

30 January 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).

We acknowledge the objectives of the review are to:

- Decide whether the objectives of the QCAT Act remain valid.
- Decide whether the QCAT Act is meeting its objectives.
- Decide whether the provisions of the QCAT Act are appropriate for meeting its objectives.
- Investigate specific issues suggested by the Minister or the QCAT President. For example, this could include checking if any part of an enabling Act impacts how effectively the tribunal operates.

We also acknowledge that 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.

In this Submission:

- **Part One** includes the REIQ's feedback in relation to Issues Paper 1 – QCAT Objects and Procedures; and
- **Part Two** includes the REIQ's feedback in relation to Issues Paper 3 – Minor Civil Disputes.

As outlined below in our response to Issues Paper 3, almost 60% of all minor civil dispute claims lodged during 2024-25 were residential tenancy disputes. Given the majority of feedback we receive from real estate agents relates to residential tenancy disputes, our responses to the Consultation Questions are driven by the feedback received from real estate agents involved in residential tenancy disputes.

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

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 1 – QCAT Objects and Procedures

The REIQ provides the following feedback in relation to Issues Paper 1 of the Review.

Section 3 of the QCAT Act includes the following objects:

- to have the tribunal deal with matters in a way that is accessible, fair, just, economical, informal and quick;
- to promote the quality and consistency of tribunal decisions;
- to enhance the quality and consistency of decisions made by decision-makers.

The REIQ considers that the objects of the QCAT Act remain valid and are critical to the effectiveness of the tribunal and its processes. However, we continue to receive feedback that lessors and agents do not consider these objects are being consistently met.

While we will expand further in responses to specific consultation questions, complaints we continue to receive include lengthy time delays in relation to both urgent and non-urgent applications (as is clear in the key data contained in Issues Paper 3), inconsistency in decision making and perceived unequal treatment of parties.

CONSULTATION QUESTION 1

As outlined above, the REIQ considers that the objects of the QCAT Act and functions of the tribunal in sections 3 and 4 of the QCAT Act remain valid.

CONSULTATION QUESTION 2

The REIQ acknowledges that the requirement under the QCAT Act and QCAT Rules, to provide reasonable assistance, is intended to ensure that QCAT deals with matters in a way that is accessible, fair and just, as required by the core objectives of the QCAT Act.

However, we maintain that the requirement to provide reasonable assistance in a residential tenancy dispute should not solely be for the benefit of a tenant. While it is reasonable to expect real estate agents to have a sound understanding of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) (**RTRA Act**), they are not solicitors and should not be expected to respond to matters that require legal training and skills.

CONSULTATION QUESTION 3

While the REIQ considers that section 35 of the QCAT Act currently provides sufficient powers to the Principal Registrar to reject or refuse applications, we do not consider that this power is being used effectively.

We receive regular feedback from real estate agents who have been served with a Form 2 Application for minor civil dispute – residential tenancy dispute (**Form 2**), where the tenant (the applicant) has not complied with the enabling act, the RTRA Act.

For example, section 415 of the RTRA Act sets out what is an urgent application to the tribunal. Any applications that are not urgent applications in accordance with section 415 of the RTRA Act are considered non-urgent applications and the applicant is required to comply with section 416 of the RTRA Act before they may apply to the tribunal.

This process is clearly outlined in Part A of the Form 2, which specifically states that:

*“If your application is classed as non-urgent according to the tables in Appendix 1, you need to make a dispute resolution request to the Residential Tenancies Authority (RTA) and receive a **Notice of Unresolved Dispute** before you can apply to QCAT. You **MUST** provide the conciliation number from your RTA **Notice of Unresolved Dispute** AND a copy of the Notice itself.”*

Despite this, our Property Management Chapter Committee has noted it is not uncommon for non-urgent applications to proceed to a hearing in the tribunal where the applicant tenant has not complied with section 416 of the RTRA Act.

In these circumstances, we consider that the power of the Principal Registrar under section 35 of the QCAT Act should be used to reject the application on the grounds that it has not complied with an enabling act, the RTRA Act.

Alternatively, we refer to the requirement under the QCAT Act and QCAT Rules to provide reasonable assistance to the applicant tenant in these circumstances to ensure compliance with the RTRA Act before the application is accepted by the Principal Registrar.

While we understand that this may be a resourcing and funding issue, we consider that the above approach to either rejecting applications that have not complied with the RTRA Act or, alternatively, providing reasonable assistance to an applicant, will ultimately assist the tribunal in reducing the delay in residential tenancy disputes being finalised.

CONSULTATION QUESTIONS 5 AND 6

The feedback REIQ has received from real estate agents regarding QCase has generally been positive, particularly regarding the ability to submit applications electronically. However, aspects of the functionality of the system continue to cause confusion and frustration amongst real estate agents.

The REIQ has been advised this is due to the following issues:

1. the section numbers available when applying as an “Agent for the Lessor” differ from the section numbers available when applying as a “Lessor”. The QCAT Form 2 sets out these section numbers available to both lessors and their agents which should be consistent across the QCase platform; and
2. the inability of the portal document view to clearly identify the initial and supporting documents uploaded to QCase.

