

QCAT 2026 Review conducted by the Hon David Thomas

Submission by QCAT President in respect of
Issues paper 3: Minor Civil Disputes

13 May 2026

Issues paper 3: Minor civil disputes	5
Introduction to response	5
Remit of the section 240 Review.....	5
Part 1: Introduction	9
What are minor civil disputes?	9
Other civil disputes	9
Overlap with minor civil disputes	9
Pre-claim requirements - building disputes	10
How minor civil disputes are currently handled	10
Part 2: Overarching issues in the jurisdiction	11
“Delay”	11
Consultation question 1	12
Consultation question 2	12
Consultation question 3	13
Consultation question 4	13
Status as a court.....	13
Consultation question 5	14
Consultation question 6	16
Consultation question 7	16
Consultation question 8	17
Consultation question 9	17
Consultation question 10	19
Case management and triaging	19
Consultation question 11	19
Consultation question 12	20
Consultation question 13	21
Domestic and family violence.....	21
Part 3: Gaps, anomalies and limitations in the jurisdiction	23
History of QCAT's MCD jurisdiction	23
Approach to minor civil disputes in other jurisdictions	28
Australian Capital Territory	28
New South Wales.....	29
Northern Territory	29
South Australia.....	30
Tasmania	30
Victoria	30

Western Australia	31
Summary	31
Issues with the definition of 'minor civil dispute'	32
Consultation questions 14, 16 and 18	32
Consultation questions 15, 17 and 19	34
Clarity about the overlap with other civil jurisdictions	34
Consultation question 20	35
Clarity about the pre-claim requirements for dispute resolution	37
Consultation question 21	37
Consumer and trader claims	38
Consultation questions 22 and 23	38
Consultation question 24	38
Consultation question 25	39
Consultation question 26	39
Consultation question 27	39
Consultation question 28	39
Consultation question 29	40
Simplifying the definition of minor civil dispute	40
Consultation question 30	40
Procedural issues in civil disputes	40
Consultation question 31	40
Consultation question 32	43
Issues with QCAT's powers for deciding MCD matters	43
Consultation question 33	43
Issues in appeal process for minor civil disputes	43
Consultation question 34	43
Consultation question 35	44
Consultation question 36	44
Part 4: Transfer of jurisdiction	45
Consultation questions 37, 38 and 40	45
Consultation question 39	47
Part 5: Other issues	47
Monetary limit	47
Consultation question 41	47
Legal representation	48
Consultation questions 42 and 43	48

Consultation question 44	49
Consultation question 45	50
Small businesses	50
Consultation question 46	50
Other issues	51
Consultation question 47	51
Digitisation: QCase and Judicial Workspace	51
Benefits of digitising	51
Lessons learned	52

Issues paper 3: Minor civil disputes

Introduction to response

1. I observe that some of the issues raised in Issues paper 3, and questions posed, go to matters of policy, and thus are ultimately matters for Government, not something about which a sitting judge would ordinarily express a view.
2. However, the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) (**‘QCAT Act’**) provides that one of the functions of the President is to advise the Minister about how the QCAT Act or the enabling Acts could be made more effective,¹ and that the President may do all things necessary or convenient to be done for the performance of the President’s functions.²
3. Although a Reviewer has been appointed, I note that this is a statutory review by the Minister, of the QCAT Act, pursuant to section 240, directed to whether or not there should be legislative amendment of the Act and enabling Acts.
4. I consider it necessary in order to properly discharge my statutory functions to respond to the Minister’s review. In addition, since this will be the only response made on behalf of QCAT, I wish to provide as much assistance as possible to the Review team to enable it to make informed recommendations to the Minister.
5. I have not, however, purported to respond to, or verify the accuracy of, everything said in the Issues Paper.

Remit of the section 240 Review

6. As in other issues papers, some of the consultation questions posed in this paper might give the impression that the Reviewer intends to make recommendations to the Minister about non-legislative operational change. I am sure this is not the Reviewer’s intent, given QCAT’s status as an independent Tribunal and the terms of section 240 of the QCAT Act.
7. Section 240 of the QCAT Act, entitled ‘Review of Act’, requires the Minister to review the Act, not the practice of the Tribunal. The section is, rather, directed to whether

¹ *Queensland Civil and Administrative Tribunal Act 2009* (Qld) s 172(3)(b) (**‘QCAT Act’**). See also section 240(2)(d) of the QCAT Act which provides that one of the objects of the statutory review is investigate any specific issue recommended by the Minister or the president, including, for example, whether any provision of an enabling Act affects the effective operation of the Tribunal.

² QCAT Act s 172(4).

there needs to be legislative change to:

- a) the QCAT Act to change its objects if its currently stated objects do not remain valid; and/or
 - b) the QCAT Act or an enabling Act or Acts to assist QCAT to be able to meet, or better meet, its objects. This may include changes giving QCAT the ability to enhance operational efficiency, such as removing legislative hurdles to such efficiency.
8. The Ministerial review contemplated by the provision does not, on its clear language, concern non-legislative operational changes.
9. It is trite to say that QCAT, as an independent tribunal, is free from the direction of the Executive as to the way in which it conducts its operations. So much is plain from convention, the separation of powers doctrine, and the Act itself:
- a) section 3(a) of the QCAT Act states that one of the objects is to establish an independent tribunal;
 - b) section 162 provides that in exercising its jurisdiction, the Tribunal must act independently and is not subject to direction or control by any entity, including any Minister;
 - c) section 172(5) provides that the President is not subject to direction or control by the Minister.
10. These provisions are consistent with the Explanatory Memorandum to the QCAT Bill which states that the objectives of the Bill are to 'establish an independent tribunal' and that:
- The independence of QCAT will be achieved by providing for the appointment of a Supreme Court Judge as president of the tribunal and by providing that the tribunal is not subject to direction or control by the executive.³
11. I recognise that section 240(2)(d) includes among the objects of the Review 'investigating any specific issue recommended by the Minister or the President, including, for example, whether any provision of an enabling Act affects the effective operation of the tribunal'. This provision must be read, however, in the context of section 240's focus on the Act itself, and of course, having regard to the independence of both Tribunal and President from Ministerial direction.
12. The issues and statement of 'Scope' in the Terms of Reference appear to have been drafted with these obvious propositions in mind.

³ Explanatory Memorandum, *Queensland Civil and Administrative Tribunal Bill 2009* (Qld).

13. The issues set out in the Terms of Reference turn on provisions of the Act and are consistent with an examination of whether legislative reform is called for:
- whether the current legislation creates hurdles to procedural efficiency within the Tribunal;
 - QCAT senior leadership structure (set out in Chapter 4, Part 3 of the QCAT Act), with comparison to tribunals in other states and the Commonwealth (including whether the President and Deputy President should be appointed to the Supreme and District Courts, and including Heads of Division);
 - the role and functions of the QCAT President and Deputy President (sections 172 to 174 of the QCAT Act);
 - the current appeal structure for QCAT decisions (Chapter 2, Part 1, Division 4 of the QCAT Act);
 - the operation of various professional disciplinary lists (in the exercise of the Tribunal's review jurisdiction under section 17 of the QCAT Act) and whether QCAT remains the most appropriate forum for these jurisdictions;
 - whether legal representation should be 'as of right' for certain, or all, types of tribunal matters (section 43 of the QCAT Act) and the impacts of any change on both the ability for QCAT to meet its objectives and the funding arrangements for legal service providers;
 - the current Minor Civil Dispute jurisdiction (sections 11 to 14 of the QCAT Act) and whether the jurisdiction could be expanded, minimised, or transferred to a different forum;
 - other jurisdictions conferred on QCAT through enabling Acts which have significant impact on its operations and the appropriateness of QCAT as a forum for those matters, including, for example, QCAT's role in relation to certain public housing disputes;
 - the role of Justices of the Peace at QCAT (Chapter 4, Part 4B of the QCAT Act) and ways their involvement in matters and processes can alleviate pressures at the Tribunal;
 - ways in which QCAT can be improved to support the small business community (presumably this concerns whether and if so how the QCAT Act should be changed to support the small business community);
 - the capacity of QCAT to hear matters, with reference to the available Tribunal Members and physical meeting or hearing room space (this would properly entail considering the ability of QCAT to carry out what is currently within its statutory remit pursuant to the QCAT Act and the enabling Acts; in this context it would be relevant to consider budget and resourcing); and
 - the extent to which previous statutory review recommendations still apply and may assist in addressing issues (the single previous review, conducted by then

Minister D'Ath was confined, as section 240 requires, to legislative reform).

14. The statement of scope also makes plain that the remit of the Review is to examine whether legislative reform is necessary, with a consideration of resourcing relevant in that context:

The review will take a genuine look at QCAT to identify ways to alleviate the significant pressures QCAT is currently facing, including an examination of any systemic operational or legislative issues impacting on the ability for QCAT to perform its statutory functions, in an accessible, economical and timely manner. 'Systemic operational considerations' are those linked to how the legislation is currently framed and whether there should be changes in order to alleviate the significant pressures that QCAT is facing.

15. The reference to 'systemic operational considerations', is appropriately limited to a consideration of how systemic pressures on QCAT could be addressed by legislative change – that is, how pressures affecting its ability to achieve its statutory objects could be alleviated, having regard to the amount and breadth of its work, and its resourcing (with reference, among other matters to the availability of Tribunal Members and physical meeting or hearing room space).
16. Obviously, the Attorney-General, as First Law Officer of the State, and possessed of a clear understanding of the independence of the Tribunal and the President's insusceptibility to the direction of the Minister, did not frame Terms of Reference intended to extend to the Reviewer making recommendations to the Minister about how QCAT should run its business. (Nor, I am sure, would anyone think that a limited life, desk-top review, by an external person or group, without the requisite comprehensive and current understanding of operations, would be well-placed to make recommendations about non-legislative operational change).
17. The Terms of Reference, read as a whole, demonstrate no intent to depart from the restricted form of Ministerial review contemplated by section 240.
18. As stated above, I am sure it is not the Reviewer's intent to make recommendations to the Minister about non-legislative change, that is, about matters concerning which the Minister is expressly prohibited from directing the President of the Tribunal.⁴ I accept, however, that it would be reasonable to have regard to budget and resourcing, in the context of the reference in the Terms of Reference to 'identifying the implications for other forums if transfer of jurisdiction is proposed, the key cost drivers, and any potential savings and efficiencies' and to 'the capacity of QCAT to hear matters, with reference to the available tribunal Members and physical meeting or hearing room space'.
19. Accordingly, in providing responses to the consultation questions, I have taken the questions to be directed to whether changes to the QCAT Act or the enabling Act

⁴ Pursuant to section 172(5) of the QCAT Act. I acknowledge that section 240(2)(d) states that the objects of the review include investigating any specific issue recommended by the Minister or the president, including, for example, whether any provision of an enabling Act affects the effective operation of the Tribunal. This provision must be read together with the limitation in section 172(5) in determining its ambit.

would be desirable, in order for QCAT to better achieve its objects, taking into account any resource implications of the options posited.

20. As always, I encourage any stakeholders who have suggestions for operational reform, to write to the Principal Registrar and/or the President of QCAT with those suggestions, and to do so by providing as much specificity as possible of any problem encountered so that there can be a proper interrogation of the matter raised, and an informed view reached as to the best course of action moving forward. As the Reviewer would appreciate from his time as President, very generalised complaints which do not provide QCAT with sufficient information to explore the issue and get to the root of any problem (or perceived problem) are, unfortunately, not helpful vehicles for operational reform.
21. In those limited instances where the issues papers have set out assertions of non-legislative and non-budgetary concerns in a way which provides sufficient detail for QCAT to interrogate the concerns, the Minister can be assured that QCAT has taken notice.

Part 1: Introduction

What are minor civil disputes?

