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# **BUDGET ESTIMATES BRIEF**

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## **TASMANIA PRISON SERVICE - PERFORMANCE**

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### **KEY MESSAGES**

- Corrective Services reports on a number of performance indicators in the Budget papers. Those directly related to the Tasmania Prison Service (TPS) include:
  - escape rates;
  - the cost per prisoner per day; and
  - the Prisoner Return to Corrections Rate.
- The TPS also has a number of additional performance indicators which were approved by the TPS Senior Management Team as part of its Business Plan for the 2021-22 financial year.
- Performance indicators are an important part of the change process and these indicators were chosen not just to define success but to measure progress towards key organisations goals.
- Over the last few financial years, the TPS has imbedded a Key Performance Indicator (KPI) suite across all services. The KPI suite has been developed as part of the TPS Performance and Compliance Framework to promote performance in core business services and to identify trends relating to high-risk issues across the organisation.
- The Department will report against its key performance indicators in its Annual Report later in the year.

## KEY FIGURES

### **Budget Paper KPI's**

#### Escapes

- There were no (0) escapes from custody in 2020-21.
- There have been two (2) escapes from custody recorded for 2021-22 (to date).
  - On 16 September 2021, a male minimum-security rated prisoner escaped from the Ron Barwick Prison. He was apprehended by Tasmania Police within one hour of the escape.
  - On 11 February 2022, a male minimum-security rated prisoner escaped while on an external escort to the Royal Hobart Hospital. He was apprehended by Tasmania Police on 15 February 2022.
- I would like to thank Tasmania Police for their assistance in the apprehension of the two individuals and their ongoing support to the Tasmania Prison Service.
- These escapes will be reported in the 2023 Report on Government Services which be released in January 2023.
- Any escape from custody is completely unacceptable, but it is important to note Tasmania has one of the lowest escape rates across all Australian jurisdictions.
- The Tasmania Prison Service constantly reviews its policies and operational practices to ensure secure custody is maintained.

#### Cost per Prisoner per Day

- In 2020-21, Tasmania's real net operating expenditure was \$385 per prisoner per day. This is an increase from the 2019-20 expenditure of \$340 (inflation adjusted).
- Tasmania's total recurrent expenditure per prisoner per day, comprising net operating expenditure and capital costs, was \$474 in 2020-21.

- In line with the national counting rules, prisoner health costs have been disaggregated and are no longer included in the cost per prisoner per day calculation. Costs borne by the Department of Education in relation to the delivery of education to prisoners are incorporated.
- Smaller jurisdictions such as Tasmania are less able to find economies of scale and tend to have high fixed costs. Because of this, fluctuations in prisoner numbers can have a significant effect on the cost per prisoner per day figure.
- The TPS has no control over prisoner numbers.
- The 2021-22 cost per prisoner per day will be reported in the 2023 Report on Government Services which will be released in January 2023.

#### Return to Prison and Corrective Services

- The following return-to-corrections figures represent a two-year rate of return. That is, the 2020-21 figures are for prisoners / offenders who completed their previous sentence in 2018-19.
- In 2020-21, the rate of prisoners returning to prison within two years of release increased from 47.1 per cent to 50.4 per cent.
- The rate of return for Tasmanian prisoners to any corrective services (either prison or community corrections) was 59.3 per cent in 2020-21, a slight increase from 56.6 per cent in 2019-20.
- Our Government is committed to reducing the rates of re-offending by providing a safe prison environment, with opportunities for prisoner rehabilitation, reintegration and personal development.
- I am confident that our multi-pronged strategy of combining increased rehabilitation opportunities for offenders with strong investment in infrastructure, and recruitment of additional correctional staff, will optimise the service delivery of our corrections system and deliver better rehabilitative outcomes that benefit all Tasmanians.
- The 2021-22, rate of return to prison and corrective services will be reported in the 2023 Report on Government Services which will be released in January 2023.

## **Other TPS Performance Indicators**

### **Unnatural Deaths in Custody**

- There were no deaths in custody due to apparent unnatural causes in 2020-21, nor were there any natural deaths in custody.
- I can confirm that sadly there have been two recent deaths in custody, the first on 10 January 2022 and the second on 23 May 2022.
- I extend my sincere condolences to the family and friends of the deceased men.
- As these matters are now the subject of examinations by the Coroner I cannot make any further comment.
- It is standard practice whenever a death occurs in a corrections environment for the Coroner to investigate.

### **Assaults on Staff**

- *Refer BEB – TPS - Staff Assaults – April 2022*

### **Assaults on Prisoners**

- *Refer BEB – TPS – Prisoner Assaults – April 2022*

### **Out of Cell Hours**

- In 2020-21, Tasmanian prisoners had an average of 8.0 hours out of cell per day. This is an increase of 12 per cent from an average of 7.1 hours in 2019-20.
- For further information refer to *BEB – TPS – Out of Cell Hours – April 2022*

**BACKGROUND:**

- The following table is a break-down of the final performance measure reporting against the TPS Business Plan.

Performance Indicator	2019-20 Full Year Result	2020-21 Full Year Result
Deaths in Custody due to apparent unnatural causes	0	0
<i>Assaults – Prisoner on Staff (rate per 100 prisoners)</i>		
Serious Assaults	0.45	0.00
Assaults	1.81	2.65
<i>Assaults – Prisoner on Prisoner (rate per 100 prisoners)</i>		
Serious Assaults	2.41	1.87
Assaults	11.75	17.49
<i>Escapes</i>		
Secure Custody	3	0
Open Custody	0	0
Other	1	0
Out of Cell Hours (rate per prisoner per day)	7.1	8.0
Random Urinalysis Tests conducted %	N/A	93.6%
Random Urinalysis Samples testing positive to Illicit Substances (%)	5.08%	2.3%
Targeted Urinalysis Samples testing positive to Illicit Substances (%)	25.53%	20.2%
Tier 1 Health Assessments completed within timeframe (%)	98.1%	99.3%
Tier 2 Assessments completed within timeframe (%)	81.43%	97.1%
Intervention Program Completions (%)	94.33%	99.2%
Eligible Prisoners employed (%)	53.8%	55.6%
Eligible prisoners with an Extended Sentence Plan	36.87%	57.7%
Exit Plans completed (Sentenced prisoners with greater than 6 months to serve)	74.43%	85.1%
Parole Episode Summary (PES) Reports completed	100%	100%

Contact Officer: Ian Thomas  
 Position: Director of Prisons  
 Phone: 6165 7247

Cleared by: Rod Wise  
 Position: Deputy Secretary  
 Phone: 6165 4943

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# **BUDGET ESTIMATES BRIEF**

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## **DRUG AND ALCOHOL SERVICES IN PRISON**

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### **KEY MESSAGES**

- The 2022-23 Tasmanian Budget is strengthening Tasmania's future with strong investments in our corrections system that will help keep our communities and staff safe while providing offenders opportunities for rehabilitation.
- The Tasmanian Prison Service (TPS) is committed to providing evidenced-based drug and alcohol treatment to offenders, and this has included the development and delivery of a residential Alcohol and Drug Treatment Program, first run in the Apsley Unit.
- Although the program was originally delivered in the Apsley Unit, it has been designed in a way that can be facilitated in any isolated unit. Due to meeting the requirement of an isolated unit, with significant capacity, Division 8 of the Ron Barwick Prison has been identified as the best location at the TPS to facilitate a residential Alcohol and Drug Treatment Program for male prisoners, under a therapeutic community model.
- Infrastructure and resource planning to achieve this has commenced, and initial design and surveying works have been completed.
- Since 2020, because of its physical isolation from other divisions, Division 8 has been reserved as a COVID isolation unit, delaying any progress towards refurbishments for the therapeutic community. It has now ceased being used for this purpose project costs will be reassessed in light of the delay in commencing the necessary refurbishment.
- This Budget will continue to deliver the commitments we took to the 2021 election, including \$1 million over two years to fund five new therapeutic staff to work within the prison. These positions are now firmly embedded, and the staff are contributing to the Alcohol and Other Drug (AOD) treatment framework at the TPS by undertaking assessments of prisoner risk and needs as well as providing AOD brief intervention.

