



2020

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# Parliament of Tasmania

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**PARLIAMENTARY STANDING COMMITTEE**

## **SUBORDINATE LEGISLATION**

### **SCRUTINY OF NOTICES ISSUED UNDER THE COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – REPORT 5**

#### **Members of the Committee**

**Ms Ruth Forrest MLC  
Ms Tania Rattray MLC (Chair)  
Ms Meg Webb MLC**

**Ms Alison Standen MP  
Mr Nic Street MP  
Mr John Tucker MP**



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## **Introduction**

The Committee was appointed under the provisions of Section 3 of the *Subordinate Legislation Committee Act 1969* (No. 44 of 1969). Section 8 of the Act outlines the functions of the Committee, as follows –

- (a) to examine the provisions of every regulation, with special reference to the question whether or not –
  - (i) the regulation appears to be within the regulation-making power conferred by, or in accord with the general objects of, the Act pursuant to which it is made;
  - (ii) the form or purport of the regulation calls for elucidation;
  - (iii) the regulation unduly trespasses on personal rights and liberties;
  - (iv) the regulation unduly makes rights dependent on administrative decisions and not on judicial decisions; or
  - (v) the regulation contains matters that, in the opinion of the Committee, should properly be dealt with by an Act and not by regulation; and
- (b) to make such reports and recommendations to the Legislative Council and the House of Assembly as it thinks desirable as the result of any such examination.

## **COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – SCRUTINY OF NOTICES**

The Parliament of Tasmania passed the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (the Act) on 26 March 2020. The Act prescribes a role for the Joint Standing Committee on Subordinate Legislation in the scrutiny of certain notices under the Act.

In response to this new scrutiny role, the Committee has given extensive consideration to an appropriate mechanism for it to report upon its deliberations on all notices gazetted under the Act in the interest of public transparency. The Committee will:

- Meet twice weekly on Tuesdays and Fridays until further notice;
- Publish a list of the notices to be discussed by the Committee, and documentation relating to notices to be examined by the Committee, to be published on the Committee website prior to each meeting; and
- Present regular reports to Parliament, which will contain further information in relation to the completed examinations of notice.

### **Notices Under Section 20 (The Supreme Court and the Magistrates Court)**

The Committee resolved at its meeting on Tuesday 5 May 2020 to commence an Inquiry in relation to the Notices. The Committee invited the Attorney-General and her representatives to appear at a public hearing on Friday 8 May 2020.

The Attorney General responded declining the request to appear at the hearing to maintain appropriate separation of the Attorney General/Parliament and the Courts. A copy of her response is attached to this Report.

The following Department of Justice representatives attended and provided evidence

–

- Ginna Webster, Secretary
- Kristy Bourne, Deputy Secretary, Corrections and Justice
- Jim Connolly, Registrar, Supreme Court of Tasmania
- Penelope Ikedife, Administrator of the Magistrates Court

Due to current social distancing arrangements in place within the Parliament of Tasmania, the witnesses appeared via videoconference.

The following questions were taken on notice –

- A copy of the Chief Justice’s Determination regarding COVID-19.
- A copy of the Chief Magistrate’s Determination regarding COVID-19.
- Comparative data regarding the current workload and the workload prior to COVID-19.

Following consideration of the Determinations provided above and evidence provided at the hearing, the Committee concluded its examination of the Notice at its meeting on Friday 8 May 2020 and **Resolved** the Notice be examined, noting that it was consistent with the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 and the intent of the Parliament.

The Hansard Transcript of Evidence, all relevant correspondence including responses to questions taken on notice, copies of the relevant determinations and all minutes of proceedings of relevant meetings, are attached to the Report for completeness.



Tania Rattray MLC  
**CHAIR**

26 May 2020

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage

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- 1 MAY 2020

Hon Tania Rattray MLC  
Chair, Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Tania

Dear Ms Rattray

Please find enclosed a copy of a notice (the notice) issued by me as Attorney-General pursuant to section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act).

The notice was signed on 16 April 2020 and was published in *Gazette* No 21 975 on Friday 17 April 2020.

Section 20(1) of the Act allows the Attorney-General to, by notice, authorise courts, tribunals and other entities to conduct proceedings in an 'approved manner', where requested by that court, tribunal or other entity, despite any legislative instrument to the contrary. Section 20(2) provides that in this case the 'approved manner' means 'the manner determined from time to time by' the Chief Justice of the Supreme Court.

The Supreme Court of Tasmania has implemented measures to reduce the potential risk of exposure to COVID-19 through persons being present at the court. This includes, amongst other things, that most (if not all) of the judiciary are now working remotely from the court, by way of telephone or audio visual link.

In accordance with section 20(3)(b) of the Act the Chief Justice of the Supreme Court of Tasmania, the Hon Justice Alan Blow AO, requested that I issue a notice under section 20(1). In issuing the notice I was satisfied under section 5 of the Act that relevant emergency circumstances exist in relation to the notice. The notice addresses the issue that alternative arrangements to the requirements of section 90(1) of the *Sentencing Act 1997*, sections 12A(2) and 411(1) of the *Criminal Code*, and section 14 of the *Supreme Court Civil Procedure Act 1932* are necessary or desirable in the current emergency circumstances.

The notice will enable the Court to operate in a way which reduces the risk of spread of COVID-19 in Tasmania, with regard to the principles of open justice.

I enclose a fact sheet to provide further information on the notice and the Advice provided by the Office of Parliamentary Counsel (OPC).

Yours sincerely



Hon Elise Archer MP  
**Attorney-General**  
**Minister for Justice**

Attachments -

- Signed Notice
- Fact Sheet
- OPC Advice

**ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL*****Notice under section 20 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 16 April, 2020.



K Woodward  
**Deputy Chief Parliamentary Counsel**

## TASMANIA

### *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

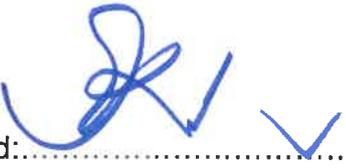
#### **NOTICE UNDER SECTION 20**

I, ELISE ARCHER, the Attorney-General, in pursuance of section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ("the Act"), at the request of the Chief Justice of the Supreme Court of Tasmania, being of the opinion that the relevant emergency circumstances exist in relation to this notice, declare that –

- (a) despite section 12A(2) of the *Criminal Code Act 1924*, to the extent that it requires sittings of the criminal jurisdiction of the Supreme Court of Tasmania and sittings of the Court of Criminal Appeal to be held at the places at which the registries of the Court are established and at other places determined by the Chief Justice, such sittings may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and
- (b) despite section 411(1) of the *Criminal Code*, to the extent that it entitles an appellant to be present at an appeal being heard by the Supreme Court, an appellant is entitled to be present at the appeal by being present in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and
- (c) despite section 90(1) of the *Sentencing Act 1997*, to the extent that it provides that a sentence may be imposed in open court, a sentence for an offence, imposed by one or more judges of the Supreme Court, may be imposed in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and
- (d) despite section 14 of the *Supreme Court Civil Procedure Act 1932*, to the extent that it requires a Full Court consisting of two or more judges to sit together as one court or a single judge to sit in court as a court, such sittings

may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act.

Dated: 16 April 2020

Signed: 

Attorney-General

---

**MINISTERIAL NOTICE - FACT SHEET**

***COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

The attached Ministerial Notice is issued pursuant to section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act). The Attorney-General has issued the Notice, being of the opinion it was necessary and desirable to do so because of the emergency circumstances set out in section 5 of the Act.

As the Notice is issued under section 20 in relation to the Supreme Court and Court of Criminal Appeal, it was not required to have the emergency manager's approval under section 6. However, the intention to make the Notice was advised to the emergency manager.

**Reason for Notice**

Section 20 of the Act allows the Attorney-General to, by Notice, authorise courts, tribunals and other entities to conduct proceedings in an 'approved manner', where requested by that court, tribunal or other entity, despite any legislative instrument to the contrary. Section 20(2) provides that in this case the 'approved manner' means 'the manner determined from time to time by' the Chief Justice of the Supreme Court.

The Supreme Court of Tasmania has implemented measures to reduce the potential risk of exposure to COVID-19 through persons being present at the court. This includes, amongst other things, that most (if not all) of the judiciary are now working remotely from the court, by way of telephone or audio visual link.

In accordance with section 20(3)(b) of the Act, the Chief Justice of the Supreme Court of Tasmania, the Hon Justice Alan Blow AO, requested the Attorney-General to issue a Notice under section 20(1). The Notice addresses the issue that alternative arrangements to the requirements of section 90(1) of the *Sentencing Act 1997*, sections 12A(2) and 411(1) of the *Criminal Code*, and section 14 of the *Supreme Court Civil Procedure Act 1932* are necessary or desirable in the emergency circumstances.

The Notice will enable the Court to operate in a way which reduces the risk of spread of COVID-19 in Tasmania, with regard to the principles of open justice.

**Section 90(1) of the *Sentencing Act 1997***

This provision provides that "[t]he sentence for an offence may be imposed in open court at any time and at any place in Tasmania."

His Honour has expressed the view that this subsection implies that a sentence may only be imposed in open court. This is no longer possible in all of the circumstances identified above. His Honour has accordingly requested that despite this subsection sentences may be imposed in accordance with the approved manner.

### Sections 12A(2) and 411(1) of the *Criminal Code*

Section 12A(2) provides that “[s]ittings of the criminal jurisdiction of the Supreme Court and sittings of the Court of Criminal Appeal are to be held from time to time as requested at the places at which the registries of the Court are established and at such other places as may be determined by the Chief Justice from time to time.”

His Honour indicated that, while operating remotely, the Court is unlikely to sit at the places where the registries of the Court are established.

Section 411(1) provides that “[a]n appellant, notwithstanding that he is in custody, shall be entitled to be present if he so desires, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone.”

His Honour indicated that arrangements are being made for appeals to the Court of Criminal Appeal to be held, so far as practicable, without participants (counsel, prisoners, appellants etc.) attending Court. In the circumstances identified above it may not be possible for an appellant to present if so desired. His Honour has accordingly requested that despite this subsection the Court of Criminal Appeal may determine an appeal without any appellant being present, in accordance with the approved manner.

### Section 14 of the *Supreme Court Civil Procedure Act 1932*

This section provides that subject to the provisions of this Act, the jurisdiction of the Court which is subject to this Act shall be exercised by –

- (a) *a Full Court consisting of two or more judges of the Court sitting together as one court, either with or without a jury or an assessor or assessors;*
- (b) *single judges sitting in court as a court, either with or without a jury or an assessor or assessors;*
- (c) *single judges sitting in chambers, or in court or elsewhere as in chambers, either with or without an assessor or assessors.*

His Honour noted that due to the remote working arrangements in place, it is likely that judges comprising a Full Court will not be in a position to sit in one place and single judges sitting as a Court will not be present at the court (rather, they will be connected remotely).