Other civil disputes

Overlap with minor civil disputes

22. I note that the Tribunal has jurisdiction to hear a dispute about a dividing fence adjoining a pool under the *Building Act 1975* (Qld) s 245XQ. Such a claim is not subject to the \$25,000 monetary jurisdiction limit.
23. At paragraph [31], the Issues Paper notes that there is overlap between QCAT's MCD jurisdiction, the inherent civil jurisdiction of the Magistrates Court, and the appeal jurisdiction of the District Court. There are also circumstances in which QCAT's dividing fence jurisdiction intersects with the Supreme Court's exclusive jurisdiction to deal with encroachments and/or with the jurisdiction of courts to deal with disputes about retaining walls.⁵
24. Paragraph [35] states that 'where jurisdiction to deal with a claim is conferred through an enabling Act, the enabling Act must expressly state that the claim is a minor civil dispute; otherwise QCAT will not have jurisdiction to deal with it as a minor civil dispute' and cites the definition in Schedule 3 of the QCAT Act. I note though that

⁵ In respect of the intersection with the Supreme Court's exclusive jurisdiction to deal with encroachments, see *Seaview Park v Furness* [2022] QCATA 177 [19] (Judicial Member Forrest SC). In respect of the intersection with the jurisdiction of courts to deal with disputes about retaining walls, see *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld) s 35(1)(f); *Wong v Arthur* [2020] QCAT 89 [14]-[23] (Member Lumb).

paragraph 2 of the definition expressly refers to claims which come within paragraph 1(a) of the definition, that is, “a claim to recover a debt or liquidated demand or money of up to the prescribed amount.” That is, paragraph (2) states:

However, if an enabling Act confers jurisdiction on the Tribunal to deal with a claim (however called) **within the meaning of paragraph 1(a)**, the claim is not a minor civil dispute unless the enabling Act expressly states it is a minor civil dispute. (bold added)

Pre-claim requirements - building disputes

25. As to paragraph [38], I note the decision in *GC Pontoon & Jetty Repairs Pty Ltd v Wegener* in which Acting Member Lumb held:

... that compliance with s 77(2) of the QBCC Act is not a pre-requisite to the bringing of a claim based on one or more of the ACL (Qld) provisions identified in s 50(1) of the FTA, even if the underlying facts can also be characterised as a ‘building dispute’.⁶

How minor civil disputes are currently handled

26. As to paragraphs [53] and [60], when lodging online through QCase a person can choose to file in QCAT Brisbane, their local Magistrates Court or the Magistrates Court nearest to the residential tenancy property the subject of a residential tenancies dispute, compliant with rule 8 of the *Queensland Civil and Administrative Tribunal Rules 2009* (Qld) (the **QCAT Rules**).
27. As to [61], QCAT provides hearing support services for non-urgent tenancy matters and non-tenancy matters up to \$5,000 heard by Adjudicators in Maroochydore. Hearing support officers do not form part of the Registry team of nine referred to in paragraph [55].

⁶ *GC Pontoon & Jetty Repairs Pty Ltd v Wegener* [2024] QCATA 69 [48] (A/Member Lumb).

Part 2: Overarching issues in the jurisdiction

“Delay”

28. Concerning paragraphs [79]-[84]:

- a) minor debts are the only matter type in which Brisbane has the longest wait time compared to other venues;
- b) from January 2025 to December 2025, the monthly average 'weeks to hearing' figures reduced for all MCDs across all SEQ regions as follows:

MCD matter type	Monthly average weeks to hearing		
	January 2025	June 2025	December 2025
Urgent tenancy	7.56	4.54	5.03
Non-urgent tenancy	18.69	13.66	12.44
Dividing fence	34.61	34.77	22.83
Minor debt	42.38	33.31	32.25
Consumer trader/damage by MVL	36.39	37.06	28.6

29. These decreases in times to hearing have been able to be achieved despite having a reduced Adjudicator cohort.⁷ Measures taken to decrease times included:

- a) Informal triage by the Senior Member list manager, resulting in early intervention on matters that were defective as to service, jurisdiction or the correct responding party.
- b) Selectively by-passing Dispute Resolution Branch (DRB) mediation for non-tenancy matters over \$25,000 given DRB's limited capacity to mediate referred matters.
- c) Diverting Senior Members, Ordinary Members and Sessional Members to hear minor civil disputes (with consequential expense to the Tribunal's Sessional

⁷ QCAT cannot control how long it takes Government/s to appoint Adjudicators to vacant positions. Four Adjudicator positions remained unfilled for a substantial period, with Governor in Council appointments to three of those positions not occurring until 21 November 2025 and one not occurring until 1 December 2025.

Member budget, as Sessional Members then needed to be scheduled to back fill hearing matters those in-house Members would have been hearing had they not been doing MCD's. This means that there is less sessional member budget available overall.)

30. I should observe that measures (a) and (c) are not sustainable in the long term based on existing resources, and were only able to be achieved by individuals involved working well above and beyond a reasonable and sustainable workload.

Consultation question 1

Q1 In your experience, have the new resources helped to reduce delay in the MCD jurisdiction?

31. Some funding was applied to the appointment of four additional Adjudicators. Governor-in-Council appointments in this respect were not completely in place until 1 December 2025.⁸ As the Adjudicators (naturally) required training and onboarding, the impact of those appointments is not fully realised at this stage.
32. Further, the number of hearings that can be heard is limited to the number of hearing rooms. Having additional hearing rooms in Brisbane would assist times to finalisation.

Consultation question 2

Q2 Based on your experience what is the cause of delays?

33. Times to finalisation are adversely affected by:
- a) Insufficient resourcing in the Registry and at the Tribunal level for formal triage of all MCD's prior to hearing.
 - b) Insufficient establishment cohort of Adjudicators and vacancies being unfilled for significant periods of time.⁹
 - c) The Dispute Resolution Branch (DRB) of the Department of Justice does not have the capacity to mediate all MCD referrals or to mediate all those that are referred to quickly enough to avoid delayed times to finalisation.
 - d) Adjournments resulting from parties failing to serve each other material that has been filed, notices of hearing not being served due to party error in service

⁸ QCAT has no control over how long it takes Government/s to appoint Adjudicators to vacant position/s.

⁹ See above at paragraph [31] and footnote 7.

contact details, and those arising from an explained absence (e.g., illness or overseas travel) of a party.

- e) Parties' unfamiliarity with QCase, or otherwise experiencing technical problems with QCase.

Consultation question 3

Q3 What else could be done to reduce delay and backlogs in the MCD jurisdiction?

- 34. Times to finalisation could be reduced by:
 - a) Funding registry and Tribunal resources to formally support triage and case management of MCDs, including judicial/legally qualified Registrars.
 - b) Resourcing the DRB to conduct timely mediations.
 - c) Resourcing QCAT to conduct additional in-house alternative dispute resolution.
 - d) Legislative amendment to simplify jurisdictional issues.
- 35. Allocating additional resources would also address the issues raised at paragraph [107] of the Issues Paper.

Consultation question 4

Q4 If QCAT is found not to be a court, what should be done with regard to matters involving the exercise of federal jurisdiction?

Status as a court

- 36. QCAT exercises federal jurisdiction in determining disputes between residents of different states, disputes where the Commonwealth is a party, and disputes between the State and a resident of another state. For this reason, Question 4 has a cross-jurisdictional ambit, and similar questions appear in other issues papers. QCAT does not collect data on the frequency of disputes involving the exercise of federal jurisdiction.
- 37. Issues Paper 5 appears to suggest that if QCAT were found by a Superior Court not to be a 'court of a state', it may not be able to apply the Australian Consumer Law (ACL).¹⁰ Both the New South Wales Civil and Administrative Tribunal (NCAT) and the

¹⁰ At paragraph [116].

Victorian Civil and Administrative Tribunal (VCAT) continue to apply the ACL.¹¹ There is considerable jurisprudence on this.¹² I note that the ACL 'applies as a law of [Queensland]' and forms part of the *Fair Trading Act 1989* (Qld) under s 16(1) of the *Fair Trading Act 1989* (Qld). Given that no court has found QCAT not to be a court of a state, I have, of course, not allocated time to a full analysis of what might happen in that event.

38. If QCAT is found not to be a court of a State, QCAT would welcome the opportunity to comment on any specific legislation proposal if and when that situation arises.

Consultation question 5

Q5 Should QCAT continue to hear matters online rather than in person? Does this procedure improve accessibility?

39. I have addressed this issue in response to Questions 7-10 on Issues Paper 1. In short, this is an operational matter. It is necessary for QCAT to retain operational flexibility in

¹¹ *Ferdousi v The Global Beauty Group Pty Ltd* [2026] NSWCATAP 90 at [9]:

The Tribunal found, correctly in our view, that the Tribunal had jurisdiction to hear and determine consumer claims pursuant to s 79J of the *Fair Trading Act 1987* (NSW) (FTA) and that this was a "consumer claim". The claim was under the statutory threshold, relevantly, the claim did not exceed \$100,000, and the cause of action giving rise to the claim had accrued within three years prior to the appellant lodging the claim with the Tribunal (at [35] and [39]). The Tribunal further found at [33], also correctly in our view, that s 28(1)(a) of the FTA applies the Australian Consumer Law as set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) as law in New South Wales known as the Australian Consumer Law (NSW) (ACL). There was no dispute about these matters in the proceedings before the Tribunal at first instance or in relation to the appeal.

RL Company Holdings PL t/as Swimart North Strathfield v The Owners – Strata Plan No 88564 [2026] NSWCATAP 5 at [12]-[15]:

The *Australian Consumer Law* is Sch 2 to the *Competition and Consumer Act 2010* (Cth) and is made part of NSW law by s 28 of the *Fair Trading Act 1987* (NSW) (FTA) under the title *Australian Consumer Law* NSW (ACL NSW). There was no issue before either the primary member or us that the Tribunal has jurisdiction under FTA Pt 6A to deal with the matter as a "consumer claim". The appellant supplied goods and/or services to the OC as a consumer in NSW: FTA s 79D "consumer" para (a), "supplier"; ss 79E-79K(1)(a).

The claim was clearly made within three years after it "first accrued": s 79L(1). The Tribunal jurisdiction under FTA s 79L(1) is a distinct issue from the relevant ACL NSW limitation period, including because of the test of first accrual in s 79L(1). If the ACL claim is outside the Tribunal jurisdiction as a consumer claim, the ACL claim would need to be pursued in a court. As said below, the claim was within time under the ACL NSW.

The amount claimed was under the current Tribunal jurisdictional limit of \$100,000 and under the prior limit of \$40,000: s 79S. The Tribunal can make a money order under s 79N(a) with s 79Q(1).

FTA s 32 applies the ACL NSW to persons carrying on business within NSW, entities incorporated or registered under NSW law and persons ordinarily resident in or otherwise connected with NSW and for such applications extends to conduct and other acts, matters and things occurring or existing outside or partly outside NSW (whether within or outside Australia). The ACL NSW clearly applies to the appellant who provided the relevant goods and/or services to the OC in NSW.

¹² When determining a matter under the ACL (NSW), as applied by the *Fair Trading Act 1987* (NSW), NCAT is exercising State judicial power (as opposed to administrative or executive power). There is no bar to a state tribunal exercising State judicial power.

respect of the mode of hearing. It improves accessibility for some. It enables more matters to be heard. It is deployed for cases where it is appropriate to do so.

40. Generally, Adjudicators and Members report that a variety of hearing methods are effective. In the MCD jurisdiction, Adjudicators and Members have reported that, notwithstanding the benefits of in-person hearings, online hearings do improve accessibility, particularly in cases where litigants are unable to attend the Tribunal's facilities. Some Adjudicators and Members have also used telephone hearings and reported that they increase participation and reduce adjournments by allowing parties to be called and participate by telephone immediately. This may also reduce reopening applications. Telephone hearings have the advantage that a party does not need a web link to join.
41. Challenges with remote hearings include:
 - a) Parties' access to telephone or remote conferencing facilities.
 - b) Connection issues.
 - c) Difficulties accommodating persons needing the assistance of interpreters.
 - d) Difficulties accommodating individuals experiencing hearing impairments.
 - e) The quality of the hearing transcript is poor when the audio quality is poor.
 - f) Noise interference.
 - g) Occasional diminished respect for the authority of the Tribunal, manifesting in poor party behaviour (although this can also occur during in-person hearings, the presence of on-site security staff tends to deter).
42. These things occurring sometimes is not a sufficient basis for not having remote hearings. Rather, where it becomes apparent that the mode of hearing deployed is not working sufficiently well, the Adjudicator or Member is able to adjourn so as to change the mode of hearing, as needed.
43. Whether QCAT continues to hear matters online rather than in person is an operational matter for the Tribunal. I support a flexible approach to determining the hearing method for a proceeding. Whether a hearing should be conducted remotely or in person should be based on the circumstances of the proceeding and left to the presiding Adjudicator or Member.
44. I do not consider that statutory reform should prescribe or presume a particular method of conducting hearings. Experience during and since the COVID-19 pandemic has shown that it is extremely important for the Tribunal to have operational flexibility.

Consultation question 6

Q6 Is QCAT an accessible forum for individuals, in particular vulnerable individuals, to bring a claim for a minor civil dispute?