- It is important to note that while the TPS are working to re-establish a *residential* alcohol and other drug program within the prison, they are actually already offering a much improved service to that offered at Apsley and I will explain.
- Various group programs are being delivered which are solely focused on or have a portion focused on Alcohol and Other Drugs (AOD), including a **resilience program**, **EQUIPS** addictions program and a **Dialectical Behaviour Therapy (DBT) program** in the women's prison.
- A new program called '**Making Changes**' is also due to commence soon. Making Changes is a high intensity alcohol and other drugs criminogenic program, and will be used for the intervention program component of the Alcohol and Drug Treatment Program therapeutic community once it is opened.
- On top of this, individual counselling is being offered to those who require individual 1:1 treatment.
- Based on all of those interventions being provided, the current model is superior to what was offered previously when the Apsley residential program was operating with a limited number of beds available, and is wider reaching and more effective, so is having a much greater impact.

### **Treatment Framework**

- The TPS has developed a framework for supporting prisoners with assessed drug and alcohol treatment needs. This is a staged framework, commencing with assessment, and then triaging into the most appropriate treatment option available.
- Treatment will be prioritised for those assessed at moderate to high risk, in line with best practice in criminogenic interventions.
- Those assessed as being at low risk on indicators related to substance use will not be provided criminogenic alcohol and other drugs intervention. The TPS will deliver group-based life skills sessions for those assessed at low risk, which will include information pertaining to problematic substance use and harm minimisation.

- Treatment options will be delivered in a staged approach, working to develop and build on skills as a prisoner moves through the prison system, these will include the following:
  - *Maximum rated male prisoners:* Resilience Program to increasing coping skills to manage problematic behaviours, including substance abuse for all prisoners referred for alcohol and other drugs treatment. Additional 1:1 alcohol and drug counselling for those assessed at high risk, or 1:1 brief intervention for those assessed at moderate risk.
  - *Medium rated male prisoners:* EQUIPS program for those assessed at moderate risk, and to increase program readiness for those assessed as high risk and eligible for a more intensive alcohol and other drugs intervention, being the Alcohol and Drug Treatment Program therapeutic community. 1:1 alcohol and drug counselling for those assessed as high risk, and 1:1 brief intervention for those assessed at moderate risk for those unable to complete group based interventions due to specific responsivity barriers.
  - *Minimum rated male prisoners:* For those assessed as high risk the Alcohol and Drug Treatment Program therapeutic community model, a high intensity six-to-nine month intervention, that will focus on addressing substance abuse issues, as well as working with prisoners to address any barriers to successful reintegration to the community. For those unable to complete group based interventions due to specific responsivity barriers, 1:1 alcohol and drug counselling will be provided for those assessed as being high risk, and 1:1 brief intervention for those assessed at moderate risk.
  - *Female prisoners:* Dialectical Behaviour Therapy program to increase coping skills, manage stressful situations and regulate emotions, and decrease the use of substances as a coping mechanism. For those unable to complete group based interventions due to specific responsivity barriers, 1:1 alcohol and drug counselling will be provided for those assessed as high risk, and 1:1 brief intervention for those assessed at moderate risk.



### **Dialectical Behaviour Therapy Programs – Mary Hutchinson Women's Prison**

- The TPS implemented a Dialectical Behaviour Therapy Program for female prisoners in June 2021.
- This program is a type of cognitive behavioural therapy that works to identify and change negative thinking patterns and pushes for positive behavioural changes.
- The program is evidenced internationally as working well for female offenders, and can work to also address substance abuse issues as part of its broader focus.
- This program is accessible in addition to the usual access to drug and alcohol counsellors.
- Each module within the program is relatively short, meaning that the program has good application for those female prisoners on short sentences, as well as women on remand.
- The program is delivered in a rolling format, whereby if a prisoner is absent from a program session they are able to re-engage.
- For women being moved from medium/minimum security to maximum security rating after program engagement, they will continue to receive individual counselling while in maximum security with the aim of supporting them back through the system and in to group again.

### **KEY FIGURES**

- Individual drug and alcohol counselling continues to be provided to prisoners in all Southern facilities (HRP, RBP, RPC & MHWPP). As at 31 March 2022, there were 42 prisoners receiving this service and 61 on the waitlist. Of those waitlisted, 22 prisoners are minimum rated and housed in Ron Barwick Prison, 38 are house in the medium or maximum rated facility in the Risdon Prison Complex and one is housed at Hobart Reception Prison.

## **BACKGROUND:**

### Temporary Suspension of the Alcohol and Drug Treatment Unit

- In 2019, as part of the decant strategy to facilitate HRP infrastructure works, the Apsley Unit was used to temporarily accommodate maximum security rated prisoners. The use of the Apsley Unit subsequently resulted in the temporary suspension of the Alcohol and Drug Treatment Program that operated from the unit.
- While the works have now been finalised at the HRP, the use of the Apsley Unit for normal accommodation purposes has remained due to accommodation pressures created by the need for secure isolation quarters as part of the safety planning for COVID-19. An internal review of the program commenced in February 2020 and has now been completed. Key findings of this review were that the program would have greater impact if it were moved from RPC maximum to allow greater prisoner participation (and as noted above, recommended that it move to Division 8), and the scope of the program should be changed to specifically target the offending behaviour needs of the offender, not just focus on alcohol and drug treatment.
- Additionally, the TPS is undertaking a review of its current accommodation in an effort to ensure the most efficient and effective use of the accommodation available. This review includes consideration of the appropriate delivery of the Alcohol and Drug Treatment Program and the current proposal to deliver the program in Division 8.
- Should the Apsley unit again become available for the use of a therapeutic community in the future (when the Southern Remand Centre comes on-line), consideration will be made as to what program would be best to deliver there.

### History of the Apsley Unit

- The original purpose of the Apsley Unit program was to provide a safe and secure drug-free environment that supported prisoners through intervention and the provision of intensive education, programs and counselling to allow them to become independent of substance abuse.
- Only prisoners undertaking the Alcohol and Drug Treatment Unit (ADTU) program were eligible to be accommodated in the Apsley Unit in order to ensure that the unit remained a non-punitive, isolated and safe environment for prisoners who committed to changing their behaviour in regard to substance abuse.
- The purpose of the ADTU program, wherever it operates from, is to adopt a bio/psycho/social through-care model to increase the effectiveness of existing treatments, and to provide a cognitive behavioural approach to adopting and enhancing skills and pro-social thinking to foster an attitude and belief that prisoners can avoid relapse and future recidivism.

- The Apsley Unit was opened by the Hon Vanessa Goodwin, the then Attorney-General and Minister for Corrections, in 2015 and was the longest running continuous program offered to high risk prisoners within the Risdon Prison Complex (RPC). Since the commencement of the program, over 147 prisoners graduated.
- Apsley was designed to operate as a therapeutic environment which provides prisoners with the ability to change their behaviour without the interference from other prison influences. There were no assaults on any staff member within the unit and only one prisoner on prisoner assault during the unit's operation.