More concerningly, if an agent has received instructions from their lessor client to lodge a claim against the bond, either in full or a partial amount, the relevant section of the RTRA Act is section 137. REIQ notes however, this section is omitted in QCase, and we understand agents have been instructed to process this application pursuant to section 136B.

The ability to claim for the bond under section 136B requires the agent to identify as an interested party, notwithstanding the fact an agent is not an interested party to the bond. We consider this is the incorrect given an interested party (insofar it relates to the bond) is the tenant and lessor.

We consider that QCase can be improved by:

1. the introduction of a numbered index identifying the document categories which would improve and simplify document referencing during hearings;
2. including an ability to claim the bond under section 137 of the RTRA Act, allowing agents to submit this request in their own capacity on behalf of their lessor client, the interested party; and
3. ensuring that in all circumstances an agent using QCase is able to select the same sections of the RTRA Act for the orders sought that are available to their lessor client. In this regard, Appendix 1 of the Form 2 provides a table of orders under the RTRA Act split into urgent and non-urgent applicants, which should also be used when applications are being filed using QCase.

The process via QCase to tick the box in Appendix 1 for each order being sought, could also provide an additional requirement for non-urgent applications to ensure that a copy of the Notice of Unresolved Dispute is uploaded to QCase

when the application is being filed in order to assist the Principal Registrar to determine whether to accept or reject the application.

In addition to the above, we have also received feedback from real estate agents that QCase is difficult to use when uploading further documents once the application has been filed. In particular, the correct names are unable to be given to documents when they are being uploaded.

While we again understand that this may be related to a resourcing and funding issue, there is an opportunity for the online process via QCase and the approved forms to be updated and amended. This would ensure that when an application arrives to be heard in the tribunal, the relevant sections of the RTRA Act and orders being sought have been clearly outlined, the issues have been defined and the required evidence has been provided to assist the tribunal in achieving its objectives under the QCAT Act.

One of the biggest issues agents face when dealing with residential tenancy disputes lodged in the tribunal by a tenant is the time and money wasted in responding to applications that are invalid. This may be due to the following:

- the applications have not been brought against the correct party,
- Reliance on incorrect sections of the RTRA Act for the orders they are seeking and/or
- Failure to comply with the requirements of the RTRA Act.

While not necessarily within the direct scope of the Review, one possible solution to the issues agents encounter in QCAT could be amending the Form 2 - Application for minor civil dispute – *residential tenancy dispute* and the associated guide to assist with completing the form.

We consider that the majority of issues agents encounter could be addressed by the Principal Registrar rejecting applications that have not complied with the RTRA Act or, alternatively, providing reasonable assistance to a tenant when filing a residential tenancy dispute application.

In the table below, we set out the possible amendments the current Form 2 that may provide some assistance in this regard:

Issue	Possible solution
Agent for lessor or provider	If this box is ticked (or selected via QCase) for either the applicant or respondent, then the registry should ensure that the details listed on this system reflect the fact that the agent is representing the lessor. For example, if the respondent was “agent for lessor or provider”, QCAT documents should clearly state “XYZ Pty Ltd” as agent for lessor or provider. In addition, some form of proof, either a General Tenancy Agreement or PO Form 6, should be required to be filed with the application if the applicant or respondent has ticked the box “agent for lessor or provider”. By making the simple amendments outlined above, we consider that a considerable amount of time and expense will be saved for all involved as the correct parties will be identified at the start of the matter, rather than on the day of the hearing, which is often the case now.

Notice of Unresolved Dispute	As outlined above, section 416 of the RTRA Act is often not complied with before a tenant files a residential tenancy dispute application in the tribunal. We are aware that agents have relied upon section 416 of the RTRA Act on a number of occasions to dismiss an application where the tenant has not gone through the dispute resolution process. Agents commonly encounter applications where tenants are seeking a particular remedy under the RTRA Act (e.g. refund of rental bond) but then add on a number of other issues (e.g. unspecified claims for compensation). Again, the simple solution to this issue is to ensure that the correct documentation is being filed in the registry or via QCase along with the application. The RTA Form 16 – Dispute resolution request requires the party filing the request to list what the dispute is about. An applicant filing a non-urgent application should be required to file the Form 16 along with the Notice of Unresolved Dispute. The Principal Registrar will then be able to consider whether the orders sought by the applicant as set out in Part E of the Form 2 are for matters which have already been through the RTA dispute resolution process. If they have not, then the Principal Registrar should exercise their power to advise the applicant that the tribunal can only accept an application to determine issues which have previously been through the RTA dispute resolution process. Using the example outlined above, if the dispute resolution process through the RTA only dealt with the refund of the rental bond, the Principal Registrar should refuse to accept the application in relation to any additional orders sought by the applicant (e.g. unspecified claims for compensation). We discuss this further in response to Issues Paper 3 regarding alternative dispute resolution. Again, we consider that a considerable amount of time and expense will be saved for all parties as the correct issues to be determined will be identified at the start of the matter, rather than on the day of the hearing, which often leads to the matter being adjourned and significant delays.
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Part E – Order and Reasons	We consider that this part of the Form 2 requires the most work in order to make it more user-friendly. One possible solution would be to break this section down to require the applicant to list each individual claim and which section of the RTRA Act applies (see Appendix 1), detail why they believe they are entitled to the order being sought, list the amount of damages and/or other remedy they are seeking and provide documents in support. It may also be useful to provide applicants with actual examples of completed claims for different matters. We consider that this amendment will also result in the issues to be determined being identified at the outset.
Guide and checklist	Depending upon whether any of the above suggestions are implemented, the guide to completing the Form 2, as well as the checklist, should be updated accordingly.

