

COMMUNITY LEGAL CENTRES TASMANIA

15 April 2026

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001
attn: Lloyd Babb SC

via email: haveyoursay@justice.tas.gov.au

To Lloyd Babb SC,

Re: *Third Party Review of Backlogs in the Tasmanian Court System*

Community Legal Centres Tasmania welcomes the opportunity to provide comment on the *Third Party Review of Backlogs in the Tasmanian Court System* ('the Review').¹ Due to resourcing limitations, our submission focuses on three issues:

- the lack of judicial officers in the Supreme Court; and
- residential tenancy applications in the Magistrates Court; and
- prosecutorial disclosure.

Whilst none of these issues on their own are a panacea, we believe that the adoption of the proposed recommendations will go some way to reducing the delay in Tasmania's courts.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located through Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

BACKGROUND

Tasmania has long had issues with delays with former Supreme Court Chief Justice Alan Blow AO observing a decade ago "[d]elays of around two years between the commission of a crime and the trial of the alleged offender are now far more common than they should be. Such delays result in the deterioration of the memories of witnesses, and substantial unfairness to both victims and accused persons".² More recently, Chief Justice Shanahan noted that "the Court continues to face increasing workloads, backlogs and delay across all the elements of its jurisdiction".³ As a recent editorial in *The Mercury* newspaper highlighted, "the impact of delay ripples far beyond the walls of the Supreme Court and Magistrates Court. It shapes the lives of victims-survivors, their loved ones, the accused, and the wider community's trust in the rule of law".⁴

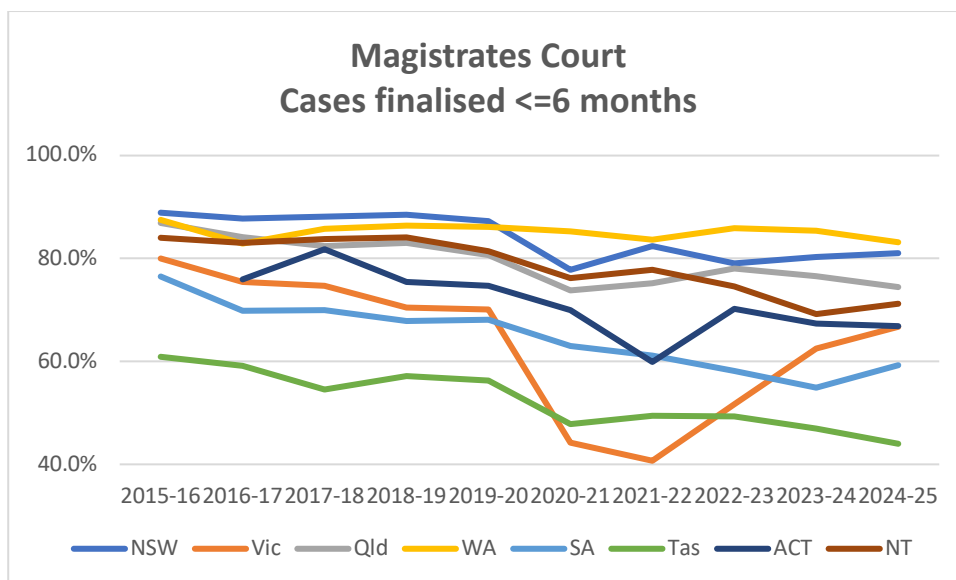
¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² Supreme Court of Tasmania, *Annual Report 2015-16* (March 2016), 2.

³ Supreme Court of Tasmania, *Annual Report 2024-25* (October 2025), 2.