Contact Officer: Ian Thomas  
Position: Director of Prisons  
Phone: 6165 7247

Cleared by: Rod Wise  
Position: Deputy Secretary  
Phone: 6165 4943

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# BUDGET ESTIMATES BRIEF

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## MAGISTRATES COURT (CRIMINAL AND GENERAL DIVISION) ACT 2019 - IMPLEMENTATION

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### KEY MESSAGES

- Our Government is committed to ensuring that all Tasmanians have access to an efficient and effective criminal and civil justice system.
- Our Government's *Magistrates Court (Criminal and General Division) Act* was passed by Parliament in December 2019. It is significant reform and has been more than 18 years in the making.
- The Department of Justice and the Magistrates Court are working hard to reform their administrative procedures and processes consistent with the Act.
- The Court Reform Team was formed in 2021 to undertake the work of preparing court processes, drafting Rules and Regulations to support the Act, working with stakeholders, and preparing the Court and Court staff for the new legislation.
- The decision to align the implementation of the Act with the development of the new Astria IT system has added a level of complexity to the build of Astria as the detail of the transitional arrangements and new court processes are still being developed and finalised. The impact on the program is slowing delivery but each of the invested stakeholders are working hard to ensure that any impact is limited.
- The two projects are intertwined, with Astria providing an essential modern IT system which will enable the full realisation of the Act's potential.
- While the original scope of the program included a replacement of the legacy CRIMES system within the Department, the downstream impact on Tasmania Police was not as well understood. Without a change to their system, the Department of Police, Fire and Emergency Management (DPFEM) will be negatively impacted and will be unable to fulfil its legislated responsibility especially as it relates to the new Act.

- Originally scheduled for late 2022, due to delays in the Courts and prosecution side of the program, the Department has sought permission to delay the move to production of the Magistrates Court, Supreme Court, Victims Support Services, Director of Public Prosecutions and Police Prosecutions to late 2023. This additional time will enable the program time to ensure that Astria is fit for purpose and does not contribute to the backlog of matters.
- It is disappointing that this has resulted in this component being delayed due to a number of unanticipated factors.
- The Courts and Prosecution components are significantly more complex than anticipated, largely due to the evolving requirements of the *Magistrates Court (Criminal & General Division) Act 2019* on court processes and procedures, and the need for both the Magistrates Court and Police Prosecution to agree on detailed technical configuration of the software.
- Further time is also needed to allow for significant engagement and training for users of the Courts and Prosecutions components in Astria to ensure minimal disruption to court services.
- A Quality Assurance and Risk Management Advisor has also been engaged by the Department to independently assess all aspects of the various interdependent projects and to determine if the revised projections for time and cost of deliveries are sound.
- The Court Reform Team works closely with Project Managers at the Department of Police, Fire and Emergency Management and Justice Connect (the Astria team). Together these teams are responsible for co-designing future processes and developing functionality requirements for the new Astria system.
- Further, the Court Reform Project has drafted all of the Rules and Regulations for the Act, with only two further revision sessions with the Rules and Regulations Working Group to finalise the content. All magistrates have been provided with a copy of the proposed Rules and Regulations. This component of the project is on track to finalise according to the schedule.

- Other core tasks the Court Reform Project has undertaken are engaging and organising ongoing workshops with Justice Connect and DPFEM, and engaging with external stakeholders.
- The scope of the Court Reform Team's work includes, but is not limited to:
  - identifying and advocating for legislative amendments required for the implementation of the Act and to assist in achieving its objects;
  - identification, initial design and initial drafting of transitional clauses;
  - drafting Rules and Regulations for the Act;
  - drafting Rules for the *Restraint Order Act 2019*;
  - providing subject-matter expertise to Justice Connect (e.g. daily workshops and meetings with Justice Connect);
  - providing business analysis services to Justice Connect;
  - supporting redevelopment of Justice Connect's business requirements;
  - obtaining legal advice on matters relevant to Justice Connect;
  - supporting Justice Connect's stakeholder management;
  - reviewing and refining proposed IT solutions from Justice Connect's IT provider (JTI);
  - co-ordinating Justice Connect's engagement with the Court (e.g. making delegated decisions for the Court, identifying which decisions require escalation to the Administrator; advising Justice Connect on who/when/how to engage Court resources);
  - coordinating the Court's technical analysis of the Justice Connect product (e.g. analysing what the product can and cannot do and how that aligns with Court processes, infrastructure and resourcing); and
  - developing reports, business cases, and formal documentation for the Department about the Court and Justice Connect.

## BACKGROUND

- The *Magistrates Court (Criminal and General Division) Act 2019*, *Magistrates Court (Criminal and General Division) (Consequential Amendments) Act 2019* and the *Restraint Orders Act 2019* were passed by Parliament on 12 December 2019. None of the Acts have commenced.
- Development of these Acts was purely legislative: the administrative, information technology and other reforms that would be required to implement the Acts were not identified.
- Three significant reforms are necessary. First, transformation of the Court's processes and procedures, supported by extensive change management and cultural transformation. Additional resources have been sought to support this work.
- Second, substantial redesign of Tasmania Police processes for commencement of proceedings and disclosure of prosecutorial evidence. This is likely to include extensive education/training of staff and IT infrastructure changes/upgrades. Additional resourcing and funding is likely to be necessary; and the changes envisaged by the legislation may not be fully realisable without it.
- Third, design and implementation of Justice Connect's "Astria": a major digital transformation of Tasmania's justice system to replace out-dated and inefficient practices with an integrated end-to-end digital solution.
- Simultaneous implementation of Astria, the Court Reform and reforms within Police is crucial. Failure to align significantly increases the risk of Court delays and errors.

Contact Officer: Penelope Ikedife  
Position: Administrator of Courts  
Phone: 6165 7633

Cleared by: Kristy Bourne  
Position: Deputy Secretary  
Phone: 6165 4943

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# **BUDGET ESTIMATES BRIEF**

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## **NORTHERN CORRECTIONAL FACILITY**

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### **KEY MESSAGES**

- A key part of our Corrections and Rehabilitation infrastructure plan is our commitment to build a Northern Correctional Facility and we are investing \$270 million in this project.
- We are designing a modern correctional facility that will not only provide secure accommodation and facilities for the offender population it houses, but one with a strong focus on rehabilitation.
- In 2018, approximately 46 per cent of offenders originated from the north or north-west of Tasmania or were required to appear in north or north-western courts. In 2022, that figure has increased to approximately 50 per cent.
- The new facility will predominantly accommodate sentenced offenders who are progressing through their sentences and starting to prepare for reintegration into the community, as well as a Northern Remand Centre for people who have been detained in custody pending their court appearances.
- As I have previously stated, our Government will invest \$50 million into the development of a new maximum security unit within the existing Risdon Prison Complex in southern Tasmania to help alleviate current bed pressures for maximum rated serious offenders.
- On 9 September 2021, the Government announced the closure of the Ashley Youth Detention Centre (AYDC) within the next three years and the establishment of new alternative therapeutic facilities for youths, with a service delivery model focused on early intervention, diversion strategies and detention as a last resort measure.
- As many in the community have stated, the closure of Ashley presented the Government with an opportunity to consider the development of this important infrastructure project at this location.



- My Department conducted preliminary investigations of the Ashley Youth Detention Centre (AYDC) site which indicated the site appears to be well suited as a location for a modern, fit for purpose correctional facility in northern Tasmania, with a custodial facility a permitted use within the current zoning for the site under the Tasmanian Planning Scheme for the Meander Valley.
- Following this, my Department through the Project Team engaged with the local Meander Valley community on the future use of the AYDC site **before making any decision** through an extensive community consultation process.