### **Effect of Notice**

The Notice will enable the Supreme Court of Tasmania to:

- despite section 90(1) of the *Sentencing Act 1997*, to the extent that it provides for sentences to be imposed in open court, impose a sentence for an offence in the approved manner determined by the Chief Justice;

- despite section 12A(2) of the *Criminal Code*, sittings of the criminal jurisdiction of the Supreme Court and the Court of Criminal Appeal may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act;
- despite section 411(1) of the *Criminal Code*, to the extent that it entitles an appellant to be physically present at an appeal being heard by the Supreme Court, provide for an appellant to be present at the appeal in the approved manner determined by the Chief Justice; and
- despite section 14 of the *Supreme Court Civil Procedure Act 1932*, judges may sit in the approved manner determined by the Chief Justice in accordance with s20(2) of the Act.

The measures requested by the Chief Justice are considered proportionate in the circumstances and provide adequate safeguards to protect the principle of open justice to the greatest extent possible.

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage



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- 1 MAY 2020

Hon Tania Rattray MLC  
Chair  
Parliamentary Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

*Tania*  
Dear Ms Rattray

Please find enclosed a copy of a notice (the notice) issued by me as Attorney-General pursuant to section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act).

The notice was signed on 17 April 2020 and was published in *Gazette* No 21 975 on Friday 17 April 2020.

Section 20 of the Act allows the Attorney-General to, by notice, authorise courts, tribunals and other entities to conduct proceedings in an 'approved manner', where requested by that court, tribunal or other entity, despite any legislative instrument to the contrary. Section 20(2)(a) provides that in this case the 'approved manner' means 'the manner determined from time to time by' the Chief Magistrate.

The Magistrates Court has implemented measures to reduce the potential risk of exposure to COVID-19 through persons being present at the court. This includes, amongst other things, that court proceedings are now occurring as far as possible remotely, by way of telephone or audio visual link.

In accordance with section 20(3)(a) of the Act, the Chief Magistrate requested that a notice be issued under section 20(1). In issuing the notice I was satisfied under section 5 of the Act that relevant emergency circumstances exist in relation to the notice.

The notice addresses the issue that alternative arrangements to the requirements of section 90(1) of the *Sentencing Act 1997* and section 37 of the *Justices Act 1959* are necessary or desirable in the emergency circumstances. These sections, read collectively, require that court proceedings be held and sentences be imposed in an open and public court, to which all persons have access so far as the venue can conveniently contain them.

The notice will enable the Court to operate in a way that reduces the risk of spread of COVID-19 in Tasmania, with regard to the principles of open justice.

I enclose a fact sheet to provide further information on the notice and the advice provided by the Office of Parliamentary Counsel (OPC).

Yours sincerely



Hon Elise Archer MP  
**Attorney-General**  
**Minister for Justice**

Attachments –

- Signed Notice
- Fact Sheet
- OPC Advice

**ADVICE OF DEPUTY CHIEF PARLIAMENTARY COUNSEL*****Notice under section 20 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 17 April, 2020.



K Woodward  
**Deputy Chief Parliamentary Counsel**

TASMANIA

*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

**NOTICE UNDER SECTION 20**

I, ELISE ARCHER, the Attorney-General, in pursuance of section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ("the Act"), at the request of the Chief Magistrate, being of the opinion that the relevant emergency circumstances exist in relation to this notice and with the approval of the emergency manager, declare in relation to proceedings conducted by the Magistrates Court that –

- (a) despite section 37(1) of the *Justices Act 1959*, to the extent that it requires that the room or place in which justices sit to hear and determine a complaint upon which a conviction or order may be made, is an open and public court, to which all persons may have access so far as it can conveniently contain them, such proceedings may be heard in the approved manner determined by the Chief Magistrate in accordance with section 20(2) of the Act; and
- (b) despite section 90(1) of the *Sentencing Act 1997*, to the extent that it provides that a sentence may be imposed in open court, a sentence for an offence, imposed by a magistrate, may be imposed in the approved manner determined by the Chief Magistrate in accordance with section 20(2) of the Act.

Dated: 17 April 2020

Signed: 

Attorney-General

**MINISTERIAL NOTICE - FACT SHEET**

***COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

The attached Ministerial Notice is issued pursuant to section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act) in relation to the Magistrates Court. The Attorney-General has issued the Notice, being of the opinion it was necessary and desirable to do so due to the presence of emergency circumstances set out in section 5(2)(b) of the Act.

Approval of the emergency manager (the State Controller) has been obtained in accordance with section 6 of the Act.

**Reason for Notice**

Section 20 of the Act allows the Attorney-General to, by Notice, authorise courts, tribunals and other entities to conduct proceedings in an ‘approved manner’, where requested by that court, tribunal or other entity, despite any legislative instrument to the contrary. Section 20(2)(a) provides that in this case the ‘approved manner’ means ‘the manner determined from time to time by’ the Chief Magistrate.

The Magistrates Court has implemented measures to reduce the potential risk of exposure to COVID-19 through persons being present at the court. This includes, amongst other things, that court proceedings are now occurring as far as possible remotely, by way of telephone or audio visual link (the Court building remains open in a restricted capacity).

In accordance with section 20(3)(a) of the Act, the Chief Magistrate requested that a Notice be issued under section 20(1).

The Notice addresses the issue that alternative arrangements to the requirements of section 90(1) of the *Sentencing Act 1997* and section 37 of the *Justices Act 1959* are necessary or desirable in the emergency circumstances. These sections, read collectively, require that court proceedings be held and sentences be imposed in an open and public court, to which all persons to have access so far as the venue can conveniently contain them.

The Notice will enable the Court to operate in a way which reduces the risk of spread of COVID-19 in Tasmania, with regard to the principles of open justice.

**Section 90(1) of the *Sentencing Act 1997***

This provision provides that “[t]he sentence for an offence may be imposed in open court at any time and at any place in Tasmania.”

**Section 37 of the *Justices Act 1959***

This provision provides, among other requirements, that “the room or place in which justices sit to hear and determine a complaint upon which a conviction or order may be made, is an open and public court, to which all persons may have access so far as it can conveniently contain them.”

The Chief Magistrate expressed the view in her letters that, at present, wherever possible access is being given to the media to enter the ‘virtual courtroom’ and listen to the proceedings as part of the audio-visual link. However, it was foreshadowed in cases where no physical courtroom is used members of the public would not be able to view or listen to proceedings in a virtual court (i.e. only the media will be able to listen).

### **Effect of Notice**

The Notice will enable the Magistrates Court to:

- despite section 37(1) of the *Justices Act 1959*, to the extent that it requires the room or place in which justices sit to hear and determine a complaint upon which a conviction or order may be made, is an open and public court, to which all persons may have access so far as it can conveniently contain them, such proceedings may be heard in the approved manner determined by the Chief Magistrate in accordance with section 20(2) of the Act; and
- despite section 90(1) of the *Sentencing Act 1997*, to the extent that it provides for sentences to be imposed in open court, impose a sentence for an offence in the approved manner determined by the Chief Magistrate in accordance with section 20(2) of the Act.

The measures requested by the Chief Magistrate are considered proportionate in the circumstances and provide adequate safeguards to protect the principle of open justice to the greatest extent possible.



## Joint Standing Committee Subordinate Legislation

4 May 2020

The Hon Elise Archer MP  
Attorney-General  
10<sup>th</sup> Floor  
15 Murray Street  
HOBART 7000

Dear Attorney-General

**Notices issued under section 20 of the  
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020  
(Supreme Court and Magistrates Court)**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notices. At the Committee's meeting on 1 May 2020 it was noted that the required documentation has not been received under section 7(3) of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020*.

It would be appreciated if you would please forward the required documentation at your early convenience.

Yours sincerely

A handwritten signature in black ink that reads 'Tania Rattray'.

TANIA RATTRAY MLC  
CHAIR



## Joint Standing Committee Subordinate Legislation

5 May 2020

Hon Elise Archer MP  
Attorney General  
10<sup>th</sup> Floor  
15 Murray Street  
HOBART 7000

Dear Attorney General

**NOTICES UNDER SECTION 20 (SUPREME COURT AND MAGISTRATES COURT)  
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**

The Joint Standing Committee on Subordinate Legislation is currently considering the above Notices. The Committee resolved today to commence an inquiry into the above Notices.

Accordingly, the Committee has requested that a public hearing be arranged with yourself or Departmental Officers. It would be appreciated if this public hearing could take place at the Committee's next meeting on **Friday 8 May 2020 at 11.45 am via Webex.**

It would be appreciated if you would please confirm the availability of yourself or Departmental Officers who are available to attend to the Secretary, Mr Stuart Wright on 0488 009 642 or via email at [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au).

Yours sincerely

A handwritten signature in cursive script that reads 'Tania Rattray'.

TANIA RATTRAY MLC

CHAIR

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**From:** Julie Thompson  
**Sent:** Tuesday, 5 May 2020 5:48 PM  
**To:** Elise Archer <[elise.archer@parliament.tas.gov.au](mailto:elise.archer@parliament.tas.gov.au)>  
**Cc:** [andrew.finch@dpac.tas.gov.au](mailto:andrew.finch@dpac.tas.gov.au); [tim.mills@dpac.tas.gov.au](mailto:tim.mills@dpac.tas.gov.au)  
**Subject:** Joint Standing Committee on Subordinate Legislation

Dear Attorney-General

Further to correspondence sent earlier today regarding a Public Hearing this Friday in relation to Notices issued under s20 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Supreme Court and Magistrates Court). Please find below broad areas of questions that may arise in the public hearing process in relation to these Notices:

1. Further clarification on what constitutes an 'approved manner' in relation to the conduct of court proceedings.
2. Implications for the principle of open justice of a lack of public scrutiny and general transparency around the court process, and any consideration given to providing avenues for virtual public access; and
  - What options are available to avoid the exclusion of the public access to a 'virtual courtroom', limiting to members of the media?
3. Further clarification on whether an appeal may be determined without any appellant being present either physically or via an audio-visual link; and
  - Can an audio-visual link be provided to all appellants in all areas of the State?
4. How the specific measures that have been requested by the Chief Magistrate will ensure open and transparent justice?

Regards  
Julie



**Julie Thompson**

Executive Assistant  
Joint Standing Committee Subordinate Legislation  
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On behalf of  
Stuart Wright  
Secretary

Attorney-General  
Minister for Justice  
Minister for Corrections  
Minister for Building and Construction  
Minister for the Arts  
Minister for Heritage

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- 7 MAY 2020

Hon Tania Rattray MLC  
Chair  
Joint Standing Committee Subordinate Legislation  
[subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

  
Dear Ms Rattray

Thank you for your letter dated 5 May 2020 regarding the Subordinate Legislation Committee's hearing on 8 May 2020 in relation to Notices under section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ('the COVID-19 Act'). I note also the follow up email from the Committee providing broad areas of questions that may arise in the public hearing process.

