

24 February 2026

Our ref: KB:MC

The Honourable David Thomas
Reviewer
Queensland Civil and Administrative Tribunal Act Statutory Review 2025-2026
GPO Box 149
Brisbane QLD 4001

Dear Mr Thomas

Queensland Civil and Administrative Tribunal Act Statutory Review 2025-26: Issues Papers 2, 3 and 7

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:

1. Issues paper 2 – Merits Review;
2. Issues paper 3 – Minor Civil Disputes; and
3. Issues paper 7 – Leadership, governance and appointments.

Our submission draws on the expertise and experiences of our specialist legal policy committees and practising members to assist the Review in identifying opportunities to strengthen the Queensland Civil and Administrative Tribunal's (**QCAT** or **Tribunal**) legislative framework, enhance procedural fairness, and ensure the Tribunal remains responsive to the evolving needs of the community it serves.

Issues paper 2 – Merits Review

Many of our comments in response to Issues Paper 1 are relevant to the consideration of this paper and the Tribunal's review jurisdictions:

1. Our members report that restrictions on legal representation (and the processes for applying for leave) are problematic and lead to delays. Our comments on Issues Paper 1, focussed on the impacts on individuals, which are often pronounced in the review jurisdictions. We have also been advised that government agencies do not have capacity to conduct all matters in house and need to brief out some matters to external law firms, meaning the leave requirements can also impact these parties.
2. The considerable delays experienced by parties, specifically delays in obtaining decisions and reasons for decisions, also arise in the review jurisdictions. For review matters, there are flow-on impacts for government decision-makers and the individuals

or businesses from delays in tribunal processes because, often, the next step in the substantive matter depends on receipt of the reasons. For example, a blue card cannot be issued in the absence of written reasons.

We note disciplinary matters involve both the Tribunal's original and review jurisdictions. Our comments on these matters will be provided in response to the issues papers dealing explicitly with the disciplinary jurisdictions.

Consultation questions:

- Question 8: We generally consider that fresh evidence should be allowed in merits reviews but suggest there should be some flexibility to refer a matter back to the agency to consider and respond to this fresh evidence before the Tribunal is required to determine the matter.

A related concern is the standard directions requiring the production of evidence when the enabling Act does not permit this. This can cause additional confusion and delay as the parties seek to correct this error. We consider improved case management would assist in addressing these issues.

- Question 9: Some members suggest that rather than imposing additional obligations on QCAT through the *Queensland Civil and Administrative Tribunal Act 2009 (QCAT Act)*, there should be an obligation on government agencies, who are administrative decision-makers, to proactively improve their decision-making. For example, they should have reporting obligations, training obligations etc., and these should be regularly reviewed. However, members who act for these agencies note this would further strain resources.

Additionally, quality and consistency of decisions, as well as openness and accountability of public administration, could be improved if Tribunal decisions were published as soon as practicable so they were able to be reviewed.

- Question 17: It would seem reasonable that, to address delays and confusion, an information notice should contain an address for service of the QCAT application, together with other relevant information.
- Questions 19 to 24: To reduce delays and facilitate better efficiencies in the Tribunal, original decision-makers could also be required to provide the material they give to the Tribunal to the applicant. This is consistent with the principles of natural justice and procedural fairness and would likely result in more streamlined processes.

We note, however, there can be large volumes of material required to be produced by the agency. This can be a significant imposition on the agency's (and the Tribunal's) resources, which could be reduced if there was an appropriate digital case management system.

- Question 28: If filing a document in a Magistrates Court registry, rather than in the QCAT registry in Brisbane, causes some delay in compliance with rule 31(1) of the *Queensland Civil and Administrative Tribunal Rules 2009 (QCAT Rules)*, then this issue should be rectified. Consideration could be given to amending rule 31(1) to provide that a document is filed when the principal registrar records the document and stamps the tribunal's seal on it, or (in the case of applications filed with the Magistrates Court), the document is given to the Magistrates Court, whichever is earlier

- Question 31: These matters could also benefit from initial triaging or an initial determination by QCAT if an automated process could be developed. Parties would retain the option to progress their matter in QCAT if they were not satisfied with the determination. This appears to have worked well in other jurisdictions.

