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18 June 2026

The Hon. Michael Daley MP
Attorney General
GPO Box 5341
Sydney NSW 2001

By email: phil.kelly@minister.nsw.gov.au

Dear Attorney,

INVESTMENT IN ACCESS TO JUSTICE IN NSW

The Law Society is writing to you ahead of the 2027 State election to highlight the need for the Government to focus on investment in critical infrastructure and workforce issues that underpin access to justice in NSW.

We are cognisant of the constrained fiscal environment in which the Communities and Justice portfolio operates, and acknowledge the efforts of the Government, the Department of Communities and Justice, and Courts and Tribunals, to meet the complex justice needs of children, families, communities and business. We acknowledge the Government's commitment to early intervention investment for children at risk of contact, or further contact, with the justice system.

For the reasons set out in this letter, we seek the Government's ongoing leadership in this sector, by making publicly available, a long term strategic access to justice plan for NSW, which provides for the following:

1. Investment on a longer term basis in court and tribunal infrastructure in NSW, to ensure courts and tribunals are safe, efficient and fit for modern purposes; and
2. Sustainable and certain resourcing arrangements for legal assistance funding in NSW, that appropriately recognise the essential role that the private legal profession, the vast majority of which are small businesses, plays in the delivery of legally aided work.

We suggest that greater transparency and certainty afforded by a public long term strategic access to justice plan for NSW would benefit both the community and the Government.

In order to support the continued prosperity of NSW, we suggest that the justice system should be considered in a similar way to other forms of critical infrastructure such as transport and healthcare. Its resilience is inextricably linked to the maintenance of the rule of law which underpins the safe and orderly functioning of society. It is vital, particularly at a time of marked global upheaval coupled with a trend of declining trust in institutions, that the Government invests in the administration of law and access to justice.

A functioning justice system means that the law is administered by courts and tribunals in a fair, impartial, timely and cost-effective manner. In addition, it is equipped to respond to and meet legal need across society, including in civil and criminal matters, with respect to both individuals and corporations. The justice system must be

responsive to the diverse communities that it serves. In addition, it must be accessible in growing urban areas as well as in rural, regional and remote (**RRR**) communities.

Access to independent and quality legal assistance is a key plank of a functioning justice system. It has been recognised as a cornerstone of Australian Labor Party policy as far back as 1979. In the second reading speech for the *Legal Services Commission Bill 1979* (NSW), then Attorney General and Minister for Justice, The Hon. Frank Walker QC, aptly summarised its importance as follows:

The policy of the Government is that an adequate legal aid system is a social essential. It is pointless to have legal rights if one cannot afford to pursue them in the courts. Without extensive legal aid justice becomes the prerogative of a privileged minority, and the processes of the law become a weapon that the rich can use against the poor with impunity. Both the judicial system and the legal profession suffer from the lack of public confidence that results.

The objective of the Government is simply to provide the means by which all citizens might have the same practical access to courts, and to achieve equality before the law. Reasonable limits must be imposed on what it will spend on this, but within those limits the Government will, without apology, commit whatever resources it can find to the removal of injustice against its helpless fellows.¹

The recent study of National Legal Aid outlined that 72% of legal aid is delivered by the private profession.² In our view, this decentralised and relatively agile model is an appropriate one that should be supported by certainty and sufficiency of resourcing to ensure that legal practices are able to continue to participate. Almost 90% of legal practices in NSW are sole or small practices³, and they play a critical role in supporting the most vulnerable and marginalised in our community to navigate the legal system, which is a difficult and potentially insurmountable task for self-represented parties. The flow-on burdens of an increased number of self-represented parties in our court systems also result in significantly greater delays, and compromised outcomes, for individuals and on a systemic level.

While our letter focuses on the busiest courts and tribunal in NSW, we note that a functioning, fit for purpose justice system, from the Local Court to the Supreme Court, is an economic imperative for NSW. Access to appropriately resourced and modernised courts that resolve disputes in a quick, just and fair manner is central to attracting talent and investment to NSW and, as a result, boosting productivity. Without adequate funding, NSW could lose its strategic advantage as a legal jurisdiction of choice both within Australia and the Asia-Pacific region.

1. SUSTAINABLE INVESTMENT IN NSW COURTS AND TRIBUNALS

1.1. The social and economic value of investing in NSW courts and tribunals

Well-functioning courts and tribunals that are sufficiently resourced to deliver justice are necessary to ensure public confidence in the court system and reinforce the rule of law, particularly in a time of global upheaval.

(a) Civil justice

Section 56(1) of the *Civil Procedure Act 2005* (NSW) (**CPA**) states that the overriding purpose of the CPA and the rules of court, in their application to civil proceedings, is to facilitate the just, quick and cheap resolution of the real issues in the proceedings. Ensuring a civil justice system that deals with disputes in a manner which meets these statutory objectives is central to productivity. These matters determine whether businesses, financial

¹ New South Wales, *Parliamentary Debates*, Legislative Assembly, 19 April 1979, 4710.