As provided for by section 20 of the COVID-19 Act, the approved manner for proceedings under these Notices is determined by the Chief Magistrate and the Chief Justice for their respective courts. This arrangement is in recognition of, and to ensure respect for, the doctrine of the separation of powers.

For that same reason it is not appropriate that I, as Attorney-General, attend the Committee's hearing to answer questions regarding the approved manner for proceedings under these Notices. It is important that the courts be able to determine how to run their own proceedings without commentary from the government of the day. As such, it would not be proper that I appear to discuss the manner in which the Chief Justice and Chief Magistrate have determined that proceedings should proceed in their respective courts. That is a matter for them entirely.

As I want to ensure the Committee is able to get answers to its questions, it is more appropriate that court officers attend the Committee's hearing.

Therefore, the Supreme Court Registrar, Mr Jim Connolly and the Administrator of the Magistrates Court, Ms Penelope Ikedife, together with the Secretary of the Department of Justice, Ms Ginna Webster, and the Deputy Secretary, Corrections and Justice, Ms Kristy Boume will attend the hearing to assist the Committee.

Yours sincerely



Hon Elise Archer MP  
**Attorney-General**  
**Minister for Justice**

**From:** Connolly, Jim <[Jim.Connolly@supremecourt.tas.gov.au](mailto:Jim.Connolly@supremecourt.tas.gov.au)>  
**Sent:** Friday, 8 May 2020 12:48 PM  
**To:** Julie Thompson <[julie.thompson@parliament.tas.gov.au](mailto:julie.thompson@parliament.tas.gov.au)>  
**Cc:** Webster, Ginna <[Ginna.Webster@justice.tas.gov.au](mailto:Ginna.Webster@justice.tas.gov.au)>; Bourne, Kristy <[Kristy.Bourne@justice.tas.gov.au](mailto:Kristy.Bourne@justice.tas.gov.au)>; Ikedife, Penelope <[Penelope.Ikedife@justice.tas.gov.au](mailto:Penelope.Ikedife@justice.tas.gov.au)>  
**Subject:** Joint Standing Committee on Subordinate Legislation - Public Hearing - Fri 8 May at 11.45 am = COVID19 Act s20 Notices

Dear Ms Thompson

As promised to the Committee Chair, Ms Rattray MLC during this morning's hearing, I am forwarding you a link (below) to Supreme Court Circular No. 5 of 2020 "COVID19 - Approved Manner of Court Proceedings" published on 17 April 2020:

<https://www.supremecourt.tas.gov.au/wp-content/uploads/2020/04/Circular-No-5-of-2020-COVID-19-Approved-Manner-of-Court-Proceedings-.pdf>

Yours faithfully

Jim

**Jim Connolly**

**Registrar**

**Supreme Court of Tasmania**

Salamanca Place, Hobart, TAS 7000

GPO Box 167 Hobart, TAS 7001

DX 18 Hobart

Phone: (03) 6165 7451

Fax: (03) 6223 7816

Mobile: 0417 055 072

Email: [jim.connolly@supremecourt.tas.gov.au](mailto:jim.connolly@supremecourt.tas.gov.au)

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**SUPREME COURT OF TASMANIA**  
**CIRCULAR TO PRACTITIONERS**

**No 5 of 2020**

**17 April 2020**

**COVID-19 – APPROVED MANNER OF COURT PROCEEDINGS**

Pursuant to a Notice issued by the Attorney-General under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* s20, the Chief Justice has approved the manner in which certain court proceedings may be conducted.

The Chief Justice's *Determination* approves the manner in which the Supreme Court, Full Court and Court of Criminal Appeal may conduct proceedings during the pandemic despite specific legislative provisions in the *Supreme Court Civil Procedure Act 1932*, the *Criminal Code*, the *Criminal Code Act 1924* and the *Sentencing Act 1997*.

Copies of the Chief Justice's *Determination* and the Attorney-General's *Notice* are attached.

**Jim Connolly**  
**Registrar**



**Chief Justice's Chambers  
Hobart**

**DETERMINATION UNDER SECTION 20(2)(b) OF THE COVID-19 DISEASE  
EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**

The Attorney-General has, by a notice under s 20(1) of the above Act dated 16 April 2020, declared that despite the provisions of s 411(1) of the *Criminal Code*, s 12A(2) of the *Criminal Code Act 1924*, s 90(1) of the *Sentencing Act 1997*, and s 14 of the *Supreme Court Civil Procedure Act 1932*, proceedings conducted by the Supreme Court of Tasmania may be held in the approved manner determined by me in accordance with s 20(2) of that Act.

Pursuant to that notice, I determine that until further notice proceedings conducted by the Supreme Court of Tasmania may be held in accordance with the following arrangements:

- 1 Judges constituting the Court of Criminal Appeal or the Full Court of the Supreme Court of Tasmania need not sit together in one place.
- 2 Judges constituting the Court of Criminal Appeal or the Full Court of the Supreme Court of Tasmania need not sit in court rooms, but each judge may sit at any place.
- 3 Appeals and other proceedings before the Court of Criminal Appeal may be heard and determined by any form of audio-visual link or by telephone. Alternatively, if all parties are represented by counsel and consent, such proceedings may be determined without an oral hearing.
- 4 Appeals and other proceedings before the Full Court of the Supreme Court of Tasmania may be heard and determined by any form of audio-visual link or by telephone or, by consent, may be determined without an oral hearing.
- 5 When the Court of Criminal Appeal conducts a hearing by audio-visual link or by telephone, the party whose conviction or sentence is the subject of the appeal must be afforded an opportunity to hear what is said at the hearing by audio-visual link or by telephone.
- 6 If an appeal or application to the Court of Criminal Appeal is determined without an oral hearing, each party is to be given, if he or she so requests, a copy of every written submission, outline of argument or other document that is provided to the Court by or on behalf of the parties. Such documents may be delivered by electronic means.

- 7 Judges exercising the criminal jurisdiction of the Supreme Court of Tasmania as single judges need not sit in court rooms, but may sit at any place, and may conduct proceedings by any form of audio-visual link or by telephone.
- 8 When one or more judges of the Supreme Court of Tasmania impose a sentence for an offence, that sentence need not be imposed in open court.
- 9 A sentence may be imposed by a judge or judges of the Supreme Court of Tasmania by audio-visual link or by telephone.
- 10 A single judge exercising the civil jurisdiction of the Supreme Court of Tasmania need not sit in a court room, or at any particular place, but may sit anywhere in Australia, and may conduct proceedings by any form of audio-visual link or by telephone.

Dated this 16<sup>th</sup> day of April 2020

The Hon Alan Michael Blow AO  
Chief Justice of Tasmania

TASMANIA

*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

**NOTICE UNDER SECTION 20**

I, ELISE ARCHER, the Attorney-General, in pursuance of section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ("the Act"), at the request of the Chief Justice of the Supreme Court of Tasmania, being of the opinion that the relevant emergency circumstances exist in relation to this notice, declare that –

(a) despite section 411(1) of the *Criminal Code*, to the extent that it entitles an appellant to be present at an appeal being heard by the Supreme Court, an appellant is entitled to be present at the appeal by being present in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and

(b) despite section 12A(2) of the *Criminal Code Act 1924*, to the extent that it requires sittings of the criminal jurisdiction of the Supreme Court of Tasmania and sittings of the Court of Criminal Appeal to be held at the places at which the registries of the Court are established and at other places determined by the Chief Justice, such sittings may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and

(c) despite section 90(1) of the *Sentencing Act 1997*, to the extent that it provides that a sentence may be imposed in open court, a sentence for an offence, imposed by one or more judges of the Supreme Court, may be imposed in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and

(d) despite section 14 of the *Supreme Court Civil Procedure Act 1932*, to the extent that it requires a Full Court consisting of two or more judges to sit together as one court or a single judge to sit in court as a court, such sittings

may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act.

Dated: 16 April 2020

Signed: **Elise Archer MP**  
**Attorney- General**

**From:** Ikedife, Penelope <[Penelope.Ikedife@justice.tas.gov.au](mailto:Penelope.Ikedife@justice.tas.gov.au)>  
**Sent:** Friday, 8 May 2020 1:03 PM  
**To:** Julie Thompson <[julie.thompson@parliament.tas.gov.au](mailto:julie.thompson@parliament.tas.gov.au)>  
**Cc:** Webster, Ginna <[Ginna.Webster@justice.tas.gov.au](mailto:Ginna.Webster@justice.tas.gov.au)>; Bourne, Kristy <[Kristy.Bourne@justice.tas.gov.au](mailto:Kristy.Bourne@justice.tas.gov.au)>; Connolly, Jim <[Jim.Connolly@supremecourt.tas.gov.au](mailto:Jim.Connolly@supremecourt.tas.gov.au)>  
**Subject:** RE: Joint Standing Committee on Subordinate Legislation - Public Hearing - Fri 8 May at 11.45 am = COVID19 Act s20 Notices

Dear Ms Thompson,

As raised at this morning's hearing of the Joint Standing Committee on Subordinate Legislation please see the link below to Magistrates Court Circular No. 4 of 2020 "COVID-19 Approved Manner of Court Proceedings", dated 23 April 2020:

[https://www.magistratescourt.tas.gov.au/for\\_lawyers/circulars/circulars\\_folder/2020-no-4.-approved-manner-of-court-proceedings-covid-19](https://www.magistratescourt.tas.gov.au/for_lawyers/circulars/circulars_folder/2020-no-4.-approved-manner-of-court-proceedings-covid-19)

Regards,

**Penelope Ikedife | Administrator**

Magistrates Court of Tasmania

p (03) 616 57633 | m 0413 220 441

e [penelope.ikedife@justice.tas.gov.au](mailto:penelope.ikedife@justice.tas.gov.au)

w [www.magistratescourt.tas.gov.au](http://www.magistratescourt.tas.gov.au)

23-25 Liverpool Street, Hobart, TAS 7000 | GPO Box 354, Hobart TAS 7001

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# COVID-19 Information

## COVID 19 (Coronavirus) Measures



### Magistrates Court of Tasmania

## CIRCULAR

No 4. of 2020

## COVID-19 Approved Manner of Court Proceedings

Pursuant to a notice issued by the Attorney General under the COVID - 19 *Disease Emergency (Miscellaneous Provisions) Act 2020 s 20*, the Chief Magistrate has approved the manner in which certain court proceedings may be conducted.

The Chief Magistrate's determination approves the manner in which the Magistrates Court may conduct proceedings during the pandemic despite specific provisions in the *Justices Act 1959* and the *Sentencing Act 1997*.