45. The QCAT Act contains several provisions directed towards achieving accessibility, including provisions that:
- a) require the Tribunal to ensure that parties understand the proceeding;¹³
 - b) require the Principal Registrar to help parties and potential parties;¹⁴
 - c) enable proceedings to be conducted remotely or on the papers;¹⁵
 - d) permit parties and witnesses to be helped by an interpreter and for the Tribunal to arrange such assistance;¹⁶
 - e) permit the Tribunal to conduct compulsory conferences during which the Tribunal may identify questions of fact and law to be decided in the proceeding;¹⁷ and
 - f) empower the Tribunal to make orders about how vulnerable special witnesses give their evidence.¹⁸
46. Feedback from several Members and Adjudicators is that the fact that parties in the MCD jurisdiction may be represented only with the Tribunal's leave tends to somewhat level the playing field for litigants without access to legal representation.¹⁹

Consultation question 7

Q7 If not, what can be done to make QCAT more accessible?

47. When properly used, alternative dispute resolution can make the Tribunal more accessible. However, to offer alternative dispute resolution more than it does, the Tribunal would need additional resources.

¹³ QCAT Act s 29.

¹⁴ QCAT Act s 30.

¹⁵ QCAT Act s 32.

¹⁶ QCAT Act s 44.

¹⁷ QCAT Act s 69(c).

¹⁸ QCAT Act s 99.

¹⁹ For further observations on the issue of legal representation, see response to Issues Paper 1 on this topic.

48. If the Review identifies any particular statutory amendment which it considers might enhance accessibility in QCAT, QCAT would welcome the opportunity to provide feedback in respect of the same.

Consultation question 8

Q8 Is alternative dispute resolution helpful in resolving minor civil disputes (or particular types of minor civil disputes)?

49. Yes, I consider that ADR is helpful in resolving some Minor Civil Disputes.
50. I note that care should be taken in respect of comparing DRB and QCAT data on ADR. This is because there are differences between how DRB and QCAT measure “success”.
51. QCAT data records MCDs which have been withdrawn or an order made on the terms of a settlement agreement reached at ADR as being a “success”. Whereas, my understanding is that DRB regarded a mediation as successful if the parties reach an agreement about their dispute, regardless of whether that agreement brings the QCAT proceeding to an end. It is my understanding that sometimes a party who has reached agreement at a DRB mediation does not sign the agreement provided to them by the mediator, or does not seek to have the agreement recorded as an order and/or does not withdraw the QCAT proceeding once the settlement agreement is performed. However, the recent introduction by DRB of electronic signing of settlement agreements at mediation has increased the incidence of agreements being signed by both parties on the day of mediation and recorded in a QCAT order, and, this, together with other collaborative work between QCAT Registry and the DRB, should reduce the discrepancy between the mediation success rates reported by QCAT and DRB.

Consultation question 9

Q9 If so, how should ADR be used in minor civil disputes to best facilitate dispute resolution? For example,

- a) Which forms of ADR are the most helpful: mediation, conciliation or compulsory conferences?
- b) Are certain forms of ADR more helpful for certain types of minor civil disputes?
- c) Should ADR be provided by QCAT itself or external providers?
- d) Should ADR be offered free of charge?

- e) Should ADR be pre-requisite for all cases prior to hearing? If so, should this be the case for all types of minor civil disputes?
- f) Should ADR occur in person or remotely, either over phone or video link?

52. As the Issues Paper correctly identifies, ADR in the MCD jurisdiction tends to consist of mediation rather than conciliation or compulsory conferences. That has been the case for a very long time, and well before I commenced. Not having ADR by way of compulsory conference for MCDs is likely to have been the product of resource limitations – and, perhaps, that hearings for some MCDs take less time and resources than having compulsory conferences in those matters – and as such, a default position of having compulsory conferences in all MCDs would not be an optimal allocation of resources.
53. Much of Question 9 concerns operational matters. In any event, I make the following observations in case the Reviewer may be considering recommending a statutory amendment that would:
 - a) prescribe a particular type of ADR for MCDs;
 - b) require QCAT to provide mediation in-house; or
 - c) prescribe a particular method of conducting mediation (such as remotely or over the phone)
54. QCAT's ability to engage in ADR is limited by its resources, not by the QCAT Act: that is, the statutory power to conduct ADR in-house exists within the current statutory framework. There is undoubtedly a benefit to QCAT being able to conduct ADR in-house; however, the Tribunal simply lacks the resources to do that more broadly. If QCAT were obliged to provide in-house mediation, a substantial increase in funding and facilities would be required. This would be welcomed.
55. There is also a benefit in QCAT's power to refer a matter to an external mediator. This is particularly so in circumstances where the parties bear the costs of mediation (although this is less likely to occur in MCDs, where private mediation may not be commercially sensible for the parties).
56. I do not consider that the QCAT Act should prescribe a particular type of ADR. There is a substantial benefit in the Tribunal having the flexibility to conduct different types of ADR processes.
57. In a similar vein, I do not consider that the QCAT Act should prescribe a particular mode of conducting mediation (telephone, video link or in person). As the Issues Paper identifies, there is some support for the proposition that telephone mediations are less likely to result in a mediated outcome than in-person or video link mediations. It is fair to say, though, that experiences as to this widely vary. Further, in some circumstances (for example, when parties are located regionally), a remotely conducted mediation may be more appropriate because it makes the ADR accessible and achievable. Flexibility is key.

Consultation question 10

Q10 Should mediators be available on days when MCD matters are being heard to provide the parties with a final chance to resolve the matter prior to hearing?

58. I consider this to be an operational matter for the Tribunal falling outside the remit of the review. The Tribunal is not currently resourced to have mediators available on days when MCD matters are being heard. The Tribunal would need a substantial increase in resources to do so. Of course, having a fully funded internal mediation program, including the facilities needed for such a program (e.g., mediation rooms, breakout rooms, etc.) would be useful. QCAT would welcome such a fully funded initiative.

Case management and triaging

59. As to paragraph [117], QCAT does not individually case manage all MCD matters, but does undertake limited triage when resources permit. This means some matters can be and are referred on the papers to the Senior Member List Manager or to an Adjudicator for directions, where a preliminary issue, for example, with respect to jurisdiction, identifying the correct responding entity, or service has been identified.
60. Resourcing QCAT to undertake more formal triaging and case management would likely have a significant positive impact on times to finalisation. However, the resourcing necessary would be very significant given the huge numbers of MCD's QCAT receives each year.

Consultation question 11

Q11 Should MCD matters be case managed and triaged prior to hearing?

61. A similar question appears in Issues Paper 8 relating to tenancy disputes.
62. I do not consider that prescribing case-management and triaging of MCD matters in the QCAT Act would improve timeliness unless accompanied by substantial (very substantial) additional resourcing of the Registry and additional Adjudicators.
63. Any triaging system capable of meaningfully differentiating between matters would require appropriately experienced and qualified Registry Officers or Adjudicators to assess applications on receipt. This would be resource-intensive. If the Tribunal were legislatively required to undertake a more formal triaging and case management process, without being properly resourced to do so, and without being given time to be

business-ready for this change, it would divert Adjudicators from hearing matters, thereby increasing, rather than reducing, overall delay.

64. Of course, such additional resourcing would be welcome and able to be well utilised. Early triaging and case management should assist to identify claims which are an abuse of process at an earlier stage than currently occurs.

Consultation question 12

Q12 If so, should this be undertaken by Adjudicators or can this role be delegated to registry staff?

65. A similar question appears in Issues Paper 8 relating to residential tenancies.
66. If the Review is considering legislative reform to prescribe case management and/or triaging in MCD matters, it is my view that any case management and triaging obligations could only be placed on properly qualified and experienced decision-makers. At the moment, in the absence of a position of Judicial Registrar that has appropriate minimum qualifications, that would be Adjudicators and/or Members. (I note also that the strike-out power in section 47(1) of the QCAT Act can only be exercised by the Tribunal as constituted or by a legally qualified member or an Adjudicator. If judicial/legally qualified Registrars were introduced, this strike-out power should be expanded to cover judicial/legally qualified Registrars. By “judicial/legally Registrars”, I mean judicial/legally qualified Registrars in the context of that which I mentioned in paragraph [53] *et seq* of the response to the Review on the topic of legal representation. That is, legally qualified Registrars who are empowered to do certain things beyond those that other registrars are empowered to do.) Such obligations would need to be accompanied by an increase in resources to meet those obligations.
67. Assessments about the urgency of matters and consequential assignment of priority are matters that have traditionally fallen within the implied power of inferior Courts and Tribunals to control their own processes.²⁰ While those implied powers are ultimately subject to overriding legislative provisions governing practice and procedure, the responsibility to ensure that proceedings are conducted fairly should necessarily remain with the Tribunal's decision-makers. Determination of and logistics for prioritising matters should be regarded as operational, and not good vehicles for legislative prescription. If, however, there is a specific proposal for legislative amendment in respect of these matters, QCAT would welcome the opportunity to provide feedback in respect of same.

²⁰ *Nicholas v The Queen* [1998] HCA 9; (1998) 193 CLR 173,188 [23] (Brennan CJ).

Consultation question 13

Q13 What should be done to reduce the use of minor civil disputes to perpetuate systems of abuse?

Domestic and family violence

68. Issues paper 3 states that:

DFV perpetrators may bring minor debt claims against their former partner or family member for sums of money which they claim were provided as a loan, although there is no written loan agreement. DFV perpetrators may also bring residential tenancy disputes against a partner or family members to attempt to forcibly evict them.²¹

69. Issues paper 3 then makes the following very general statements:

Registry staff and decision makers need to be cognisant of these risks and take appropriate action to identify and mitigate them.

Consideration may need to be given to providing additional training to staff and decision makers to help them identify the use of minor civil disputes to perpetuate systems abuse and respond appropriately.²²

70. The Issues Paper does not identify suggested “appropriate action to identify and mitigate” the risks, or the training it is suggested that might be given to “help them identify the use of minor civil disputes to perpetuate systems abuse and respond appropriately” or suggestions for legislative reform in this regard; nor does it identify any particular failure or failures to mitigate risk or any particular current training deficit. If there are particular suggestions that the Review has in mind that go to legislative change in respect of this very important societal issue, QCAT would be happy to provide feedback in respect of the same. Further, if any stakeholder has specific feedback that it would like to provide to QCAT for any perceived failing or area for improvement in respect of this subject matter, they are encouraged to write to me or the Principal Registrar at QCAT articulating those concerns with sufficient specificity so that the issues can be properly interrogated and informed solutions considered.

71. Beyond that, each case needs to be determined on its own merits. Where a case is identified as an abuse of process, it can be struck out. The QCAT Act provides for the power to dismiss a proceeding as an abuse of process, a power which is utilised by Adjudicators and Members (discussed further below). Some other cases will require evidence to determine whether they are meritorious and will not be appropriate for striking out.

72. Consistent with my response to Question 11, additional resourcing would enable the Tribunal to undertake more formalised case management of MCDs. More formalised

²¹ At paragraph [121].

²² At paragraphs [122]-[123].

case management may allow applications that constitute an abuse of process to be identified at an early stage.

73. Funding external providers to provide legal assistance to DFV victims could also be of benefit – for example, to identify matters which should be the subject of a strike out application and to assist in the bringing of such an application or to assist in the substantive defence of unmeritorious applications, and, in some cases, to assist in bringing an application for leave to be legally represented in the proceedings. Consideration might be given to expanding the circumstances supporting the giving of leave to be legally represented in section 43(3) of the QCAT Act to include where there is a power imbalance between the parties, or even more expressly, perhaps to include as a relevant factor in the exercise of the discretion, where there is a DFV order in place. I note that the test in s 38(4) of the *Magistrates Court Act 1991* (SA) includes when the Court is of the opinion that the party would be unfairly disadvantaged if not represented by a legal practitioner. Ultimately these matters are policy matters for Government.
74. As noted above, the Tribunal has the power under s 47(1) of the QCAT Act to summarily dismiss proceedings that are frivolous, vexatious or misconceived; lacking in substance; or otherwise an abuse of process. That power can be exercised on the Tribunal's own initiative and only by the Tribunal as constituted for the proceeding or, if the Tribunal has not been constituted for the proceeding, by a legally qualified member or Adjudicator.²³
75. In summary:
 - a) Given the existing powers to deal with applications that are an abuse of process, how the Tribunal responds to systems abuse, including whether Members should be required to undertake training or professional development addressing the issue, is an operational matter for the Tribunal.
 - b) As always, if any stakeholder/s have any specific suggestions for additional training, or feel there is a skills deficit in a particular area, I invite them to write to me with sufficient detail on those matters so that they can be interrogated and appropriate action taken, including under section 172(2)(c)(ii) of the QCAT Act.
76. Should the Review identify any particular legislative proposal that it considers might reduce the incidence of domestic violence, QCAT would be very happy to provide feedback on respect of it.