² National Legal Aid, '[Justice on the Brink: Stronger Legal Aid for a Better Legal System](#)' (Report, November 2024), 18.

³ Law Society of NSW, '[2024 Profile of Solicitors: Final Report](#)' (Report, 17 April 2025), 30.

institutions and other corporations choose NSW as a market in which to do business. When disputes arise, the court system must be equipped to deal with complex matters which are increasingly cross-jurisdictional in nature.

Civil justice, however, is not confined to the “big end of town”. Individuals require the delivery of high-quality but affordable and efficient dispute resolution mechanisms when disputes arise that directly impact their daily lives, whether in the context of housing, conveyancing and property, consumer claims, bills and loan agreements. Major findings from an Australia-wide legal needs survey found, for example, that legal problems are widespread across the community, have a significant impact on life circumstances and are experienced most acutely by vulnerable populations, whose legal needs may be compounded.⁴ Well-functioning courts contribute to broader economic stability and wellbeing, if the goals of just and timely resolution can be met.

(b) Criminal justice

Ensuring that courts are equipped to deal with criminal matters as efficiently as possible is equally as critical for individuals involved, and for the rule of law and public confidence in the justice system more generally. There are well recognised consequences of delays in this jurisdiction which are not limited to the accused, but extend to victims of crime, the ability to secure just outcomes and victim and community trust in the justice system. For example, delays in the hearing of criminal matters can dilute the quality and availability of the evidence that is put before the court, and can ultimately affect outcomes. In some cases, witnesses may have passed away or are unable to be called for other reasons such as infirmity or having moved overseas. There are also serious impacts on victims, for whom delays can increase their psychological distress and reduce trust in the criminal justice system.

The impact of delays on further government resourcing and spending are also clear. In particular, failure to finalise criminal matters in a timely manner impacts the remand population. This not only has personal consequences for the accused but also significant financial consequences for the state’s budget. Between December 2023 and December 2025, the adult remand population in NSW increased by 20.1%.⁵ As at March 2026, the remand population was at an all-time high of 6,650, representing 47.3% of the prison population, the highest proportion ever recorded.⁶ Similarly, 79.6% of young people in detention in NSW are on remand.⁷ In FY2024-25, real net recurrent expenditure comprising net operating expenditure and capital costs for a prisoner in NSW was \$458.79 per day i.e., an annual cost of over \$167,000 per inmate.⁸ NSW has the highest spend of all states and territories on prisons at \$2.09 billion over FY24-25, including the highest levels of incarceration of non-violent offenders at \$824 million.⁹

While the Law Society will continue to advocate further on upstream law reform and policy decisions that have impacts across the justice system, it is clear that the demand for court services outweighs the current ability of courts, particularly the Local Court, to meet the need.

⁴ Christine Coumarelos et al (Law and Justice Foundation of New South Wales), [Legal Australia-Wide Survey: Legal Need in Australia](#) (Report, 2012), 57. This study found a high prevalence of legal problems across the Australian community. Nearly half of survey respondents reported experiencing at least one legal problem in the reference period, and 31.3% experienced multiple problems (i.e. two or more problems) and 21.8% experienced three or more legal problems (i.e., three or more legal problems).

⁵ NSW Bureau of Crime Statistics and Research, [‘Record remand numbers drive growth in NSW prison population’](#), 12 February 2026.

⁶ NSW Bureau of Crime Statistics and Research, [‘NSW Custody Statistics Quarterly update March 2026’](#), 14 May 2026.

⁷ Ibid.

⁸ Productivity Commission, [‘Report on Government Services 2025: Part C – Justice, Chapter 8 – Corrective Services’](#) (Web Page, 3 February 2026)

⁹ Mia Schlicht, [‘The Cost of Prisons in 2025: Australia’s Emerging Prison Capacity Crisis’](#) (Report, Institute of Public Affairs, October 2025), 2 & 10.

1.2. Increased caseloads for NSW courts and tribunals, particularly high-volume courts

NSW Courts and Tribunals are currently facing increased caseloads across many jurisdictions. Of particular concern is that high volume courts and tribunals of general access, such as the Local Court and District Court and the NSW Civil and Administrative Tribunal (**NCAT**), are facing increased pressures with limited resources.

We have obtained data from the following jurisdictions from publicly available resources and data provided to us by the relevant court or tribunal to illustrate some of the current challenges.¹⁰

(a) Local Court

The Local Court is the busiest court in Australia, dealing with 90% of all criminal matters in NSW.¹¹ Based on the data contained in the *Local Court Annual Review 2024*, we note the following trends relevant to caseload:

- In total, 388,739 criminal matters were commenced in 2024. This represents a 3.3% increase on 2023 and a 34.1% increase since 2014.
- In the Civil Jurisdiction, 67,805 matters were commenced. This represents a 4.5% increase on 2023.
- In the Special Jurisdiction, 55,194 Apprehended Violence Order proceedings commenced, a 5.7% increase on 2023 and a 40.7% increase since 2014.¹²

The Law Society commends the way in which the Local Court has sought to respond to its increasing caseload, both in terms of volume and complexity, including through the use of Regional Coordinating Judges for the Court's eight geographic regions and Specialist Coordinating Judges for bail proceedings, civil proceedings, and domestic and family violence proceedings.