Issues paper 3 – Minor Civil Disputes

Overarching comments

Issues paper 3 sets out several issues with minor civil disputes (MCD) and matters within QCAT's civil jurisdiction generally. Towards the end of the issues paper, two options for broad reform are outlined:

1. transferring the MCD jurisdiction, or parts of the MCD jurisdiction, to the Magistrates Courts; or
2. transferring the MCD jurisdiction, or parts of the MCD jurisdiction, to a new tribunal which sits within the Magistrates Courts.

The third option, not expressed directly but alluded to throughout the issues paper, is for these jurisdictions to remain in QCAT with amendments to resolve the specific issues, such as the gaps and inconsistencies in QCAT's powers with respect to different types of claims.

Some of these considerations will necessarily be subject to the finding about whether QCAT is a court. If this is the case, then some amendments to the QCAT Act and/or other changes will clearly be required, as it is untenable for QCAT to be unable to deal with some matters within its jurisdiction. Nevertheless, consideration must be given to whether the proposed solution, such as moving to the Magistrates Court, presents unintended consequences for QCAT users that would outweigh the benefits of such an option.

Reform is also required to address the many jurisdictional gaps, overlaps and inconsistencies identified by both the issues paper and our members. We make recommendations about specific issues below, but generally speaking, QCAT (or a tribunal within the Magistrates Court) should be given power to hear matters concerning similar subject areas, falling within the prescribed monetary limit, so that parties are not:

- inadvertently commencing their matters in the wrong place; or
- restricted to a particular process that is inconsistent with a process in another jurisdiction when the claims are essentially the same or similar.

The current landscape sees claims commenced in QCAT ultimately transferred to the Magistrates Court because they fall outside the limited powers and jurisdiction of QCAT. This elongates and complicates the process of achieving a resolution.

Moving matters within QCAT's current jurisdiction to the Magistrates Court

Some of our members hold significant concerns with the proposal to move matters to the Magistrates Court (even with simplified processes and rules for these claims) due to the psychological impact it may have on users, deterring them from pursuing their legal rights. In response, the Review has suggested that for many QCAT users outside of Brisbane and south-east Queensland, there would actually be little change as they already utilise the Tribunal via the local Magistrates Court to file documents and have their matters heard in courtrooms by local magistrates. However, throughout this process, parties know their matter is a QCAT matter

and not a court matter. We believe there will be a shift in perception if the matter is formally before a court.

Concerns are also raised about any formal court rules and processes that will be imposed for claims dealt with by the Magistrates Court. We do not consider it is appropriate for all of the current procedures under the *Uniform Civil Procedure Rules 1999 (UCPR)* to automatically apply to matters falling within the MCD jurisdiction or QCAT's civil jurisdiction more broadly. While there is recognition that the application of the UCPR in some matters can assist their progression,¹ the overwhelming view of members is that these rules should not be applied in their present form to the MCD jurisdiction.

If QCAT's jurisdiction were to be subsumed by the Magistrates Court, we recommend transferring to a discrete tribunal or division within the court with its own identity, rules and processes. This could be achieved by either:

- continuing to apply the current QCAT Rules to matters within this discrete tribunal/division, with amendments to reflect the transfer of QCAT's jurisdiction to this new tribunal/division and to address some of the practical issues currently faced by members; or
- amending the UCPR to include a simplified set of rules and procedures to matters in this discrete tribunal/division.

Adjudicators and hearing support officers should also move to the Court so the expertise in relation to these matters is retained.