**If Asked - Expenditure to Date**

- Total expenditure as at 31 March 2022 on the Northern Correctional Facility project is \$3.615 million.
- Total expenditure on consultancies as at 31 March 2022 on the Northern Correctional Facility project is \$650,215.65.
- The remaining expenditure to date has covered project costs associated with project management, project planning and approvals and legal costs.
- In 2021, the Department appointed a new Project Director for the Northern Correctional Facility. We are committed to delivering on the Northern Correctional Facility and ensuring we have resourced the project team to deliver on the infrastructure program for the Department.
- In addition, a Manager – Planning and Approvals, and a Senior Communication Officer were also recruited to the NCF project.
- It is common for large complex infrastructure projects to take multiple years to progress from concept to design to statutory approvals to construction and operation.
- Most projects follow a similar project planning and due diligence process that involves:
  - 1) developing a concept plan following input from key stakeholders who will ultimately be involved in the operation of the facility;

- 2) detailed design of the facility which will be used in the Development Application plus the need to obtain any required statutory planning and regulatory approvals;
  - 3) engaging and managing the construction contractor; and
  - 4) working through a commissioning and defect liability period post construction.
- From a Departmental perspective, each project will be allocated a dedicated project team who will be responsible for developing the project plan and managing the project through all of the various stages listed above.
  - The initial planning process will include engaging a range of technical specialists to provide advice on a variety of issues and all the consultants engaged will need to be procured in accordance with Treasurer's instructions and utilising established Departmental procurement procedures, with all contracts subject to scrutiny and advice from the Office of the Crown Solicitor.
  - Most projects will need to obtain planning approval under the *Land Use Planning and Approvals Act 1993* and many will require a raft of additional regulatory approvals before being able to progress to the construction phase.
  - Any projects over \$8M in value will also need to obtain approval from the Parliamentary Standing Committee for Public Works (PSCPW).
  - Depending on their complexity, large construction projects will regularly take 1-2 years to build, for example, the new Southern Remand Centre that reached Practical Completion on 29 April 2022 involved an approximately 26 month construction period (inclusive of early works).
  - It should be noted that due to the highly specialised nature of Corrections and Justice projects there are a number of added complexities that are unique to the infrastructure that is delivered within this portfolio, in particular around security considerations.

## **Community Consultation 2022**

- The primary purpose of this consultation was to provide an opportunity for the Meander Valley and wider Tasmanian community to express their views on the **potential use** of the AYDC site for the Northern Correctional Facility (NCF), and to provide an overview of those views to the Government to help inform a decision on the future use of the site.
- My Department worked hard to engage as many members of the Meander Valley community as possible during their consultation processes.
- This included a bulk mail out to **over 6,000 delivery points** through Australia Post, direct contact with near neighbours of the site (namely those owning property within a 2km radius from the site), nine print media advertisements in local newspapers, direct marketing from the Department with 140 emails forwarded to subscribers, and materials advertising the community consultation provided to local businesses and government offices.
- The community consultation included shop front/drop-in sessions held at several locations over a five week period, which commenced in early February 2022 and included day, evening and weekend sessions to maximise the opportunity for members of the local community to attend a session to have their say.
- A total of **143** people attended these drop-in sessions across Deloraine, Westbury and Elizabeth Town.
- In addition to these face-to-face meetings, a total of **128** written submissions were received, these included feedback forms provided at the drop-in sessions, e-submissions and postal submissions.
- Overall, feedback provided at the drop in sessions and through the written submissions reflect a diverse range of views.
- Support for the site can be considered to come from a broad spectrum of positions, from unqualified support through to support only for a particular model, or if issues can be satisfactorily resolved.
- It is also clear that those opposing the use of the site or locating the NCF in the Meander Valley more generally are unlikely to change their views.

- The consultation process has provided a comprehensive overview of community attitudes within the Meander Valley to the possible use of the AYDC site for the NCF.
- It has reiterated the broad concerns that have been raised previously in relation to having a correctional facility in the wider area, while also highlighting the AYDC site itself.
- It is also clear that, for a proposal of this nature, there is an encouraging level of community support for the AYDC site to be considered as the possible site for the NCF. The community, while forthcoming with their support, identified some issues that could be addressed through the design and construction of the NCF.
- All submissions were considered by our Government to inform the final decision about the future use of the Ashley Youth Detention Centre site. A report summarising the feedback received during the community consultation process and submissions received are available on the Department's website for the NCF.
- I thank the residents of the Meander Valley community for their valuable feedback and participation in this extensive consultation process.
- After careful consideration I announced on Thursday, 5 May 2022, we will now move to the next steps and commence due diligence investigations at the AYDC site.
- This means that the AYDC site is now the only site we are considering for the Northern Correctional Facility, and we will halt the work being conducted at the Crown Land site at Birralea Road.
- As part of the further site due diligence, we will continue talking to local property holders and engage with the local community.
- The Northern Correctional Facility project is expected to create hundreds of jobs during construction with flow on benefits to the Tasmanian community.
- Once the new facility is operational, it will continue to support the local economy through the use of local contractors and suppliers, wherever possible.

- I am pleased to be progressing this important project and continuing to ensure that the Tasmania Prison Service has modern, fit for purpose, secure facilities that allow for a strong focus on rehabilitation.

**Staged Construction**

- Consistent with the original masterplan for the Northern Correctional Facility, it is expected that a two stage design and construction approach will be undertaken.

## **BACKGROUND:**

- In early 2018, the Government committed to fund a northern correctional facility and committed \$270 million to the project.
- At present, approximately 49 per cent of prisoners originate from the north or north-west of Tasmania or are required to appear in north or north-western courts. By accommodating these people closer to their families and support networks, it is expected that recidivism rates will improve and there will be increased opportunities for rehabilitation and reintegration.
- The construction of a new Northern Correctional Facility will also enable the Government to work towards ensuring Tasmania's compliance with the United Nations minimum standards for prisoners.
- The new Northern Correctional Facility will provide better access to justice for untried prisoners in the north and a facility more able to deliver the necessary programs for prisoners in line with well-researched and contemporary international principles and procedures.

### History of Previous Sites

- In 2018, the Department established a multi-disciplinary interdepartmental Siting Panel to oversee and manage the process of identifying a shortlist of potential suitable sites for the Northern Correctional Facility.
- The EOI process closed on 22 November 2018. A total of 11 prospective sites were received (seven private sector and four Government), with one Government site subsequently being withdrawn.
- A site at 135 Birralelee Road in Valley Central outside of Westbury, was selected as it best met the key selection criteria identified, including connectivity to major population centres in the north and north-west, suitability of land for a project of this scale and location relative to services and transport routes.
- However, after careful consideration following the original announcement and taking on board the feedback from the Westbury and broader Meander Valley community, the Government announced on 18 June 2020 that Crown Land at Brushy Rivulet would now be the new site for the Northern Correctional Facility site.
- In late 2021, the Government announced that it had decided to close the Ashley Youth Detention Centre, which presented an opportunity to consider this site as a potential alternative location for the Northern Correctional Facility.
- The opportunity to consider the AYDC site has not previously existed as the Government had ruled out co-locating an adult correctional facility adjacent to a youth detention centre.

- As part of that consideration, extensive public consultation was undertaken with the local community around Deloraine in February and March 2022.
- The consultation process included a bulk mail out to more than 6,000 delivery points through Australia Post, direct contact with near neighbours of the site, advertisements in multiple local newspapers, and shop front/drop-in sessions held at several locations at different times throughout the day over a five week period.

#### Project Staffing and Project Director Northern Correctional Facility

- In 2021, the Department has appointed a new Project Director for the Northern Correctional Facility. We are committed to delivering on the Northern Correctional Facility and ensuring we have resourced the project team to deliver on the infrastructure program for the Department.
- In addition, a Manager – Planning and Approvals, and a Senior Communication Officer were also recruited to the NCF project.