We note, however, that the caseload has impacted the Court's ability to deal expeditiously with criminal matters. Between 2014 and 2024, finalisations of criminal matters in the Local Court within six months have fallen from 91.1% to 79.8%.¹³ This is lower than the Local Court's time standard which aims to finalise 95% of summary criminal trials within six months of the commencement of proceedings.¹⁴

The Law Society has observed that the increased caseload in the Local Court has given rise to an urgent need for further investment in physical and digital infrastructure, including brick and mortar courthouses. The Local Court is also still reliant on paper files, impacting on the Court's ability to maximise efficiencies in administering its significant caseloads.

(b) District Court

Based on the most recent publicly available data contained in the *District Court Annual Review 2024*, we note the following trends relevant to caseload:

- The introduction of the *District Court Amendment Act 2022* (NSW), which increased the Court's civil jurisdictional limit, has led to a civil caseload increase from 3,724 in 2022 to 4,358 in 2024. This represents a 17% increase on 2024.

¹⁰ Note the important observations contained in the *District Court Annual Report 2024* that '(c)omparing registrations and finalisations is not an exact science... It is therefore important to view comparisons of registrations and finalisations against pending caseload with some caution, as it is often difficult to reconcile the figures. However, they are helpful in providing general trends concerning the incoming and outgoing work of the Court.'

¹¹ Judicial Commission of New South Wales, [Local Court Bench Book](#) (Web Page, April 2026). The criminal jurisdiction of the Local Court includes finalisation of charges for summary offences and the summary hearing of certain indictable offences nominated under Schedule 1 of the *Criminal Procedure Act 1986* (NSW) – Table Offences.

¹² Local Court of New South Wales, [Annual Review 2024](#) (Report, 2024) 10.

¹³ Department of Communities and Justice, [Court Finalisations](#) (Sourced from the Bureau of Crime Statistics and Research).

¹⁴ Local Court of New South Wales, [Local Court Time Standards](#) (Web Page, 16 March 2026).

- There continues to be a high registration of criminal trial registrations in the criminal jurisdiction. In 2024, 1,273 criminal trials were registered. The Court heard 1361 trials, 5,401 sentencing hearings and 1,350 conviction appeals.¹⁵

Like the Local Court, the District Court has been resourceful in addressing its workload. For example, the use of Plea Resolution Callovers or so-called “Super Callovers” have been acknowledged as a way to reduce the backlog, save financial resources and free up trial dates. Notwithstanding these efforts, delays in the District Court have increased over recent years. As of December 2024, the median time from arrest to finalisation for trials finalised in the District Court was 826 days. This is 43 days longer than in 2022/2023 (783 days) and 103 days longer than in 2019/20 (723 days).¹⁶

(c) NSW Civil and Administrative Tribunal

The NCAT is one of the busiest tribunals in Australia and is experiencing sustained and accelerating demand. Based on data contained in the NCAT Annual Report 2024–2025¹⁷, and more recent operational data provided by NCAT, we note the following trends related to caseload:

- In the 2024–2025 reporting period, there was a 3.5% increase in overall applications. This has been driven by a 10.7% increase in applications in the Guardianship Division, marking its seventh consecutive year of increased workload.
- The Guardianship Division is under particular pressure with a sustained annual growth of approximately 9% resulting in a 483% increase in pending cases (6,571 matters now pending, including 4,602 unlisted applications).

In the year-to-date (1 July 2025 to April 2026), there have been 9% and 13% increases in lodgements in the Consumer and Commercial Division and Administrative and Equal Opportunity Division, respectively; and a 35% increase in appeals. The rising demand is placing significant strain on NCAT’s capacity. We are advised that NCAT’s clearance ratio has declined from 99.2% in 2023–2024 to 95.9% in 2024–2025. This is particularly concerning in relation to Guardianship matters which frequently involve high-risk issues, including elder abuse, neglect, financial misuse, and urgent medical decisions, and require timely intervention to prevent serious harm to vulnerable individuals.

Pressures are evident across Member availability, case management and operational infrastructure. We understand the attraction and retention of experienced Members has been particularly challenging¹⁸ with NCAT facing a marked attrition of experienced Members, including to constitute appeal panels, and strong competition from other jurisdictions offering significantly higher remuneration and more attractive conditions.¹⁹

NCAT also remains one of the few NSW jurisdictions without a comprehensive online lodgement and case management system. This is inconsistent with its role as a high-volume, accessible tribunal serving a large number of self-represented users. A comprehensive digital platform is essential to improve accessibility, streamline case management, reduce administrative burden and increase cost and time efficiency.