In addition to the above:

- If the MCD jurisdiction is transferred to the Magistrates Court, we suggest increasing the monetary limit to reflect inflation since QCAT's current limits were established. The increased jurisdiction has worked well with respect to the "lemon laws" for motor vehicles. In answer to consultation question 41, we propose the limit should be at least \$50,000, noting any increase will require additional resources to deal with the increased case load. The higher limit for vehicles under the "lemon laws" should remain, and there could also be an upper limit for building matters so QCAT is not dealing with complex high-value disputes, whether residential or commercial.
- Irrespective of which body ultimately has jurisdiction, it is inefficient for magistrates to hear matters involving minor or low-value disputes, as is currently the case across much of the state, with magistrates sitting as QCAT members. We strongly recommend these matters be heard by adjudicators or registrars instead, with the parties having the right to appeal from the decision in appropriate cases. We foreshadow this would require the appointment of additional adjudicators/registrars to help manage the case load.
- If magistrates are required to hear additional QCAT matters, then we recommend appointing more magistrates with the requisite commercial experience to hear and decide MCD and civil matters.
- There has also been some reflection on the efficiencies of the previous Small Claims Tribunal and the process for resolving small claims in the Magistrates Court prior to QCAT's establishment. However, given the increase in the volume and complexity of

¹ Sometimes the absence of costs consequences and other formal requirements can lead to poorer outcomes for some parties. In these situations, the Magistrates Court processes may be more appropriate.

QCAT matters in recent years, it would be unwise to presume having matters heard by a Court would automatically result in efficiency gains, unless proper reform occurs and sufficient resources are provided.

- Currently, QCAT cannot see MCD matters through from beginning to end. For this reason, enforcement of decisions will likely be easier if the MCD jurisdiction was moved to the Magistrates Court. However, some of the barriers currently faced by users could be removed if there was better education available about how to navigate the Magistrates Court system.
- Our members acknowledge different parties in different types of disputes may have a better experience in the Magistrates Court, governed by the UCPR. For example, creditors might benefit from the formal requirements to progress matters and the resulting costs provisions. The increased ease of direct enforcement of decisions would also be an attractive proposition, particularly for self-represented litigants. On the other hand, costs consequences may deter people from making small claims, or from defending unmeritorious claims.

Issues with defining “minor civil dispute”/ separating out MCD and civil matters

Current issues

We agree there are both gaps and overlap in the MCD and civil jurisdiction of QCAT, causing confusion, delay and additional costs for parties.

For example, our members note:

- In consumer and trade matters (discussed further below in response to consultation questions), the different definitions in the Australian Consumer Law (**ACL**) and the QCAT Act result in some parts of consumer law matters unexpectedly falling outside QCAT’s jurisdiction. For example, a motor vehicle claim against a mechanic will fall within the MCD jurisdiction, but the part of the claim relating to the quality of the vehicle will not. Our general recommendation in this respect is for all consumer and trade claims to be within Tribunal’s jurisdiction where matters are below a certain monetary threshold.
- There are often overlaps in claims relating to trees, fences and retaining walls. There is a lack of clarity about retaining walls; the issue is covered in some fencing disputes and not others. We consider these matters ought to be able to be heard in the same way.
- Building disputes are often dealt with inconsistently, as discussed in the issues paper, which can cause extensive delay to the parties.
- There are also overlaps between housing/tenancy disputes and discrimination claims, especially if there are concurrent proceedings.

Our members are concerned more confusion will arise if some parts of the current MCD jurisdiction are moved to the Magistrates Court while others remain in QCAT. Whatever decision is made on the question of re-establishing a Small Claims Tribunal in the Magistrates Court, the matters that fall within the MCD jurisdiction should remain together. One exception is possible tenancy and public housing matters which we discuss further below.

If the process becomes more complicated, rather than less, fewer people will engage. We also note that many of our members in community legal centres and at Legal Aid caution against a

process that is so complex it requires lawyers to spend considerable time explaining it to clients, rather than giving them advice on the substantive matter and helping them draft documents and prepare.