²³ QCAT Act s 47(3), 47(4).

Part 3: Gaps, anomalies and limitations in the jurisdiction

History of QCAT's MCD jurisdiction

77. The *New South Wales Act 1823* (UK), the *Australian Courts Act 1828* (UK) and subsequent legislation empowered the governors of New South Wales and Van Diemen's Land or the dependencies thereof to establish Courts of Requests with full power and authority:

... to hear and determine in a summary way all actions, plaints and suits for the payment or recovery of any debts, damages or matter not exceeding ten pounds sterling except the matter in question shall relate to the title of any lands, tenements or hereditaments or to the taking or demanding of any duty payable to his majesty or to any fee of office, annual rent or other such matter where rights in future may be bound or to any general right or duty.

78. The *Small Debts Recovery Act 1846* (NSW) provided that:

... all Courts of Petty Sessions now established or that may hereafter be established in the said Territory shall within their respective districts have power and authority to hear and determine in a summary way and according to equity and good conscience all actions whatsoever (against persons liable hereinafter mentioned to be summoned to such Court and every defendant sued jointly with such person) for the recovery of any debt, demand or damage whether liquidated or unliquidated to an amount in any case not exceeding ten pounds or (where the party intended to be sued shall by writing under his hand have consented thereto) to an amount not exceeding thirty pounds. Provided that such Courts shall not have jurisdiction in any case where the matter in question relates to the taking of any duty to Her Majesty or any fee of office or any annual rent or other matter in which rights in the future may be bound or to any general right or duty where the debt sought to be recovered is for any money or thing won at or by means of any race, match, wager, raffle or any kind of play or game nor in any case where the debt or claim shall have arisen more than three years before the issuing of the summons unless there hath been in writing an acknowledgement or promise to pay the same within that period nor in respect of any contract for the sale of goods unless the buyer shall have actually received the same or part thereof or have given something in earnest to bind the bargain or in part payment or some note or memorandum in writing of the bargain shall have been signed by the party sought to be charged by such contract or his agent thereunto lawfully authorised. Provided also that in every case of trespass to land if the title to the freehold therein shall bona fide be in dispute between the parties the Court of Petty Sessions shall have no power to adjudicate therein.²⁴

79. The monetary limit was increased in Queensland to 30 pounds by the *Small Debts Recovery Act 1864* (Qld) (Courts of Petty Sessions sitting at certain places) and the *Small Debts Recovery Act 1866* (Qld) (all Courts of Petty Sessions).²⁵

²⁴ *Small Debts Recovery Act 1846* (NSW) s 4.

²⁵ *Small Debts Recovery Act 1864* (Qld) s 1; *Small Debts Recovery Act 1866* (Qld) s 1.

80. The *Small Debts Courts Act 1867* (Qld) created Small Debt Courts within the Courts of Petty Sessions.²⁶ The jurisdictional limit was increased to thirty pounds or fifty pounds with the consent of the defendant.²⁷ The exclusion of jurisdiction to hear and decide matters related to the contract for the sale of goods was omitted.²⁸
81. The *Small Debts Courts Act 1867* (Qld) was amended by the *Small Debts Courts Amendment Act 1869* (Qld) to remove jurisdiction of the Small Debts Courts to hear any case for seduction or any case where the title to land or the validity of any devise, bequest or limitation under any will or settlement shall be in question.²⁹
82. The *Small Debts Act Amendment Act 1894* (Qld) increased the monetary limit to fifty pounds.³⁰
83. The *Magistrates Courts Act 1921* (Qld) repealed the *Small Debts Acts*, 1867 to 1994.³¹ Section 4 of the *Magistrates Courts Act 1921* sets out the civil jurisdiction of Magistrates Courts. This generalised jurisdiction over small claims (with minor amendments) continued until 1973, when the Small Claims Tribunal was established and given jurisdiction to hear consumer/trader disputes of up to \$450.³²
84. Before the enactment of the QCAT Act, the Small Claims Tribunal had jurisdiction to hear and decide:
 - a) consumer/trader disputes under the prescribed amount;³³
 - b) claims for repair of a defect in a motor vehicle under the *Property Agents and Motor Dealers Act 2000* (Qld) s 324;³⁴
 - c) claims for damage to property caused by or arising from the use of a vehicle under the prescribed amount;³⁵
 - d) dividing fence disputes;³⁶ and
 - e) residential tenancies applications.³⁷

²⁶ *Small Debts Courts Act 1867* (Qld) s 2.

²⁷ *Small Debts Courts Act 1867* (Qld) s 2.

²⁸ *Small Debts Courts Act 1867* (Qld) s 2.

²⁹ *Small Debts Courts Amendment Act 1869* (Qld) s 1.

³⁰ *Small Debts Act Amendment Act 1894* (Qld) s 2.

³¹ *Magistrates Courts Act 1921* (Qld) s 3 (as enacted).

³² *Small Claims Tribunals Act 1973* (Qld) s 4 'small claim' (as enacted).

³³ *Small Claims Tribunal Act 1973* (Qld) s 4 'small claim' (as at 25 November 2008).

³⁴ *Small Claims Tribunal Act 1973* (Qld) s 4 'small claim' (as at 25 November 2008).

³⁵ *Small Claims Tribunal Act 1973* (Qld) s 4 'small claim' (as at 25 November 2008).

³⁶ *Small Claims Tribunal Act 1973* (Qld) s 16(1)(b) (as at 25 November 2008).

³⁷ *Small Claims Tribunal Act 1973* (Qld) s 16(1)(d) (as at 25 November 2008).

85. The Magistrates Courts had their general civil jurisdiction,³⁸ but had special procedures applying to 'minor debt claims' which were defined as minor claims in which the plaintiff:³⁹
 - a) claims to recover against a defendant a debt or liquidated demand in money, with or without interest; and
 - b) elects, in the claim, to have it heard and decided in a Magistrates Court under the simplified procedures.
86. Minor claims were defined as claims for not more than \$7,500.00, whether as a balance or after an admitted set off, reduction by any amount paid by or credited to the defendant, abandonment of any excess or otherwise.⁴⁰
87. The Independent Panel of Experts recommended that:

The QCAT Act should include a part defining the 'minor civil disputes' jurisdiction of the Tribunal. This jurisdiction will be part of QCAT's original jurisdiction. This should include those small claims matters currently defined in the *Small Claims Tribunals Act 1973* and those minor debt matters currently defined in the *Magistrates Courts Act 1921*. The *Small Claims Tribunals Act 1973* should be repealed.

The *Residential Tenancies Act 1994*, the *Residential Services (Accommodation) Act 2002* and the *Dividing Fences Act 1953* should be amended to confer jurisdiction for these matters on the QCAT. 'Minor civil dispute' in the QCAT Act should be defined to include tenancy applications under the *Residential Tenancies Act 1994* and the *Residential Services (Accommodation) Act 2002* and disputes under the *Dividing Fences Act 1953*.

Procedures particular to minor civil disputes will be dealt with in the rules of the Tribunal and where appropriate, will reflect existing provisions in the *Uniform Civil Procedure Rules 1999*.⁴¹
88. The types of rules that may be considered include:
 - a) information to be contained in an application
 - b) disclosure by non-parties
 - c) service
 - d) restrictions on counterclaims and
 - e) particular orders that may be made in certain cases, for example orders to perform work or return goods
 - f) other detailed procedural matters.

³⁸ *Magistrates Courts Act 1921* (Qld) s 4 (as at 9 November 2007).

³⁹ *Magistrates Courts Act 1921* (Qld) s 2 'minor debt claim', 'minor claim' (as at 9 November 2007); *Uniform Civil Procedure Rules 1999* (Qld) ch 13, pt 9, div 2 (as at 1 September 2009).

⁴⁰ *Magistrates Courts Act 1921* (Qld) s 2 "minor claim" (as at 9 November 2007).

⁴¹ Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 2 report on legislative amendments to implement the tribunal*, October 2008, 46.

89. The panel recommended that the term 'minor civil dispute' be included and defined as:⁴²
 - a) a claim to recover a debt or liquidated demand of money up to \$7,500;
 - b) a claim for the payment of money, relief from payment of money, or performance of work;
 - c) to rectify a defect in goods or services, or return of goods, up to a value of \$7,500:
 - i. by a consumer arising out of a contract between a consumer and a trader; or
 - ii. by a trader arising out of a contract between traders.
 - d) a claim in respect of damage to property caused by or arising out of the use of a vehicle up to a value of \$7,500;
 - e) a claim under sections 248 and 324 of the *Property Agents and Motor Dealers Act 2000*;
 - f) a tenancy application, that is an application made under the *Residential Tenancies Act 1994* or the *Residential Services (Accommodation) Act 2002*, to the Tribunal; and
 - g) a claim that is the subject of a dispute arising under the *Dividing Fences Act 1953* if the claim is in relation to an amount or value up to \$7,500.
90. The recommendation that the MCDs include 'a claim to recover a debt or liquidated demand of money' has its origins in 'minor debt claims' previously in the jurisdiction of the Magistrates Court.
91. The Independent Panel of Experts envisioned that Judicial Registrars would hear minor civil dispute matters, as they were currently dealing with minor civil matters in the Magistrates Courts, the Small Claims Tribunal, and in some other Magistrates Courts matters.⁴³ It was recommended that for QCAT, Judicial Registrars be named Adjudicators.⁴⁴
92. The panel recommended that Adjudicators will generally be allocated to sit on MCDs and other less complex matters⁴⁵ with eligibility requirements reflecting those of

⁴² Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 2 report on legislative amendments to implement the tribunal*, October 2008, 113-114.

⁴³ Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 2 report on legislative amendments to implement the tribunal*, October 2008, 32.

⁴⁴ Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 3 report on operational requirements*, 2009, 7.

⁴⁵ Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 3 report on operational requirements*, 2009, 8.

Judicial Registrars in the Magistrates Court, who then did the work proposed for QCAT Adjudicators.⁴⁶

93. The panel also noted in relation to the monetary jurisdiction of minor civil disputes the following:⁴⁷
 - a) Currently, a Small Claims Tribunal has jurisdiction to hear monetary claims where the amount in question is not larger than \$7,500. Similarly, a 'minor debt' means a debt of not more than \$7,500.
 - b) The Department of Justice and Attorney-General has recently appointed retired Supreme Court Judge, the Honourable Martin Moynihan AO QC, to review the Court jurisdiction of the Supreme, District and Magistrates Courts in Queensland. One aspect of that review will be to consider whether the current monetary limits for matters in those courts are appropriate. This will include consideration of whether the current monetary limits for small claim and minor debt matters are adequate.
 - c) The recent report by the Productivity Commission recommends improvements to small claims tribunals' processes, including the introduction of common ceilings at a national level for claims.
 - d) If the review of court jurisdiction recommends an increase in the monetary limit for small claims and minor debt matters, the financial implications of this for QCAT should be considered.
94. As foreshadowed by the Independent Panel of Experts, a review of the civil and criminal justice system in Queensland was underway at that time, led by the Honourable Martin Moynihan AO QC (Moynihan review), which would consider, amongst other things, the jurisdictional monetary limits in Queensland.
95. The Moynihan review report recommended that the monetary limit for the Small Claims Tribunal be increased to \$25,000; the civil monetary limit of the Magistrates Court be increased to \$150,000; and the civil monetary limit of the District Court be increased to \$750,000.⁴⁸ The Moynihan review report also recommended that the civil jurisdictional monetary limits for the District and Magistrates Courts be reviewed regularly, at least every 5 years, and adjusted to reflect the then-current value of money and other relevant considerations.⁴⁹ The report made recommendations to increase the current

⁴⁶ Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 3 report on operational requirements*, 2009, 8.

⁴⁷ Tribunals Review Independent Panel of Experts, *Queensland Civil and Administrative Tribunal: Stage 2 report on legislative amendments to implement the tribunal*, October 2008, 46-47.

⁴⁸ Honourable Martin Moynihan, *Review of the civil and criminal justice system in Queensland*, December 2008, 11.

⁴⁹ Honourable Martin Moynihan, *Review of the civil and criminal justice system in Queensland*, December 2008, 11.