The Chief Magistrate's determination under s 20 (2) (b) of the COVID - 19 Disease Emergency (Miscellaneous Provisions) Act 2020 is as follows:

1. Proceedings in which a justice may sit to hear and determine a complaint upon which a conviction or order may be made, may be heard and determined via any form of audio or audio visual link, and at times will not be heard in an open public court.
2. Proceedings for a sentence imposed in the Magistrates Court may be via any form of audio or audio visual link, and at times may not be in open court.

23 April 2020

Catherine J Geason  
Chief Magistrate

[Skip to content](#)

**From:** Julie Thompson  
**Sent:** Friday, 8 May 2020 4:25 PM  
**To:** Connolly, Jim <[Jim.Connolly@supremecourt.tas.gov.au](mailto:Jim.Connolly@supremecourt.tas.gov.au)>  
**Cc:** Stuart Wright <[Stuart.Wright@parliament.tas.gov.au](mailto:Stuart.Wright@parliament.tas.gov.au)>  
**Subject:** RE: Joint Standing Committee on Subordinate Legislation - Public Hearing - Fri 8 May at 11.45 am = COVID19 Act s20 Notices

Thank you for the information and your appearance before the Committee today.

I confirm that you undertook to provide the following information (if it was available):

- Provide comparative data regarding current workload and workload prior to Covid-19.

The Committee looks forward to receiving this information if available.

Regards



**Julie Thompson**

Executive Assistant  
Joint Standing Committee Subordinate Legislation  
Parliament of Tasmania  
Email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)  
Tel: +61 3 6212 2320 | Fax: +61 3 6212 2345  
Mail: Legislative Council, Parliament of Tasmania, Hobart TAS 7000  
Web: [www.parliament.tas.gov.au](http://www.parliament.tas.gov.au)

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Parliament of Tasmania, Hobart, TAS, 7000  
www.parliament.tas.gov.au

## Joint Standing Committee Subordinate Legislation

13 May 2020

Ms Penelope Ikedife  
Administrator of the Magistrates Court  
Department of Justice

Dear Ms Ikedife

**NOTICE UNDER SECTION 20 (MAGISTRATES COURT)  
COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**

Thank you for appearing before the Committee on Friday 8 May 2020 in relation to the above Notice.

The Committee met yesterday and resolved to write to you to seek the following information:

- Provide comparative data regarding the current workload of the Magistrates Court and the workload prior to the Covid-19 pandemic?
- Would there be resourcing implications should there be a significant backlog in the post COVID-19 environment?

The Committee would be pleased to receive this information by email to the Secretary, Mr Stuart Wright – [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

The Committee looks forward to receiving a response at your early convenience.

Yours sincerely

**TANIA RATTRAY MLC**

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

**From:** Julie Thompson  
**Sent:** Wednesday, 13 May 2020 9:36 AM  
**To:** Connolly, Jim <[Jim.Connolly@supremecourt.tas.gov.au](mailto:Jim.Connolly@supremecourt.tas.gov.au)>  
**Subject:** FW: Joint Standing Committee on Subordinate Legislation - Public Hearing - Fri 8 May at 11.45 am = COVID19 Act s20 Notices

Good morning Mr Connolly

The Committee met today, and resolved that I follow-up as to whether the information requested below will be made available to the Committee in the near future?

Regards  
Julie



**Julie Thompson**

Executive Assistant  
Joint Standing Committee Subordinate Legislation  
Parliament of Tasmania  
Email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)  
Tel: +61 3 6212 2320 | Fax: +61 3 6212 2345  
Mail: Legislative Council, Parliament of Tasmania, Hobart TAS 7000  
Web: [www.parliament.tas.gov.au](http://www.parliament.tas.gov.au)

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on contained in this transmission.

**From:** Connolly, Jim <[Jim.Connolly@supremecourt.tas.gov.au](mailto:Jim.Connolly@supremecourt.tas.gov.au)>  
**Sent:** Wednesday, 13 May 2020 4:08 PM  
**To:** Julie Thompson <[julie.thompson@parliament.tas.gov.au](mailto:julie.thompson@parliament.tas.gov.au)>  
**Cc:** Bourne, Kristy <[Kristy.Bourne@justice.tas.gov.au](mailto:Kristy.Bourne@justice.tas.gov.au)>  
**Subject:** RE: Joint Standing Committee on Subordinate Legislation - Public Hearing - Fri 8 May at 11.45 am = COVID19 Act s20 Notices

Dear Ms Thompson

Attached is the data requested by the Joint Standing Committee on Subordinate Legislation.

By way of explanation of the data:

- The number of **mentions** has decreased because cases are being adjourned for longer periods, closer to the period when criminal jury trials will resume around 21 July. Pleas of guilty are being listed at earlier dates.
- **Directions hearings** are a case management strategy that enables pre-trial directions to be made so that cases are ready for trial. A longer pre-trial period currently applies, so Directions Hearings are listed accordingly.
- **Pleas of guilty** remain at a constant level
- The number of **sentences** imposed reflects a decrease in the number of trials
- The number of **bail application listings** has increased as expected when remandees' periods in custody have increased due to the suspension of jury trials
- **Bail consent letters (BCLs)** are issued when the Crown is satisfied that an accused person need not attend for a formal remand appearance. These matters are not counted as an appearance in court. The higher number of BCLs reflects the postponement of jury trials.

Regards

Jim

**Jim Connolly**

**Registrar**

**Supreme Court of Tasmania**

Salamanca Place, Hobart, TAS 7000

GPO Box 167 Hobart, TAS 7001

DX 18 Hobart

Phone: (03) 6165 7451

Fax: (03) 6223 7816

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# SUMMARY OF MATTERS LISTED STATEWIDE IN THE CRIMINAL COURT

## WEEKLY SUMMARY for the 5 sitting weeks between February 3<sup>rd</sup> – March 20<sup>th</sup> 2020

	Mention	Directions hearing	Plea	Sentence/ Facts and sentence	Bail application	Bail consent	TOTAL
3-Feb	132	314 <sup>1</sup>	8	14	6	111	585
10-Feb <sup>2</sup>	26	39	5	4	10	23	107
17-Feb	33	54	10	11	18	28	154
24-Feb	22	49	4	17	11	23	126
16-Mar <sup>3</sup>	10	316	9	14	2	87	438
<b>TOTAL</b>	<b>223</b>	<b>772</b>	<b>36</b>	<b>60</b>	<b>47</b>	<b>272</b>	<b>1410</b>

## WEEKLY SUMMARY for the 5 sitting weeks between March 23<sup>rd</sup> – May 8<sup>th</sup> 2020

	Mention	Directions hearing	Plea	Sentence/ Facts and sentence	Bail application	Bail consent	Total
23-Mar	2	63	6	5	17	34	127
30-Mar	32	45	10	11	21	90	209
6-Apr	7	39	8	5	23	41	123
27-Apr <sup>5</sup>	26	81	3	5	19	266	400
5-May	12	18	5	4	7	32	78
<b>TOTAL</b>	<b>79</b>	<b>246</b>	<b>32</b>	<b>30</b>	<b>87</b>	<b>463</b>	<b>937</b>

<sup>1</sup> First remand day of the year are traditionally larger than other first directions days throughout the year.

<sup>2</sup> 10<sup>th</sup> Feb public holiday in Hobart

<sup>3</sup> Remand day

<sup>4</sup> Good Friday 10<sup>th</sup> April

<sup>5</sup> Remand day

Statistics above do not include Appeal Term weeks



# MAGISTRATES COURT of TASMANIA

25 May 2020

Mr S Wright  
Secretary  
Joint Standing Committee Subordinate Legislation  
By email: [subleg@parliament.tas.gov.au](mailto:subleg@parliament.tas.gov.au)

Dear Mr Wright

## **NOTICE UNDER SECTION 20 (MAGISTRATES COURT) COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**

Thank you for your letter dated 13 May 2020 seeking the following:

- Comparative data regarding the current workload of the Magistrates Court and the workload prior to the COVID-19 pandemic;
- Information on any resourcing implications should there be a significant backlog in the post COVID-19 environment.

Attached are monthly figures for lodgements of new criminal matters in the Magistrates Court for the period November 2019 to April 2020. Figures for the same months in the period November 2018 to April 2019 are also attached. There is a significant reduction in lodgements in April 2020, which is due to COVID-19 adjustments.

Civil case lodgement figures are not available at this time. The Court has continued to hear residential tenancy matters but it has adjourned most other types of civil cases until after 1 July 2020. The Court has focussed on the need to prioritise criminal matters where defendants are in custody, as well as protective matters such as family violence and child safety.

In March 2020 the Court implemented changes to criminal listing practices in response to the COVID-19 pandemic. There was a lag before those changes resulted in reduced numbers in the court lists. For example, police were instructed to reduce the number of summons matters and police bail matters being listed by 50%. Police were also instructed to list first court dates for summonses to dates not sooner than 20 weeks,

and to grant police bail to dates not sooner than 12 weeks. It took some weeks before these changes were reflected in smaller court lists.

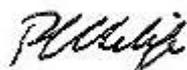
The Court also implemented a process where parties were encouraged to adjourn certain types of criminal matters to dates not before 1 July 2020. This practice meant there were fewer court appearances in April, a reduction that will carry through in May and June figures.

Many other types of matters continue to be heard, including bail applications, family violence order and restraint order applications, child safety matters, and youth justice matters. Priority is given to matters where defendants are in custody.

An increase in the backlog in cases, both criminal and civil, is unavoidable. The Magistrates Court has a new magistrate commencing on 29 June 2020, which will help with the workload. However, the new magistrate was appointed in response to a demonstrated pre-COVID-19 increase in the Court's workload. The backlog of work caused by the COVID-19 situation will take some time to clear. Even if the Court has capacity to implement backlog-reduction measures such as concentrated hearing lists, it will only be able to do so effectively if Police Prosecution and defence counsel, including the Legal Aid Commission of Tasmania, have the resources to service those lists.

The Court has started planning a staged recovery process in order to return to normal operations, while continuing to operate the Courts safely.