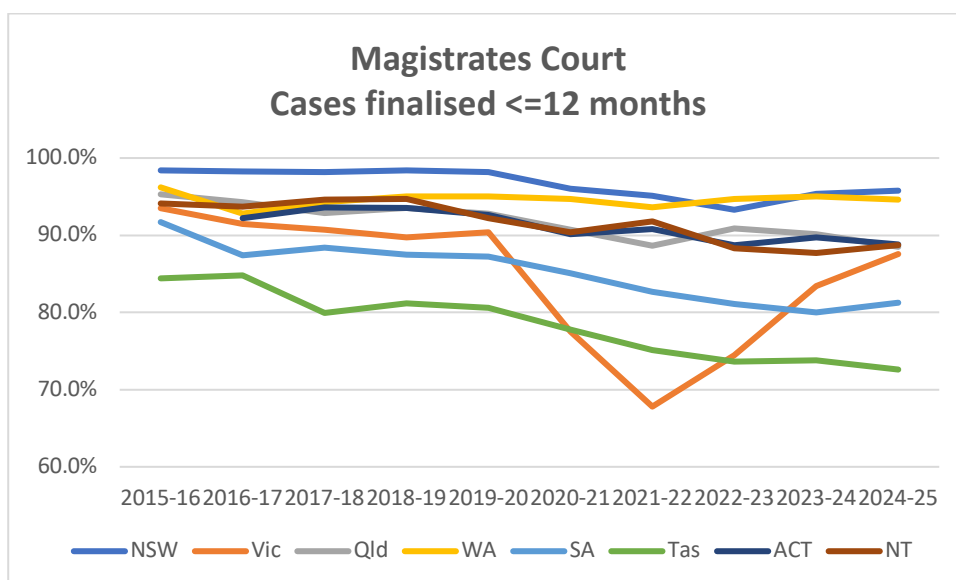
⁴ Editorial, 'Court backlog reform bill', *The Mercury*, 16 January 2026, 18.

The number of finalised cases in both Tasmania’s Magistrates and Supreme Courts is amongst the worst in Australia. The most recent data from the Productivity Commission’s *Report on Government Services* finds that over the last decade, Tasmania’s Magistrates Court is consistently ranked amongst the worst in finalising cases in an expeditious and timely manner.⁵ Worryingly, the data demonstrates that finalisations within both 6 and 12 months in the Magistrates Court is getting worse with less than half of all cases in 2024-25 (44 per cent) finalised within 6 months.



Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.22

As well, the Productivity Commission reports that the number of cases finalised within 12 months in Tasmania’s Magistrates Court has dropped from 84.4 per cent to 72.6 per cent

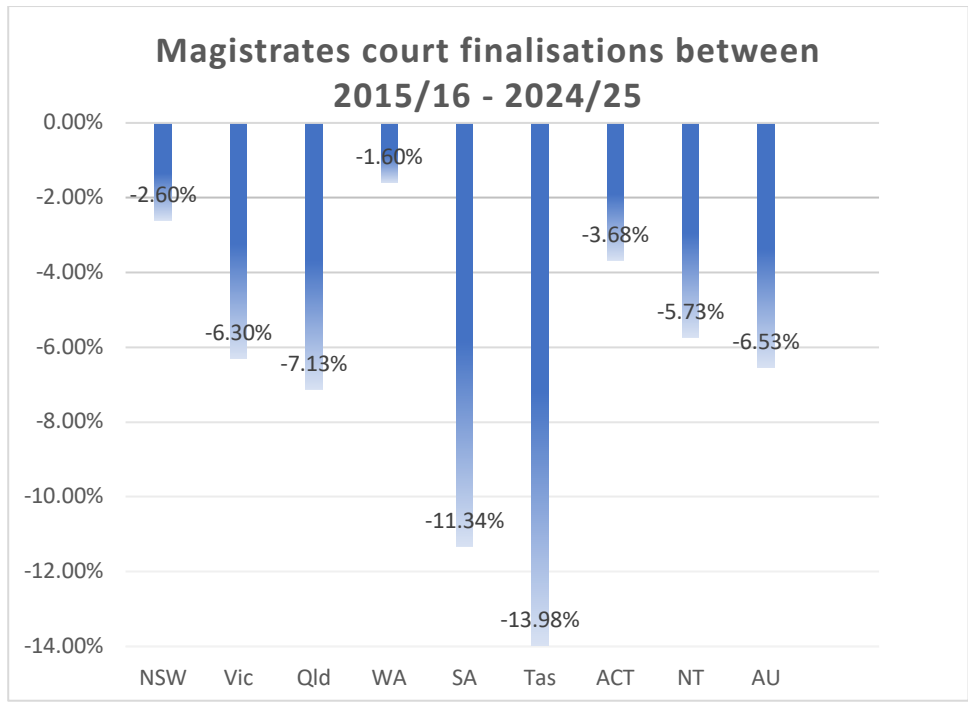


Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.22

⁵ Productivity Commission, ‘Report on Government Services 2024: Corrective Services’, *Report on Government Services* (Web Page, 2024) <https://www.pc.gov.au/ongoing/report-on-government-services/justice/corrective-services/>