The reasonable assistance to provide a tenant when filing a residential tenancy dispute application already exists in the form of Practice Direction 4 of 2023: Applications for Residential Tenancies Disputes.

We consider that providing this information to tenants prior to filing their application, either in a registry or via QCase, will save a considerable amount of time and expense for all parties as the correct issues to be determined will be identified at the start of the matter, rather than on the day of the hearing.

We also note from the QCAT Annual Report 2024-25 that two new Senior Client Services Officers will act as jurisdictional subject matter experts (SMEs) and be the first point of contact for QCAT users, aimed at improving the experience of QCAT users.

CONSULTATION QUESTIONS 7 – 10

In relation to residential tenancy disputes, which almost always involve a factual dispute, we consider that it will be necessary for those matters to continue to be determined by conducting an in-person hearing or by using remote conferencing.

Factors to be taken into consideration as to whether remote conferencing may be beneficial will no doubt include the location of the parties, the ability for all parties and the tribunal to easily access evidence filed in the matter, and the availability of any witnesses to provide evidence in the matter.

There should not be a default hearing method and consideration should be given to each matter to determine which hearing method would best assist the tribunal in achieving its objectives under the QCAT Act.

Agents who have experienced remote conferencing have provided feedback stating that the hearings went well and remote conferencing is certainly improved by QCase where all parties and the tribunal have access to the documents being referred to. Where remote conferencing has taken place by phone hearing only, the feedback has been that it can be

difficult to know who is speaking at any given time and who is in the room at the time of the hearing.

Given the figures contained in Issues Paper 3 regarding the time for finalisation of residential tenancy disputes during 2024/2025, it is unclear whether remote conferencing has allowed matters to be resolved faster.

CONSULTATION QUESTIONS 11 – 14

The REIQ has received feedback from agents who have experienced problems with service under the current arrangements. In particular, the feedback has highlighted the inconsistency that agents experience with service of originating process documents.

In some instances, agents will be served by tenants who have filed a Form 2, while on other occasions agents have been served with a Form 2 by the registry along with a Notice of Hearing.

In addition to the above, agents do not always receive a notification when documents are uploaded to QCase during a matter and have to login to check QCase and see whether any further documents have been uploaded. Further, the Practice Direction No. 4 of 2023: Applications for Residential Tenancy Disputes (**Practice Direction No. 4**) states that any documents not included with the application must be provided to the agent at least five (5) business days prior to the hearing. Some agents have reported to the REIQ that tenants continue to add evidence to the portal until the day of the hearing, this places the agent at a disadvantage on the basis they are unable to complete a fulsome review and/or response to the evidence uploaded.

While the REIQ does not have a specific preference as to how originating process documents and other documents should be served, we strongly consider that a consistent approach is adopted for residential tenancy disputes.

In this regard, we consider that all parties involved in residential tenancy disputes may benefit from an update to QCAT Practice Direction No. 4 to clearly set out the process for service of originating process documents as well as all other documents filed during a matter. The REIQ also proposes that QCAT consider implementing a process within the QCase portal which will restrict the parties from uploading additional documents within five (5) business days of the hearing date to align with the Practice Direction No. 4.

Further, in circumstances where a tenant rarely provides a forwarding address after the end of a residential tenancy agreement, we consider that a tenant should be required (or at minimum, encouraged) to provide an email address for service.

CONSULTATION QUESTIONS 15 – 18

The REIQ does not consider that it is necessary to change the current position under the QCAT Act that parties represent themselves unless the interests of justice require otherwise. The current process of allowing a party to apply for the tribunal's leave to be represented remains appropriate.

As stated in relation to residential tenancy disputes, the current framework is to ensure equality between disputing parties and minimise costs.

The REIQ does not agree with the proposition in the Issues Paper that the current framework for residential tenancy disputes can result in unfairness where one party has legal training or is familiar with QCAT requirements and processes (such as a real estate agent representing a property owner) and the opposing party (such as a tenant) has no experience with QCAT and is required to represent themselves.

While real estate agents navigate the legislative framework of the RTRA Act on a daily basis, this does not mean that they are familiar with QCAT requirements and processes. While many real estate agents opt to undergo training and professional development to further understand the QCAT requirements and processes, there is a wide range of

information available on the QCAT website (including QCAT Practice Direction No. 4 of 2023: Applications for Residential Tenancy Disputes) for a tenant to familiarise themselves with QCAT requirements and processes.

The REIQ agrees that some residential tenancy disputes can also involve considerable legal and factual complexity and it can be challenging for self-represented individuals, for tenants, lessors and real estate agents, to accurately understand and define the issues.

As outlined below in our feedback responding to Issues Paper 3, we consider that formal case management and triaging of residential tenancy disputes will operate to assist self-represented parties to understand the requirements and processes of the tribunal.

The REIQ opposes QCAT having the power to appoint a representative for an unrepresented party at no cost to that person, in a residential tenancy dispute, as it will create inequality between disputing parties.