¹⁵ District Court of New South Wales, [‘Annual Review 2024’](#) (Report, 2024), 73 and 5.

¹⁶ NSW Bureau of Crime Statistics and Research, [‘NSW Criminal Courts Statistics Jul 2019 to Jun 2024’](#).

¹⁷ NCAT, [NCAT Annual Report 2024–2025](#) (Report, 2025).

¹⁸ We understand that Members are dealing with increasingly complex matters and heavy workloads. Most are part-time (sessional), work intensively, and operate without dedicated administrative support, undertaking their own research, drafting, and case management tasks. Preparation time and travel are generally not remunerated.

¹⁹ For example, the Commonwealth Administrative Review Tribunal.

1.3. Meeting the caseload demands and maintaining the operating standards of courts

In addition to the high volume of demand for court services set out above, we note also expected population growth in NSW, particularly in Western Sydney. The population in Camden Council, which was 80,276 in 2016, is projected to grow to 214,411 by 2036, and then to 243,531 in 2014 (an average annual growth rate of 4.54%).²⁰ In our view, these factors necessitate investment in physical and digital court infrastructure, in respect of upgrades existing courts, and the provision of additional facilities. In particular, the Law Society continues to support the development of a South West Sydney Community & Justice Precinct. It appears that currently, the only justice-related infrastructure project noted in the NSW Infrastructure Pipeline is planning for the Greater Sydney Metropolitan Corrections Capacity.²¹

While the Law Society suggests close consultation with Courts and Tribunals in respect of the priority that should be accorded to the resourcing issues highlighted below, we have taken the liberty of detailing apparent constraints that require further investment to ensure courts are able to function effectively.

(a) Court resourcing – Increase in judicial officers and NCAT Members

NSW courts and tribunals are being required to do “more with less”. Despite innovative case management models, civil matters are often marked by increasing complexity, for example due to the nature of contemporary technical and scientific evidence, cross-jurisdictional aspects of litigation and the increasing complexity of the regulatory environment. Criminal matters are also resource-intensive, for example on account of the widespread use of digital forensic evidence and the volume of evidence relied upon.

The Law Society suggests that there may be a need to increase the number of full-time (FTE) judicial officers, particularly to the criminal jurisdictions of the Local and District Courts. We note that nationally, in 2024-25, there were 4.8 FTE judicial officers in the criminal and civil courts per 100,000 people in the population. In NSW, however, there were 3.6 FTE judicial officers. This is less than Victoria (4.8), Western Australia (5.2), Tasmania (4.6), ACT (4.2) and the Northern Territory (12). In comparison to Victoria, NSW has fewer judicial officers per 100,000 people for the Supreme Court (Civil and Criminal), District Court (Civil and Criminal) and Local Court (Civil and Criminal). This is despite the greater number of filings in NSW across the civil and criminal jurisdictions of the Supreme, District and Local courts.²²

We also suggest NCAT would benefit from a higher ratio of full-time Members, noting that as of 2 June 2026, the ratio of full-time to part-time (sessional) Members across all NCAT divisions was 29 full-time to 282 part-time Members, that is, only 10.2% of Members being full time. This proportion is comparatively low when measured against other Australian tribunals, including the Victorian Civil and Administrative Tribunal and the Administrative Review Tribunal, both of which maintain significantly higher levels of full-time membership.

Increasing the proportion of full time Members would provide more stable and predictable resourcing, reduce delays in hearings and determinations, and alleviate scheduling challenges arising from the variable availability of sessional Members. It would also strengthen core operational functions—such as case triage, listing, in-chambers work, and performance management—while improving consistency and quality through enhanced training, mentoring, and induction. In addition, a larger full-time cohort would support knowledge retention, reduce the disproportionate administrative burden on senior Members, and create clearer career pathways, improving attraction and retention. Overall, increasing full-time membership would enhance the efficiency, capability, and sustainability of the NCAT in managing its significant and diverse caseload.

²⁰ Camden Council, [Camden Economic Prospectus 2022](#), 7

²¹ NSW Infrastructure Pipeline, which provides information on major projects valued at \$50M and above, planned for the next 3-5 years: <https://www.infrastructure.nsw.gov.au/industry/construction-industry/pipeline-of-projects/?page=In+planning>.

²² Productivity Commission, [Report on Government Services 2026: Courts](#) (Web Page, 3 February 2026).

(b) Ensuring that courts are fit-for-purpose in contemporary Australia

Essential upgrades

The Law Society acknowledges the recent improvements to the Downing Centre Local Court as a model for other court upgrades in NSW, noting therapeutic approaches incorporated in design, and accessibility and inclusion principles demonstrated through, for example, braille signage, multifaith prayer rooms and sensory/safe spaces.