The data noted above is particularly noteworthy because, but for the Victorian outlier in 2020-21 and 2021-22, Tasmania has had the worst Magistrates Court finalisation rates of any State or Territory in Australia.⁶

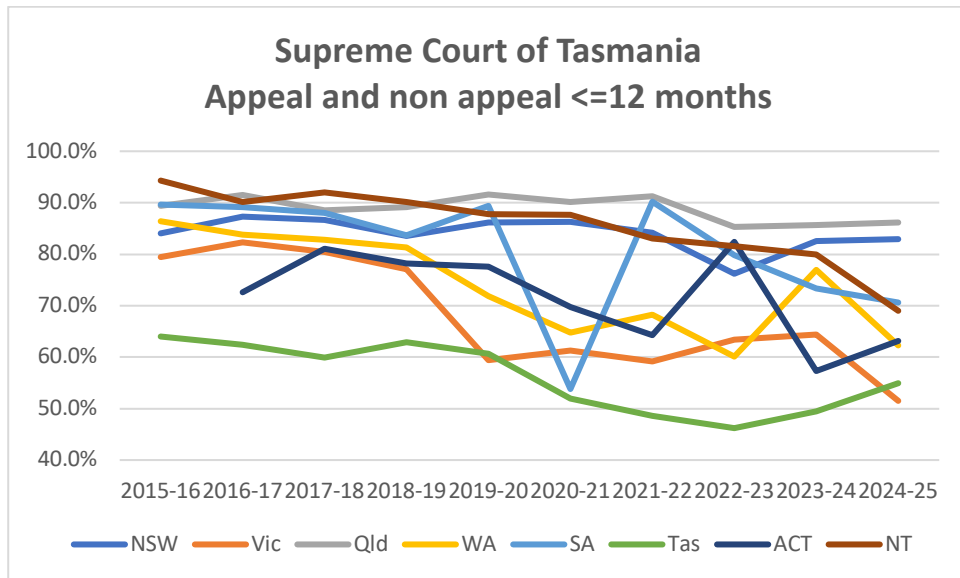
Whilst it must be acknowledged that over the last decade, Magistrates Courts in all States and Territories have experienced declines in the number of cases finalised within 12 months, the decline has been most significant in Tasmania as the following graph highlights.



Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.22

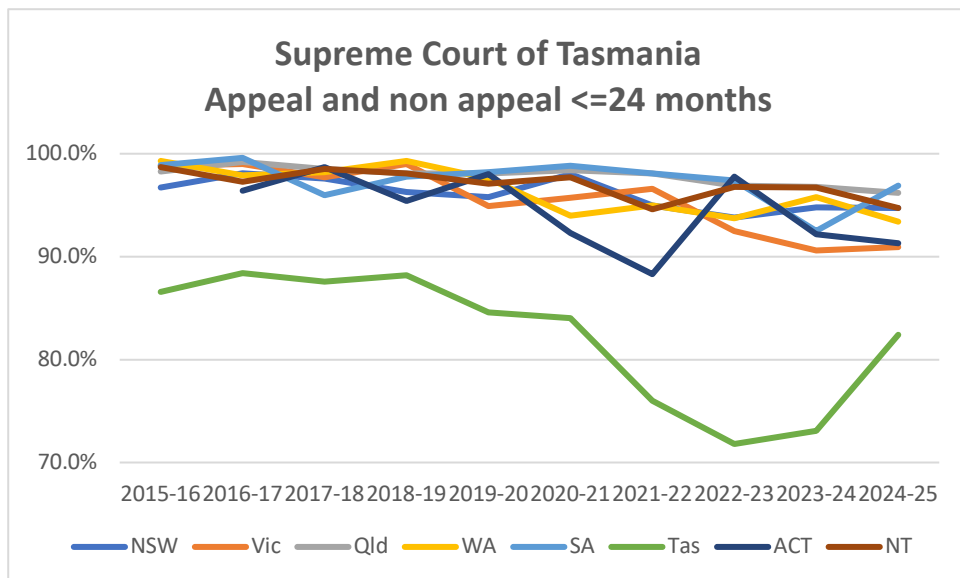
Similar data is found in the Supreme Court with the Productivity Commission reporting that Tasmania ranks consistently amongst the jurisdictions with the lowest finalisation rates within 12 months in Australia.