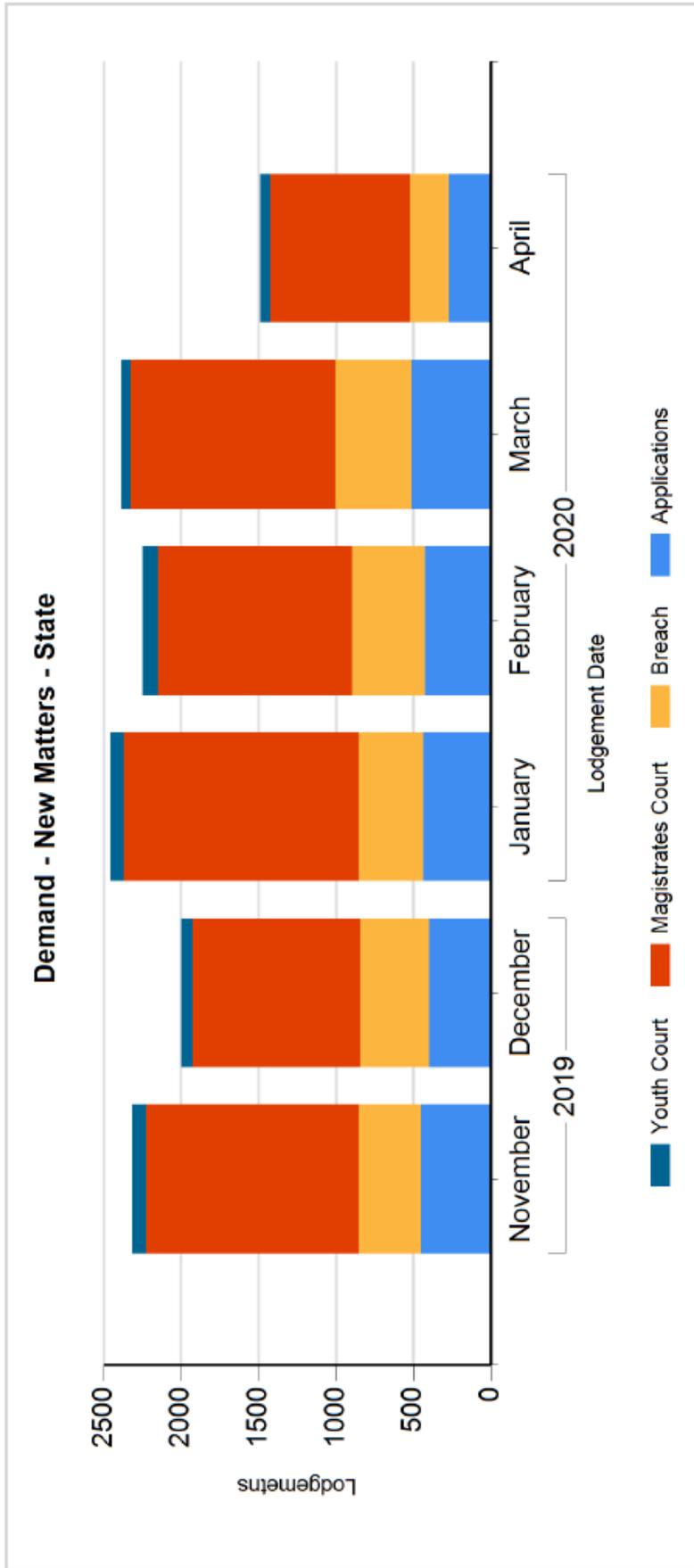
Yours sincerely



Penelope Ikedife  
**Administrator of Courts**  
[penelope.ikedife@justice.tas.gov.au](mailto:penelope.ikedife@justice.tas.gov.au)  
03 616 57633

Attachment: Monthly Criminal Lodgements November 2019 - April 2020- Magistrates Court

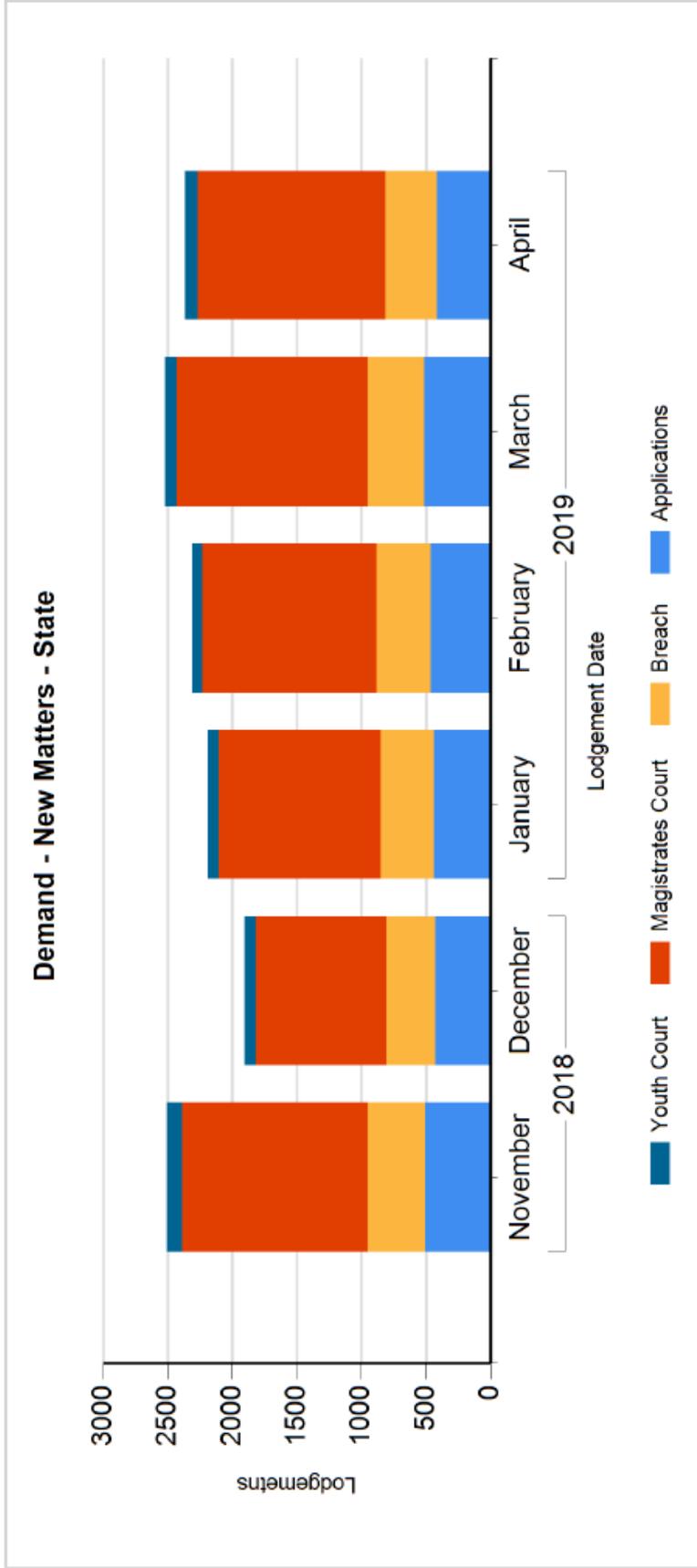
**CRIMINAL LODGEMENTS - November 2019 – April 2020**



**2019**

**2020**

**CRIMINAL LODGEMENTS - November 2018 – April 2019**



**2019**

**2018**

Matter Category	November	December	January	February	March	April
Applications	502	427	433	459	512	413
Breach	447	375	417	420	438	401
Magistrates Court	1,438	1,015	1,254	1,352	1,478	1,455
Youth Court	120	84	83	79	93	94
<b>Total</b>	<b>2,507</b>	<b>1,901</b>	<b>2,187</b>	<b>2,310</b>	<b>2,521</b>	<b>2,363</b>

# PUBLIC

## THE PARLIAMENTARY JOINT STANDING COMMITTEE ON SUBORDINATE LEGISLATION MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON FRIDAY 8 MAY 2020.

**CHAIR** (Ms Rattray) - Good morning, as the Chair of the Subordinate Legislation Committee, I will introduce to you members of the committee - the Honourable Meg Webb, Honourable Ruth Forrest, John Tucker MP, Mick Street MP in the room, and Tania Rattray; we also have Alison Standen who is working from home today. We have with us Stuart Wright and Julie Thompson, our secretary.

We have Ginna Webster, Kristy Bourne, Jim Connolly and Penelope Ikedife. You will be aware that the committee is examining the notices that come in regard to the Covid-19 Disease Emergency (Miscellaneous Provisions) and this is in regard to the Magistrates Court and the Supreme Court notices that were issued.

**Ms GINNA WEBSTER**, SECRETARY, **Ms KRISTY BOURNE**, DEPUTY SECRETARY (CORRECTIONS AND JUSTICE); **Mr JIM CONNOLLY**, REGISTRAR OF THE SUPREME COURT AND **Ms PENELOPE IKEDIFE**, ADMINISTRATOR OF THE MAGISTRATES COURT, DEPARTMENT OF JUSTICE WERE CALLED BY WEBEX, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIR** - Ginna, are you going to give an overview? Or has there been someone appointed to do that for the committee?

**Ms WEBSTER** - Thanks, Chair. It depends what the committee would prefer. Obviously, given the independent nature of the courts, we have Jim and Penny to talk about the specifics of what is happening at the courts. In relation to the notices we have from the Supreme Court and the Magistrates Court, the Attorney-General has received requests from the Chief Magistrate and the Chief Justice which have led to the notices. Basically, that's in relation to the way that the proceedings underway given the current situation of COVID-19, and in accordance with section 22 of the COVID-19 act, the approved manner specified in the notice means the manner determined by the Chief Magistrate, the Chief Justice, the President, Chair or other head of the tribunal or entity or person nominated by the entity. The Chief Magistrate requested the Attorney General issue a notice to allow the court to conduct proceedings during the pandemic despite section 37 (1) of the Justices Act 1959, section 90 of the Sentencing Act 1997 -

The Chief Justice of Tasmania, the honourable Alan Blow, announced that no jury trials would commence until at least 21 July. The Chief Justice then requested the Attorney-General issue a notice to allow the court to conduct proceedings despite section 91 of the Sentencing Act, section 12A (2) of the Criminal Code 1924 and section 4 (11)(i) of the Criminal Code and section 14 of the Supreme Court Civil Procedure Act 1932.

That provides a background of the notices that were provided, but given the specifics of the court, I am very happy to hand to Jim as Registrar of the Supreme Court or Penny as Administrator of the Magistrates Court in relation to questions from the committee.

**CHAIR** - Thank you very much for that, Ginna. Jim, would you like to make comments with regard to the Supreme Court?

## PUBLIC

**Mr CONNOLLY** - Certainly, thank you. The first thing to state is that as a matter of principle the Chief Justice and all the judges are very conscious of the need for open justice to occur in Tasmania, even in these rather difficult times that we are facing at the moment. They're acutely aware of that, but these determinations made by the Chief Justice under the notice issued by the Attorney-General are only in place during this time and we will be intending to revert to a traditional model for conducting justice in Tasmania as soon as that's possible. We may carry forward some modified procedures that involve, for example, more use of desktop video conferencing, where that's appropriate, but generally the intention is to revert to a traditional model of conducting court business.

Having said, the notice that was issued by the Attorney-General on 16 April at the request of the Chief Justice was then followed by a determination by the Chief Justice as to how courts were to be conducted.

