

13 March 2026

The Honourable David Thomas
Queensland Civil and Administrative Tribunal
GPO Box 149,
Brisbane Qld 4001

By email: qcatactreview@justice.qld.gov.au

Dear Sir,

RE: STATUTORY REVIEW 2025-26 - QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL ACT 2009

The Real Estate Institute of Queensland (**REIQ**) welcomes the opportunity to provide our views on the Statutory Review of the *Queensland Civil and Administrative Tribunal Act 2009* (**QCAT Act**) as it relates to Issue Papers 8 and 9.

We acknowledge and appreciate the invitation extended to the REIQ to meet with the review team to discuss and obtain a better understanding of the objectives of the review to genuinely identify ways to alleviate pressures faced by QCAT.

In this Submission:

- **Part One** includes the REIQ's feedback in relation to Issues Paper 8 Part 3 and 4 – Retail Tenancy Disputes and General Issues; and
- **Part Two** includes the REIQ's feedback in relation to Issues Paper 9 – Justices of the Peace.

As outlined in the REIQ's submission dated 30 January 2026, almost 60% of all minor civil dispute claims lodged during 2024-25 were residential tenancy disputes. The majority of feedback we have received has been from real estate agents relating to residential and commercial tenancy disputes. Our responses to the Consultation Questions are driven by the feedback from real estate agents involved in residential tenancy disputes and retail shop leases disputes where appropriate

We would be pleased to discuss any of the matters raised further and invite you to contact Ms Katrina Beavon, General Counsel and Company Secretary of the REIQ at kbeavon@reiq.com.au.

We confirm no aspect of this Submission is confidential and we consent to its publication.

Yours Sincerely



Antonia Mercorella
Chief Executive Officer

2025-26 STATUTORY REVIEW – QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL ACT 2009

Submission to
Department of Justice – Issue Paper 8 and 9

The Real Estate Institute of Queensland (REIQ)

The REIQ is the peak body representing real estate professionals across Queensland. As the State's most trusted and influential advocate for real estate business interests and private property investor rights for more than 100 years, the REIQ remains committed to ensuring the highest levels of professionalism and good governance are achieved through regulatory compliance and the advancement of best practice standards of professional conduct.

The REIQ's enduring purpose is to lead a sustainable industry which continues to make significant contributions to the Queensland economy and to strengthen conditions for those working within the industry. Above all, the peak body aims to:

- Make important contributions to government legislation and policy settings;
- Advocate for balanced regulations for the benefit of all stakeholders;
- Provide industry-leading training for real estate professionals;
- Deliver timely, innovative and market-driven education programs;
- Promote risk management and increase professional competence;
- Implement effective and compliant professional standards; and,
- Contribute to substantial industry research and development.

Membership and customer representation includes over 30,000 property professionals. This includes principal licensees, salespeople, property managers, auctioneers, business brokers, buyers' agents, residential complex managers, and commercial and industrial agents in Queensland.

WE HELP MORE THAN OUR MEMBERS

The REIQ's vision statement, for the real estate profession, extends our support and expertise beyond our membership to the broader real estate profession and community. We believe everyone should be able to make educated, informed decisions about buying, selling or renting property and business in Queensland.

Part One: Issues Paper Issues Paper 8 Part 3 and 4 – Retail Tenancy Disputes and General Issues

Issue Paper 8 largely focuses on social housing, manufactured homes and retirement villages. In respect of these matters, the REIQ has limited insights. Nevertheless, REIQ has reviewed the Issue Paper and provides the following feedback in relation to the retail shop leases disputes. The REIQ considers that the objects detailed within section 3 of the QCAT Act remain valid and are critical to the effectiveness of the Tribunal and its processes.

REIQ has received feedback from agents and members for the consultation questions raised in Issue Paper 8 and 9 and we provide the following responses and recommendations.

CONSULTATION QUESTIONS 26 and 27

As outlined above and in our submission dated 30 January 2026, the REIQ agrees that regardless of any review, the objectives of the QCAT Act remain valid, and it is vital they continue, are upheld and enforced to ensure procedural fairness, reliability and consistency across matters heard by QCAT.

From the feedback we have received from members, we understand their experience with retail tenancy disputes in QCAT has been very limited and usually surrounds claims for rental arrears. Other members have commented that due to the nature of the leases, smaller disputes are usually resolved by their team, with more significant disputes being referred to the Magistrates Court or Supreme Court.