- civil jurisdictional limits of Queensland's courts, as they had not been reviewed since 1997 and did not reflect inflation or changes in the value of money.⁵⁰
96. On 1 December 2009, QCAT commenced operations, with the Tribunal having jurisdiction to hear and decide minor civil disputes.⁵¹ At the time, the prescribed monetary amount for a minor civil dispute was \$7,500.⁵² This was increased shortly thereafter to \$25,000 based on the outcomes of the Moynihan review.⁵³
 97. Section 195 of the QCAT Act prescribes the functions of Adjudicators, which include hearing and deciding any of the following matters if chosen by the President to constitute the Tribunal for the matter:
 - a) a minor civil dispute;
 - b) a matter stated in this Act, the rules, or an enabling Act that is an Act, as a matter, that an Adjudicator may hear and decide;
 - c) another matter the president considers can be appropriately heard and decided by an Adjudicator having regard to –
 - i. the nature, importance and complexity of the matter; and
 - ii. any special circumstances relating to the matter.
 98. The 2018 QCAT Act Statutory Review Report recommended that the QCAT Act be amended to clarify that QCAT's jurisdiction in residential tenancy matters was limited to \$25,000.⁵⁴

Approach to minor civil disputes in other jurisdictions

Australian Capital Territory

99. The ACT Civil and Administrative Tribunal (ACAT) has jurisdiction over civil claims of up to \$25,000. Jurisdiction is conferred by providing that the Tribunal can deal with ten types of applications:⁵⁵
 - a) an application in relation to a contract, including an application for damages for breach of contract;
 - b) an application for damages for negligence or for any other tort except nuisance or trespass;

⁵⁰ Honourable Martin Moynihan, *Review of the civil and criminal justice system in Queensland*, December 2008, 11.

⁵¹ QCAT Act s 11 (as at 1 December 2009).

⁵² QCAT Act, Schedule 3 – “prescribed amount” (as at 1 December 2009).

⁵³ QCAT Act, Schedule 3 – “prescribed amount” (as at 14 October 2010). Amended by clause 177 of the *Justice and Other Legislation Amendment Act 2010*.

⁵⁴ Queensland Government, Department of Justice and Attorney-General, *Review of the Queensland Civil and Administrative Tribunal Act 2009*, July 2018, 17.

⁵⁵ *ACT Civil and Administrative Tribunal Act 2008* (ACT) (**ACAT Act**) ss 15, 16.

- c) an application for the recovery of a debt;
 - d) an application in relation to the provision of goods or services, including an application for damages for the detention, or return, of goods;
 - e) an application for relief from nuisance;
 - f) an application for relief for trespass to land;
 - g) an application for a declaration that a person is or is not indebted to another person at all or for a stated amount;
 - h) an application for a common boundaries determination (dividing fences);
 - i) an application for an order under the ACL; and
 - j) an application stated to be a civil dispute application in an authorising law.
100. ACAT may, when dealing with one of those types of applications, grant any relief which can be granted by the Magistrates Court,⁵⁶ which can grant the same relief as available in the Supreme Court.⁵⁷

New South Wales

101. NCAT does not have general civil dispute jurisdiction under the *Civil and Administrative Tribunal Act 2013* (NSW) (**NCAT Act**). Rather, NCAT is conferred with civil jurisdiction by a range of enabling Acts.⁵⁸
102. Those small claims not in the Tribunal's jurisdiction go to the Local Court, which has its own Small Claims Division (hearing matters with a maximum value of \$20,000).⁵⁹

Northern Territory

103. The Northern Territory Civil and Administrative Tribunal (NTCAT) has jurisdiction over the following matters:⁶⁰
- a) a claim for the recovery of an amount that does not exceed \$25,000;
 - b) a claim for the performance of work to a value that does not exceed \$25,000;
 - c) a claim for relief from payment of an amount of money that does not exceed \$25,000; and
 - d) a claim for the return or replacement of goods, to a value that does not exceed \$25,000.

⁵⁶ ACAT Act s 22(1).

⁵⁷ *Magistrates Court Act 1930* (ACT) s 258.

⁵⁸ *Civil and Administrative Tribunal Act 2013* (NSW) (**NCAT Act**) s 29.

⁵⁹ *Local Court Act 2007* (NSW) s 10(a), 29(1)(b).

⁶⁰ *Northern Territory Civil and Administrative Tribunal Act 2014* (NT) s 30, 31; *Small Claims Act 2016* (NT) s 5, 6.

South Australia

104. The South Australia Civil and Administrative Tribunal (SACAT) does not have a Minor Civil Disputes or Small Claims jurisdiction.
105. Small civil claims in South Australia (monetary claims of up to \$12,000) are dealt with through an informal procedure in the Magistrates Court.⁶¹ Parties are not generally entitled to legal representation.⁶²
106. The civil jurisdiction conferred on the Magistrates Court includes jurisdiction to:⁶³
 - a) hear and determine an action (at law or in equity) for a sum of money where the amount claimed does not exceed \$100,000;
 - b) to hear and determine an action (at law or in equity) to obtain or recover title to, or possession of, real or personal property where the value of the property does not exceed \$100 000;
 - c) to hear and determine an interpleader action where the value of the property to which the action relates does not exceed \$100,000; and
 - d) to grant any form of relief necessary to resolve a minor civil action.

Tasmania

107. The Tasmanian Civil and Administrative Tribunal (TASCAT) also does not have jurisdiction over small claims or minor civil disputes.
108. Minor Civil Claims are dealt with in the Civil Division of the Magistrates Court.⁶⁴ A Minor Civil Claim is a claim or counterclaim for damages, or for the payment of money, if the amount claimed does not exceed \$15,000.⁶⁵ Parties are generally not entitled to legal representation,⁶⁶ and proceedings are conducted informally.⁶⁷

Victoria

109. While VCAT does not have jurisdiction over minor civil disputes, it has jurisdiction under the *Australian Consumer Law and Fair Trading Act 2012* (Vic) to hear and determine consumer and trader disputes.⁶⁸

⁶¹ *Magistrates Court Act 1991* (SA) s 3, 8, 10A, 10AB.

⁶² *Magistrates Court Act 1991* (SA) s 38(4).

⁶³ *Magistrates Court Act 1991* (SA) s 8(1).

⁶⁴ *Magistrates Court (Civil Division) Act 1992* (Tas) s 7(2).

⁶⁵ *Magistrates Court (Civil Division) Act 1992* (Tas) s 3; *Magistrates Court (Civil Division) (Minor Civil Claims) Regulations 2023* (Tas) r 3.

⁶⁶ *Magistrates Court (Civil Division) Act 1992* (Tas) s 31AD.

⁶⁷ *Magistrates Court (Civil Division) Act 1992* (Tas) s 31AB.

⁶⁸ *Australian Consumer Law and Fair Trading Act 2012* (Vic) s 182.

110. Small civil claims are otherwise dealt with in the Magistrates Court's civil jurisdiction.⁶⁹ Subject to certain exceptions, the Magistrates Court must refer a complaint under which the amount of monetary relief sought is less than \$10,000 to arbitration.⁷⁰ The Court conducts the arbitration.⁷¹

Western Australia

111. Western Australia's State Administrative Tribunal (SAT) has no jurisdiction over small claims.
112. Minor civil claims (known as 'minor cases') can be dealt with through an informal procedure in the Magistrates Court.⁷² A minor case includes a claim within the jurisdiction of the Court where the value of the claim or of the relief is not more than \$10,000.⁷³ The civil jurisdiction of the Magistrates Court of Western Australia consists of the matters enumerated in s 6 and 8 of the *Magistrates Court (Civil Proceedings) Act 2004* (WA).

Summary

113. QCAT has complex jurisdictional constraints. This creates substantial confusion and frustration for litigants before the Tribunal. Such litigants are not ordinarily legally represented, but even lawyers struggle with the jurisdictional constraints from time to time.
114. Before the commencement of the QCAT Act, the issue was not as pronounced because the Magistrates Court had a general civil jurisdiction. Accordingly, the Magistrates Court could deal with a matter that was not a 'minor debt claim' (for example, because it concerned a claim for unliquidated damages) in its general civil jurisdiction. That is not true of QCAT, which must dismiss applications it lacks jurisdiction to hear.
115. QCAT's MCD jurisdiction should be simplified.
116. I have received feedback from some Adjudicators and Members that giving QCAT the same powers as the Magistrates Court to hear and determine civil actions up to the monetary limit for a Minor Civil Dispute might be one means to ameliorate the problem with jurisdiction, and might make the justice system more accessible. More is said of this below.

⁶⁹ *Magistrates Court Act 1989* (Vic) s 100.

⁷⁰ *Magistrates Court Act 1989* (Vic) s 102.

⁷¹ *Magistrates Court Act 1989* (Vic) s 103.

⁷² *Magistrates Court (Civil Proceedings) Act 2004* (WA) s 29.

⁷³ *Magistrates Court (Civil Proceedings) Act 2004* (WA) s 3, 26.

Issues with the definition of 'minor civil dispute'

117. As to paragraphs [126] and [128] of the Issues Paper, the Magistrates Court, like QCAT, is a creature of statute and has only the powers conferred on it by its enabling Acts. It follows that some matters falling outside of QCAT's MCD jurisdiction cannot be heard in the Magistrates Court and may need to be heard in the District Court or the Supreme Court.⁷⁴
118. As to figure 3 appearing beneath paragraph [129], the Magistrates Court has no general power to grant specific performance and declaratory relief.⁷⁵ In an equitable claim, the Magistrates Court may only order the recovery of a sum of money, the payment of damages or the delivery of possession of goods in relation to a right, security interest, encumbrance, charge or lien.⁷⁶

Consultation questions 14, 16 and 18

Q14 Should QCAT have jurisdiction to hear and decide *quantum meruit* claims?

Q16 Should QCAT's MCD jurisdiction be extended to include claims for damages for the detention of goods (up to the prescribed limit), or for the return of those goods, or both?

Q18 Should QCAT's MCD jurisdiction be expanded to include claims for the return of money paid by mistake where there is no contract or the contract is not enforceable?

119. Lack of jurisdiction to decide claims that fall within the monetary limit, but outside of the Tribunal's MCD jurisdiction, creates a gap in the Tribunal's jurisdiction that is arguably inconsistent with its objects.⁷⁷ Vesting QCAT with jurisdiction to hear and decide *quantum meruit* claims, claims for the detention of goods or for their return, and claims for the return of money paid by mistake may assist in closing this gap.

⁷⁴ For example, there is no power in the Magistrates Court to make an order for specific performance.

⁷⁵ *Magistrates Courts Act 1921* s 4(1)(c); *Arete Real Estate Pty Ltd v realT Properties Pty Ltd [No 2]* [2025] QCA 179 [15] (Mullins P, Bradley JA and Callaghan J); *Enterprise Sheet Metal Pty Ltd (in liq) v Queensland Steel & Sheet Pty Ltd* [1995] 1 Qd R 511, 513 (McPherson JA and Derington J).

⁷⁶ *Magistrates Courts Act 1921* s 4(1)(c).

⁷⁷ The Honourable David Thomas, 'Minor civil disputes' (Issues Paper 3, Queensland Civil and Administrative Tribunal Act Statutory Review 2025–26, November 2025) at [136]; citing *Skinner v FTP Contracting Pty Ltd & Anor (No 2)* [2020] QCATA 12, [2]–[3]; *Lucas v Habul* [2020] QCATA 53, [7].

120. It is acknowledged that *quantum meruit* claims, claims for damages for the detention of goods or orders for their return, and claims for the return of money paid by mistake may require a more detailed examination of the evidence than some other MCDs. However, Adjudicators regularly consider complex legal and factual issues, and hearing and deciding these types of claims are well within the capability of an Adjudicator.
121. Some Adjudicators and Members who regularly hear and determine MCDs have expressed the view that extending QCAT's jurisdiction to hear such claims should be done as part of a wholesale amendment to the definition of the term 'minor civil dispute', which would, subject to limited exceptions, give the Tribunal concurrent jurisdiction with the Magistrates Court to hear and determine civil actions of not greater than the monetary limit for MCDs. That is, I have received a suggestion that the QCAT Act should provide that the Tribunal, in its MCD jurisdiction, has the same power as the Magistrates Courts to hear and determine civil disputes up to the prescribed monetary limit, except actions:
 - a) for any remedy for personal injury as defined in the *Personal Injuries Proceedings Act 2002* or for damages against an employer under the *Workers Compensation and Rehabilitation Act 2003*;
 - b) arising in defamation, nuisance, or trespass;
 - c) relying on any law protecting intellectual property;
 - d) arising from an international sale of goods; or
 - e) to resolve a dispute between partners about the partnership or its activities.
122. Others have suggested that another approach may be one similar to that taken by s 32 of the *Federal Court of Australia Act 1976* (Cth) with respect to the Federal Court. That is, s 11 of the QCAT Act could be amended to say that jurisdiction is conferred on the Tribunal in respect of matters concerning less than the prescribed monetary limit not otherwise falling within the meaning of a minor civil dispute that are associated with the matter that is a minor civil dispute (the core matter) in which the jurisdiction of the Tribunal is invoked.
123. This second approach would mean that, provided that there is a core anchoring matter that QCAT has primary jurisdiction to hear, QCAT may make orders disposing of the entire dispute. This approach would still require an application to disclose a dispute that falls within the relatively limited definition of a minor civil dispute. The disadvantage is that if an application were filed without disclosing a core anchoring matter (such as a standalone *quantum meruit* claim), that matter would need to be dismissed for want of jurisdiction. This would continue to be a barrier to QCAT deciding disputes in a way that is accessible, economical, informal and quick.
124. I emphasise that any additional burden created by an expansion of the Tribunal's role or jurisdiction must be accompanied by additional resources. Expanding QCAT's ambit without a corresponding increase in resources would significantly impact its ability to manage workload and keep times to hearing and finalisation at an acceptable level.