Critically, we understand from our members across the state that the insufficiency of existing court infrastructure is particularly acute in RRR areas. Courthouses in certain areas can lack basic facilities such as climate control, public waiting areas, private spaces for client conferencing, and digital capabilities. Noting that the *Department of Communities and Justice Strategic Plan 2026-2031* includes recognition of the need to “manage systems and assets in a way that reduces our greenhouse gas emissions and improves resilience to severe weather events and long-term impacts of climate change”²³ we understand anecdotally that a leading cause for the closure of courthouses is heat.

While we are informed that among other issues, heritage restrictions continue to be a barrier for carrying out necessary upgrades for courts to remain functional and fit for modern purposes, we strongly encourage the Government to ensure that sufficient funding is allocated, on a longer term basis, so that the relevant Government departments can work with courts to develop a long term plan for continuous infrastructure improvements. This should include a plan for a rolling program of capital upgrades across NSW courts, to at least address the basic facilities required for modern building and court user safety, including reliable heating, ventilation and air conditioning; private interview and conference spaces; functional digital infrastructure and public assembly spaces. We are pleased to see that upgrades are currently occurring in the Waverley, Burwood and Penrith courthouses, and commend the investment and orderly planning supporting these works.

Essential nature of digital infrastructure

We note that the DCJ Strategic Plan 2026-2031 recognises and commits as follows:

We will focus on both continuous improvement opportunities, and technology-based innovations, to address delays in our systems and improve productivity. We will ensure our core technologies are reliable and scalable, enable business agility and improve the digital capabilities needed for the service systems we administer.²⁴

Ensuring that NSW courts and tribunals are fit for purpose in the digital age is a foundational element of efficient case management processes across jurisdictions and ensuring equitable access to justice, including for rural communities and persons who may have difficulty attending court in person, for example, persons living with disability, suffering from mental or physical health issues, or who live in regional or remote areas without ready access to a physical court room. Digital courtroom infrastructure should be considered part of the essential services of a court building, central to ensuring the proper functioning of the justice system, facilitating access to justice and, by extension, reinforcing public trust in courts and the rule of law, and we advocate that the Government provide sufficient funding to support DCJ’s strategic planning in this regard, and allow for the planning of rolling improvements to court infrastructure that includes improvements to digital infrastructure.

The COVID pandemic of 2020/21 led to a transformation of the way in which court and tribunal hearings are conducted in this state. Research undertaken by the Law Society in 2021 found that more than 90 per cent of respondent solicitors supported the flexibility to:

²³ Department of Communities and Justice, [‘Strategic Plan 2026-2031’](#), 32.

²⁴ Department of Communities and Justice, [‘Strategic Plan 2026-2031’](#), 32.

- Participate in online case management and directions hearings;
- Lodge documents and make court applications via internet portal, including in NCAT;
- View or download files remotely; and
- Interview clients in custody by audio-visual link (**AVL**).²⁵

The Law Society continues to support a judicious use of AVL facilities, and notes that, among other things, the move towards the Bail Division approach in the Local Court necessitates functional AVL facilities in Local Courts.

While we consider it critical that where contentious matters are determined, such as defended hearings, proceedings are, as far as possible, conducted face-to-face, we suggest that AVL facilities could be further utilised in case management and administrative court listings, or where parties specifically request the matter be conducted remotely, to enhance access to justice and the quick resolution of matters. AVL technology can significantly improve access to justice in rural and regional NSW. These tools can assist in meeting some of the barriers faced by RRR communities accessing justice such as distance, a lack of transport options, a decline in Local Court circuit services and limited access to specialist services.

Integrated precincts for legal and related services - South West Sydney Community & Justice Precinct

Courts and tribunals function most effectively when they operate alongside legal aid and welfare supports. We commend the establishment of the Paramatta Justice Precinct for the way in which it brings together state and federal courts as well as a range of services to enhance access to justice, including dedicated spaces for legal aid (e.g., the Criminal Advice Clinic), Victims Services NSW, Victims and Witnesses of Crime and the Office of the Trustee and Guardian.

The Law Society continues to support the replication of this model in South West Sydney through the establishment of a South West Sydney Community & Justice Precinct. We note the potential for associated benefits for the local area, including urban renewal generally, economic growth of complementary services and opportunities to integrate the justice precinct with upskilling and educational opportunities with local education providers.²⁶ We understand that in 2021, the Commonwealth Government, New South Wales Government and Campbelltown City Council announced \$1.2 million in joint funding under the Western Sydney City Deal to progress the project.²⁷ Since that time, however, we are unaware of any public announcements or communications in relation to this critical piece of justice infrastructure. The urgent need to provide for, and to undertake this infrastructure work is underscored by the fact that Western Sydney is one of NSW's fastest-growing regions. The NSW Government expects that by 2041, Greater Sydney will be home to 63% of all people living in NSW.²⁸

(c) Investing in justice infrastructure through specialised lists

We continue to support funding across NSW courts and tribunals for specialist lists that have demonstrated success in improving outcomes for Aboriginal and Torres Strait Islander people. As such, we support long-term sustained funding for the following model of specialist Indigenous lists including the Walama

²⁵ Law Society of New South Wales, [Post-COVID Justice System: Summary Report](#) (Report, 24 January 2022).

