*Q21 What has been your experience with the pre-claim dispute resolution processes under the Manufactured Homes (Residential Parks) Act 2003 or the Retirement Villages Act 1999?*

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<sup>1</sup> [What happens at a Fair Work Commission hearing - YouTube](#)

Caxton observes that early resolution is most likely when residents have legal representation or support from a strong homeowners committee. This highlights the need for supported participation in these processes.

*Q22 Do you think anything should be changed to improve the processes described in Q20 and Q21?*

QLS supports Caxton's recommendations to strengthen alternative dispute resolution by improving incentives for early and genuine engagement.

*Q23 Should QCAT retain jurisdiction to hear and decide:*

*(a) retirement village disputes?*

*(b) manufactured home disputes?*

The Issues paper outlines some of the complexities associated with QCAT's status as a 'court of the State'. As outlined, there is the potential for this issue to arise in matters of federal jurisdiction and where the park owner or scheme operator is a permanent resident of a different state, though this is unlikely.

On balance, QLS considers it would be preferable for the jurisdiction to remain in QCAT, and a framework be established to transfer matters involving federal jurisdiction to the Magistrates Court. This would ensure existing QCAT knowledge of this jurisdiction is maintained.

We do, however, suggest this is an issue which should be revisited at the next review so any undue impacts on persons seeking to access QCAT and/or on referral to the Magistrates Court are identified.

*Q24 What issues have you experienced in relation to community titles scheme disputes and what can be done to address those issues?*

Members have observed these disputes can be complex and often emotionally charged. As stated earlier, legal representation would be beneficial in these matters.

Specialist staff and adjudicators should remain and be supported by triaging and case management resourcing.

*Q25 Should QCAT retain i[t]s concurrent jurisdiction to hear complex disputes in community titles schemes?*

QLS agrees that QCAT should retain its concurrent jurisdiction with specialist adjudicators.

As stated above, these matters would greatly benefit from automatic legal representation, triaging and early case management.

We also support the Issues paper proposal for such decisions to be appealable to QCAT on questions of law.

### Part 3: Retail tenancy disputes

*Q28 Should QCAT continue to require retail shop lease disputes over \$25,000 be heard by a panel of a legally qualified member, a representative for tenants and a representative for landlords?*

QLS notes from the Issues paper that the panel requirement was considered in a 2014 review of the *Retail Shop Leases Act 1994* (Qld) and was supported by stakeholders on the basis that industry representatives provided valuable input in this area.

QLS is not aware of the panel requirement causing issues in the retail shop lease jurisdiction. However, we suggest it may be appropriate to revise the \$25,000.00 threshold to \$50,000.00 to support timely resolution of matters.

*Q33 Should parties be responsible for commencing action in QCAT following a failed mediation or should matters continue to be automatically referred to QCAT by the mediator?*

QLS considers it is appropriate for the parties to determine their next step following a failed mediation. We agree with the Issues paper suggestion that the mediator should issue an unsuccessful mediation certificate, and the parties can then be in a position to commence proceedings themselves or to otherwise continue negotiations on the matters or issues that were not resolved during mediation, akin to the position taken in respect of bond disputes for residential tenancies (under section 136B of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld)).

This should be coupled with a reasonable time limit for commencing action, say 30 or 60 days, to provide certainty to the parties.

*Q34 Should QCAT retain jurisdiction to hear and decide retail tenancy disputes?*

QLS generally supports the importance of continuing and facilitating increased specialisation and training within QCAT across its various jurisdictions. As stated earlier, it would be preferable that the jurisdiction remains in QCAT.

If QCAT is not found to be a 'court of the State', a framework should be established to transfer matters involving federal jurisdiction to the Magistrates Court. We again suggest this is a matter which should be revisited at the next review.

### Part 4: General issues

*Q35 Should QCAT allow for 'as of right' legal representation in:*

*(a) social housing disputes?*

*(b) community living disputes?*

*(c) retail shop lease disputes?*

Yes, QCAT should allow 'as of right' legal representation in these matters. These matters often involve highly vulnerable people seeking to navigate and resolve complex legal and social issues. Legal representation can help to streamline disputes and improve timely resolution.

Legal assistance sector funding to support legal representation for persons with financial barriers to legal representation is also critical so that parties can access advice and task-based assistance, including for example, a duty lawyer service.

Similarly, retail shop leasing disputes can involve myriad issues, and matters may benefit from legal representation, especially if a party is represented for other aspects of the dispute.

*Q36 Are there any other issues related to the jurisdictions discussed in this paper you would like to tell the Review about?*

### Digital uplift

QLS has raised elsewhere the significant need for and benefits of a fully functional digital case management system.

The inability for QCAT users to file documents electronically and conduct proceedings electronically has consequences for Queenslanders, businesses and QCAT staff.

While digital illiteracy is a challenge faced by many who may be involved in QCAT proceedings, this is more appropriately addressed by providing reasonable and necessary supports to overcome that barrier.

### **Establishment of an Aboriginal Tenancy List**

QLS recommends that QCAT establish an Aboriginal and Torres Strait Islander Tenancy List to hear residential tenancy matters. The list should operate flexibly across urban, regional and remote areas, including through circuit hearings and technology assisted participation where appropriate. Matters should also be referred from mainstream lists when cultural considerations are identified.

Aboriginal and Torres Strait Islander peoples in Queensland experience significantly higher rates of housing insecurity, overcrowding, tenancy disputes and eviction proceedings than the general population. Data indicates that Aboriginal and Torres Strait Islander peoples comprised 20.4% of all people experiencing homelessness in Australia, despite representing a small portion of the national population.<sup>2</sup> A significant proportion of the statistics involved severely overcrowded dwellings, which accounted for approximately 60% of cases. Children and young people were disproportionately affected, with those under 25 years constituting nearly half of the Aboriginal and Torres Strait Islander people experiencing homelessness. These statistics highlight that tenancy matters involving Aboriginal and Torres Strait Islander tenants frequently arise within a broader context of structural disadvantage, poverty, and kinship obligations that are not adequately addressed by the current tribunal processes in Queensland.

The Aboriginal Tenancy List in the NSW Civil and Administrative Tribunal (**NCAT**) provides a practical example of how tribunal processes can be adapted to better meet the needs of Aboriginal and Torres Strait Islander tenants.<sup>3</sup> The NCAT model demonstrates how culturally responsive procedures can increase participation, improve compliance orders and reduce eviction rates by prioritising early intervention and negotiated outcomes. The Aboriginal

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<sup>2</sup> Australian Bureau of Statistics (27 June 2023), [Aboriginal and Torres Strait Islander peoples experiencing homelessness](#), ABS Website.

<sup>3</sup> [Aboriginal Tenancy List](#).

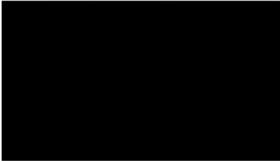
Tenancy List is heard fortnightly and involves dedicated support services which contributes to a less adversarial and more supportive process.

The success of the Aboriginal Tenancy List in NCAT indicates that specialist lists can operate within existing tribunal structures while delivering more effective and reasonable outcomes for Aboriginal and Torres Strait Islander tenants.

QLS remains eager to assist the Review and would be pleased to engage further on any of the issues raised in our submissions.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [policy@qls.com.au](mailto:policy@qls.com.au) or by phone on [REDACTED] [REDACTED]

Yours faithfully

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Peter Jolly  
**President**