CONSULTATION QUESTION 28

The REIQ holds the position that QCAT should continue hearing retail lease disputes under \$25,000, with these matters being heard by the panel and legal representatives. As stated within the Issue Paper 8, disputes which arise under the *Retail Shop Leases Act* (QLD) 1994, involve complex investments and relationships between the parties and improper rulings can have serious outcomes for a party involved. It is highly advantageous to allow legal representatives to offer their expertise to parties who may be inexperienced in the legislation or the intricate workings of a retail shop lease to ensure procedural fairness. It is also vital to allow such representation to be present to allow these representatives with an opportunity to explain or speak to documents or evidence they are responsible for.

An example we submit is that of a “Mum and Dad” café operator who are in dispute with a large entity lessor. It is reasonable to assume the large entity lessor would have experienced leasing consultants and legal counsel engaged who would be able to prepare notices, evidence, submissions and so on in accordance with legislative requirements. Whereas it can be assumed the “Mum and Dad” café operator do not possess the time, skill or resources to prepare hearing documents to the same standard as the lessor, disadvantaging these operators from the outset. The REIQ considers that by allowing legal representatives within retail shop lease disputes in QCAT this will eliminate any actual or perceived imbalance between lessor and lessees.

Retaining these matters in QCAT, as opposed to being within the Magistrates Court jurisdiction, will also support in reducing the administrative expenses that both lessors and lessees incur when lodging a dispute.

CONSULTATION QUESTION 29

Notwithstanding the above comments, the review may alternatively consider there is merit in referring disputes exceeding \$25,000 to the Magistrates Court. Should this approach be adopted, the REIQ submits that this may encourage parties to engage in good-faith negotiations to reach a commercial resolution, rather than defaulting to court or tribunal proceedings.

CONSULTATION QUESTION 30

Based on information received, the REIQ considers that while alternative dispute resolution is generally effective in facilitating disputes, there remains scope to further strengthen and improve those processes.

Feedback provided to the REIQ indicates that the current QCAT process does not require parties to demonstrate they have obtained appropriate legal advice regarding the merits of their claim or defence. We would therefore support the introduction of a requirement on both parties to show that their application has been assessed by a legal practitioner as having reasonable grounds.

CONSULTATION QUESTION 31

The feedback received by the REIQ regarding mandatory mediation has been largely positive, with parties reporting that the process provides a fair hearing for both participants. Our members have also advised that, when acting as representatives, they have been able to present relevant financial documents, correspondence and file notes prepared during the dispute period to assist in their client's position.

Notwithstanding this, we have also been advised that the mediation process can at times be lengthy and frequently results in a substantive resolution. This reinforces our earlier comments and emphasises the need for claims to progress only where there is demonstrated and reasonable grounds to proceed with the claim.

CONSULTATION QUESTION 32

The REIQ prefers mediation be conducted in person to encourage robust and constructive discussions between the parties. However, remote appearances should be permitted where justified, such as in circumstances where it would be impractical or unfair for a party to attend in person.

CONSULTATION QUESTION 33

Taking into consideration the position detailed in Issue Paper 8, the REIQ agrees that removing the automatic referral for failed mediation to QCAT may alleviate some pressure placed upon QCAT, especially in the instance where the parties do not intend on lodging or progressing with QCAT proceedings.

It is our position that if QCAT removed the automatic referral this would not discontinue the dispute, instead it would simply provide the parties with other options to resolve the dispute, such as continued settlement negotiations, while still having an option to proceed with QCAT should they wish.

CONSULTATION QUESTION 35

The REIQ supports the position that QCAT should allow "as of right" legal presentation in retail shop lease disputes, this is because:

- 1) although disputes up to \$25,000.00 may be considered low monetary disputes (when taking into consideration values of rent which can be paid per annum) they may still pose a significant risk to a lessor or lessee;
- 2) the power imbalance between the lessee and lessor, such as "Mum and Dad" retail operators or small businesses and large corporations; and
- 3) the parties involved may not have the experience or expertise to fully understand the legislative requirements of the *Retail Shop Lease Act (QLD) 1994* or the resources to action proceedings against major lessors.

By allowing legal representation at QCAT for retail shop lease disputes, it would “even the playing field” and allow a small business or “Mum and Dad” operators to be fully prepared for their hearing and not be disadvantaged while trying to navigate complex legal issues. We reiterate our comments at consultation question 28 and note overall this would enhance the hearing process through proper evidence and submissions being replied upon and prompt procedural fairness for the parties.

Part Two: Issues Paper 9 – Justices of the Peace

The REIQ provides the following feedback in relation to Issues Paper 9 of the Review.

We understand the issues provided within Issue Paper 9, that the use of the QCAT Justices of the Peace were at times useful and reliable for QCAT. During their placement, the QCAT Justices of the Peace were prescribed to 5 QCAT locations, being Brisbane, Ipswich, Maroochydore, Southport and Townsville.