²⁶ See Campbelltown City Council, [Reimagining Campbelltown City Centre Masterplan](#), Project 1.4 "Create the South West Sydney Community & Justice Precinct", 120.

²⁷ Campbelltown City Council, ['Campbelltown Community and Justice Precinct a step closer with \\$1.2 million commitment'](#) (Media Release, 9 November 2021).

²⁸ NSW Government, Planning, Key findings – Population projections, [Metropolitan trends](#) (Web Page)

List,²⁹ the Winha-nga-nha List, the Youth Koori Court³⁰ and NSW Civil and the Administrative Tribunal's Aboriginal Tenancy List. Courts should be resourced to pursue initiatives that are effective in increasing participation, respect for the rule of law as well as decreasing the rate of recidivism. Such initiatives are usually able to do so through the prioritisation of cultural safety and the scaffolding of legal services with therapeutic services, and these should also be appropriately resourced.

1.4. Possible funding approaches

In a constrained budgetary environment, we encourage the Government to consider innovative approaches to delivering justice infrastructure work.

We suggest that the Government consider ways in which different courts and tribunals can co-locate, both with federal courts and tribunals, and, where appropriate, with other government infrastructure, particularly in RRR areas. We encourage the Government to consider the results of ongoing trials in this respect, for example the pilot use of the Service NSW Centre in Dubbo to allow for regional parties to attend dispute resolution events in the Personal Injury Commission virtually.³¹ If successful, this pilot could be considered for other appropriate jurisdictions.

Co-location with Commonwealth courts is an established and successful model in NSW (e.g., Queens Square, the Downing Centre, the Paramatta Justice Precinct and the Newcastle Court Complex). We encourage the Government to consider how different co-location models might operate in other parts of NSW, including the sharing of facilities in regional centres, to improve access to justice for RRR communities.

Asset recycling is another approach recognised as potentially useful to assist with infrastructure gaps. In NSW, this approach might be useful particularly in circumstances where considerations, such as heritage restrictions, may present insurmountable barriers to ensuring particular courthouses are not able to be upgraded to meet modern requirements. We suggest that it would be essential, however, for all proceeds from the asset sales to be reinvested in court infrastructure to support access to justice for persons across NSW.

A third form of investing in court and tribunal facilities that might be considered is a Public Private Partnership (PPP) approach. Advocates point to the way in which this model can achieve whole-of-life cost-saving and efficiencies in terms of the construction and service delivery of public services. We note, for example, that the Victorian Government has used a PPP approach to deliver a County Court in Melbourne, necessitated by long waiting times for court appearances. The Law Society understands that this was a 20 year project that concluded in 2022, delivered within time and budget.³²

Any PPP process must of course be subject to established NSW Government guidelines on PPPs, which should include consideration of any factors relevant to court and justice infrastructure, including safeguarding the independence, and perceptions of independence, of the judiciary and the legal profession.

²⁹ The Walama List, and its impact on sentencing and reoffending outcomes, is currently being evaluated by the NSW Bureau of Crime Statistics and Research. The evaluation commenced in December 2022 and will be completed in March 2031: NSW Department of Communities and Justice, 'Evaluating the Walama List Pilot (18 May 2023) <https://dcj.nsw.gov.au/about-us/research-strategy/our-research-projects-and-partners/evaluating-the-walama-list-pilot.html>.

³⁰ See Evann J. Ooi and Sara Rahman, 'The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes' (NSW Bureau of Crime Statistics and Research Crime and Justice Bulletin, No 248, April 2022): This evaluation found that there is an association between participation in the Youth Koori Court and the diversion of young Aboriginal people from custody, along with reductions in sentencing and recidivism outcomes for young Aboriginal people with no prior custodial episodes and those charged with one or more violence or property offences. See also Inside Policy, 'An evaluation of the Youth Koori Court Process' (Report, 6 June 2022).

³¹ See Personal Injury Commission, 'Venues for Dispute Resolution Services' (Web Page).

³² See County Court of Victoria [Annual Report 2022-23](#), 70 and Ernst & Young, [The journey continues – PPPs in social infrastructure](#), 18

2. SUSTAINABLE LEGAL ASSISTANCE ARRANGEMENTS IN NSW

We seek the Government's commitment to addressing the issue of sustainable and adequate arrangements for a functioning legal assistance sector in NSW as a matter of priority. We note the findings of the national reviews that have taken place in the last few years by the Independent Reviewer of the National Legal Assistance Partnership (**NLAP**), as well as by National Legal Aid.