⁶ The Victorian outlier in 2020-21 and 2021-22 was the result of COVID-19 lockdowns and other restrictions which impacted in-person court appearances and resulted in online-only cases able to be heard: Magistrates' Court of Victoria, *Annual Report 2021-22* (Report, 2022) <https://www.mcv.vic.gov.au/news-and-resources/court-data> Also see Bridget Rollason, 'Victorian courts plagued by delays as tens of thousands of criminal cases wait to be heard', *Australian Broadcasting Corporation*, 7 February 2023. As found at <https://www.abc.net.au/news/2023-02-08/victorias-court-backlog-as-thousands-of-cases-delayed/101942714> (accessed 12 April 2025).



Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.22

The data is particularly glaring for Supreme Court cases finalised within 24 months as the following graph highlights.



Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.22

- Judicial Officers

A factor that does not appear to be the cause of the backlog is the number of judicial officers employed, with Tasmania consistently meeting the Australian average in both criminal and civil hearings as outlined in the following graph.

**Number of FTE judicial officers per 1,000 finalisations -
All Criminal and Civil Courts**

	All Criminal Courts		All Civil Courts	
	Tasmania	Australian average	Tasmania	Australian average
2015-16	0.7	0.7	0.7	0.7
2016-17	0.8	0.7	0.7	0.8
2017-18	0.7	0.7	0.8	0.8
2018-19	0.8	0.8	0.8	0.8
2019-20	0.9	0.9	0.8	0.9
2020-21	0.9	0.9	0.8	0.9
2021-22	0.9	1.0	1.1	1.1
2022-23	1.0	0.9	1.1	1.1
2023-24	1.0	1.0	1.0	1.0
2024-25	1.0	1.0	0.9	1.0

Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.29

However, a closer examination demonstrates a stark contrast between Tasmania's Magistrates and Supreme Courts. Whilst the number of judicial officers employed to undertake criminal matters in Tasmania's Magistrates Court is often above the national average, in the Supreme Court there is a clear shortage of judicial officers when compared against the Australian average.

**Number of FTE judicial officers per 1,000 finalisations -
Criminal Matters in the Magistrates and Supreme Courts**

	Magistrates Court			Supreme Court		
	Tasmania	Australian average	Difference %	Tasmania	Australian average	Difference %
2015-16	0.5	0.4	+20.00	8.3	13.9	-40.29
2016-17	0.5	0.4	+20.00	8.4	11.5	-26.95
2017-18	0.5	0.5	-	8.9	10.4	-14.43
2018-19	0.5	0.5	-	9.0	10.9	-17.44
2019-20	0.6	0.6	-	7.1	10.8	-34.26
2020-21	0.6	0.5	+16.67	9.5	12.1	-21.49
2021-22	0.6	0.6	-	9.6	12.2	-21.32
2022-23	0.7	0.6	+14.29	10.2	13.8	-26.09
2023-24	0.7	0.6	+14.29	10.8	15.0	-28.00
2024-25	0.7	0.6	+14.29	7.9	14.2	-44.37

Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.29

Advantageous numbers of judicial officers in the Magistrates Court and a shortage in the Supreme Court are also reflected for civil matters as the graph below highlights.

**Number of FTE judicial officers per 1,000 finalisations -
Civil Matters in the Magistrates and Supreme Courts**

	Magistrates Court			Supreme Court		
	Tasmania	Australian average	Difference %	Tasmania	Australian average	Difference %
2015-16	0.3	0.3	-	3.7	5.0	-26.00
2016-17	0.3	0.3	-	3.8	5.9	-35.60
2017-18	0.3	0.3	-	4.7	6.3	-25.40
2018-19	0.3	0.3	-	5.0	6.2	-19.36
2019-20	0.3	0.3	-	4.3	6.5	-33.85
2020-21	0.4	0.4	-	4.1	7.8	-47.44
2021-22	0.6	0.5	+16.67	4.5	7.8	-40.00
2022-23	0.7	0.5	+28.58	4.5	7.5	-26.09
2023-24	0.6	0.4	+33.34	3.9	7.3	-46.58
2024-25	0.6	0.4	+33.34	3.9	6.7	-41.80

Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.29

When all criminal and civil matters are combined in the Magistrates and Supreme Courts the data looks as follows:

**Number of FTE judicial officers per 1,000 finalisations -
All criminal and civil matters in the Magistrates and Supreme Courts**