Recommended actions

We recommend expanding QCAT's MCD jurisdiction to close the gaps identified to make the process simpler for users, as well as refining definitions to prevent overlaps and confusion. It may also be necessary to review enabling legislation. Examples in the legislation could also provide useful guidance, and there should be better information for the public about what factual circumstances fall within each matter type. This guidance material could inform an initial triage / case management process, potentially even including an initial determination stage in matters where there may be ambiguity. This would enable parties to take appropriate steps at the beginning of their matter and prevent delays at later stages.

QLS also broadly supports the option in the issues paper of simplifying the definition of "minor civil dispute", including a suggestion that all civil claims under the monetary limit of \$25,000 be included in the one jurisdiction.

If these matters do move to the Magistrates Court, it is our view that QCAT should retain jurisdiction in other areas such as residential tenancy and public housing matters, which originated from separate tribunals. QCAT has the requisite expertise in these matters including to determine merits reviews.

As noted, there are also overlaps between housing/tenancy disputes and discrimination claims, especially if there are concurrent proceedings. Public housing disputes will also not be vulnerable to the jurisdictional issues relating to whether QCAT is a court as the parties will be Queensland-based.

QLS responses to other sections in the Issues Paper:

Delays

The issues paper sets out the case numbers, clearance rates and backlogs across the state and makes an assessment about whether delays have been reduced based on the recent injection of funding into QCAT, noting there has been some difference. It is suggested further resources and improved case management are still needed to reduce delays.

Even if there has been some improvement in the timeframes within which some matters progress, it is clear delays remain. For example, one of our members' clients lodged a claim arising from a motor vehicle accident in April 2024 and as at January 2026, has not achieved a resolution.

QLS strongly agrees the Tribunal needs additional support. Improved case management and other reforms to practices and procedures are unlikely to be cost-neutral but are necessary to ensure Queenslanders can achieve an efficient resolution of their matters.

QLS considers the following will reduce delays in the MCD jurisdiction:

- Structural reform within the Tribunal and improved case management.²

² Further discussed in other QLS submissions to the Review.

- Increased numbers of adjudicators and hearings officers. Increased remuneration for these roles may assist to attract candidates with the necessary levels of experience and expertise.
- Better access to legal assistance and the ability to be legally represented.
- Increased use of remote hearings in appropriate circumstances.
- Better utilisation of dispute resolution pathways.
- A fully functional digital case management system and education about this system to increase use by parties.

Enforcement

While we acknowledge that enforcing Tribunal decisions in the Magistrates Court presents a number of issues for parties, particularly self-represented litigants, direct enforcement by the Tribunal would require considerable resources. The Magistrates Court has an established process and allocates resources for enforcement matters.

Therefore, if the MCD jurisdiction is to remain with QCAT, the Tribunal and the Court should provide greater assistance and information about the process of moving from QCAT to the Court to enforce an order. Increased funding for legal assistance services would also assist parties, as would better integrated case management systems.

Accessibility

Online hearings often make it easier for parties to attend the Tribunal, facilitating better access to justice. We caution against mandating a particular type of appearance, however, as individual parties will have different needs at different times.³ Online/remote hearings may create barriers for some parties, but equally may remove barriers for others.

This issues paper, together with issues paper 1, outline the access to justice benefits and efficiencies arising from online hearings. In addition to these, our members have advised that remote hearings can assist to reduce delays where there is a shortage of hearing rooms in the Tribunal. Further, we note that adjudicators travel across the State to hear matters. Increased utilisation of online hearings would reduce travel time and potentially free up time and funding for other matters to be heard.

The issues paper also notes an in-person hearing can allow a last-minute mediation to be conducted prior to the hearing. We consider such a mediation could be facilitated remotely, with proper facilities and notice to parties.

QLS suggests accessibility in this jurisdiction could be improved by:

- Increased access to legal assistance which must include additional resources for the legal assistance sector and the removal of the restrictions relating to legal representation.
- A comprehensive review of Tribunal resources including the website, materials available at registries and information given in person and over the phone. These reviews should be conducted regularly and include input from people with diverse needs and lived

³ Further guidance has been produced by the Law Council of Australia (with the assistance of QLS): [Principles for determining the appropriateness of online hearings](#) - updated December 2025.

experience, people who are culturally and linguistically diverse and people from First Nations communities. If the review determines there is a need for further training of registry staff and other personnel, resources should be allocated for this.