**Mr CONNOLLY** - (cont) - followed up by the determination by the Chief Justice into the House, courts were to be conducted. That was published to the community and to the legal profession via a circular to practitioners. This was published about 16 April on our website and is distributed entirely around the legal profession and those involved in the administration of justice.

The Chief Justice's approved measures covers both the original and the appellate jurisdictions of the Supreme Court. The original jurisdiction, that is a single judge sitting, is entitled to conduct proceedings particularly using technology. The Notice itself, I am not sure if the Committee has a copy of the Chief Justice's determination dated 16 April. It sets out in 10 paragraphs the different equation which court business can be conducted.

Obviously, no trials are being conducted so this Notice doesn't apply to a jury trial. For all other business, it enables judges to use audio or audio/visual technology to conduct proceedings and enable the appellate courts - comprising three judges - to conduct business by video conferencing, each from a different location, so they do not have to in the same courtroom.

They do not have to sit in courtrooms. They can sit at any place. In fact, we have judges who are operating from a home base at the moment, but doing business by video conference from there, with the assistance of their staff who are usually based in the courtroom.

The model is the courtroom is the hub for the videoconferencing proceedings. The judges associate is there coordinating all the participants, having them all hooked up to the same video conference. Then you will have remote participants, either solicitors in their office or their home, a prisoner or remandee in one of the prisons, a prosecutor either at the Director of Public Prosecutions office or again they may be at home.

The whole thing is actually working quite well. The important thing to note is whilst these proceedings are being conducted by video conferencing, they are being done through a hub in the courtroom, and the courtroom and the court building is open to the public and media.

There is still the element of open justice being respected even in these strange times.

**CHAIR** - Would it be possible for the Committee to receive a copy of the Chief Justice's Determination? That would be very helpful.

**Mr CONNOLLY** - Certainly.

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**CHAIR** - It may well have saved this opportunity today, but we were not aware that was around and only doing the job presented to us.

We will take questions on the Supreme Court first. Penelope, I will come to you after that.

**Ms WEBB** - Just a couple, thank you. You have mentioned that was put out to the legal profession when those directions were issued. Can you tell me what sort of feedback you received from the legal profession?

**Mr CONNOLLY** - There was no opposition. In fact, there was no feedback. The profession accepted in these circumstances that was the most effective way of conducting business. There was neither positive or negative feedback. That was the way the Chief Justice had determined was the appropriate way, and I think the profession have accepted it. They seem to be increasingly more comfortable day by day. The more people use this technology, the more comfortable they become with using it

**Mr CONNOLLY** - the more comfortable they become with using it, other than myself as you can see with my limited ability with the camera on this videoconference earlier. It is a learning curve for most practitioners and they all accept it is appropriate to use this method at the moment.

**Ms WEBB** - I am sure they are. We are all making do with all these different things. You described it was working well. Given there are a lot of different participants in the process, how are you monitoring the impact this change and new way of working is having on each element involved in conducting a proceeding in this way? You mentioned the practitioners but there are others involved - other administrative staff, the people who are there presenting at court, and others like that. Can you talk about how you are monitoring that it is working well for the different elements of participants?

**Mr CONNOLLY** - In that sense it would be a reactive monitoring. If there are concerns expressed they will eventually land on my desk and I would check the proceedings and see if there are any modifications required. It is not a structured monitoring of the issue. I have some figures as to the number of matters we have been dealing with in this COVID-19 period in our criminal jurisdiction in the first instance. For example, with the matters dealt with we have had 87 bail applications. This is from 23 March 2020 onwards. We have had 30 matters where sentences have been imposed, and 32 pleas proceedings, that is the statement of Crown specs and pre-mitigation have occurred. We have had 246 directions hearings and 79 mentions. These are all by video link.

There has been a lot of business conducted. Fortunately, this all helps to keep the wheels of justice turning and to try to limit the negative impact of the coronavirus on court backlogs we are doing what we can.

Jury trials are going to be another issue we have to deal with. We are aiming for late July, as you know, but at the moment they are the sort of numbers we have been dealing with for matters not requiring juries.

**Ms WEBSTER** - If I can add to Ms Webb's question, the other part is the department is facilitating regular meetings with administration of justice stakeholders, for example, the courts, the Tasmanian Bar Association, the Law Society, and a range of other stakeholders where matters have been raised and addressed. This included in the early stages working with the technology including using the Chief Information Officer of the department to assist legal practitioners with

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the technology we are using. We have had a forum and were meeting weekly for a while. We have dropped those as needed and are in the process of setting up another meeting so any of those issues have been addressed as we hear of them, but we have been quite proactive particularly in the early stages around this model we have had to implement.

**Ms WEBB** - Thank you for that information Ginna, I appreciate it. Within those meetings was there somebody representing people who are appearing in court and who are in custody in the justice system and involved from that side?

**Ms WEBSTER** - Not specifically, however, Kristy as the Deputy Secretary, Justice and Corrections, obviously has a crossover between the administration of justice and the prison service. We have not had any any negative feedback from people appearing in court, but of course we could look to extend that if we thought it would be beneficial.

**Ms FORREST** - Thank you. There's a couple of follow-ups. This one is to Mr Connolly. With the numbers you gave us about the matters that have been dealt with, how does that compare with those similar matters - obviously not things like jury trials? How does that compare with what you would normally do in the same period?

**Mr CONNOLLY** - I don't have those figures in front of me, but I can obtain them. It would be [inaudible] of me to comment on that at the moment.

**Ms FORREST** - Okay. It is just interesting to know whether -

**Ms WEBB** - It is a question of what capacity are we working at?

**Ms FORREST** - Yes, are we actually keeping the wheels of justice turning? It would be great to think that when we get through this, there is not going to be a great backlog of these matters that you are dealing with now. I'm not asking necessarily for specific numbers, just a bit of a comparison about the workload that you would normally experience in the matters that you have been dealing with, and what you have dealt with under these new arrangements?

You commented earlier about the courtroom being open to the public and the media. I assume that all the social distancing and personal hygiene requirements are in place. How many people from the media have actually been accessing it? You said the courtroom is the hub where the videoconferencing arrangements are established and run from. In terms of media and members of the public, have you had many people actually come in? I'm interested in how members of the public know it's open - I would have thought it was shut if you hadn't told me.

**Mr CONNOLLY** - The media have been quite scarce, I must say. They also have that view that the courts are closed. I can confirm, yes, we definitely do have social distancing and hygiene requirements from the public health perspective in place - so, that is the case.

As far as members of the public go, again not as many as you would expect in normal business. However, for example, family or friends of people who are making bail applications do attend and they are welcome to sit in to witness the proceedings - but that's about it.

**Ms FORREST** - It's interesting that the media may even be unaware that the court is actually open for them to go into, and whether it is a fear thing, I don't know. Should that be made more publicly known? Obviously you don't want hordes of people there. But in terms of open justice, it

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would be important to make sure that people are aware - particularly those who have family members who are dealing with matters.

**Mr CONNOLLY** - Yes. We have a pretty good relationship with the media. They contact us very regularly, particularly if they haven't been able to get to court and need to find out the outcome of a particular case, or any details that can be provided. So, I assume they know that we are open, but they choose to conduct their business in the current circumstances in a different way. I take your point that it might require clarification.

**Ms FORREST** - In terms of the information that was sent with the package, with the Notice itself, there was a comment. I will read it in full so you have it in context. This is in relation to sections 12A(2) and 411(1) of the Criminal Code -

His Honour indicated that arrangements are being made for appeals to the Court of Criminal Appeal to be held insofar as is practicable without participants, counsel, prisoners, appellants, et cetera, attending court. In the circumstances identified above, it may not be possible for an appellant to present if so desired. His Honour has accordingly requested that despite this subsection, the Court of Criminal Appeal may determine an appeal without any appellant being present in accordance with the approved manner.

Can you tell us how you ensure that appropriate justice is served for the appellant in this case?

**Mr CONNOLLY** - You will see from the determination that I have sent to the committee secretary that it basically says that when the Court of Criminal Appeal conducts a hearing by audiovisual link, or by telephone, the party whose conviction or sentence is the subject of the appeal must be afforded an opportunity to hear what is said at the hearing by audiovisual link, or by telephone. It also says that if an appeal to the Court of Criminal Appeal is determined without an oral hearing - that is, if parties agree on that - each party is given, if he or she so requests, a copy of every written submission, outline of argument, or other document that is provided to the court by or on behalf of the parties. Those documents may be given by electronic means.

Appeals before the Court of Criminal Appeal can be heard and determined by any form of audiovisual link or telephone, according to the Chief Justice's determination, and alternatively all parties are represented by counsel and they consent. Those proceedings may be determined without an oral hearing. As self-represented litigant will always have an opportunity to be heard and make submissions in person over video link to the court. It will not be simply on the papers.

**Ms FORREST** - Thank you for that. Once we get that direction, it might remove the need for half of these questions, but I have one further question. It is probably contained in the determination, and if it is, I am happy to await its provision to the committee.

In the closing comment there, the measures requested by the Chief Justice are considered proportionate. This is a letter from the Attorney-General, so it may be better for Ginna Webster to consider this one. The measures requested by the Chief Justice are considered proportionate in the circumstances, and provide adequate safeguards to protect the principle of open justice to the greatest extent possible. Because this is all we received, we had no indication about what sort of measures were going to be in place - hence you are here. I assume all those matters will be addressed in the determination. A message that may go back to the Attorney-General, through the secretary, is that this sort of information should have been provided with the notice.

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**Ms WEBSTER** - I take that point. I think the determination is publicly available, and perhaps that was the confusion, that it was not sent through, so apologies for that. That should have been sent from the department. It is publicly available on the courts' website, so we will make sure we get that through as soon as possible, but I certainly take that point.

**Ms STANDEN** - Welcome everybody, and thank you for your time this morning. Forgive me if I do not have indepth knowledge of the workings of the court, and if this question shows a bit of ignorance. I understand that in the early days of the COVID-19 emergency, New South Wales was looking at alternative ways of putting off cases that did not need to be heard, particularly by prioritising those in custody, as long as there was not any disadvantage to the accused. I do not know whether this would apply to the Supreme Court and the Magistrates Court, or one or the other, but I am just interested in the comments about the scheduling of cases, and whether that has been the case in Tasmania?

**Mr CONNOLLY** - If you would like the Supreme Court's perspective on that, jury trials have been postponed until 21 July 2020. That was chosen at the start of this coronavirus pandemic period, to drive a stake in the ground, to have some reference points, and then we would review the situation in the meantime and see how things were panning out.

At the moment, we are doing some preliminary planning to work out how those sorts of matters can be dealt with. They are quite substantive matters in the sense that the average jury trial could go for a number of days, as opposed to the shorter matters that I mentioned previously for sentences and pleas and directions hearings.