National Legal Aid's Private Practice Census 2024 Report (**NLA Report**), released in February 2025, forecast that under the current funding arrangements, a significant number of the private practitioners currently providing legal aid have indicated that they will soon no longer be able to do so. The Report's findings suggest that in the absence of an adjustment, in five years' time, nationally, the legal aid sector could collapse.³³

As noted in previous correspondence to the NSW Government³⁴, including to the Treasury, on this issue, there is an immediate need, and an opportunity, for NSW to lead, particularly on securing the future of legally aided work delivered by the private profession.

Private practitioners deliver 72% of more than 150,000 legal aid grants every year.³⁵ As noted above, we consider this approach to be appropriate as it is decentralised, and able to meet legal needs where and when they arise. It is critical for the legal assistance sector that the participation of private practitioners in the delivery of legally aided work continues to be viable.

We note that 12% of the NSW respondents to the NLA Census indicated at that time that they plan to discontinue providing legal aid services in the following 12 months. A further 20% said they were "not sure" whether they would continue. Barriers to legal aid work identified by all respondents included having to perform unremunerated work (85%), increase in time needed to engage with legal aid clients (83%), growth in the level of support required to engage with legal aid clients (65%), and the need to travel over 200km one way to deliver legal aid (38%). By way of context, it is relevant to note that 89% of private practices in NSW are sole practitioners, or firms of one principal³⁶, and that almost half of solicitors in NSW have an income of \$150,000 or less per year.³⁷ Ongoing challenges with the recruitment and retention of solicitors in regional, rural and remote areas are well documented.³⁸

The implications of such an exodus of private practitioners from legally aided work are far-reaching. Should 20% of private practitioners decline to undertake legally aided matters, the Law Society is concerned that regional and rural areas already experiencing a shortage of panel lawyers will be most severely impacted. Access to justice will be significantly reduced, with a disproportionate impact on disadvantaged cohorts requiring legal aid, such as women and children experiencing domestic violence and First Nations peoples.

Further, the Law Society notes the primary role that Aboriginal Legal Service (NSW/ACT) (**ALS**) has in the provision of legal services for Aboriginal and Torres Strait Islander people in NSW. However, we understand from our members that the ALS does not have sufficient resourcing, including to service the Bail Division for adult clients, such that Aboriginal adult clients are now being served by Legal Aid NSW.

³³ Natasha Cortis and Megan Blaxland, [Legal Aid Private Practitioners Report: 2024 Census](#) (UNSW Social Policy Research Centre, 5 February 2025).

³⁴ Law Society of NSW, 'Future of legally aided work', letter to the Attorney General of NSW dated 26 March 2026.

³⁵ Emily Millane, Angela Jackson and Nathan Blane, '[Justice on the Brink: Stronger Legal Aid for a Better Legal System](#)' (Impact Economics and Policy, November 2023), 18.

³⁶ Law Society of NSW, '[2024 Profile of Solicitors: Final Report](#)' (Report, 17 April 2025), 30.

³⁷ *Ibid*, 8.

³⁸ See for example, Law Council of Australia, [Rural, Regional and Remote Lawyers and Communities: National Strategic Plan](#), 13 November 2020, 6-7.

It is essential to maintain a market for different legal assistance service providers, including for reasons of managing potential conflicts of interest. Additionally, it may be difficult for governments to meet their obligations under the National Agreement on Closing the Gap without appropriate support for private practitioners delivering legal aid, particularly in respect of Targets 10, 11 and 12 relating to the overrepresentation of Aboriginal and Torres Strait Islander people in adult and youth incarceration, and Aboriginal and Torres Strait Islander children in the care and protection system, which fall within State responsibility.

We suggest that it may be useful to revisit the report of the Independent Review of the NLAP (**NLAP Review report**), which provided a comprehensive roadmap for ensuring the sustainability of the legal assistance sector into the future. We acknowledge that the Commonwealth Government has since provided an injection of funding, including \$800 million additional funding over five years, on a national basis. The NLAP Review report also made particular recommendations for states and territories to coordinate, in addition to recommendations in respect of Commonwealth funding, extracted below.

18. Rates of grants of legal aid

The Reviewer recommends:

- **For the period of [a national legal assistance partnership agreement] grants of legal aid to private practitioners should be set at the same level as provided in the court scales (or some other relevant standard) where the matter is heard.**
- **The Commonwealth should provide \$44m in 2024-25 and \$46 million in 2025-26 for this purpose in relation to matters it funds under NLAP (apportioned 91% family matters, 7% criminal matters and 2% civil matters and excluding funding of ICLs which is the subject of a separate recommendation)**
- State and territory Governments should provide \$337 million in 2025-26 for this purpose in relation to matters it funds under NLAP (apportioned 85% criminal matters, 13% family matters and 2% civil matters).
- LAC baseline funding for 2025-26 should reflect this level of grants of legal aid across all categories of matters.
- LACs should be allowed to determine whether this additional funding is used for private practitioners or internal lawyers.
- **A working group should be established with an independent chair, supported by independent consultants, to develop a framework for the future of the levels and structure of grants of legal aid, including for lawyer assisted alternative dispute resolution. This should include consideration of the cost of delivering culturally appropriate approaches. SCAG should consider these recommendations with a view to varying baseline funding in 2027-28.**³⁹