	Magistrates Court			Supreme Court		
	Tasmania	Australian average	Difference %	Tasmania	Australian average	Difference %
2015-16	0.4	0.4	-	5.3	6.5	-18.47
2016-17	0.5	0.4	+20.00	5.5	7.0	-21.43
2017-18	0.4	0.4	-	6.4	7.2	-11.12
2018-19	0.5	0.4	+20.00	6.6	7.2	-8.34
2019-20	0.5	0.5	-	5.5	7.4	-25.68
2020-21	0.5	0.5	-	6.5	8.8	-26.14
2021-22	0.6	0.6	-	6.9	8.8	-21.60
2022-23	0.7	0.5	+28.58	7.1	8.8	-19.32
2023-24	0.6	0.5	+16.67	6.7	8.7	-22.99
2024-25	0.6	0.5	+16.67	5.8	8.0	-27.50

Source: Productivity Commission, Report on Government Services 2026, Courts, Table 7A.29

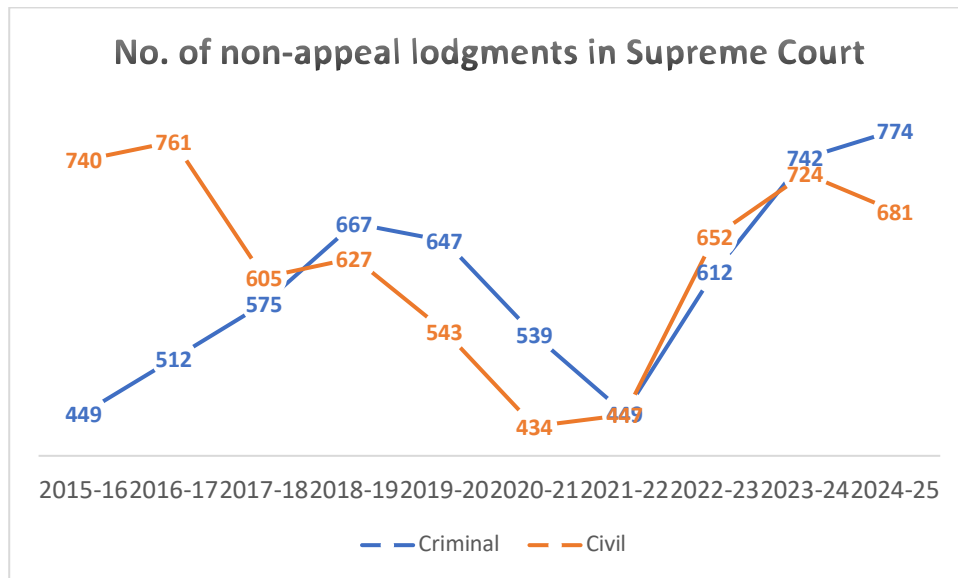
Relevantly, the discrepancy that exists in Tasmania's Supreme Court when compared against the Australia-wide data is even more significant when it is acknowledged that the majority of Australian jurisdictions (Victoria, New South Wales, Queensland, South Australia and Western Australia) all have district/county courts that hear criminal matters, thereby reducing the workloads of Supreme Court judicial officers, whereas in Tasmania all serious indictable matters are heard by the Supreme Court.

We strongly believe that the Productivity Commission's *Report on Government Services* highlights the need for increased judicial officers in Tasmania's Supreme Court. To ensure appropriate independence and impartiality we do not support the appointment of acting judges or reserve judges. Instead, we strongly recommend an amendment to the *Supreme*

Court Act 1887 (Tas) so that the number of judges can be increased from the current legislatively prescribed seven (a Chief Justice and six puisne judges).⁷

- ***Moving civil matters from the Magistrates Court to TASCAT***

Due to Tasmania’s small size, judicial officers in Tasmania hear both criminal and civil cases. As the following graph highlights, there has been a significant increase in criminal non-appeal lodgements over the last decade (72 per cent) and a small decrease in civil non-appeal lodgements (8 per cent).