We have to look at the layout of our buildings around the state to see how we can conduct jury trials with distancing requirements, and spreading all the participants out around the courtrooms, and having jury deliberation rooms that are large enough to hold 12 people, subject to all those requirements.

We are doing some preliminary planning on that and also thinking about what types of matters will be brought on first - obviously, custody matters usually get some priority. Depending on how long they have been in the pipeline they get a higher priority than that. Matters involving children or vulnerable witnesses also usually get priority in our court, and matters that might have been adjourned from a previous listing and have been in the queue quite a while, would get some priority.

We haven't determined what those priorities are yet; we're just doing the preliminary planning. No doubt it will very much depend on the readiness of the Director of Public Prosecutions and the Legal Aid Commission as to how they're going to support that sort of strategy to bring as many trials on as possible, as quickly as possible.

**CHAIR** - Alison, does that answer your question?

**Ms STANDEN** - Yes, it does, thank you, Madam Chair.

Supplementary to that, 21 July isn't that far away. Of course, none of us have a crystal ball but this pandemic could disrupt business for some time - retail and other sectors, businesses that have been required to have COVID-19-ready plans, [TBC quality communication] or a similar sort of thing in terms of a formal instrument that courts need to have in order to reopen, as it were?

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**Mr CONNOLLY** - No, because the conduct of the court business is the responsibility of the Chief Justice and the Chief Magistrate. They will determine the appropriate priorities for the matter to be brought on. It doesn't need any formal instrument. The preliminary stages of the processes are in train. Hopefully we can get back to as close to normal business as soon as possible. We are doing our planning on the basis that things like social distancing and other public health hygiene matters will remain in place for a long time to come. We will plan around those assumptions.

**Ms STANDEN** - Finally, Madam Chair, I am imagining a situation where that 21 July date might be pushed back even further. I respect that none of us have a crystal ball, but would there be resourcing implications should there be a significant backlog? How would the court be positioned to manage that? Will there come a time where there would need to be additional resources in order to deal with that?

**Mr CONNOLLY** - Potentially, I think that's the case. The larger the backlog, and depending on the strategy for reducing it to reasonable levels, we'll obviously be dependent on resources. There have been previous announcements in the last Budget for a seventh judge for the Supreme Court to take effect in the 2020-21 financial year. Fortunately, at the moment, we have three acting judges who are available to supplement our sixth permanent judge. If we can start trials again we can perhaps have an intensive strategy to reduce the backlog and bring it back into control.

**CHAIR** - Penelope, as the Administrator of the Magistrates Court, you've heard the discussions that we've had already. Do you have anything to add? Or would you like to make some comment regarding the systems in place at the Magistrates Court?

**Ms FORREST** - I am assuming that there's a determination there as well?

**CHAIR** - Yes. We are interested to know if there's a determination that would be available to the committee as well.

**Ms IKEDIFE** - Certainly, Madam Chair, thank you.

Yes, there is a determination which was made by the Chief Magistrate on 23 April. It's available on the Magistrates Court website and was circulated, as was the Supreme Court's to practitioners, and, I think also, possibly, to the media, via the Department of Justice.

The determination permits a court to be held by any form of audio or audiovisual link and states that in some cases that may not be a matter that is heard in open public court. That is because of the limitations on external people's access if a court is being held by an audiovisual link, or audio link.

To the extent that we have ensured public access, we have done so by specifically advising the media of mechanisms by which they can access audiovisual courts. In particular, we have indicated to members of the media that they can advise the court that they wish to attend a particular court session that is being held by Zoom. We will ensure that they are linked into that Zoom session. This hasn't been used to a huge extent, because, generally speaking, the court's buildings have been open and so media may still attend if they wish to do so, in person. They sit in the back of the courts and carry out their role from that location.

The exception to that has been the Burnie Registry of the Court, which for 13 working days is closed to the public because of additional restrictions in the north-west.

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In Hobart, we have had no requests from the media to attend court sessions by Zoom in the criminal jurisdiction. We have had a few requests, I think, to attend case management conferences in the Coronial Division. There have been no requests by members of the public in Hobart to attend court remotely, so to speak, to observe proceedings. Again, possibly because the building is open, although subject to limitations and restrictions on the numbers of people who may access the building, also the social distancing and hygiene requirements which the Registrar has already referred to.

In all registries, we have been combining remote access, often with a combination of in-person appearances, Zoom appearances, and audio link appearances, sometimes all on the same matter. There are a range of ways people can access court proceedings. We have also taken care to ensure that inquiries made direct to the Registry by people who haven't been able to access court proceedings are provided with information that should be publicly available to them.

Country courts have not been operating except where they can do a video link. Country court matters, say from Scottsdale to Smithton, have been transferred to a [central TBC] Registry, thus limiting the access to people in the regional location. We have made sure that people have access to the outcome of a court proceedings where they have requested it.

Those are some of things the Magistrates Court has been doing to try to ensure that while we are balancing the restrictions and limitations of public health requirements, and attempting to protect staff, judicial officers, and the community, we are also providing open access to justice and ensuring the court proceedings are available to people.

**CHAIR** - We were provided with some numbers of the matters by Jim Connolly. I am interested in whether you have those available for the Magistrates Court.

**Ms IKEDIFE** - Not in the same way, I am afraid. Our court sessions tend to run with a large number of shorter matters being dealt with in a single session. We may have a three-hour session that deals with 100 or 150 separate matters.

I can indicate that there is preliminary data from Zoom, which hasn't yet been analysed, that suggests we have had about 100 Zoom court sessions statewide. That is, I would stress, very preliminary data, which needs some finessing. There has been quite extensive use of that audiovisual platform, particularly in the north-west, because of the additional restrictions that have been in place in Burnie.

We have also had some judicial officers from time to time all consistently working from home, so they may be [TBC] their courts by Zoom every day. I am afraid I cannot provide actual numbers.

**Ms STANDEN** - Thanks, Chair, that seems pretty clear.

**Ms FORREST** - With the comments regarding the north-west shutdown and the additional restrictions that were placed on the north-west, and the expectation that people would not move unless for essential services outside of their municipal region, how did you deal with that? You talk about the use of Zoom. Many of my constituents are not terribly familiar with some of the technology, particularly some who may need to appear before a court. In terms of access to justice, or open justice for the people from, say, Circular Head where we had a cluster, and the west coast and even King Island, how were they dealt with? Have you had many of those matters dealt with using these other technologies?

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**Ms IKEDIFE** - Not so much with Zoom, particularly for self-represented parties, but there is always the telephone link option. That has probably been the default option for a lot of people appearing before the court. It is more accessible to many people, and that is something that has been used in conjunction with other technologies. For example, in Burnie, during the period where the court building was shut, prosecutors were appearing by Zoom, and defence lawyers were appearing either by Zoom or by telephone. If the person was in custody they would appear by Zoom, but a person who was on bail would often appear by telephone.

Anecdotally, I can indicate that there has been a reduction in the number of non-appearances before the court as required. This may have something to do with the 'friendly' use of the methods of appearing.

**Ms FORREST** - That is an interesting point, because it appears to be more convenient for people to access their justice either through a phone or video, so I will be interested to see what the thoughts are. This is perhaps not a question for you, or maybe it is: in the future, when the restrictions are lifted, would that continue to be an option of more people actually turning up?

**Ms IKEDIFE** - It would certainly be a matter for each individual magistrate to determine the appropriate means of appearance before them. There may be different determinations according to the particular circumstances - whether it is a first appearance, whether it is a hearing, the need for the person to be physically in front of the court to allow the proceedings to occur in the most efficient way.

**Ms FORREST** - Has there been any negative feedback about people, particularly from those who are appearing before court, that they do not think it is an appropriate or accessible means of accessing justice for themselves?

**Ms IKEDIFE** - I am not aware of any feedback of that nature. We have had regular meetings with Legal Aid Commission of Tasmania and also the Law Society and the Tasmanian Bar, who I assume would feed back to us any negative comments from their clientele. We certainly have not heard anything along those lines.

**Ms WEBB** - That probably covers a question I was going to ask, in the same way Mr Connolly had indicated, in a broad sense, that the system was working well. I asked about whether there was some monitoring or checking-in being done about the different elements involved, and tracking that impact or how people were finding it. You have answered that to some extent by answering Ms Forrest's question and indicating you are meeting regularly with those groups. Is there anything else you wanted to add in regard to how well it is working, or any particular issues that are being encountered, or things you are monitoring?

**Ms WEBB** - to add of being able to comment on how well it is working, or any particular issues encountered, or things you are monitoring?

**Ms IKEDIFE** - From the Magistrates Court perspective it is a work in progress. We are working through technical issues with the support of the department and IT specialists there. We are keeping in very close contact with all the people involved in appearing before the courts, whether that is police, prisons, child safety services, or community corrections. There is opportunity for people to provide feedback and we are responding to that feedback and assisting wherever we can.

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**CHAIR** - Thank you. Kristy, is there anything you would like to add? You have been there listening and waiting patiently?

**Ms BOURNE** - Thank you, Madam Chair. Not really. Both the registrar and administrator captured the extent to which their existing operations have really had to be changed to meet the current pandemic situation. Overall, as Ginna has indicated, the support from the sector generally has been very welcome and collaborative. There are many things the department will be looking at that are within our purview to be able to continue when we are out of this situation because there have been many benefits of increasing access to justice through virtual means. While not within the scope of this discussion, and I am sure will come up in later forums, how the prison has adapted and been interacting with the courts has certainly had some benefit in many ways.

That is probably it from me, thank you.

**CHAIR** - Thank you very much.

Just to confirm, Jim, Ruth's question on the comparison number of the previous workload could you send that to the Subordinate Legislation Committee email address?

**Mr CONNOLLY** - Yes, certainly. I cannot guarantee it is available. Like Penny, in the sense we started collecting quite granular details on proceedings when this crisis first hit so we could monitor trends from that data, I can see whether our databases can produce an equivalent level of detail. At the moment I am not 100 per cent sure we can do that level of detail. But, I will -

**Ms FORREST** - If you can't, that is fine. It may be a matter for a subsequent committee or parliamentary question at a later time when you have more data available to compare. If you can provide anything it would be helpful.

**CHAIR** - If you cannot, can you let us know? It would be appreciated.

**Mr CONNOLLY** - Can I add one other point I did not raise before, but I should. If we are talking about open justice, in the Supreme Court judges deliver written judgments and written comments on passing sentence all the time, and they are published on our website. It is another aspect of our accountability in the sense that judgments and sentencing comments are published and are continuing to be published throughout this coronavirus period.

As far as access to justice and the court system, what is going on in it, there are those other established mechanisms we use and are continuing to be used.

**CHAIR** - Thank you very much. On behalf of the committee, I thank Ginna, Kristy, Jim and Penelope for the opportunity for the committee to further explore those notices. This is important and beneficial information we have received today and we very much appreciate it. Please stay safe everyone. Thank you.