In respect of children's lawyers, recommendation 19 contained a number of recommendations directed at the Commonwealth. We note also that it included this recommendation for states:

For the duration of A2JP, where lawyers are appointed to independently represent children under state or territory laws (such as in some care and protection matters) state and territory governments should fund LACs to remunerate these lawyers in accordance with the relevant jurisdictional court scales. This should support adequate supply lawyers for state and territory matters and avoid them showing a preference for matters in the Family Courts.⁴⁰

³⁹ Dr Warren Mundy, '[Independent Review of the National Legal Assistance Partnership 2020-25](#)' (Report, 28 May 2024), Recommendation 18.

⁴⁰ Ibid, Recommendation 19.

We suggest that there is an opportunity for NSW to demonstrate leadership in this space by committing to a public, strategic access to justice plan that includes clear, sustainable legal assistance arrangements for NSW, including consideration of appropriate resource allocations to ensure the ongoing viability of legally aided work provided by private practitioners in NSW. If a further review of NSW arrangements is considered necessary, it should be informed by work already undertaken in relation to legal assistance needs, both in NSW, and across Australia more broadly. Unresolved legal needs will, of course, manifest beyond the justice sector, likely in costs incurred in a crisis-driven way.

3. LONG-TERM ACCESS TO JUSTICE STRATEGY FOR NSW

The Law Society encourages the Government to consider a publicly available whole-of-government access to justice strategy to guide the next decade of justice in NSW. Given that the public's perception of the fairness and legitimacy of the justice system is influenced by a range of factors including 'personal experience, media reporting and community concerns', a transparent strategy to which the Government could refer, may assist in maintaining public confidence in legal institution and the rule of law.⁴¹ Funding commitments to the justice system are often framed through ad hoc "law and order" announcements. We appreciate that in the wake of criminal incidents that rightly provoke outrage and grief, not only for victims but for communities more generally, the Government is expected to respond. In our view, however, a publicly available justice strategy could assist the Government in ensuring that an objective evidence-based lens is applied on matters that arise across the justice system.

We suggest that a transparent, costed ten-year access to justice strategy that spans both the civil and criminal jurisdictions would benefit the NSW community by ensuring that justice funding is not delivered in an ad hoc manner but rather in an orderly way that takes account of the legal needs of the growing population of NSW and foregrounds access to justice and legal assistance, including for our most vulnerable populations.

While this letter has taken as its focus the need for investment in courts and tribunals and legal assistance providers, a broader strategy would be more robust if it were not simply confined to these areas of need. Our advocacy to government on improvements to the justice system has repeatedly emphasised the importance of early intervention, wrap-around services and therapeutic approaches. Similarly, there are other government and community-based services whose work interacts significantly with the justice system, that should be considered as part of any approach. This includes the Law Society's advocacy on recognising lawyers as essential workers, particularly in RRR areas, and therefore to be eligible for The Welcome Experience.⁴² Finally, we note that significant reforms, for example in workers compensation, will have resourcing implications in specialist forums, such as the Industrial Relations Commission. More generally, a longer term access to justice strategy would be better insulated against shocks if it were to incorporate periodic justice impact evaluations for proposed law and policy reform.

On the commercial/civil side, an access to justice strategy could usefully map the resourcing required for courts to meet the dispute resolution needs and expectations of investors. We suggest this would align well with the recent push by the Government to accelerate private capital and investment opportunities in NSW through the newly established Investment Delivery Authority.

The Law Society would be pleased to discuss the concept in greater detail with the Department of Treasury, together with the Department of Communities and Justice, at an appropriate time.

⁴¹ NSW Bureau of Crime Statistics and Research, '[Public confidence in the NSW criminal justice system declines, with a sharp fall in trust in police](#)', (Media Release, 26 May 2026).

⁴² NSW Government, The Welcome Experience, online, <https://www.nsw.gov.au/regional-and-primary-industries/makethemove/welcome-experience>.

4. CONCLUDING REMARKS

In many ways, NSW enjoys a distinguished legal reputation. At a time where many jurisdictions across the globe are facing threats to judicial independence, the NSW judiciary continues to exercise its functions with independence and high levels of competence. The fact that, on the most part, decisions of courts and tribunals are accepted by the parties and the public underpins the stability and well-being of our state. Further, commercial parties often prefer to file in NSW because they know that their matters will be dealt with in an expert and timely manner. The Law Society therefore encourages the Government to recognise the value of investing in courts and judicial infrastructure and take a forward-thinking and ambitious approach to ensuring that justice is delivered in a fair, competent and timely manner in NSW.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ronan MacSweeney', written in a cursive style.

Ronan MacSweeney
President