- Improved information for users. The Fair Work Commission has developed videos for parties to see what a hearing and other processes will look like.⁴ Something similar could be developed for QCAT.
- Additional QCAT staff, including public facing staff, case managers and hearings officers.
- Development of a triage system for matters. This could also provide either a determination or advice on preliminary matters, which might assist users and prevent delays. This could be achieved by utilising artificial intelligence systems and tools.
- Clarification about fee waivers and consideration about their accessibility and eligibility.

Alternative dispute resolution

QLS recommends better integration between QCAT and the Dispute Resolution Branch. We have feedback from members concerning the inconsistent access parties have to ADR.

While we encourage ADR as a means to achieve an effective and efficient resolution of a dispute, there will be instances where it will be more efficient to make a decision without first proceeding to ADR. Members have also queried whether an AI process could provide an indicative decision, which the parties can decide whether to accept.

Case management and triaging

We have made several comments in this submission about the need for improved case management and triaging. We suggest early triaging to identify any procedural irregularities and to help guide parties.

QLS recommends additional training for magistrates, adjudicators and registry staff about how to best utilise QCase and how to assist parties to do the same.

Domestic and family violence

The issues paper identifies a form of system abuse whereby minor civil disputes are weaponised in the context of separation. These disputes are often personally and financially distressing.

As well as situations where a person may seek to initiate an action against a former partner, in our members' experience, disputes may also be brought in QCAT against the former partner's family members or individuals providing support to the former partner in an attempt to indirectly cause distress and harm to the victim. This can include civil actions or complaints against professionals who have provided services to the former partner or their children within the scope of a family law dispute.

It is critical that registry staff and decision-makers within state-based civil jurisdictions are equipped to identify where actions amount to systems abuse. This could include introducing a requirement that any partner relationship/past relationship between the parties be disclosed when a matter is initiated and any domestic violence order (final or temporary) or police

⁴ [What happens at a Fair Work Commission hearing](#)

protection direction between the parties be disclosed and a copy attached to any application. In circumstances where family law proceedings are on foot at the time an action is brought, consideration should be given to whether the action has been raised in the correct forum and whether the action has a legitimate basis. If a case file was to include confidential information about past relationships or copies of orders or directions, the Tribunal should be empowered to make directions about restricting access to this information by non-parties and the public.

If a dispute appears to have a legitimate basis and correctly falls within QCAT's jurisdiction, there should be mechanisms to ensure that a victim of DFV has appropriate protections, including from being directly cross-examined by a perpetrator.

QLS supports additional training for staff and decision makers to help them identify the use of minor civil disputes to directly and indirectly perpetrate systems abuse. An injunctive/restraint mechanism, similar to the operation of harmful proceedings orders in the family law jurisdiction, may also be appropriate.

Consumer and trade disputes

Commensurate with our recommendation that gaps in QCAT's jurisdiction should be closed, we consider:

- QCAT should be able to determine quantum meruit claims (questions 14-15), claims relating to the detention of goods (question 16-17) and claims relating to the return of money paid by mistake (questions 18-19).
- In answer to question 21, QCAT should be able to transfer matters to the correct list rather than dismiss them. There should be a process where, if a pre-action step is required for matters on the new list, this should be a direction (if thought necessary), or the requirement could be waived.
- Q22-24: There should be amendments to the QCAT Act so that the definitions are the same as in the ACL. Additionally, we consider there should also be wider jurisdiction for disputes between consumers and private sellers, even though these are not covered by the ACL.
- Q25: QCAT's MCD jurisdiction should be expanded to include claims by traders against consumers in relation to a consumer and trader dispute. However, this may not be necessary if quantum meruit claims are able to be dealt with by the Tribunal (which QLS supports). It might be determined that it is more appropriate for these claims to be heard by the Tribunal rather than quantum meruit claims.
- Q26-27: The MCD jurisdiction should be expanded to include claims against private sellers. This is critical now that there are so many tech-enabled platforms where the distinction between private sellers and traders can be blurred.
- Q28: We consider all the remedies available under the ACL should be available to parties in QCAT matters.
- Q29: The *Fair Trading Act 1989* should be amended to clarify that QCAT or the Magistrates Court have jurisdiction to order a trader to pay a refund under section 263 of the ACL. This is especially important noting QCAT's extended motor vehicle "lemon law" jurisdiction.