When appointed to the QCAT tribunal on a sessional basis, the Justices of the Peace would be appointed for a fixed term of 3 to 5 years, with one of the Justices of the Peace required to be a qualified Australian Lawyer. However, we highlight the comment at paragraph 38 which provides there was no prerequisite for the Justice of the Peace being appointed to have prior experience, notably QCAT experience.

The Justices of the Peace for QCAT, when operational, are used to hear minor civil dispute matters which covered:

- non-urgent residential tenancy disputes;
- minor debt disputes;
- consumers and trade disputes;
- dividing fence disputes; and
- motor vehicle property damage disputes,

to a maximum of \$5,000.00. On reading of the services of the QCAT Justices of the Peace, the idea in operation was practical, and the Issue Paper 9 identifies instances where this service has been beneficial in determining matters.

Despite the above, the REIQ queries whether deeper levels of experience and knowledge are required when determining certain disputes involving more complex issues and legislative matters.

Nevertheless, we note the QCAT Justices of the Peace service has been on hold since around 2021.

CONSULTATION QUESTION 1

The REIQ acknowledges the overarching purpose of the QCAT Justices of the Peace initiative was positive with the aim to support the tribunal through hearing low value and non-urgent matters. We understand however, the support resources implemented by QCAT (such as the Justice of the Peace initiative) have not been instrumental in reducing delays in the minor civil dispute jurisdiction.

In principle, the REIQ supports reinstating initiatives like the Justices of the Peace program on the basis that:

- those appointed have a background and experience in the subject matters they are appointed to hear; and
- the ability for parties to appeal any decisions to a QCAT adjudicator or member is retained.

If this program was to be reinstated, the REIQ would also like to see additional and ongoing training become a mandatory requirement for those appointed to the roles, with an obligation to meet specific continued professional development requirements. This would be similar to those required of lawyers and real estate agents.

Paragraph 73 of Issue Paper 9 provides the QCAT Justices of the Peace were entitled to receive a daily sitting fee of \$117.30, which would cover their travel and meal expenses.

As the role of a Justice of the Peace is a voluntary position, we question whether the restriction on QCATs ability to properly remunerate Justices of the Peace would limit the numbers required by QCAT to successfully reinstate this program versus the numbers that would volunteer their time.

CONSULTATION QUESTION 3

During consultation with the Review team, we discussed whether QCAT should implement an alternative dispute resolution process, similar to the process implemented at Maroochydore Court and by the Queensland Small Business Commission, for residential tenancy disputes as the first point of action.

The REIQ agrees with the comments at paragraph 136 of Issue Paper 9 that some Justices of the Peace do possess significant professional experience in areas appropriate for QCAT hearings. However, we dispute the idea that only those qualified as Justices of the Peace with such experience should be utilised.

We consider the alternative dispute resolution process for QCAT should be a revised version of the QCAT Justice of the Peaces initiative, with the eligibility to become a facilitator being extended to include experienced personnel who demonstrate a breadth of experience in the matters they facilitate. As pointed out in Issue Paper 9, an example of a facilitator may be a Property Manager who holds a minimum of 10 years industry experience in Queensland and who is well versed with the *Residential Tenancies and Rooming Accommodation Act (QLD) 2008*. Additionally, the preference may be to expand and utilise persons with alternative dispute resolution or conflict resolution training.

Evolving the Justice of the Peace initiative with alternative dispute resolution facilitators would also allow for the removal the volunteer restrictions imposed on the Justices of the Peace, allowing the facilitators to be compensated for their involvement. This would make this role accessible to people who have the experience but may not have the ability to or can afford to volunteer their time. We also consider that people who are paid for their services are more likely to reinvest in themselves and their continued education to better the services they offer. This would benefit the alternative dispute resolution service offered by having experienced, educated and consistent facilitators at QCAT.

If this alternative dispute resolution option is considered and submitted by the Review, the team may need to consider various matters on how this would be implemented in practice. Matters which may need to be assessed may include (without limitation):

- (a) how this process would work with the RTA dispute resolution service;
- (b) whether this process applied to both urgent and non-urgent applications;
- (c) next steps if a party fails to participate or the parties fail to reach a resolution; and
- (d) enforcement of any agreement and penalties for non-compliance.

Conclusion

The concerns raised in our submission dated 30 January 2026 remain and are reiterated, however as aforementioned, the REIQ is pleased with and welcomes the position of the Review team. We appreciate the ability for REIQ to provide our submissions for the QCAT review and generally for the considerations of the review.

The REIQ is hopeful that some of the solutions raised within the Issue Papers along with the positions provided within these submissions will be implemented to revamp QCAT and its processes.