#### Revised cash flows in 2021/2022 Budget

- The revised budget for the project is largely based upon the expected time frames required by the statutory approvals process that will be undertaken and an understanding of the likely expenditure that will occur by using a staged construction approach.

#### Northern Prison - Expenditure

- Total expenditure as at 31 March 2022 on the Northern Correctional Facility project is \$3.615 million.
- Total expenditure on consultancies as at 31 March 2022 on the Northern Correctional Facility project is \$650,215.65, the remainder of the expenditure is mostly salaries and other project related costs and overheads.
- No expenditure has been spent on reimbursing the landowner of the original site. However, the Department has reimbursed the owner \$15,240.07 in legal fees due to not proceeding with the purchase of the original site.

#### Northern Prison - 2022-23 Budget and Forward Estimates

- The cash flows for this project in the 2022-23 State Budget over the forward estimates are as follows:

2022-2023 Budget				
Estimated Total Cost	2022-23 Forward Estimate	2023-24 Forward Estimate	2024-25 Forward Estimate	2025-26 Forward Estimate
\$270 million	\$4.8 million	\$18.3 million	\$32.6 million	\$35.0 million

- ***Close Neighbours to the Ashley Youth Detention Centre***

A group of twelve close neighbours to Ashley forwarded a joint submission to the community consultation process, opposing the development of the NCF on the AYDC site.

Their issues and concerns are reflected in the report on community consultation provided to Government in April 2022 which has been made publically available on the dedicated Northern Correctional Facility web page.

Contact Officer:	Colin Shepherd	Cleared by:	Kerrie Crowder
	Acting Director		A/ Deputy Secretary
Position:	Strategic Infrastructure Projects	Position:	Corporate, Strategy and Policy
Phone:		Phone:	6165 4943



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# BUDGET ESTIMATES BRIEF

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## TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (TASCAT) BUDGET AND PERFORMANCE

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### KEY MESSAGES

- Our Government is committed to improving access to justice for all Tasmanians
- I was delighted to officially open Tasmanian's new Civil and Administrative Tribunal – the Tasmanian Civil and Administrative Tribunal (TASCAT) on 5 November 2021. This important project was delivered by our Government after almost two decades in the making.
- The Tasmanian Civil and Administrative Tribunal (TASCAT) is a statutory independent body established to serve the Tasmanian community in resolving disputes and making decisions under a broad range of legislative provisions where required by law.
- The Tribunals' objectives are set out under section 10(1) of the *Tasmanian Civil and Administrative Act 2020*.
- I am delighted that as part of the 2022-23 Budget, our Government has provided additional funding of \$1.9 million per annum for the ongoing operations of TASCAT to meet its statutory obligations and deliver on the TASCAT reforms. This takes the TASCAT appropriation allocation to \$9.817 (including overheads) for the 2022-23 financial year.
- The work of the Tribunal is arranged into Divisions and Streams to ensure efficient and effective decision-making functions occur with appropriate supervision by the President, Deputy Presidents and Registrars.
- The scope of the Tribunal's decision-making functions is very broad ranging from guardianship and mental health matters under the Protective Division to personal compensation, planning and resources, anti-discrimination, forestry and health practitioners' matters under the General Division.

- Since amalgamation, the new Tribunal has already achieved a range of significant outcomes in keeping with the policy and statutory objectives of the reform:
  - The President has issued a Code of Conduct for all members of the Tribunal in accordance with section 94 of the *Tasmanian Civil and Administrative Act 2020*.
  - The Rules Committee has been formed in accordance with section 91 of the 2020 Act and met on several occasions to approve a change to the TASCAT Rules.
  - The TASCAT Consultative Forum has been created with 22 peak representative bodies as members of the Forum. It meets at least twice yearly and has met two times since the inception of the Tribunal. The Forum allows for the Tribunal and key representative bodies to discuss issues of broad application to the Tribunal's processes and services.
  - Appointment of a new Division Head and Deputy President is expected shortly.

## KEY FIGURES

### TASCAT PERFORMANCE (Including cases referred and comparison over previous years)

#### Statistics under each relevant Stream

- The following statistics are provided with respect to applications and proceedings under the:

#### Anti-Discrimination Act 1998

Number of Matters (Year to Date March 2022)	22
Number of Listings (Hearings or Conferences) This includes teleconferences for case management, conciliations and final hearings	103
Number of Decisions or Orders	13

Health Practitioners Stream

Number of Matters (Year to Date March 2022)	5
Number of Listings (Hearings or Conferences) This includes teleconferences for case management, conciliations and final hearings	25
Number of Decisions or Orders	6

Forestry Practices Stream

Number of Matters (Year to Date March 2022)	1
Number of Listings (Hearings or Conferences) This includes teleconferences for case management, conciliations and final hearings	2
Number of Decisions or Orders	0

Personal Compensation Stream*Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*

Number of Matters (Year to Date March 2022)	2
Number of Listings (Hearings or Conferences)	2
Number of Decisions/Determinations	0

*Motor Accidents (Liabilities and Compensation) Act 1973*

Number of Matters (Year to Date March 2022)	11
Number of Listings (Hearings or Conferences) This includes teleconferences for case management, conciliations and final hearings	41
Number of Decisions or Orders	2

*Workers Rehabilitation and Compensation Act 1988*

Number of Matters (Year to Date March 2022)	1,067
Number of Listings (Hearings or Conferences) This includes teleconferences for case management, conciliations and final hearings	2,253
Number of Decisions or Orders	182

*Resource and Planning Stream*

Number of Matters (Year to Date March 2022)	124
Number of Listings (Hearings or Conferences) This includes teleconferences for case management, conciliations and final hearings	167
Number of Decisions or Orders	67

*Mental Health Stream*

Number of Matters (Year to Date March 2022) - this relates to applications filed	790
Number of Listings. This includes new matters and existing matters that require ongoing review by the Tribunal	649 (matters listed for review by 3 member panels)
Decisions made on applications. This includes single member and 3 member panel determinations/orders	655 (decisions made on applications by 3 member panels)  403 (single member Interim Orders)  414 (decisions made on reviews by 3 member panels)  985 (own motions reviews by single member panels)  <b>TOTAL: 2,457</b>

*Guardianship Stream*

Number of Matters (Year to Date March 2022) - This relates to applications filed.	1,222
Number of Listings. This includes new matters and existing matters that require ongoing review by the Tribunal.	296 hearing sessions (which have between 4-5 hearings per session) 136 southern matters 97 northern matters 63 north-western matters
Decisions made on applications. This includes single member and 3 member panel determinations/orders.	1,438

## **Discussion Points**

### **Resource and Planning Stream**

- As at the end of March 2022, the Performance Measures are as follows.

Proportion of Substantive Decisions resolved by mediation	71.87%
Percentage of appeals resolved within 90 day timeframe without extension	44.17%
Percentage of appeals which did require extensions due to parties	83.58%

- The number of proceedings not completed within the 90 day timeframe required by Schedule 2, Part 8, Clause 9 of the *Tasmanian Civil and Administrative Tribunal Act 2020* has increased from previous years. The majority of these delays are attributable to parties to the proceedings (83.58% of matters).
- Various factors are attributable to these delays including the impact of COVID-19 on proceedings being able to be convened (adjournments required due to illness or quarantine).
- The Tribunal has been operating since December 2021 without a Deputy President allocated to the Stream and reliant upon sessional members. This is a significant factor in the increase in delay occasioned by the Tribunal. The Tribunal continues to maintain a high average of matters being resolved by mediation (71.87% of substantive decisions).
- ***Neighbourhood Disputes About Plants Applications*** - The Tribunal received three applications under the NDAP Act 2017 during the financial year up to the end of March 2022. All the applications were subsequently withdrawn.