- In addition to these matters specifically, and in answer to question 33, QCAT should have broader powers to make additional types of orders when dealing with MCD matters.

Process

In answer to questions 31 and 32 of the issues paper, we consider the process should be the same for all claims within the civil jurisdiction/MCD jurisdiction of the Tribunal so parties are not disadvantaged or caught out by the restrictions in one process over another.

Our members, however, caution against requiring parties to comply with the UCPR in its current form as this may cause processes to become more complex and costly.

If these jurisdictions are moved to the Magistrates Court to solve constitutional jurisdictional issues, then we recommend that either:

- the QCAT Rules (following the reforms suggested by this Review) also be transferred; or
- the UCPR be amended to include a simplified set of rules and procedures specifically in respect of matters that would previously have fallen with QCAT's MCD/ civil jurisdictions.

Appeals

We respond to the consultation questions in this section as follows:

- Q34: Ideally, MCD matters should be heard by an adjudicator, thereby resolving any issues about whether the appeals tribunal can hear an appeal. As stated, it is not ideal for magistrates to hear matters where the claim is less than \$25,000. We also consider our proposal below for additional deputy presidents who are District Court judges will assist in resolving issues with appeal pathways.
- Q35: The appeals should go to the District Court.
- Q36: There should be strike-out power in respect of appeals. However, there should also be appropriate education and guidance provided about how to participate in the appeal process.
- Q42-43: There should be a right of appeal against minor civil disputes about "tiny amounts". We suggest \$100 is too low, but \$3,000 might be appropriate.

Legal representation

QLS restates our long-standing position that legal representation in the Tribunal should be as of right. As consistently outlined in these submissions, we reiterate many people within this jurisdiction will require assistance from the legal assistance sector and accordingly, we call for more resources for these services.

We note the following from our response to Issues Paper 1:

1. Having a lawyer present, even if the other party is unrepresented, often helps all parties to understand the process and the issues involved and can save the parties and the Tribunal time.
2. Parties may be unable to, or apprehensive about, conducting a matter alone. They may find it difficult to commit the necessary time and may struggle against the other party if that other party has more knowledge of about the process. Where there is an individual

in a matter involving a business or organisation, the person representing that business or organisation, such as a real estate agent, often has more knowledge and experience.

3. Further, all non-legally trained people are vulnerable in an adversarial process.
4. Not allowing a party to be legally represented at a hearing can simply mask existing inequities in financial and legal resources where one party receives significant legal advice in preparing for the hearing.
5. Where leave is not applied for or not granted, parties who are not legally represented may not receive appropriate support to manage their matter under complicated provisions in the QCAT Act (such as the requirements in section 29). Unrepresented parties are frequently exposed to unfair outcomes where they do not understand what is needed for a hearing or how to present their matter.
6. Legal representation will be increasingly important in the context of increased AI use by litigants. We note that self-represented persons are using AI tools to compile large volumes of documents which courts and tribunals are required to consider. Increased access to legal representation would support the Tribunal to respond to its growing workload and the volume of material required to be considered.
7. Many cases are well-suited to unbundled services, and the Tribunal could support a framework for this.
8. QLS is concerned about any additional obligations imposed on lawyers to assist the other party in a matter before the Tribunal. In an adversarial process, the duty should not be any higher than it already is. If the Tribunal requires assistance because it is engaging in a more inquisitorial process (like a Coroners Court), then the model of counsel assisting the Tribunal should be used, rather than imposing inappropriate obligations on a lawyer who is representing a party in an adversarial process.⁵

The final point is relevant to question 45 of the Issues Paper.