**Ms WEBSTER** - Madam Chair, if I could put on the record the amount of work Jim and Penny at the courts, their staff and the judiciary have done over this period. It has been outstanding and I am extremely proud of them as members of the agency.

**CHAIR** - Hear, hear. Certainly, everyone's lifted up a notch in all their areas of work and effort in Tasmania, thank you very much.

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**THE WITNESSES WITHDREW.**

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 28 APRIL 2020**

**COMMENCEMENT**

The Committee met at 11.00 am via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Webb*

**House of Assembly**

*Ms Standen*  
*Mr Street*  
*Mr Tucker*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

3. Notice under section 20 (Supreme Court)
4. Notice under section 20 (Magistrates Court)

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 1 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Webb (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*  
*Mr Street*  
*Mr Tucker*

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under section 20 (Supreme Court)

The Committee **AGREED** that the *Secretary* follow-up on associated paperwork.

2. Notice under section 20 (Magistrates Court)

The Committee **AGREED** that the *Secretary* follow-up on associated paperwork.

### **JOINT STANDING COMMITTEE**

## **SUBORDINATE LEGISLATION**

**TUESDAY 5 MAY 2020**

### **COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

### **MEMBERS PRESENT**

#### **Legislative Council**

Ms Forrest (*Deputy Chair*)

(*via Webex*)

Ms Rattray (*Chair*) (*via Webex*)

Ms Webb (*via Webex*)

#### **House of Assembly**

Ms Standen (*via Webex*)

Mr Street (*via Webex*)

Mr Tucker (*via Webex*)

### **OUTWARDS**

#### **CORRESPONDENCE**

***Resolved***, that the following correspondence be endorsed:

2. Letter dated 4 May 2020 to the Hon Elise Archer MP, Attorney General regarding outstanding paperwork for notices issued under section 20 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Supreme Court and Magistrates Court).

### **SUPPORTING**

#### **CORRESPONDENCE**

#### **(NOTICE)**

***Resolved***, that the following supporting correspondence be received:

2. Letter dated 1 May 2020 from the Hon Elise Archer MP, Attorney General regarding Notice issued under section 20 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Supreme Court).
3. Letter dated 1 May 2020 from the Hon Elise Archer MP, Attorney General regarding Notice issued under section 20 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Magistrates Court).

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under section 20 (Supreme Court)

The Committee **AGREED** that an inquiry be established to further examine this Notice, and a public hearing be arranged for this Friday 8 May 2020.

2. Notice under section 20 (Magistrates Court)

The Committee **AGREED** that an inquiry be established to further examine this Notice, and a public hearing be arranged for this Friday 8 May 2020.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 8 MAY 2020**

**COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)  
Ms Rattray (*Chair*)  
Ms Webb

**House of Assembly**

Ms Standen (*via Webex*)  
Mr Street  
Mr Tucker

**OUTWARDS  
CORRESPONDENCE**

***Resolved***, that the following correspondence be endorsed:

2. Letter dated 5 May 2020 to the Hon Elise Archer MP, Attorney General requesting attendance at a public hearing regarding Notices under Section 20 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Supreme Court and Magistrates Court).
7. Email dated 5 May 2020 to the Hon Elise Archer MP, Attorney General providing broad questions that may be asked regarding Notices under Section 20 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Supreme Court and Magistrates Court).

**GENERAL  
CORRESPONDENCE**

**Resolved**, that the following general correspondence be received:

1. Letter dated 7 May 2020 from the Hon Elise Archer MP, Attorney General and Minister for Justice regarding public hearing for Notices under Section 20 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (Supreme Court and Magistrates Court).

**PUBLIC HEARING  
SECTION 20 NOTICES  
UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(THE SUPREME COURT  
AND  
MAGISTRATES COURT)**

At 11.45 am Ginna Webster, Secretary, Kristy Bourne, Deputy Secretary (Corrections and Justice), Jim Connolly, Registrar of the Supreme Court and Penelope Ikedife, Administrator of the Magistrates Court, Department of Justice took the statutory declaration and were examined via Webex.

**Questions on Notice**

1. Provide Chief Justice's Determination.
2. Provide Chief Magistrate's Determination
3. Provide comparative data regarding current workload and workload prior to Covid-19.

The witnesses withdrew at 12.35 pm

**RESOLVED**, that the following Notices be examined.

1. Notice under section 20 (Supreme Court)
2. Notice under section 20 (Magistrates Court)

The Committee **AGREED** that the draft report include the following attachments:

- Relevant correspondence related to the Notices; Transcript of the today's Public Hearing;
- Supreme Court and Magistrate Court determinations; and
- Question on Notice if available relating to comparative workload.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 12 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (via Webex)  
Ms Rattray (*Chair*) (via Webex)  
Ms Webb (via Webex)

**House of Assembly**

Ms Standen (via Webex)  
Mr Street (via Webex)  
Mr Tucker (via Webex)

**OUTWARDS  
CORRESPONDENCE**

***Resolved***, that the following correspondence be endorsed:

2. Email dated 8 May 2020 to Jim Connolly, Registrar, Supreme Court of Tasmania regarding question taken on notice in relation to comparative data (if available) regarding current workload and workload prior to Covid-19.

The Committee **AGREED** that the Secretary follow-up with Mr Connolly as to whether this information will be made available.

The Committee had a discussion regarding whether the above question was asked of the Magistrates Court. The Committee **AGREED** that the Transcript of Evidence be reviewed.

**GENERAL  
CORRESPONDENCE**

***Resolved***, that the following general correspondence be received:

2. Email dated 8 May 2020 from Penelope Ikedife, Administrator, Magistrates Court of Tasmania providing the link to the *Magistrates Court Circular No. 4 of 2020 "COVID-19 Approved Manner of Court Proceedings", dated 23 April 2020.*
3. Email dated 8 May 2020 from Jim Connolly, Registrar, Supreme Court of Tasmania providing the link to the *Supreme Court Circular No. 5 of 2020 "COVID19 - Approved Manner of Court Proceedings" published on 17 April 2020.*

**SECTION 20 NOTICE  
MAGISTRATES COURT**

The *Deputy Chair* read though the Transcript of Evidence relating to the Magistrates Court.

The Committee had a discussion.

The Committee **RESOLVED** to write to the Penelope Ikedife, Administrator, Magistrates Court of Tasmania requesting the same information as requested of the Supreme Court in relation to comparative data regarding workload prior to Covid-19.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 15 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (*via Webex*)  
Ms Rattray (*Chair*)  
Ms Webb (*via Webex*)

**House of Assembly**

Mr Street (*via Webex*)  
Mr Tucker (*via Webex*)

**RESOLVED**, that the following outwards correspondence be endorsed:

3. Email dated 13 May 2020 to Jim Connolly, Registrar, Supreme Court of Tasmania following-up on a response to the question of comparative data in relation to workload will be made available to the Committee.
5. Letter dated 13 May 2020 to Ms Penelope Ikedife, Administrator of the Magistrates Court, Department of Justice requesting comparative data regarding current workload and workload prior to Covid-19 and possible resourcing implications.

Ms *Standen* took her place at 11.24 am.

**GENERAL  
CORRESPONDENCE**

**Resolved**, that the following general correspondence be received:

4. Email dated 13 May 2020 from Jim Connolly, Registrar, Supreme Court of Tasmania providing response regarding comparative data in relation to workload prior to Covid-19 and during pandemic.

**DRAFT REPORT 5 –  
NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020**

The Committee **AGREED** to defer consideration of Draft Report 5 due to the outstanding information from the Magistrates Court.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 19 MAY 2020**

**COMMENCEMENT**

The Committee at 9.28 am in Committee Room 2.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Webb*

**House of Assembly**

*Ms Standen*  
*Mr Street*  
*Mr Tucker*

**DRAFT REPORT 5 –  
NOTICES UNDER  
SECTION 20 OF THE  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(THE SUPREME  
COURT AND  
THE MAGISTRATES  
COURT)**

The Committee considered the draft report.

***RESOLVED***, that the draft report be adopted.

The Committee **AGREED** that the presentation of Report No. 5 be listed on the next Agenda for further consideration once a response to outstanding correspondence from the Magistrates Court has been received and considered.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 26 MAY 2020**

**COMMENCEMENT**

The Committee at 1.30 pm in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (via Webex)

Ms Rattray (*Chair*) (via Webex)

Ms Webb (via Webex)

**House of Assembly**

Ms Standen (via Webex)

Mr Street (via Webex)

Mr Tucker (via Webex)

**SUPPORTING  
CORRESPONDENCE**

**(Notices)**

***Resolved***, that the following supporting correspondence be received:

2. Letter dated 25 May 2020 from Penelope Ikedife, Administrator, Magistrates Court of Tasmania providing response to questions.

**DRAFT REPORT No. 5  
NOTICES UNDER  
SECTION 20 OF THE  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020  
(THE SUPREME  
COURT AND THE  
MAGISTRATES  
COURT)**

The Committee ***RESOLVED***, that the previous Motion adopting Report No. 5 be rescinded.

The Committee reconsidered Draft Report No. 5.

The Committee ***RESOLVED***, that Draft Report No. 5 be adopted with amendments and the inclusion of a Table of Contents listing the relevant attachments and a date for tabling be considered at the next meeting.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 29 MAY 2020**

**COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair) (via Webex)*

*Ms Rattray (Chair) (via Webex)*

**House of Assembly**

*Ms Standen (via Webex)*

*Mr Street (via Webex)*

*Mr Tucker (via Webex)*

*Ms Webb took her place at 11.05 am (via Webex)*

**DRAFT REPORT No. 5**  
**NOTICES UNDER**  
**SECTION 20 OF THE**  
**COVID-19 DISEASE**  
**EMERGENCY**  
**(MISCELLENEOUS**  
**PROVISIONS)**  
**ACT 2020**  
**(THE SUPREME**  
**COURT AND THE**  
**MAGISTRATES**  
**COURT)**

The Committee ***RESOLVED*** to present Report No. 5 next Wednesday, 3 June 2020.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 2 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm in Committee Room 2, Parliament House, Hobart

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*

*Ms Rattray (Chair)*

*Ms Meg Webb*

**House of Assembly**

*Ms Standen*

*Mr Street*

*Mr Tucker*

**MINUTES**  
**ATTACHED TO**  
**ADDENDUM REPORTS**  
**2, 3 AND 4; REPORTS**  
**5 AND 6 AND FUTURE**  
**REPORTS OF THE**  
**COMMITTEE**

The Committee ***RESOLVED*** —

Minutes to be attached to Reports be confined to sections of the Minutes related to the notices under consideration for Addendum Reports 2, 3 and 4; Reports 5 and 6; and future Reports of the Committee.