Source: Supreme Court of Tasmania *Annual Reports 2015/16 – 2024/25*

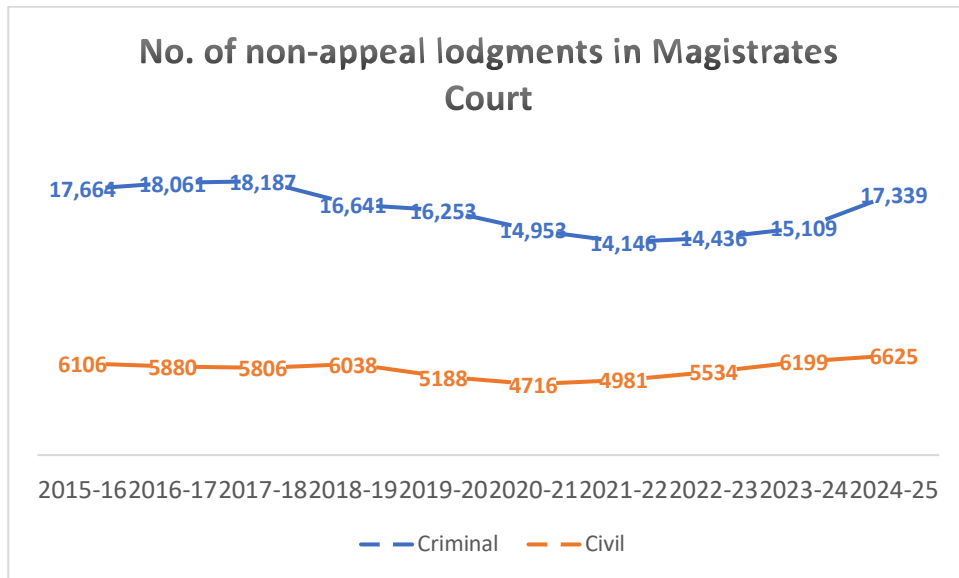
Increased demand of judicial officers in criminal law is in turn resulting in delays in the civil jurisdiction as Chief Justice Shanahan recently observed about the Supreme Court:⁸

The continuing emphasis on allocating judicial resources to criminal work has had an impact on the Court’s capacity to discharge its obligations in its civil jurisdiction. The proportion of civil cases older than 24 months has continued to grow and now encompasses 243 cases or 26.2% of the civil work of the Court. Of further concern is that 22% of the civil case load is between 12 and 24 months old.

In the Magistrates Court, although there has been little change in lodgements over the last decade, there has been a significant increase over the last three years with both criminal and civil lodgements increasing by 20 per cent, as the graph below highlights.

⁷ Section 2 of the *Supreme Court Act 1887* (Tas).

⁸ Supreme Court of Tasmania, *Annual Report 2024–2025* (Report, 2025), 4.



One reform that should be considered is transferring residential tenancy matters from the Magistrates Court to the Tasmanian Civil and Administrative Tribunal (TASCAT). In its 2024 report *Tenancy Matters! The case for transferring tenancy cases from the Magistrates Court to TASCAT*,⁹ the author noted that the “parties to residential tenancy disputes are currently subject to inordinate delays in the Magistrates Court, particularly for matters that are considered less urgent... [and] there is a lack of consistency and transparency of decision making”.¹⁰

Residential tenancy matters currently heard in the Magistrates Court include eviction proceedings, claims for compensation and appeals of bonds, unreasonable rent increases and orders for repairs with around 15-20 per cent of all civil matters heard in the Magistrates Court being applications made pursuant to the *Residential Tenancy Act 1997* (Tas).¹¹

Transferring residential tenancy matters to TASCAT would mean that around 500 of the 2711 civil lodgements in Tasmania’s Magistrates Court in 2024-25¹² could be heard in TASCAT, freeing up time for Magistrates to hear other cases. Relevantly, residential tenancy disputes in every Australian jurisdiction except Western Australia and Tasmania are heard by their respective Civil and Administrative Tribunal.¹³

In the event that transferring residential tenancy matters to TASCAT was not recommended, there are reforms within the jurisdiction of the Magistrates Court that could be implemented to ensure that disputes were resolved consistently and expeditiously, including:

- Dedicated civil Magistrates and lists;
- Updating the Court’s civil rules and practices around publishing decisions, reopening matters and allowing representation;

⁹ Tenants’ Union of Tasmania, *Tenancy matters! The case for transferring tenancy cases from the Magistrates Court to TASCAT* (August 2024). As found at <https://tutas.org.au/tenancy-matters-report/> (accessed 13 April 2026).

¹⁰ *Ibid.*, 3.

¹¹ *Ibid.*, 45-46.