### **Mental Health Stream**

- A substantial number of persons who come before the Mental Health Stream are unrepresented (767 persons – 83.1% of matters); 150 persons were legally represented by Legal Aid (16.25% of matters); and 6 persons were represented by Advocacy Tasmania (0.65% of matters).

- Patient attendance data:

	Year to Date 2021-22	% attendance
Attended	524	56.8%
Not attended	399	43.2%
<b>TOTAL</b>	<b>923</b>	<b>100%</b>

***IF REQUIRED – Dr Peter Wurth***

- The Mental Health Stream received its first applications from a newly appointed State-wide Mental Health Services Registrar, Dr Jessica Bowen, on 28 February 2022.
- Dr Bowen has been assessing patients with a dual diagnosis (of intellectual disability and mental illness) who have been treated by an interstate dual disability psychiatrist, Dr Peter Wurth, most of whom have not previously been under the *Mental Health Act 2013*. This has led to an increase in the volume of work in front of the stream (at time of writing it resulted in an additional 24 patients on Treatment Orders), and may continue to increase into the future across the Protective Division (Guardianship and Mental Health Streams)
- The estimate for potential new proceedings/patients are at least 200 and possibly more. That would represent a significant jump in the number of proceedings.

***IF REQUIRED – will you amend the Mental Health Act to facilitate personal information of mental health patients being provided to Advocacy Tas/Your Say?***

- Your Say Advocacy Tasmania and Legal Aid are two very important services that provides assistance to people interacting with TASCAT.
- The Government is committed to getting the balance right of protecting people's privacy while ensuring adequate support systems are in place. The Government is considering the most appropriate way forward on this important issue, including opt-in and opt-out approaches to advocacy.
- In the interim, the Department of Health is continuing to liaise with Your Say Advocacy Tasmania and TASCAT to improve existing systems and ensure that people coming before TASCAT have the support they need.

- People coming before TASCAT are provided with information about advocacy services available, including Your Say Advocacy Tasmania and Legal Aid.

### Guardianship Stream

- A substantial number of persons who appear before the Guardianship Stream are unrepresented (1,006 persons – 97.5% of attendees); 11 persons were represented by Legal Aid (1% of attendees); 9 persons were represented by Advocacy Tasmania (0.9% of attendees); and 6 persons were represented by private legal representatives (0.6% of attendees).
- Attendances in person by the proposed represented person.

PRP attendance	Up to end of March 2022	% attendance
In person	178	17.3
Via telephone	203	19.6
Via video conference	84	8.2
Did not attend	567	54.9

### Supreme Court Appeals

- Since the commencement of the Tribunal on 5 November 2021, there have been three appeals filed with the Supreme Court. All three arise from decisions of the Tribunal in the Anti-Discrimination Stream.
- The remainder of appeals that remain outstanding with the Supreme Court are nine matters that were filed prior to amalgamation. Three arising from the former Resource Management and Planning Appeal Tribunal, four arising from the former Workers Rehabilitation and Compensation Tribunal, one arising from the former Guardianship and Administration Board and two arising from the Anti-Discrimination Tribunal (one of those matters has been appealed now to the High Court).

### Telephone Enquiries

- The Tribunal's new phone system is now capable of tracking the numbers of incoming calls that go to the various Streams of the Tribunal. At present, the Tribunal only has a couple of months of data but the current data up to the end of March 2022 provides the following information:

	Current Month	% of calls
Guardianship	444	53%
Mental Health	194	23%
Personal Comp	33	4%
Planning	67	8%
Other/ General	100	12%
<b>TOTAL</b>	<b>838</b>	<b>100%</b>

### **Complaints**

- The Tribunal has received eight complaints under the new TASCAT Complaints Policy and Procedure. Five complaints were not substantiated with no action required and three were dismissed as they related to legal matters that did not fall within the scope of the complaints policy.

### **Independent Review of the Public Trustee**

- The Tribunal welcomed the findings of the Independent Review of the Public Trustee in a statement issued on 8 December 2021, which is available on the Tribunal website.
- The Tribunal had already implemented two of the three reforms proposed.
- First, Recommendation 1.1 had already been implemented. The Tribunal had modified its hearing process with respect to Emergency Requests on 8 November 2021. They are now determined by a formal hearing including out of hour requests. This was to allow direct involvement of the proposed represented person and their family or supports if they wished to be involved. Notice is provided to the proposed represented person and any other party or interested person listed in the request.
- Secondly, Recommendation 1.2 has been implemented. The Tribunal has updated the Annual Report template for the Public Trustee. This updated form prompts questions in relation to a range of areas including income/expenditure, direct deductions from pension, outstanding debts, disability/capacity/need, living and family situation, emerging issues, gifts and additional reporting. It has specific questions in relation to section 57 of the *Guardianship and Administration Act 1995* and the Tribunal will be auditing the public trustee (as it always has) on their response to this form.



- In addition to the new forms, and updated handbooks and fact sheets, as of 1 January 2022 Members have been advised where appointing the Public Trustee as Administrator, that within six weeks (or another time period at the discretion of the Tribunal), the Public Trustee is required to provide to the Tribunal a financial summary of the estate. This Tribunal already does this with Private Administrators.
- The third recommendation relates to legislative change to the *Guardianship and Administration Act 1995*.
- *See separate BEB - Public Trustee Independent Review.*

## **BACKGROUND:**

### **Divisions and Streams of TASCAT**

- The work of the Tasmanian Civil and Administrative Tribunal (TASCAT) is arranged into the following Divisions and Streams:

#### **General Division**

- The General Division is established by section 59(1)(a) of the *Tasmanian Civil and Administrative Tribunal Act 2020*. Schedule 2 establishes the Streams that fall within that Division and the scope of their jurisdictions. The General Division includes: the Anti-Discrimination Stream; the Health Practitioners Stream; the Forestry Practices Stream; the Personal Compensation Stream and the Resource and Planning Stream.

#### **Anti-Discrimination Stream**

- The Anti-Discrimination Stream is vested with jurisdiction under Schedule 2, Part 4 of the *Tasmanian Civil and Administrative Tribunal Act 2020* with the *Anti-Discrimination Act 1998*.

#### **Health Practitioners Stream**

- The Health Practitioners Stream is vested with jurisdiction under Schedule 2, Part 5 of *Tasmanian Civil and Administrative Tribunal Act 2020* with the following Acts: the *Health Practitioners Regulation National Law (Tasmania)*; the *Health Practitioners Tribunal Act 2010*; and the *Pharmacy Control Act 2001*.

#### **Forestry Practices Stream**

- The Forestry Practices Stream is vested with jurisdiction under Schedule 2, Part 6 of the *Tasmanian Civil and Administrative Tribunal Act 2020* with the *Forest Practices Act 1985*.

#### **Personal Compensation Stream**

- The Personal Compensation Stream is vested with jurisdiction under Schedule 2, Part 7 of the *Tasmanian Civil and Administrative Tribunal Act 2020* with the following Acts: the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*; the *Motor Accidents (Liabilities and Compensation) Act 1973*; the *Workers' (Occupational Diseases) Relief Fund Act 1954*; and the *Workers Rehabilitation and Compensation Act 1988*.