If the current process remains of allowing a party to apply for the tribunal's leave to be represented, parties should be notified of the application when it is served on them and they will subsequently be involved in the application process and become aware of any order made for a party to be represented. In this regard, we refer to our comments above regarding service of originating process documents.

As stated in Issues Paper 1, legal representatives, as officers of the court, have a paramount duty to the court to ensure the lawful, proper and efficient administration of justice. If leave is granted for a party to be represented by someone that is not a legal representative, we consider that it would be beneficial for the non-legal representative to have obligations to assist the tribunal to meet its objectives.

CONSULTATION QUESTION 19

The REIQ considers that QCAT should adopt the same approach as Queensland Courts and allow legal practitioners to represent persons unless and until their practising certificate is suspended, cancelled or revoked, or they are struck off.

The REIQ considers that in the instance QCAT adopt the same approach as the Queensland Courts to allow legal practitioners, holding a valid practising certificate, to represent tenants, real estate agents or lessors in QCAT proceedings, it should:

- be utilised for disputes which involve considerable legal and factual complexity; and
- both parties to the dispute should have legal representation to avoid any inequality between the disputing parties.

CONSULTATION QUESTION 20

The REIQ does not agree that applications for leave to be represented should be decided by the Principal Registrar or a delegate of the Principal Registrar, as well as the tribunal. Even if both parties have confirmed in writing that they agree for each other to be granted leave to be represented, it will still be necessary for the tribunal to consider the facts of the matter in order to determine whether the interests of justice require the parties to be granted representation.

CONSULTATION QUESTION 21

The REIQ considers that it is not necessary to revise the current position in relation to awarding costs in QCAT and sufficient scope exists under section 102 of the QCAT Act to require a party to pay costs if it is in the interests of justice to do so.

CONSULTATION QUESTION 24

The REIQ considers that it is not necessary to make any changes to the way QCAT orders can be enforced.

CONSULTATION QUESTIONS 25 AND 26

The REIQ's views in relation to further operational and procedural issues are set out below in our response to Issues Paper 3 regarding residential tenancy disputes.

From the feedback we have received from real estate agents, particularly regarding lengthy time delays and inconsistency in decision making, agents have not noticed an improvement in QCAT services in the last 12 months as a result of additional funding from the Queensland Government.

Part Two: Issues Paper 3 – Minor Civil Disputes

The REIQ provides the following feedback in relation to Issues Paper 3 of the Review.

We consider that it is necessary to include the following key data from Issues Paper 3:

- In 2024–25, the number of minor civil dispute claims lodged with QCAT was **17,675**;
- Of the total number of minor civil dispute claims lodged, **10,460** (almost **60%**) were tenancy disputes;
- Of the total number of tenancy disputes lodged, **6,116** were urgent applications and **4,344** were non-urgent applications;
- In 2024–25, the number of minor civil dispute claims finalised was **16,543**;
- Of the total number of minor civil dispute claims finalised, **10,750** (almost **65%**) were tenancy disputes;
- Of the total number of tenancy disputes finalised, **6,213** were urgent applications and **4,537** were non-urgent applications;
- The number of matters heard by QCAT in 2024-25 was 24,054, an increase of 1,278 from 2023-24;
- Despite QCAT finalising 10,750 tenancy disputes in 2024-25, only **153** decisions were appealed.

What is not contained in the data from Issues Paper 3 but is outlined in the QCAT Annual Report 2024-25 is that while there was a 9% decrease in urgent applications filed in Brisbane in 2024-25, there was a 33% increase in urgent applications filed in Magistrates Courts (those matters dealt with by courthouses across the state).

Further, while there was a 52% decrease in non-urgent applications filed in Brisbane in 2024-25, there was an 84% increase in non-urgent applications filed in Magistrates Courts.

The QCAT Annual Report 2024-25 notes that the increase in lodgements in areas outside of Brisbane can be explained by a change in access in the QCase portal, which allows users to select the closest registry in proximity to their residential location.

Overall, the number of urgent applications filed increased by 18%, but the number of non-urgent applications filed decreased by 5%.

While the decrease in residential tenancy disputes filed in Brisbane in 2024-25 resulted in an increase in clearance rates (26% increase for urgent applications and 79% increase for non-urgent applications), the increase in residential tenancy disputes filed in Magistrates Courts resulted in a decrease in clearance rates (2% decrease for urgent applications and 6% decrease for non-urgent applications).

The most concerning data from Issues Paper 3, is the significant increase in the length of time for a claim to be fully resolved.

In 2023-24, the average number of weeks for an urgent residential tenancy dispute to be fully resolved was 7.2 weeks. In 2024-25, this increased significantly to **31.9 weeks**.

In 2023-24, the average number of weeks for a non-urgent residential tenancy dispute to be fully resolved was 13.9 weeks. In 2024-25, this increased significantly to **44.3 weeks**.

In one year, the average number of weeks to finalise an urgent residential tenancy matter more than tripled and the length of time to finalise a non-urgent residential matter approximately doubled.

As stated at paragraph 81 of Issues Paper 3, and as identified above, these significant delays undermine QCAT's core objective to handle matters in a way that is accessible, fair, just, economical, informal and quick.