(Obviously, the same applies to in-house dispute resolution services and to additional duties for the registry and Adjudicators.)

125. Expanding the Tribunal's Minor Civil Dispute jurisdiction would likely have an impact on the operations of the Magistrates Courts. Accordingly, the Chief Magistrate's views on this issue will be critical.

Consultation questions 15, 17 and 19

Q15, 17 and 19 Should there be any limitations or safeguards on QCAT deciding such matters?

126. QCAT would be happy to provide feedback on any suggested legislative limitations or safeguards on QCAT deciding such matters. I note that the safeguards in section 28 and 29 of the QCAT Act would apply.

Clarity about the overlap with other civil jurisdictions

127. If jurisdiction is conferred on the Tribunal by an enabling Act for a claim which is also 'a claim to recover a debt or liquidated demand of money up to the prescribed amount', that claim is excluded from QCAT's MCD jurisdiction, unless the enabling Act expressly states that it is a MCD.⁷⁸ For example, some decisions have held that a building dispute which involves a claim to recover a debt or liquidated demand of money up to the prescribed amount is not a QCAT MCD because the *Queensland Building and Construction Commission Act 1991* ('QBCC Act') does not expressly state that it is a QCAT MCD.
128. Overlap can be confusing for litigants.
129. The intersection between the MCD jurisdiction and the building disputes jurisdiction is addressed in my response to Issues Paper 5 (Building and Construction).
130. As to paragraphs [150]-[152] of Issues Paper 3, the Tribunal has delivered some decisions finding that s 77(2) of the QBCC Act applies to MCDs that are also building disputes in the same way as if they were only building disputes (unless the claim is framed as a claim under the Australian Consumer Law ('ACL'), in which case the ACL prevails and s 77(2) does not apply).⁷⁹ The Issues Paper states that 'there have also been cases which have found that a claim can either be both a building dispute and a minor civil dispute, if they meet both criteria and the Tribunal has jurisdiction to hear the claim as either'. That proposition is attributed to the judgment of the Appeal

⁷⁸ QCAT Act sch 3 'minor civil dispute' s 2.

⁷⁹ *Arrowsmith v True Blue Garages Pty Ltd* [2026] QCAT 41 [13] (Magistrate Hughes); *Subramaniam & Anor v Queensland Roofing Pty Ltd & Anor* [2019] QCAT 70 [12] (Senior Member Brown); *GC Pontoon & Jetty Repairs Pty Ltd v Wegener* [2024] QCATA 69 [48].

Tribunal in *Hartigan v Quiroz-Jimenez* [2018] QCATA 95. It is correct that in that case, the Tribunal stated that a building claim was capable of being a minor civil dispute because it was a claim out of a contract between a consumer and trader.⁸⁰ The Member then went on to proceed with hearing the application for leave to appeal, finding that the pre-proceeding requirement in s 77(2) of the QBCC had been met, and that the procedures which were adopted in the case provided natural justice to the appellant. In the circumstances, the Tribunal found that leave to appeal was not required to correct a substantial injustice and accordingly refused leave.⁸¹ In *Subramaniam & Anor v Queensland Roofing Pty Ltd & Anor* [2019] QCAT 70,⁸² a Senior Member found that the Tribunal did not have the power to hear a matter that was a domestic building dispute, but was filed as a minor civil dispute.

131. The fact that these cases exist at all, and that different views have been expressed about whether or not a matter can be dealt with as an MCD, demonstrates a complexity in the legislation that does not assist litigants, particularly self-represented litigants, in accessing justice. Clarity and simplification are called for and would be a very welcome step in assisting QCAT to achieve its statutory objects.
132. As to issues which arise due to mandatory pre-claim ADR requirements not being met for building disputes and retail shop lease disputes, some Members have expressed strong support for a discretion to proceed where to do so is in the interests of justice: such a discretion would assist QCAT to achieve its statutory objects. This would particularly be the case where, due to no fault of the litigants, the requirements cannot be complied with.⁸³ Care would need to be taken in crafting such a discretion so that it does not become a vehicle by which pre-proceeding mandatory processes can be cynically avoided.

Consultation question 20

Q20 How should the overlap between QCAT's MCD jurisdiction and its other civil jurisdictions conferred by enabling Acts be resolved?

133. There is a strongly held view by many Members and Adjudicators that clarity and simplification is needed. With respect, I am in full agreement with the statement at Issues Paper 3, paragraph [156] which states:

The current lack of clarity about the overlap of the MCD jurisdiction with other civil jurisdictions is undesirable for both the tribunal and QCAT users and is contrary to the objects of the QCAT Act to handle matters in a way that is accessible, fair, just,

⁸⁰ *Hartigan v Quiroz-Jimenez* [2018] QCATA 95 [7].

⁸¹ *Hartigan v Quiroz-Jimenez* [2018] QCATA 95 [13].

⁸² *Subramaniam & Anor v Queensland Roofing Pty Ltd & Anor* [2019] QCAT 70 [10]-[13] (Senior Member Brown)

⁸³ I make some further comments below under consultation question 21 in respect of this issue.

economical, informal and quick. Clarity would create efficiencies and minimise unnecessary wastage of the tribunals' already stretched resources.

134. Members have expressed the view that whatever solution is landed on by Government, removing the jurisdictional barrier is important – permitting the Tribunal to continue to hear a proceeding, whether as an MCD or as a general civil dispute, is a better outcome than requiring the party to refile. This would better enable QCAT to deal with matters in accordance with its statutory objects.
135. For clarity, the suggestion above is not intended to suggest that pre-proceeding requirements for building or retail tenancy disputes in the enabling Acts should be removed. The requirement of pre-proceeding disputes in any type of case is a matter for Government. However, as noted above, there is support for an ability to waive such a requirement when it is in the interests of justice to do so. Such a discretion would need to be carefully crafted so as to guard against intentional avoidance of pre-proceeding requirements.
136. I observe that the only differences between a matter being heard as a minor civil dispute and another civil jurisdiction are the Tribunal's constitution by an Adjudicator, the expedited hearing format, and the orders that the Tribunal can make to dispose of the proceeding.
137. Adjudicators can hear matters other than minor civil disputes if the President considers that the other matter can be appropriately heard and decided by an Adjudicator. As such, an Adjudicator could be constituted to hear a civil dispute (e.g., a building dispute). The broad power in s 28 of the QCAT Act to conduct proceedings at the Tribunal's discretion (subject to the QCAT Act, an enabling Act and the rules) means that a facsimile or approximate of the expedited hearing process can, as a matter of law, be adopted in any type of proceeding, irrespective of whether it is an MCD.
138. The expedited hearing contemplated by s 94 of the QCAT Act and r 82 of the QCAT Rules is limited to Minor Civil Disputes or a matter that an enabling Act provides is to be heard in an expedited hearing. In an expedited hearing, cross-examination and re-examination of witnesses is at the discretion of the Tribunal.⁸⁴ Otherwise, r 82 does not prescribe procedures that are substantially different from the procedures which the Tribunal can, and frequently does, use in proceedings other than Minor Civil Disputes.
139. In any event, it is my view that legislative amendment is desirable to clarify the position.

⁸⁴ QCAT Act s 95(2)(c).

Clarity about the pre-claim requirements for dispute resolution

Consultation question 21

Q21 How should the pre-claim requirements for dispute resolution in the enabling Acts be clarified?

140. I address this question in response to Issues Paper 5.
141. There is support from some Members and Adjudicators for amending the enabling Acts to provide that QCAT has the power to waive pre-claim dispute resolution requirements (that is, a power to waive the jurisdictional requirement). Expressed another way, QCAT could be vested with a discretion to proceed when it is in the interests of justice to do so. As stated above, care will be needed in crafting such a discretion so that it is not open to abuse.
142. As to the statement at paragraph [162] that a power to waive “could be particularly beneficial in building disputes where the QBCC does not offer a dispute resolution service”, I observe that:
- a) It is a question of policy as to whether or not there should be a pre-proceeding dispute resolution requirement and what type or types of disputes that requirement attaches to;
 - b) If, as a matter of policy, Government decides that there must be a pre-proceeding ADR process, then obviously Government needs to resource those processes so that they can be provided. If a decision is taken not to resource those processes so that they can be provided, then there should not be a legislative requirement for it. Put another way, even if the policy preference is to require pre-proceeding ADR, if it can’t or won’t be resourced, then it should not be in the legislation;
 - c) There should be a power to waive in the event that pre-proceeding ADR can’t be undertaken due to no fault of the litigant/s.
143. I also agree with the suggestion at paragraph [163] of the Issues Paper that it would be beneficial to the Tribunal for the enabling Acts to provide more guidance to the entities providing dispute resolution services about how they should provide evidence to the parties that the requirements of dispute resolution have or have not been met. Any such legislative prescription should be clear, simple, effective and not resource-intensive. QCAT would be happy to provide feedback on any suggested legislative reform.

Consumer and trader claims

Consultation questions 22 and 23

Q22 Should the definition of 'consumer' in the QCAT Act be amended to include corporate entities, in alignment with the Australian Consumer Law?

Q23 Should the definition of 'consumer' in the QCAT Act be amended to allow claims by consumers for goods and services purchased for use in trade or business?

144. There is support from some Members to amend the definition of the term 'Minor Civil Dispute' to give the Tribunal concurrent jurisdiction with the Magistrates Court to hear and determine civil actions of not greater than the monetary limit for Minor Civil Disputes, including claims under the Australian Consumer Law (subject to limited exceptions).
145. There is support amongst some Members for amending the definition to mirror the definition in the Australian Consumer Law.

Consultation question 24

Q24 Should the definition of 'trader' be amended so that it does not limit the types of businesses which are included?

146. There is support from some Members for broadening the definition of 'trader' if the definition of minor civil dispute remains the same or similar.
147. I note the Issues Paper raises the potential exclusion of professional services to ensure that regulatory bodies deal with complaints about them. Actions against entities providing professional services can be brought in the Magistrates, District and Supreme Courts in any event. The Issues paper notes that the exclusion of professional services may go too far and prevent professional service businesses from accessing QCAT's MCD jurisdiction. It is ultimately a question of policy, but QCAT would be happy to provide feedback on any draft legislative proposal, particularly operational aspects of the same.

Consultation question 25

Q25 Should QCAT's MCD jurisdiction be expanded to include claims by traders against consumers in relation to a consumer and trader dispute?

148. There is some support from Members and Adjudicators for QCAT to have jurisdiction to hear claims by traders against consumers if the definition of minor civil dispute remains the same.

Consultation question 26

Q26 Should QCAT's MCD jurisdiction be expanded to include claims against private sellers under the prescribed limit?

149. There is support from some Members and Adjudicators to extend QCAT's jurisdiction to claims against private sellers if the definition of Minor Civil Dispute remains the same.

Consultation question 27

Q27 Should there be any limitations or safeguards?

150. QCAT would be happy to provide feedback on any suggested limitations or safeguards identified by the Review.

Consultation question 28

Q28 Should the consumer law limb of QCAT's MCD jurisdiction include claims for damages?

151. There is support by some Members and Adjudicators for QCAT's MCD jurisdiction to include claims for damages.

Consultation question 29

Q29 Should the *Fair Trading Act 1989* be amended to clarify that QCAT or the Magistrates Courts have jurisdiction to order a trader to pay a refund under the section 263 of the Australian Consumer Law?