#### **Resource and Planning Stream**

- The Resource and Planning Stream is vested with jurisdiction under Schedule 2, Part 8 of the *Tasmanian Civil and Administrative Tribunal Act 2020* with the following Acts: *Agricultural and Veterinary Chemicals (Control of Use) Act 1995*; the *Biosecurity Act 2019*; the *Building Act 2016*; the *Environmental Management and Pollution Control Act 1994*; the *Fire Service Act 1979*; the *Gas Safety Act 2019*; the *Gas Industry Act 2019*; the *Historic Cultural Heritage Act 1995*; the *Inland Fisheries Act 1995*; the *Land Use Planning and Approvals Act 1993*; the *Launceston Flood Risk Management Act 2015*; the *Living Marine Resources Management Act 1995*; the *Local Government Act 1993*; the *Local Government (Highways) Act*

1982; the *Marine Farming Planning Act 1995*; the *National Parks and Reserves Management Act 2002*; the *Neighbourhood Disputes About Plants Act 2017*; the *Public Health Act 1997*; the *Strata Titles Act 1998*; the *Theatre Royal Precinct Redevelopment Act 2016*; the *Threatened Species Protection Act 1995*; the *Urban Drainage Act 2013*; the *Water and Sewerage Industry Act 2008*; the *Water Management Act 1999*.

- The Resource and Planning Stream continues to undertake mediation to resolve disputes. The settlement of disputes through mediation (consent) provides a fair and cost effective way of resolving disputes. Targets have been set to maintain a high level of resolution of disputes by Alternative Dispute Resolution. All Resource and Planning Stream proceedings undergo pre-mediation conferencing, which may begin Alternative Dispute Resolution (ADR) processes or further list the matter for extended ADR. Proceedings may be resolved by withdrawal or the filing of a consent agreement by the parties.
- The Tribunal is obliged under its legislation to resolve matters within 90 days or such further period as may be granted (Schedule 2, Part 8, Clause 9 of the *Tasmanian Civil and Administrative Tribunal Act 2020*). The parties to proceedings may require additional time to the 90-day timeframe for a range of reasons. The figures disclose whether the Tribunal or parties to proceedings required additional time beyond the 90 days.

#### Protective Division

- The Protective Division of the Tribunal is established under section 59(1)(b) of the *Tasmanian Civil and Administrative Tribunal Act 2020*, and Schedule 3 of the that Act sets out the Streams within the Division and the scope of their jurisdictions.
- The Guardianship Stream and Mental Health Streams are responsible for reviewing orders and hearing applications and reviewing orders relating to rights of, and protections for, persons with decision making disabilities or incapacities. Because of the nature of the decisions, there are statutory requirements to perform the functions within a defined timeframe.
- The percentage of matters determined within the statutory timeframe is an indicator of the effectiveness of tribunals in managing caseloads within the defined timeframe. This Key Performance Indicator is impacted by the number of applications being lodged, orders made each year and the requirement for further review hearings. Other influences include the introduction of the National Disability Insurance Scheme and an ageing population with increasing cases of dementia, all of which increase the demand for services.
- One of the significant costs of the Tribunal is the payment of sessional members to preside over hearings. The number of hearings per sitting (or session) is an indicator of the efficiency of the hearing processes adopted by the Guardianship Stream and the Mental Health Stream. However, too many hearings per sitting (i.e. less time for consideration) may undermine the quality of decision making by Tribunal members.

### Mental Health Stream

- The Mental Health Stream is vested with jurisdiction under Schedule 3, Part 5 of the *Tasmanian Civil and Administrative Tribunal Act 2020* with the following Acts: the *Corrections Act 1997*; the *Criminal Justice (Mental Impairment) Act 1999*; and the *Mental Health Act 2013*.

### Guardianship Stream

- The Guardianship is vested with jurisdiction under Schedule 3, Part 4 of the *Tasmanian Civil and Administrative Tribunal Act 2020* with the following Acts: the *Disability Services Act 2011*; the *Guardianship and Administration Act 1995*; the *Powers of Attorney Act 2000*; and the *Wills Act 2008*.

## **TASCAT Implementation and Appointments**

### Appointment of Division Head and Deputy President

- In December 2021, Deputy President Marica Duvnjak was appointed as a Magistrate. A recruitment process for the appointment of a Deputy President who would also serve as the Division Head of the General Division was commenced in March 2022. An Expression of Interest and interview process was conducted and an announcement will be expected soon.

### Appointment of Sessional Members

- The Tribunal is progressing an Expression of Interest process for the recruitment of sessional members. This will encompass the appointment of new members, and reappointment of existing members. This process has incorporated a harmonisation of rates of remuneration and terms and conditions of appointment for sessional members of the Tribunal. At present the timeframe for conclusion of this process is anticipated at the end of June 2022 or within the first quarter of the financial year 2022-2023.

## **Website, Case Management Systems and Provision of Transitional Guides**

- A new interim website became operational upon the Establishment Day of TASCAT on 5 November 2021. The Tribunal published a range of guides to assist stakeholders in understanding the Transitional Provisions that operated in the *Tasmanian Civil and Administrative Tribunal Act 2020*. The interim website has been a useful source of information for all stakeholders who engage in the Tribunal's processes.
- The Tribunal is currently finalising procurement processes for the development of a new website with greater functionality than the existing interim website. At present, the timeframe for the implementation of a new website is the second quarter of 2022-2023.

- The Tribunal has been focussing its attention on the implementation of a new case management system for the Guardianship and Resource and Planning Streams. The new case management system was implemented at the end of March 2022. Both Streams are now transitioning their data to the new system and using the systems. The new case management system will provide greater efficiency in the delivery of the Tribunal's decision making functions.

### **Legislative Reforms**

- The operations of the Tribunal over the past six months have confirmed the effectiveness of the *Tasmanian Civil and Administrative Tribunal Act 2020*. The Tribunal has not identified any critical errors in the drafting of the Act that has given rise to any operational problems and the Act operates in conformity with the policy intent of the drafting. Its transitional provisions have operated as intended in the drafting process by preserving the relevant policy settings of the different jurisdictions brought into amalgamation.
- The Government anticipates a third tranche of reforms to the Tribunal's legislation during the second half of this year. It will encompass the rectification of any minor drafting errors of the existing legislation and inclusion of any new jurisdictions deemed appropriate for TASCAT.
- The Government, however, is actively investigating the addition of new jurisdictions on an earlier timeframe which include domestic residential building disputes.
- The Tribunal has been implementing a new case management system to support the statutory requirements of the Advanced Care Directives reform that was passed in September 2021. The Tribunal has advised that with the new case management system now installed, it is working towards finding the digital solution to permit the searches of Advanced Care Directives that are registered with the Tribunal in accordance with the statutory requirements set out in section 5X(3) and the amended sections 89 and 90 of the *Guardianship and Administration Act 1995*. Any new system is likely to be subject to a requirement for additional funding.
- At the time of drafting this document, the Tribunal is still working through use of the system. There are technical issues that remain to be resolved but the Tribunal is working towards the timeframe nominated as Q2 of 2022-2023.

### **Facilities, Regional Premises, hosting Commission of Inquiry**

- The Tribunal's premises and facilities have proved essential to it continuing to convene hearings during the pandemic. The integrated systems that combine video and telephone conferencing with the audio-visual systems of the hearing rooms (including recording systems) have supported the Tribunal and its clients to appear remotely during the pandemic. It has allowed the Tribunal to minimise risk to its staff, members and clients and still convene hearings.

- The Tribunal is pleased to offer its modern facilities to the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional for the conduct of its hearings. Those hearings commenced in May 2022 year.
- The Tribunal has upgraded the hearings rooms at St John's Street, Launceston, with the same technology as based in Hobart. It has allowed northern members of the Tribunal the same access to the technological benefits at the primary premises in Hobart.