We also note the inconsistency in QCAT being an open tribunal when, in some matters, lawyers are not able to attend hearings, even to observe.

If restrictions on legal representation are not wholly removed for these matters, perhaps there could be an automatic right of representation in claims that meet a certain threshold, particularly if the monetary limit is to be lifted. However, it is important that there be no award of costs in small-value matters unless they are on a strict scale that is proportionate to the amount in dispute. Otherwise, individuals will be deterred from bringing claims if they risk a costs order.

As noted by members, there is often more benefit from legal assistance in the form of preparation of documents. Appearances by legal representatives may not always be necessary. However, where there are restrictions, people are denied a choice about what assistance they want or need. The issues papers and QLS submissions outline several reasons why someone may need to have representation inside the hearing room.

Finally, we make a specific point about matters involving public housing, which is so important to people who interact with this system. The risk of being moved can cause such great concern

⁵ We also refer to QLS Guidance statement: [No.09 Dealing with Self-represented Litigants - Queensland Law Society](#)

that people are often willing to pay for legal assistance but are denied the automatic ability to be represented, even when the department may have Crown Law involved. Such an inconsistency and disadvantage must be addressed.

Issues paper 7 – Leadership governance and appointments

We have considered the matters raised in this issues paper, together with the feedback received from our membership about the operation and functionality of the Tribunal. We also refer to the comments made in our previous two submissions to the Review responding to Issues Papers 1 and 4.⁶

We recommend amendments to the QCAT Act in respect of the Tribunal's governance and leadership structure as follows.

President and Deputy President

We recommend the president of QCAT remain a judicial member, noting the reasons set out in the issues paper and the recommendations of the previous statutory review.

However, it might be appropriate for this person to be a District Court judge, rather than a Supreme Court judge. In our view, a judge of the District Court would ensure QCAT fits appropriately within the Queensland courts structure.

This recommendation is dependent on whether there are changes to the legal practitioner jurisdiction (or any other legislative provision) that require a Supreme Court judge to hear and determine matters. Aside from these considerations, a District Court judge as President would still allow for matters to proceed in the Tribunal that require a judicial member, including the hearing of appeals.

QLS considers the QCAT Deputy President should remain a District Court judge and, additionally, recommends the QCAT Act be amended so there are at least two deputy presidents of the Tribunal.

We note paragraph 179 of the issues paper which provides:

The Review has heard that managing the tribunal is too substantial a task for 1 President and 1 Deputy President to deal with. The Review has been told that additional senior leadership positions might help to alleviate the pressure which the tribunal's senior leadership currently faces. Alleviating that pressure may be important for ensuring that the roles are manageable long-term, especially if the terms of appointment are made longer ...

While the appointment of additional members of the District Court to the Tribunal may be seen as an impost on current District Court resources, requiring additional funding for the Court, we consider there are several benefits to this approach.

1. First, the appointment of additional deputies who are judicial members will provide the president with more flexibility to oversee the Tribunal as a whole, without being required to focus on a particular busy jurisdiction to the exclusion of others⁷ or, equally, be

⁶ [Queensland Civil and Administrative Tribunal Act Statutory Review 2025-26: Issues Paper 1 - Objects - Queensland Law Society](#) and [Queensland Civil and Administrative Tribunal Act Statutory Review 2025-26: Issues Paper 4 - Guardianship - Queensland Law Society](#)

⁷ As stated below and in the other QLS submissions, we recommend a deputy president be the head of a division. We refer to our submission on Issues paper 4 in relation to the guardianship jurisdiction.

prevented from focusing on a complex jurisdiction because they are required, as a judicial member, to sit in particular matters.