CONSULTATION QUESTIONS 1 – 3

It is clear from the data outlined above from Issues Paper 3 and the QCAT Annual Report 2024-25, the new resources have not helped to reduce delay in the MCD jurisdiction.

We do, however, note that the QCAT Annual Report 2024-25 states that in February 2025, as a result of increased funding, and internally driven initiatives, QCAT increased its number of hearings with a view to reducing hearing wait times. There has been an overall decrease in hearing wait times in Brisbane as a direct result of this, including wait times for civil hearings, which has historically been the most challenging area in terms of backlogs and long wait times, have begun to plateau. Initiatives currently in the pipeline in respect of civil hearings should see those wait times start to steadily decrease over the next 12 to 18 months from the date of this report.

While the REIQ is happy to hear this, we consider that further reforms may still be warranted to ensure that the underlying cause of delay for the resolution of residential tenancy disputes can be resolved over the long term.

Unfortunately, the QCAT Annual Report 2024-25 does not provide any further information or commentary regarding what may have caused the significant increase in delay.

As stated above, we continue to receive complaints from agents and lessors regarding lengthy time delays in relation to both urgent and non-urgent residential tenancy dispute applications. Examples of reported delays include:

1. tenants being unable to attend a hearing date due to other commitments (such as work);
2. tenants being provided with additional time to rectify rental arrears prior to issuing termination orders;

QCAT requiring experts to be appointed to investigate and provide expert reports on the topics of dispute and subsequent further delays due to wait times for said reports.

It is our experience that the vast majority of residential tenancy disputes arise from rent default issues or bond dispute issues regarding reimbursement for the costs incurred by a lessor to restore a rental property to meet the requirements of the RTRA Act . Consequently, in the case of a residential tenancy dispute, lengthy waiting periods cause considerable financial and emotional stress for lessors who commonly have financial obligations to meet in relation to their investment property while they are awaiting the resolution of a dispute.

In many cases where a lessor brings an application in connection with a rental payment default, that default will continue from the date of the application lodgement until the hearing. This results in the lessor having to meet their financial obligations relating to their investment property despite the lack of rental payment. It also results in the accumulation of the tenant's rent debt resulting, in many cases, in large sums of money being owed to the lessor and the end of the process. This increases the lessor's risk of not recovering the monies owed and imposes financial stress on the lessor during the course of the QCAT process.

Notably, and perhaps one of the main reasons why residential tenancy disputes are delayed in achieving full resolution is that they are not always finalised at the initial hearing. In a number of cases, the hearing will be adjourned adding to the delay faced by the parties.

Adjournments can occur for a number of reasons. In the case of residential tenancy disputes, we understand that adjournments are regularly made on account of tenant unpreparedness. In such cases, the matter will often be adjourned to allow the tenant additional time to undertake some activity. An example of this relates to a QCAT matter heard in December 2025 for warrant of possession for rent arrears. REIQ has been advised QCAT elected to delay the warrant of possession to a date in mid-January 2026. This was on the basis it would provide the tenant with an opportunity to 'catch up' on their rental arrears prior to the warrant of possession coming into force.

Unfortunately, this has led to a widespread perception amongst lessors and the property management industry that tenants, particularly those who are socially and economically disadvantaged, receive preferential treatment in the tribunal.

While the REIQ appreciates that some tenants are in disadvantaged situations, parties should be treated equally and fairly to ensure the objects of the QCAT Act are being achieved. In circumstances where a lessor is suffering financial detriment and a real estate business is devoting costly human resources to a matter, all parties should be required to adhere to the same process.

While we have raised some possible ways to reduce delays in our response to Issues Paper 1, we also refer to our further comments below regarding alternative dispute resolution and case management/triaging of residential tenancy disputes. These recommendations could further assist in reducing the significant delay in the finalisation of residential tenancy disputes.

We note the QCAT Annual Report 2024-25 states that there are initiatives in the pipeline in respect of civil hearings that should see the wait times start to steadily decrease over the next 12 to 18 months from the date of the report.

CONSULTATION QUESTIONS 5 – 7

With the introduction and increased use of QCase, we consider that hearing matters online, where appropriate, remains an effective way to improve accessibility.

CONSULTATION QUESTIONS 8 – 10

The REIQ agrees with the comment at paragraph 95 of Issues Paper 3 that there has been a significant reduction in the use of alternative dispute resolution in resolving minor civil disputes, in particular, residential tenancy disputes, and this has also contributed to increased delay.

In considering our views regarding an approach to alternative dispute resolution, it is important to highlight the difference between urgent and non-urgent residential tenancy disputes in the RTRA Act.

Urgent

As outlined above, section 415 of the RTRA Act sets out what is an urgent application to the tribunal. The most common urgent application by a real estate agent or lessor is seeking a termination order for failure to leave. The vast majority of these urgent applications arise from rent default issues and, as stated above, lengthy waiting periods for the resolution of these applications cause considerable financial and emotional stress for lessors who commonly have financial obligations to meet in relation to their investment property while they are awaiting the resolution of a dispute.