### **Response to COVID-19**

- The Tribunal, along with other outputs in the Department of Justice, prepared a Safety Plan for its premises to address the risks of COVID-19.
- The Tribunal has the facilities to support remote attendances at hearings which has been actively used to limit the risk to members, staff and members of the public who attend hearings.
- The Tribunal has currently returned to in person hearings for matters in the General Division. It is actively reviewing the timeframe for return to in person hearings for the Protective Division.
- Given the size of hearing rooms available in the Tribunal and the limitations of social distancing that can be allowed in those rooms, it is important to avoid placing members of the public at risk by attending in person hearings. The remote hearings have been operating very well and offers flexibility to persons across Tasmania in attending hearings.

### **Budget**

- The following tables from the 2022-23 Budget Papers provide financial information for TASCAT:

**Table 6.2: Output Group Expense Summary**

	2021-22	2022-23	2023-24	2024-25	2025-26
			Forward	Forward	Forward
	Budget	Budget	Estimate	Estimate	Estimate
	\$'000	\$'000	\$'000	\$'000	\$'000

### ***Attorney-General and Minister for Justice***

#### **Output Group 1 - Administration of Justice**

1.10 Tasmanian Civil and Administrative Tribunal <sup>7</sup>	7 793	9 817	10 004	10 161	10 346
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Notes:

7. The increase in TASCAT in 2022-23 reflects the additional \$1.9 million per annum announced in the 2022-23 Budget.

**Table 6.10: Revenue from Appropriation by Output**

	2021-22	2022-23	2023-24	2024-25	2025-26
	Budget	Budget	Forward Estimate	Forward Estimate	Forward Estimate
	\$'000	\$'000	\$'000	\$'000	\$'000

**Attorney-General and Minister for Justice****Output Group 1 - Administration of Justice**

1.10 Tasmanian Civil and Administrative Tribunal <sup>5</sup>	5 621	7 618	7 804	7 961	8 136
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Notes:

5. The increase in TASCAT from 2022-23 reflect the additional funding allocated in the 2022-23 Budget.

**Performance**

- The following tables from the 2022-23 Budget Papers provide performance information for TASCAT:

**Table 6.3: Performance Information - Output Group 1**

Performance Measure	Unit of Measure	2019-20 Actual	2020-21 Actual	2021-22 Target	2022-23 Target
<b>TasCAT - Guardianship Stream</b>					
Matters commenced within statutory time frame	%	99.2	99.9	99.0	99.0
Number of hearings per sitting	Number	4.9	4.4	5.0	5.0
<b>TasCAT - Mental Health Stream</b>					
Matters determined within statutory time frame	%	100	100	100	100
Number of hearings per sitting	Number	4	4	5	5
<b>TasCAT - Resource and Planning Stream</b>					
Proportion of substantive decisions resolved by mediation	%	69.1	74.5	78.0	78.0
Percentage of appeals resolved within 90 days without extension <sup>10</sup>	%	59.7	57.5	100	100
Percentage of appeals which did require extensions due to parties	%	100	96.0	95.0	95.0

Notes:

10. The 2019-20 Actual figures has been updated to reflect the figure reported in the Resource Management and Planning Appeal Tribunal 2020-21 Annual Report.

### **Staffing**

- The following table summarises the staffing of the Output as at 31 March 2022:

FTEs	Head Count
35.74 – Total	39 – Total
27.24 – Female	30 – Female
8.5 – Male	9 – Male

Contact Officer: Jarrod Bryan  
Position: Principal Registrar  
Phone: 1800 657 500

Cleared by: Kristy Bourne  
Position: Deputy Secretary  
Phone: 6165 4943



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# **BUDGET ESTIMATES BRIEF**

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## **TASCAT - SHARING OF PATIENT INFORMATION BY THE MENTAL HEALTH TRIBUNAL WITH ADVOCACY TASMANIA**

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### **KEY MESSAGES**

- The former Mental Health Tribunal had an informal arrangement with Advocacy Tasmania where it sent all the names of civil patients with matters before the Tribunal, the nature of their hearing and their phone numbers. The practice started over a decade ago. The consent of patients to share their personal information was not sought or given as part of this practice.
- The former Mental Health Tribunal ceased the practice in June 2021, to comply with the requirements and protections mandated under section 134 of the *Mental Health Act 2013* (the Act).
- The President of TASCAT and the Minister for Mental Health and Wellbeing have corresponded with Leanne Groombridge, CEO of Advocacy Tasmania regarding this matter.
- Your Say Advocacy Tasmania is a very important service that provides assistance to people interacting with TASCAT.
- The Government is committed to getting the balance right of protecting people's privacy while ensuring adequate support systems are in place. The Government is considering the most appropriate way forward on this important issue, including opt-in and opt-out approaches to advocacy.
- In the interim, the Department of Health is continuing to liaise with Your Say Advocacy Tasmania and TASCAT to improve existing systems and ensure that people coming before TASCAT have the support they need.
- People coming before TASCAT are provided with information about advocacy services available, including Your Say Advocacy Tasmania and Legal Aid.

## **BACKGROUND:**

- The former President of the Mental Health Tribunal (MHT), Debra Rigby, and Advocacy Tasmania set up the arrangement to bulk share patient's personal information to increase the representation of patients before the Tribunal. The Tribunal has no record of the agreement.
- Approved Medical Practitioners (AMP) make applications to the Tribunal for treatment orders. They include the patient contact information and provide a copy of the application to the patient. The application form does not seek consent from or advise the patient that the Tribunal shares their personal and sensitive information with Advocacy Tasmania. The applications are made as the AMP considers, amongst other matters, that the patient lacks decision making capacity.
- The practice involved the Tribunal sending weekly emails to Advocacy Tasmania. The emails included the date and time of the hearing, the person's name and the type of hearing.

### **Timeline to Recent Events**

- The former MHT sought advice from the Solicitor-General on 2 June 2021.
- Ms Nicole Winton, Crown Counsel, provided advice on 17 June 2021. Ms Winton advised that the arrangement was in breach of Section 134 of the *Mental Health Act 2013*. Whilst the Tribunal can arrange for representation in individual cases if it considers it necessary, and provide information to persons about their right to seek support such as Your Say or Legal Aid, the bulk sharing of personal and sensitive information was unlawful. The only way for the practice to be lawful, without informed consent in each case, would require amendment of the Act.
- The practice of the bulk sharing of personal information ceased immediately on receipt of the advice.
- The former President of the MHT Yvonne Chaperone phoned Ms Leanne Groombridge on 17 June 2021 to outline the advice and advise that the arrangement unfortunately had to stop. It is understood Ms Groombridge indicated that she was not surprised. It was a constructive conversation. The President sent a follow up letter reiterating the advice on 18 June 2021.
- Ms Groombridge wrote to the Minister for Mental Health and Wellbeing on 27 March 2022 regarding this issue.
- The Premier and Minister for Mental Health and Wellbeing responded to Ms Groombridge by letter dated 25 May 2022. The letter states:

*I am advised it is not appropriate at this time to amend the Mental Health Act 2013 to facilitate personal information of mental health patients being provide to Your Say Advocacy Tasmania (Your Say Tas) by the Tasmanian Civil and Administrative Tribunal (TASCAT).*

- The letter goes on to acknowledge the valuable service Your Say Tas provides to support mental health patients navigating TASCAT and information is provided to mental health patients and/or their representatives by TASCAT regarding the service Your Say Tas provides, amongst other matters.
- Ms Groombridge responded to the Premier's letter on 26 May 2022, seeking support for legislative reform that would provide Advocacy Tasmania with access to the contact information, such as an opt-in model by reference to Victorian developments and recommendations.
- This issue can be considered further by the Departments of Justice and Health.

Contact Officer:	Bruce Paterson	Cleared by:	Kristy Bourne
Position:	Acting Director SLP	Position:	Deputy Secretary
Phone:	6165 4926	Phone:	6165 4943