152. Amending the *Fair Trading Act 1989* (Qld) to clarify that QCAT or the Magistrates Courts have jurisdiction to order a trader to pay a refund under section 263 of the Australian Consumer Law ("ACL") would settle conflicting authorities on this point and avoid inconsistency moving forward.

Simplifying the definition of minor civil dispute

Consultation question 30

Q30 Should the definition of 'minor civil dispute' be repealed and either:

- a) QCAT be granted jurisdiction over all civil disputes under \$25,000? If so, should this be subject to specific carve outs?
- b) QCAT's consumer and trader jurisdiction be expanded to match that of the Magistrates Courts?

153. There is support from some Members and Adjudicators that the definition of 'Minor Civil Dispute' should be repealed and replaced with a broader civil jurisdiction mirroring that of the Magistrates Court, but with certain excluded matters. However, any increase in jurisdiction and workload must be matched with an appropriate increase in resourcing. A proposal to give QCAT concurrent jurisdiction with the Magistrates Court up to the monetary limit for minor civil disputes would likely also affect the Magistrates Courts' civil jurisdiction and their resourcing requirements. Accordingly, of course, the views of the Chief Magistrate on this issue will be very important.

Procedural issues in civil disputes

Consultation question 31

Q31 Should the operation of the tribunal be changed so that the tribunal follows the same steps and processes and has the same powers no matter in which of the jurisdictions the claim is made?

154. Given that purely operational matters are outside the Review's remit, I have approached this question from the perspective of whether operational aspects of legislation should be amended so as to bring consistency in process and power irrespective of the jurisdiction in which the claim is made.
155. As a general proposition, there is obvious benefit in legislative procedural requirements being consistent across minor civil dispute jurisdictions.
156. The following table sets out some differences between current legislative procedures:

Claims for debts and liquidated demands (i.e. minor debt claim) (FORM 3)	Claims by traders and consumers (FORM 1)
Personal service required (r 38)	Ordinary service allowed (r 39)
Response required (r 43 and 45)	No response permitted (r 43)
Default judgment available (s 50)	No default judgment available (because no response permitted)
No counter-application permitted (r 48); instead, r 49 imposes an artificial 'work around' to enable certain matters which otherwise could have been brought as counter-applications to be dealt with as separate minor debt claims	Counter-applications available (r 48)
Interest claimable (s 14)	No interest claimable (s 14)

157. The QCAT Rules also differentiate between these claims by incorporating specific rules for minor debt claims (Form 3) in respect of:
 - a) electronic filing (r 26, 62 and 63);
 - b) notice of hearing (r 77);
 - c) disclosure (r 81), and
 - d) costs (r 83 and 84).
158. Moreover, in matters where a trader seeks to recover a debt from another trader or consumer, the applicant may choose to proceed by either a Form 1 or a Form 3 process. This confers a forensic advantage on that applicant, who can frame the mode of proceeding depending on matters such as the likelihood of a counter-application being available.
159. The current process under Form 1 also creates the difficulty of a lack of a response, and thus, the applicant ascertaining the respondent's defence on the day of hearing.
160. The limitation on disclosure in a minor debt claim (Form 3) means that, in practice, the applicant (and the Tribunal) may see the respondent's evidence for the first time on the

day of the hearing. It is common for respondents to attend Tribunal hearings with many documents, only some of which might be relevant to their defence, and frequently, none of which have previously been disclosed. This can lead to adjournments of hearings. The inefficiencies inherent in this, and the consequential waste of Tribunal resources, are obvious.

161. These unnecessary procedural distinctions are:
 - a) confusing for the parties;
 - b) difficult to apply for Members and Adjudicators; and
 - c) wasteful of QCAT's member and registry resources.
162. Procedural reforms are desirable to provide a single, uniform and simple pathway for minor civil dispute money claims, regardless of whether they are claims for liquidated demands or unliquidated damages. Those reforms will require:
 - a) amendment of the QCAT Act to simplify the definition of "minor civil dispute", and
 - b) amendment of the QCAT Rules to provide for a single and consistent mode of proceeding.
163. If a jurisdictional model is adopted that does not encompass claims made under statute, then consideration should be given to amending the QBCC Act and the *Retail Shop Leases Act 1994* (Qld) to clarify that claims up to the minor civil disputes monetary limit may be heard as minor civil disputes.
164. Amendment of the QCAT Rules to provide for a single, simple process should conform to the observance of the principles of natural justice. In particular, the new procedure should allow for a consistent approach to:
 - a) service of applications (whether personal is required or ordinary is sufficient);
 - b) filing and service of responses;
 - c) filing and service of counter-applications and responses to counter-applications;
 - d) disclosure;
 - e) interest, and
 - f) costs.
165. As the Reviewer will recall from his time as President, the QCAT Rules Committee is constituted by Members who, in addition to their usual workload, serve on the Committee. It is supported by a very small legal team. QCAT has never had the resources to allocate a special project team to an overhaul of the QCAT Rules. If the Review is not able to achieve an overhaul within its resources and timeframes, (which I could well understand), it is respectfully suggested that a recommendation should be made for Government to provide greater resources, including legal team support, to enable the QCAT Rules Committee to work comprehensively through the QCAT Rules with a view to identifying areas for reform and then working with a legislative drafter to achieve those reforms.

Consultation question 32

Q32 Should QCAT adopt a simplified version of the Uniform Civil Procedure Rules (UCPR), such as the simplified procedures in Part 9 of the UCPR, with provisions to ensure informality is maintained?

166. Issues with service contribute to adjournments and delays in MCD matters. There would be some benefit to a simplified version of the UCPR for MCDs, with provisions to ensure informality is maintained. Any such change would involve work in updating the website, factsheets, other educational resources, and forms, and must be accompanied by the resources to do so.

Issues with QCAT's powers for deciding MCD matters

Consultation question 33

Q33 Should QCAT have broader powers to make additional types of orders when dealing with MCD matters?

167. Adjudicators are well qualified and capable of deciding matters in an expanded MCD jurisdiction, including exercising broader powers to make additional types of orders.
168. Efficiencies could be gained if QCAT had the same powers to grant relief as the Magistrates Court, as if the proceeding had been brought in the Magistrates Court. However, QCAT should also retain the power to make an order requiring a party to the proceeding to perform work to rectify a defect in goods or services to which the claim relates.

Issues in appeal process for minor civil disputes

Consultation question 34

Q34 Should appeals from decisions of Magistrates be required to be heard by a Judicial Member? If not, who should hear such appeals?

169. This is ultimately a matter of policy. The Chief Magistrate should of course be consulted before the Reviewer recommends any change to the requirement that Judicial Members hear appeals from Magistrates sitting as QCAT Members.
170. Operationally, the Tribunal is limited by the number of Judicial Members who are available to hear appeals. The President and Deputy President are the only full-time

Judicial Members. Some sessional and supplementary Judicial Members do not hear appeals – this is largely because they are kept busy with other Judicial Member work, e.g., hearing and determining health and legal disciplinary matters, contempt matters and RTI appeals. Senior Members are well able to hear and determine appeals from decisions of Magistrates, but would require an increase in their numbers to support the work.

171. Consideration might be given to who must hear appeals from Judicial Registrars appointed under s 53 of the *Magistrates Act 1991* (Qld). While Judicial Registrars are not currently hearing minor civil disputes, s 198A of the QCAT Act provides that they are Adjudicators for minor civil disputes.
172. Section 53L of the *Magistrates Act 1991* (Qld) provides that a decision of a Judicial Registrar is taken to be a decision of a magistrate for the purposes of certain specified provisions that do not relate to QCAT minor civil disputes. Accordingly, while it appears that decisions of Judicial Registrars are, in effect, those of Adjudicators, and can be appealed as though they were Adjudicators' decisions, consideration should be given to whether there should be clarification by way of an express statement that in appeals and applications for leave to apply from decisions by Judicial Registrars on QCAT matters, the Appeal Tribunal does not have to be constituted by a Judicial Member.

Consultation question 35

Q35 Should decisions by QCATA be required to be heard by the Court of Appeal where QCATA is constituted by a decision maker who is not a District or Supreme Court judge? If not, who should hear such appeals?

173. This is a policy matter that should be considered in consultation with the President of the Court of Appeal and the head of jurisdiction for any jurisdiction that it is suggested should hear appeals from QCAT, other than the Court of Appeal.

Consultation question 36

Q36 Should an appeal be able to be struck out? If so, in what circumstances?

174. Section 47 of the QCAT Act gives the Tribunal power to strike out or dismiss an appeal, and that power has been exercised in many cases.⁸⁵ The power to dismiss or

⁸⁵ See, for example, *Cremona v Knowles* [2023] QCATA 156 (Member Lember); *Murphy v Queensland Building and Construction Commission* [2019] QCATA 175 (Senior Member Howard); *Kelly v Healey & Shearer* [2023] QCATA 146 (Member Lember); *Willi v Interprac Financial Planning* [2020] QCATA 104 (Member Gordon); *Jay v Department of Housing and Public Works (No 1)* [2024] QCATA 73 [7] (Mellifont J, President).

strike out under s 47 may not be used as frequently in the Tribunal's appellate jurisdiction because, in circumstances where leave is required to appeal, the Tribunal can refuse leave without deciding the merits of the appeal. The existing legislation appears to be adequate. QCAT would be happy to provide feedback on any proposed legislative change.

Part 4: Transfer of jurisdiction

175. As to paragraphs [231], [275], and [279], the Magistrates Court is a statutory Court and does not have inherent jurisdiction. Its general civil jurisdiction is conferred by s 4 of the *Magistrates Courts Act 1921* (Qld).

Consultation questions 37, 38 and 40

Q37 Should QCAT retain jurisdiction for minor civil disputes, including each of the following broad areas:

- a) Minor debt disputes
- b) Consumer and trader disputes
- c) Motor vehicle property damage disputes
- d) Residential tenancy disputes
- e) Dividing fence disputes, including disputes about barriers for a swimming pool along a common boundary?

Q38 If not to Q37, what forum should have jurisdiction to hear and decide each of those disputes? For example:

- a) The Magistrates Courts, or
- b) A newly established tribunal to hear these matters within the Magistrates Court?

Q40 What decision makers should hear each of these matters? For example, should Magistrates hear these matters, or Judicial Registrars, or both?

176. Ultimately, this is a matter of policy for Government, but what is clear is that QCAT has a great deal of experience in dealing with MCDs, and in doing so in a relatively quick and cost-effective manner. QCAT Adjudicators handle an enormous number of MCDs per year, and there is a high level of support amongst the Adjudicators for the jurisdiction to be retained, but retained with legislative modifications that simply the process for litigants, including removing unnecessary jurisdictional hurdles.

177. Any consideration of whether to retain the MCD jurisdiction or to transfer it elsewhere should involve a cost comparison of the additional resources that would be needed for QCAT to improve times to finalisation, including resources for triaging and working through and removing any remaining legislative impediments to efficiency in the QCAT Rules that the Review does not have time to get to, against the cost of setting up a new Tribunal (even if part of the Magistrates Court) or transferring the matters to the Magistrates Court.
178. The cost of the latter needs to take into account the significant amount of work that would need to be done by QCAT and the Magistrates Court Registry staff, Adjudicators, Members, Magistrates, Deputy Chief Magistrates and the Chief Magistrate to make this a reality, and the time frame it would take for all of this to happen. Recent experience in another area where a transfer of jurisdiction is being considered has shown that there is a lot of work and time involved, including in legislative drafting, and in the receiving jurisdiction becoming business-ready. That jurisdiction, by comparison to MCDs, is tiny.
179. If the MCD jurisdiction is retained in QCAT, and simplified by legislative amendment by removing jurisdictional and other barriers to efficiency, then the objects of the QCAT Act will be enhanced by the provision of resources for triaging and for Rules reform.
180. In this regard, if, as suggested in the response to Issues Paper 7 on Leadership and Governance, a third presidential layer is incorporated into QCAT's structure, the MCD jurisdiction is large enough to be its own division, led by a Head of Division, supported by more than one Senior Member, with an cohort of a sufficient number of Adjudicators (supported by enough Registry staff) to achieve timely, efficient and fair provision of justice services.
181. If a third presidential layer is incorporated into QCAT's structure, I would suggest four divisions:
 - a) MCDs,
 - b) Building,
 - c) Civil, Administrative and Disciplinary Division ('CAD') (not building or MCD), and
 - d) Guardianship.

If funding is only provided for three divisions, I would recommend:

- a) CAD (including MCD),
- b) Building, and
- c) Guardianship.

If funding is only provided for two divisions, I would recommend they be:

- a) CAD (including MCD's and building), and
- b) Guardianship.