While there may be instances where the agent and the tenant have utilised the dispute resolution service provided by the Residential Tenancies Authority (RTA) before the application is lodged in the tribunal, if the agent has complied with the process set out in the RTRA Act and filed the application seeking a termination order, it is unlikely that alternative dispute resolution will assist the parties in resolving the dispute.

In this situation, improved case management/triaging of the dispute (as discussed further below), will result in the necessary documents being on file when the application is scheduled to be heard in the tribunal. This will hopefully, in turn, allow the tribunal to resolve the dispute at the initial hearing without needing to adjourn the matter.

Non-urgent

Any applications that are not urgent applications in accordance with section 415 of the RTRA Act are considered non-urgent applications and the applicant is required to comply with section 416 of the RTRA Act before they may apply to the tribunal.

Section 416 of the RTRA Act provides that the lessor or tenant under a residential tenancy agreement, or provider or resident under a rooming accommodation agreement, may apply under the RTRA Act to the tribunal about an issue only if the applicant has first made a dispute resolution request about the issue and:

- (a) the conciliation process has ended without a conciliated resolution having been reached, because—
 - i. the RTA refuses to provide a conciliation service about the issue; or
 - ii. a party refuses to participate, or continue to participate, in the conciliation process; or
 - iii. the parties participate in the conciliation process but do not reach an agreement on resolving the dispute; or
- (b) a conciliated resolution is reached but the applicant reasonably believes the other party has breached the conciliation agreement.

The RTA website provides the following additional information regarding its dispute resolution services:

Matters suitable for dispute resolution

Not all matters are suitable for RTA dispute resolution.

The RTA facilitates disputes between property managers/owners and tenants/residents regarding:

- bond refunds
- claims for compensation greater than the bond amount when the bond is still held by the RTA
- tenancy disputes.

The RTA is unable to facilitate disputes:

- between tenants/residents and neighbours (these are managed by QCAT)
- between property managers and property owners (these are managed by the Office of Fair Trading)
- between co-tenants (apart from bond disputes)
- where one or both parties are:
 - unwilling to negotiate
 - unwilling to participate in conciliation
 - wish to proceed directly to QCAT
- where the RTA has been unable to contact one or both parties to initiate the dispute resolution process
- where there are issues or factors likely to impact on a fair and equitable outcome for everyone involved, or prevent someone from engaging in the process because they:
 - are unable to negotiate because of physical, intellectual or psychological incapacity
 - lack the skills or information to negotiate, or
 - do not have a suitable support person or advocate available
- where the bond refund has already been paid out
- where the claim is greater than the bond amount held by the RTA
- where the claim is for more than \$25,000 (these must be determined by the court with the appropriate monetary jurisdiction, not QCAT)
- where an urgent application needs to proceed directly to QCAT without conciliation through the RTA's dispute resolution service
- where the dispute involves a legal matter that needs to be determined by QCAT or a court
- where there are other current legal proceedings relating to the tenancy (for example, a criminal or a civil matter such as a personal injury claim)
- for relatively minor or trivial matters, and parties are unwilling to participate
- for the provision of a food service or personal care service to a resident in rooming accommodation

We also **attach** a copy of the RTA Dispute Resolution process flow chart at the end of our submission.

It is important to note that section 416 of the RTRA Act can be complied with, and a non-urgent application filed in the tribunal, without the parties participating in any form of conciliation or ADR process.

We are aware of non-urgent disputes that proceed to an initial hearing only to be adjourned to allow the parties to engage in discussions to see whether they are able to resolve the dispute. When this occurs, and the parties are not able to resolve the dispute, it often leads to further delay with the hearing rescheduled to a later date.

The most common issue agents encounter with non-urgent applications filed in the tribunal by a tenant is where the tenant is seeking compensation for breach of the residential tenancy agreement (sections 419 and 420 of the RTRA Act), but the tenant is unable to, or fails to, provide any details of the alleged breach of the tenancy agreement or the compensation they are seeking, including how they have calculated their alleged loss.

While the tenant may have lodged a Form 16 Dispute Resolution Request, if there was no dispute regarding the rental bond, the RTA would consider the dispute unsuitable for conciliation and issue a Notice of unresolved dispute without the parties participating in any form of conciliation or ADR process.

We regularly receive feedback from agents involved in these compensation claims who express their frustration at preparing for a hearing at the tribunal only for the time allocated for the hearing to be taken up by the tenant outlining the basis for their claim and the amount of compensation sought. The matter is subsequently adjourned and directions provided for further evidence and/or submissions to be provided by the tenant and the agent, increasing the delay in the resolution of the matter.

While we address the benefit of case management/triaging further below, a robust alternative dispute resolution process remains necessary for residential tenancy disputes involving claims for compensation.

In this regard, we repeat the views of the Independent Panel of Experts established to advise on the creation of QCAT, regarding the recommendation that alternative dispute resolution should be an essential element in QCAT. As it represents a quick and efficient means of resolving disputes early in the process, the Panel noted that unless QCAT is able to maintain or improve the rate of resolution of matters currently achieved by the tribunals to be amalgamated, the efficiency and cost effectiveness of QCAT will be seriously compromised.

Notwithstanding this, QCAT Practice Direction No 4 of 2011: Arrangements for the mediation and determination of minor civil disputes, 31 January 2017, provides that unless otherwise ordered by the tribunal, residential tenancy disputes will be listed for hearing without first being referred for mediation by the tribunal.

