**TERMS OF REFERENCE**

***Statutory Review of the Queensland Civil and Administrative Tribunal Act 2009***

Section 240 of the *Queensland Civil and Administrative Tribunal Act* 2009 (QCAT Act) requires the Minister to review the QCAT Act within three years after its commencement and at further intervals of five years. The first statutory review of the QCAT Act (the review) was completed in 2018 with its report tabled by the responsible Minister on 21 September 2018.

The Honourable Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence has commissioned the second review, to be undertaken by a review team within the Department of Justice and Attorney-General (DJAG), overseen by a government steering committee.

**Background**

QCAT is an independent tribunal established under the QCAT Act in 2009. QCAT has a broad remit with over 180 enabling Acts conferring jurisdiction ranging from guardianship, child protection, civil, and administrative to disciplinary matters.

The Honourable Justice Mellifont, President of QCAT, leads the tribunal which consists of members, adjudicators and registry staff. The registry provides support to the tribunal. QCAT provides access to civil justice services to more than 60,000 Queenslanders annually.

The objects of the QCAT Act as outlined in section 3 of the Act are:

* to establish an independent tribunal to deal with the matters it is empowered to deal with under this Act or an enabling Act
* 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
* to enhance the openness and accountability of public administration

To achieve these objects, under section 4, QCAT must:

* facilitate access to its services through Queensland
* encourage the early and economical resolution of disputes before the tribunal, including if appropriate, through alternative dispute resolution processes
* ensure proceedings are conducted in an informal way that minimises costs to parties and is as quick as is consistent with achieving justice
* ensure like cases are treated alike
* ensure the tribunal is accessible and responsive to the diverse needs of persons who use the tribunal
* maintain specialist knowledge expertise and experience of members and adjudicators
* ensure the appropriate use of the knowledge expertise and experience of members and adjudicators
* encourage members and adjudicators to act in a way that promotes the collegiate nature of the tribunal
* maintain a cohesive organisational structure

Over time, QCAT has experienced workload pressures due to increased demand for its services, increased complexity in matters and jurisdictions and budgetary constraints, resulting in backlogs and delays in resolving some matters.

**Scope of the review**

Section 240 of the QCAT Act provides that the objects of the review include:

* deciding whether the objects of the QCAT Act remain valid
* deciding whether the QCAT Act is meeting its objects
* deciding whether the provisions of the QCAT Act are appropriate for meeting its objects
* investigating any specific issue recommended by the Minister or the QCAT President, including, for example, whether any provision of an enabling Act affects the effective operation of the tribunal.

In response to the current workload challenges facing QCAT, the review will focus on procedural reform to the QCAT Act. The review may consider procedural provisions of an enabling Act which impedes the effective operation of the tribunal.

The review will not examine the type or extent of jurisdiction conferred on QCAT through enabling Acts (that is, the type of matters that QCAT has jurisdiction to hear and determine).

The review will include (but is not limited to) consideration to the following issues:

* whether the provisions relating to establishment and administration of the tribunal are appropriate to meet the needs of the tribunal including the current statutory decision maker categories and whether the current maximum term of appointment for decision makers should be retained or increased
* whether, and if so, in what cases, the need to get leave to be legally represented should be retained
* the current appeal structure for QCAT decisions
* whether the current legislation creates hurdles to procedural efficiency, in particular, in minor civil disputes
* compatibility of the QCAT Act, and any recommendations for legislative reform, with the *Human Rights Act 2019.*

In making review recommendations, the review team will consider whether the proposed legislative change will be likely to assist QCAT to meet its statutory objectives, and thus promote the efficient and effective operation of the tribunal.

**Consultation**

The review will be informed by consultation with key stakeholders including:

* President, Deputy President and QCAT decision makers and registry staff
* Chief Magistrate, Magistrates and Queensland Court Services
* legal and community stakeholders
* government departments, agencies, local governments and relevant statutory bodies that access QCAT’s services
* the public generally
* any other group or individual, considered appropriate given the scope of the review

**Report**

The review team will provide the Minister with a report on the review of the QCAT Act in early 2024. Under section 240(3) of the QCAT Act, the Minister must as soon as practicable after receiving the report, table a report about the outcome of the review in the Legislative Assembly.