182. Wherever the MCD work ends up, that is, QCAT or the Magistrates Court, obviously, more hearing/courtrooms are needed. QCAT has a shortage, and my understanding is that the Magistrates Court is getting more and more pressed in this regard.

183. QCAT would be happy to provide feedback on any specific legislative proposal.

Consultation question 39

Q39 If disputes should be heard by another tribunal, should there be changes to the jurisdiction to address the jurisdictional problems identified in Part 3? For example, should a Small Claims Tribunal be able to hear claims for unliquidated demands, detinue or conversion?

184. Yes. Any legislation drafting the transfer and establishment of jurisdiction will need to have a very keen eye to ensure that jurisdictional and other barriers to the timely, efficient and fair administration of justice are avoided.

Part 5: Other issues

Monetary limit

Consultation question 41

Q41 What should be the monetary limit for minor civil disputes, whether in QCAT or the Magistrates Courts?

185. The consumer price index has risen from 96.5 in September 2010 to 143.6 in September 2025.⁸⁶ An approximation provided to me is that the calculation \$25,000 in 2019 is about \$37,202 in current dollars.

186. The cost of rent has also risen significantly over time,⁸⁷ and QCAT frequently sees tenancy claims in which the weekly rent well exceeds \$1,000. With a six-month cap on compensation claims for breach⁸⁸ it can be seen that many tenancy claims for rent arrears and damages will exceed QCAT's current monetary jurisdictional limit.

187. Some Members and Adjudicators have expressed the view that the MCD monetary limit might appropriately be doubled to \$50,000, provided that increased resources support any expansion of jurisdiction.

⁸⁶ Australian Bureau of Statistics, <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia>

⁸⁷ <https://www.rta.qld.gov.au/forms-resources/rta-quarterly-data/median-rents-quick-finder>

⁸⁸ Section 419, *Residential Tenancies and Rooming Accommodation Act 2008* (Qld).

Legal representation

188. The data set out in these paragraphs includes applications to be represented by a person who is not a lawyer. That is, the data is not disaggregated as between applications to be represented by a lawyer and applications to be represented by another. A party seeking leave to be represented, whether by a legal representative or a non-legal representative, files a Form 8 seeking that leave. QCAT does not currently have the capacity to report on whether applications for leave to be represented are by legal or non-legal representatives.
189. Section 206(1)(b) of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) provides that if a lessor has an agent who is authorised to stand in the lessor's place in a prescribed proceeding under a regulation, the lessor or lessor's agent must give a written notice to the tenant setting out the agent's name and address for service. Section 33 of the *Residential Tenancies and Rooming Accommodation Regulation 2025* provides that any application a lessor or tenant may make to the Tribunal is a prescribed proceeding. While not unambiguous on its face, the effect is that the agent may stand in the lessor's place in prosecuting or defending an application in the Tribunal.
190. Due to this ambiguity, there are many applications for leave to be represented are by Real Estate Agents who are not legally qualified. Many are filed by individual agents employed by a real estate agency. Those applications are therefore unnecessary, as the individual non-legally qualified real estate agent has a right to appear under the QCAT rules as an employee of the agency,⁸⁹ which has a right to stand in the lessor's place in the proceeding.
191. Inserting a provision into the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) expressly providing that an agent may stand in for the lessor in any application to the Tribunal under the Act could reduce the number of applications for leave to be represented filed in this list (and, accordingly the registry and Tribunal resources required to process and decide them). I note that s 34 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* expressly provides that, without limiting s 43 of the QCAT Act, an adjoining owner may be represented by a Real Estate agent.

Consultation questions 42 and 43

Q42 Should there be a right of appeal against minor civil disputes about tiny amounts (a tiny claim)?

Q43 If no, what should be the monetary limit for a tiny claim?

192. I do not express a view on these policy questions.

⁸⁹ QCAT Rules r 54, 55.

Consultation question 44

Q44 Should QCAT (or the Magistrates Courts or related tribunal) allow for 'as of right' legal representation in MCD matters?

193. See response to Issues Paper 1, Legal Representation, paragraphs [29]-[37].
194. Amongst the Tribunal, there is support for maintaining a leave requirement for legal representation in MCD matters. Reasons for this include:
 - a) matters are listed on reasonably short notice to parties, and adjournment requests due to solicitors not being available at the scheduled hearing time or not being engaged in sufficient time to prepare are likely; all parties to the action agree; or
 - b) like courts, several matters are listed in the same time slot and can run over, meaning a short appearance (for example, 15-30 minutes) may attract several hours of legal fees, rendering the costs of legal representation disproportionate to the quantum of MCDs; and
 - c) it is not the Tribunal's experience, as suggested in Issue Paper 1 para [139], that real estate agents are familiar with QCAT processes and procedures and obtain an advantage – agencies and their Property Managers are often vastly inexperienced in QCAT matters and are not legally trained.⁹⁰
195. The general rule that parties in Minor Civil Disputes are not entitled to legal representation is also consistent with the practice in other Australian small claims jurisdictions. As noted above from paragraph [68], consideration might be given to amending the s 43 factors. Models in other states and territories might be a useful source for considering what the test should be or what factors should be included. For example, s 38(4) of the *Magistrates Court Act 1991* (SA) provides that in minor civil cases, representation of a party by a legal practitioner will not be permitted, unless:
 - a) another party to the action is a legal practitioner;
 - b) all parties to the action agree; or
 - c) the Court is of the opinion that the party would be unfairly disadvantaged if not represented by a legal practitioner.
196. These three factors, together with 'the proceeding is likely to involve complex questions of fact or law' might better capture the circumstance of the vulnerable litigant.⁹¹ See also paragraphs [32] and [33] of the response to Issues Paper One Legal and Other Representation.

⁹⁰ If there is a perceived imbalance because real estate agents can represent lessors, the equivalent might be permitting tenant advocates, such as QStars, to appear on behalf of tenants in MCDs, or, more narrowly, in urgent tenancy matters (which are largely termination matters).

⁹¹ For want of a better term.

Consultation question 45

Q45 Should appointed representatives have obligations to assist the tribunal to meet its objectives?

197. See paragraphs [39]-[46] of the response to Issues Paper 1 Legal and Other Representation.

Small businesses

Consultation question 46

Q46 Are there any ways in which the minor civil disputes jurisdiction, whether held by QCAT or transferred to the Magistrates Courts, can be improved to help small businesses?

198. Amending the definition of what constitutes a 'Minor Civil Dispute' to provide greater clarity, and amending the legislation so that there is consistency in procedure for MCD's would support litigants, including small business litigants, in the MCD jurisdiction, provided that QCAT is adequately resourced to triage, engage in alternative dispute resolution, and to hear the consequential increase in lodgements.

Other issues

Consultation question 47

Q47 Are there any other issues related to the MCD jurisdiction you would like to tell the Review about?

Digitisation: QCase and Judicial Workspace

199. Although digitisation is an operational matter outside the scope of the review, as the MCD jurisdiction was heavily impacted by digitisation in recent years I consider it important to comment, briefly, as follows.
200. This section should be read together with the response to Issues Paper 1, questions 5 and 6, electronic filing and QCase, paragraphs [85] – [105]. That response includes reference to some of the challenges faced in the digitisation process – see in particular footnote 53.
201. As noted in Issue Paper 1, paragraph 80, the MCD jurisdiction was digitised in March 2023 upon the introduction of the QCase Civil Case Management System (QCase) at QCAT Brisbane and subsequently rolled out to regional registries. For Members and Adjudicators,⁹² Judicial Workspace was then launched in June 2025 as a streamlined and more user-friendly dashboard for judicial officers to access QCase.
202. QCAT works with the Department’s Digital Services and Programs⁹³ (DSP) team, whose remit is to develop and implement solutions to ensure that QCase works effectively for all users.

Benefits of digitising

203. As further noted in paragraph 85, the move to electronic filing and digital case management was intended to increase the productivity and efficiency of QCAT by reducing reliance on paper files, and to promote the accessibility of QCAT by allowing parties to file and access documents at any time and without the need to physically travel to the registry which is particularly beneficial for those living in rural or remote communities. These benefits have been realised, resulting in considerable improvements in accessibility and the ability for self-represented litigants who have to file and serve documents out of hours, around their work hours or the running of their business, as the case may be. (It is acknowledged that these benefits do not flow to all self-represented litigants, in that some self-represented litigants are not computer literate or do not have the means to access a computer with internet.)

⁹² Including Magistrates hearing MCDs as Tribunal Members.

⁹³ Formerly, Courts and Tribunals Digitisation Programs (CTDP).

204. For decision-makers, particularly Adjudicators who go on circuit throughout SEQ, digitising MCD files means they can now receive the files electronically up to 14 days prior to the hearing and read, prepare, and triage them as necessary in advance. Defects such as want of service, or of jurisdiction could then, if time permits, be addressed pre-hearing with a view to avoiding unnecessary adjournments, although I reiterate that, as triage is not currently resourced, many MCD files cannot be managed in this way. By contrast, Adjudicators only received their paper files for a regional hearing day upon their arrival to the courthouse that day, limiting preparation time and increasing the risk of delays caused by adjournments or the need to reserve a decision.
205. Other benefits of digitising Minor Civil Dispute files include, but are not limited to:
- a) Ability to rapidly mobilise a file between hearing rooms or courthouses to accommodate hearing days or where an Adjudicator might have recused themselves, be on unplanned leave or delayed arrival at the courthouse. By simply sharing the link to the file, another Adjudicator could access, read and decide a matter on very short notice. This was not practically possible where paper files had to be scanned and sent to decision-makers.
 - b) Instant referral of files to decision-makers for triage (to the extent there is capacity to do so) or decisions on urgent applications, such as applications to stay a warrant of possession on the termination of a tenancy, again, by sharing a link.
 - c) Greater capacity for remote hearings, including for decision-makers to work from home or from one courthouse while hearing a matter listed in another courthouse.
 - d) Rapid communication between Tribunal and Registry by electronic means as opposed to paper memos.

Lessons learned

206. As noted in paragraph 86 of Issues Paper 1, there have also been difficulties with digitisation, largely due to bugs present and critical enhancements lacking in the QCase product itself when it first launched which impacted its fitness for purpose, coupled with limited to no capacity for QCAT or DSP to address them internally, and exacerbated by party behaviours (for example, uploading blank documents, or uploading one document multiple times) and user errors (for example, inputting claims at a \$0 value).
207. These deficiencies had adverse impacts across QCAT. It had adverse impacts on the Registry because manual workarounds were necessary to operate the system, and on the Adjudicators conducting hearings with volumes of duplicated material files, or, conversely, without all the material put before them and with limited or no capacity to access it. It meant that Adjudicators had to work longer hours on top of an already substantial workload. The effects were profound. For example, one very experienced and talented Adjudicator decided to relinquish her role because she found the system

untenable. For another, it is likely that the inadequacies in the system had a substantial part in his decision not to continue in his role as Adjudicator.

208. Having said that, the current state of QCase, whilst not perfect, is significantly improved from its state when first launched, as a consequence of significant work by QCAT Members and registry officers in conjunction with the DSP and the Magistrates Court to identify, resolve and implement fixes and enhancements. Once the work was able to be brought in-house within the Department, the process of improvement gained stronger momentum. Further, the Judicial Workspace interface appears to improve the user experience for Judicial Officers. Work continues on improving both products for the benefit of parties, stakeholders and all QCAT users. As I stated in the 2024-2025 Annual Report:

There is an ongoing program of digitisation of QCAT matters. QCase, which has now been in place since April 2023, has the goal of improving efficiency and access to justice. There have been significant challenges with QCase since inception. I wish to express my sincere gratitude to Ms Megan Houweling, at Reform and Support Services, Courts and Tribunal division (CAT), Department of Justice (DoJ), who has stepped in and has been working tirelessly with her team to seek to deliver necessary improvements to QCase. Her calm and unflappable manner and focus on solutions, when confronted with any challenge, big or small, demonstrates her substantial subject matter expertise and her strong commitment to helping QCAT achieve effective digitisation.⁹⁴

209. In conclusion, I repeat here my observation in response to Issues Paper 1, Electronic filing and QCase:

I am cautiously optimistic that things will be better, but I cannot emphasise enough the need for extremely rigorous user testing to ensure the product is truly fit for purpose before launch – and for the need for Government to commit to the additional provision of resources specifically for courts and tribunal digitisation. The hard-working team at DOJ and within QCAT will only be able to do so much with what they have.

⁹⁴ Queensland Civil and Administrative Tribunal, Annual Report 2024-25 (Report. 2025) 5-6.