The REIQ considers that it is clear from the significant increase in delays that further consideration needs to be given to the role alternative dispute resolution can play in residential tenancy disputes, in combination with case management/triaging and the possible ways to reduce delays outlined in our response to Issues Paper 1.

CONSULTATION QUESTIONS 11 AND 12

The REIQ agrees with the comments in Issues Paper 3 that formal case management and triaging could help identify problems at an earlier stage, reduce delays and increase party satisfaction. This has already been outlined, in part, in our response to Issues Paper 1.

In considering our views regarding an approach to formal case management and triaging, it is important, once again, to highlight the difference between urgent and non-urgent residential tenancy disputes in the RTRA Act.

Urgent

As outlined above, the most common urgent application by a real estate agent or lessor is seeking a termination order for failure to leave. Using the example of a rent default by a tenant, the process to follow in order for an agent on behalf of a lessor to apply to the tribunal is set out in the RTRA Act. The agent must first issue the tenant with a Notice to Remedy Breach and, if the breach has not been remedied, the agent must then issue the tenant with a Notice to Leave. Each of these steps has specific timeframes for action to be taken in accordance with the RTRA Act.

Improved case management and triaging in this situation may simply be to ensure that a copy of the correct notices have been provided when the Form 2 is lodged in the tribunal. This will allow review of the notices to ensure the correct timeframes under the RTRA Act have been complied with before the hearing. If, for example, the agent has not complied with the relevant timeframes under the RTRA Act, it will allow the matter to potentially be resolved on the papers at an early stage rather than waiting up to possibly 31 weeks for the hearing, only for the application to then be dismissed and the process potentially commenced again.

Non-urgent

As outlined above, the most common issue agents encounter with non-urgent applications filed in the tribunal by a tenant is where the tenant is seeking compensation for breach of the residential tenancy agreement (sections 419 and 420 of the RTRA Act), but the tenant is unable to, or fails to, provide any details of the alleged breach of the tenancy agreement or the compensation they are seeking, including how they have calculated their alleged loss.

In this situation, agents will often have to prepare for multiple scenarios playing out during the hearing once the tenant, often with assistance from the tribunal, is able to outline what they are actually seeking.

We consider that it is this type of claim that will be greatly improved by case management and triaging prior to hearing. In this regard, where a tenant is unable to, or fails to, provide any details of the alleged breach of the tenancy agreement or the compensation they are seeking, including how they have calculated their alleged loss, a directions hearing may be appropriate to assist in outlining the fundamental aspects of the claim. Alternatively, a directions notice could be provided to the parties outlining the steps to be taken to ensure that the relevant issues have been defined and the required evidence has been provided.

Once this has occurred, and as discussed above, we consider that matters where the parties have not participated in any form of conciliation or ADR process via the RTA, should be referred to alternative dispute resolution (compulsory conference, conciliation or mediation).

As identified in Issues Paper 3, an aspect of the procedures followed by the Small Business Commissioner is that cases are triaged even before they are referred to mediation. The Review has been told that this is successful.

If alternative dispute resolution is unsuccessful in resolving the matter, we consider that improved case management and triaging of the dispute, will subsequently allow the tribunal to resolve the dispute at the initial hearing without needing to adjourn the matter.

We consider that triaging and case management can be undertaken by both registry staff and experienced decision makers who are familiar with the jurisdiction.

In addition to the new SMEs, the QCAT Annual Report 2024-25 also provides that the Civil, Administrative and Disciplinary (CAD) division restricted into five teams responsible for discrete jurisdictions in November 2024. As part of the new model, the tribunal and registry have worked together to develop new training guides to enhance the knowledge of registry staff. The model develops subject matter expertise in registry staff within jurisdictions allocated to their team and supports faster resolution of matters and improved service to QCAT users.

With the registry and the tribunal working as a team towards the collaborative management of files and referring matters to the tribunal for action (e.g. directions hearing or alternative dispute resolution), we consider that there will be clear improvement in the service provided in relation to residential tenancy disputes.

Given that almost 60% of all minor civil disputes lodged in the tribunal during 2024-25 were residential tenancy disputes, this is clearly an area where ongoing focus and resources will continue to improve the outcomes for all parties involved.

CONSULTATION QUESTION 24

The REIQ does not consider that any changes are necessary to the definition of 'trader'.

CONSULTATION QUESTION 30

The REIQ does not consider that any changes are necessary to the definition of ‘minor civil dispute’.

CONSULTATION QUESTIONS 31 AND 32

The REIQ considers that the operation of the tribunal should not 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.

In relation to residential tenancy disputes, the REIQ considers that suggested changes outlined above will assist the tribunal in achieving its objectives, in particular, dealing with matters in a way that is accessible, fair, just, economical, informal and quick.

If a simplified version of the *Uniform Civil Procedure Rules* (UCPR) were to be considered, any simplified process would need to remain mindful of additional procedural burden placed on parties to residential tenancy disputes and the objects of QCAT Act.

CONSULTATION QUESTION 34

The REIQ considers that appeals from decisions of Magistrates should continue to be decided by a judicial member.