2. A president and two or more deputy presidents who are part of a leadership group will be better placed to ensure the Tribunal runs efficiently, noting its importance to the lives and businesses of Queenslanders.
3. We note the current arrangement for judges sitting in the Tribunal whereby they are also required to sit in their Court from time to time to hear a variety of matters there. This is beneficial because it means these judges can offer the Tribunal their learning and experience from regularly hearing more complex matters within a higher Court. This requirement should remain in place for the additional judges appointed to the Tribunal.
4. Further, the issues paper notes other judges are often required to sit in the Tribunal, outside of the members officially appointed. Having additional deputy presidents who are judges may allow for better scheduling in both the Court and Tribunal.
5. We acknowledge the stated resourcing and recruitment issues. As discussed further below, we do not advocate for an increase in the prescribed terms of appointment and believe the additional pool of judicial members for the same periods of time would allow further flexibility regarding scheduling and resources. It may also assist with recruitment.
6. The issues paper suggests enabling acts requiring matters to be heard by judicial members could be amended to remove this requirement. This would allow for the appointment of a president or deputy who is not necessarily a judge. While we consider amendments to these acts could be outside of the scope of this Review, we suggest the appointment of additional members to the Tribunal who are District Court judges would assist in allowing these matters to be heard by judicial members more expeditiously. We also re-state our preference for the president and deputy president to be judicial members.

Terms of appointment

We do not advocate for legislative change to the current terms of appointment prescribed in the QCAT Act.

Organisational functions of the Tribunal

There is a need for greater clarity in the QCAT Act in relation to the functions of the President, Deputy President, Principal Registrar and Chief Executive (or delegate).

We note the role and functions of the QCAT President are broadly grouped as organisational functions, management functions and adjudicative functions. While we consider the President ought to be involved and have oversight of all of these functions, the breadth of this work suggests it might be appropriate for the president to focus more on the adjudicative functions, while the day-to-day performance of the organisational and management functions are handled by others within the leadership group.

The Principal Registrar performs many functions under the QCAT Act and QCAT Rules. Therefore, we do not propose transferring directly to the Principal Registrar an unfairly large

portion of the work currently undertaken by the President. That being said, the issues paper highlights the differences between the role of the Principal Registrar in QCAT, compared with similar tribunals in other jurisdictions. In our view, some change to this position is appropriate.

The functions of the Principal Registrar of the Commonwealth Administrative Review Tribunal seem to be appropriate, and we suggest this model be considered for QCAT, including how the role is appointed. We consider it would be beneficial for the organisational and management functions largely to be managed by a CEO or the Principal Registrar.

As stated, it would still be appropriate for the President and Deputy President/s to remain involved in these matters, including, for example, with respect to practices and procedures to be followed by the Tribunal and advising the Minister about the appointment or suspension of members or adjudicators.

We also recommend work be finalised to formalise the roles and functions of senior and ordinary members.

Heads of division

QLS strongly supports the creation of heads of divisions within the Tribunal. We note this was a recommendation of the Independent Panel of Experts at the time QCAT was established and is becoming increasingly necessary as the volume and complexity of matters grows.

QLS has highlighted the clear need for separate divisions within the Tribunal so there can be appropriate list management, case management, contact points and specialised skills and knowledge - all leading to better outcomes for parties and better efficiencies for the Tribunal and Government.

A president or deputy president or, depending on the number of divisions proposed, even a senior member as the head of that division would have responsibility for ensuring efficient and effective outcomes were reached. Each division would, of course, require appropriate resourcing.

Such a restructure would have benefits for all jurisdictions. For example, discipline matters make up a much smaller percentage of the Tribunal's workload than guardianship and administration matters but remain of critical importance to the individual as well as for public safety. Where these matters take several years to resolve due to improper case management and related factors, the objectives of the Tribunal are not being met. Reform is required to ensure the appropriate management of all matters within the tribunal.

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 or by phone on [REDACTED]

Yours faithfully

[REDACTED]
Peter Jolly
President