¹² Magistrates Court of Tasmania, *Annual Report 2024-25* (October 2025), 26.

¹³ Tenants’ Union of Tasmania, *Tenancy matters! The case for transferring tenancy cases from the Magistrates Court to TASCAT* (August 2024), 46-47.

- An overhaul and modernisation of information technology: electronic lodgement, case file management, and record keeping, and permissive policies regarding remote appearances at hearings; and
- Use of Alternative Dispute Resolution in tenancy matters.

- **Disclosure**

The disclosure of prosecution evidence in a timely manner is important for many reasons including reducing delays and inefficiencies. Anecdotally, we are aware of a number of cases where the accused has had access to either no or insufficient evidence to confidently enter a plea, particularly in circumstances in which elements of the crime include a mental element or a legal defence is available. Indeed, in a recently reported case an accused who first appeared in the Magistrates Court in February 2025 was still waiting for disclosure at his next appearance in October 2025.¹⁴

The failure of Tasmania Police to provide disclosure is not just of concern in the Magistrates Court, with the former Chief Justice Alan Blow observing in 2024/25:¹⁵

Throughout the reporting year the Court encountered unacceptable delays on the part of Tasmania Police in Hobart in relation to the disclosure of documents and recordings to defence counsel, and in relation to the completion of files after accused persons had been committed for trial. Delays in relation to these matters have been common for years. However the number of cases delayed and the length of the delays were unprecedented and most unreasonable.

According to the former Chief Justice, the delay in providing disclosure could be improved by addressing two resourcing issues, namely understaffing in the Disclosure Unit of Tasmania Police and increased funding for the Chief Forensic Psychiatrist:¹⁶

Another problem concerns delays in the provision of psychiatric reports by the Chief Forensic Psychiatrist or his nominees. Some judges have encountered delays of 7 to 9 months between the making of an order for a report and the provision of the report. Psychiatric reports are frequently needed in cases where there is doubt as to an accused person's fitness to stand trial, in cases where an accused person has been found unfit to stand trial or not guilty by reason of insanity, or where the Crown seeks a declaration that an offender is a dangerous criminal, as well as for sentencing purposes. Apparently the Chief Forensic Psychiatrist receives no funding for the provision of such reports even though there are statutory requirements for them to be provided in some situations. The delays are most unfair from the perspectives of both complainants and accused persons, and highly inconvenient for the Court.

It is unclear whether either of these recommendations have been acted upon by the State Government. There is no mention of increased funding in the Chief Psychiatrist's most recent

¹⁴ Nick Clark, 'Ex-cop yet to plea over child abuse material', *The Mercury*, 15 October 2025 at 2.

¹⁵ Supreme Court of Tasmania, *Annual Report 2023-24* (October 2025), 2.

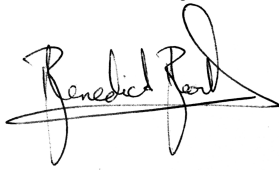
¹⁶ Supreme Court of Tasmania, *Annual Report 2023-24* (October 2025), 4.

Annual Report¹⁷ whilst Tasmania Police responded publicly to the Chief Justice's comments by noting in November 2024 that it was conducting a statewide review of prosecutorial services.¹⁸

In summary, we strongly believe that the *Supreme Court Act 1887* (Tas) should be amended so that the number of judges can be increased from the current legislatively prescribed seven (a Chief Justice and six puisne judges). We also recommend transferring residential tenancy applications from the Magistrates Court to TASCAT and acting on the former Chief Justice's calls for additional resourcing for the Chief Psychiatrist and the Disclosure Unit of Tasmania Police.

If we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Benedict Bartl', with a long horizontal stroke extending to the right.

Benedict Bartl
Policy Officer
Community Legal Centres Tasmania

¹⁷ Office of the Chief Psychiatrist, *Annual Report 2024-25* (September 2025). As found at https://www.health.tas.gov.au/sites/default/files/2025-11/chief_psychiatrist_annual_report_2024-25.pdf (accessed 13 April 2026).

¹⁸ Jano Gibson, 'Tasmania's chief justice blasts "unacceptable" delays in police paperwork as court faces "unprecedented" backlog', *Australian Broadcasting Corporation*, 28 November 2024. As found at <https://www.abc.net.au/news/2024-11-29/tasmania-supreme-court-backlog-slammed-by-chief-justice/104659680> (accessed 13 April 2026).