CONSULTATION QUESTION 36

The REIQ is also aware that appeal applications for residential tenancy disputes often do not state the error of fact or law in the original decision and the appellant may use the appeal proceeding simply hoping to achieve a different outcome.

Notwithstanding this, we consider that the current process requiring leave to appeal sufficient and we do not consider that it is necessary for an appeal in a residential tenancy dispute to be struck out.

CONSULTATION QUESTIONS 37 – 40

The REIQ considers that QCAT should retain jurisdiction for residential tenancy disputes.

CONSULTATION QUESTION 41

The REIQ notes the monetary limit of \$25,000 for residential tenancy disputes (minor civil disputes) has been in place since 2010.

Over this period, we have seen an increase in median rent costs across local government areas, as well as a surge in building and supply costs across the country. Considering these factors alone, the REIQ is of the position the general increase of these costs could impact the overall value of the minor civil dispute being claimed.

In this circumstance, and factoring in the monetary limits imposed by QCAT for other types of disputes, the REIQ considers an increase of the monetary limit for minor civil disputes to \$50,000 would be more appropriate for residential tenancy disputes.

CONSULTATION QUESTIONS 44 AND 45

This has been addressed above in response to Issues Paper 1.

CONSULTATION QUESTION 47

The remaining issue that we wish to address that spans across both Issues Papers 1 and 3 is the quality and consistency of tribunal decisions.

In this regard, we refer to paragraph 71 of Issues Paper 3 and the comment from the Independent Panel of Experts established to advise on the creation of QCAT that the requirement to give written reasons for decisions and the ability to appeal decisions would improve the quality of decision making in relation to minor civil disputes, in particular residential tenancy disputes.

As stated above, we continue to receive complaints from real estate agents regarding the inconsistency of tribunal decisions. This creates a level of fear and frustration among real estate agents who find it difficult to:

- prepare for a hearing in QCAT;
- review published decisions to consider the possible outcome of a matter;
- speak to their lessor clients about the possible outcome of a matter; and
- trust the decisions and directions of QCAT as experience shows a failure to align with the objectives of the RTRA Act

For example, the REIQ has been advised that on multiple occasions when an agent has applied for a termination notice under section 299 RTRA Act, QCAT has not understood the purpose of this section and have disregarded the multiple breaches of the tenant. As a result, QCAT have ruled in the favour of the tenant and not granted the termination notice.

We have also been advised that QCAT have incorrectly applied section 362 of the RTRA Act when it applies to the duty to mitigate loss or expenses of a party. To that end, the REIQ has received feedback that QCAT are allowing tenants to re-enter and/or reattempt the bond clean on their tenancy after the agent has completed the exit inspection.

In one reported case, an agent advised QCAT at three (3) separate hearings that as the tenant was no longer a party to the lease, the lessor's insurance would not cover the tenant to conduct the clean. Notwithstanding this, QCAT ruled in the tenant's favour, sighting the duty to mitigate loss or expense of the tenant prior to making an order. These decisions were handed down on two (2) occasions in Southport and one (1) occasion in Brisbane. We are happy to provide more detailed information if required.

Due to the above, real estate agents report that they discourage lessors from utilising QCAT to resolve a dispute. Consequently, lessors often choose to 'walk away' from a dispute notwithstanding a valid claim and potential right to redress against the tenant. In some cases, lessors agree to resolve a dispute on less favourable terms than they are entitled to because of the time delay and uncertainty of the possible outcome in QCAT.

As outlined above, 10,750 residential tenancy disputes were resolved during 2024-25. Despite this, there were only 679 decisions published during 2024-25 (including 125 appeal decisions).

In the circumstances, it is clear that the workload of the tribunal is preventing it from achieving one of its objectives, the quality and consistency of tribunal decisions.

We note the same issue was identified during the initial review of the QCAT Act. The July 2018 Report prepared following the initial review of the QCAT Act provides that:

A significant number of respondents raised concerns about the quality and consistency of QCAT decisions. The most commonly identified were perceived shortcomings that tended to concern QCAT's operational practices, for example:

- differing approaches to the provision of evidence by parties;
- the practice of publishing QCAT decisions;
- access to precedents and QCAT's readiness to follow precedent;
- the depth of expertise of QCAT members in specific jurisdictional areas; and

- views that QCAT members may be influenced by factors, such as concern for a party's financial position, rather than a strict application of the law.

To assist in addressing concerns about access to precedents, members, adjudicators and justices of the peace (JPs) may have access to a 'bench book' in certain jurisdictions to assist them with ensuring a consistent approach to deciding matters that come before QCAT. The bench book would also contain references to leading decisions on specific issues.

To continue to improve the consistency of decisions, we recommend:

- if it has not already been developed, a 'bench book' be developed specifically in relation to residential tenancy disputes to include leading decisions on specific issues arising from the RTRA Act; and
- information forums be held for parties to residential tenancy disputes (including tenants, lessors, agents, tenant advocates) to ensure they are kept up to date with new requirements and processes.

We also refer to the QCAT Annual Report 2024-25, which notes that current resourcing means that there are limitations on the number of decisions which are able to be published on the Supreme Court Library's website. QCAT hopes that with the additional funding provided in the June 2024 budget, that situation can be improved so that more decisions which contribute to the jurisprudence in a particular area or areas are able to be published.