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Dear Committee Secretariat

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Inquiry into the *Criminal Procedure Legislation Amendment Bill 2026*

ABN 62 208 314 893

The Law Society Northern Territory (**Society**) is a statutory body constituted under the *Legal Profession Act 2006* (NT). It is responsible for the regulation of the legal profession in the Northern Territory and represents the interests of its legal practitioner members whose work is core to the maintenance of fair commerce, the rule of law and the administration of justice.

The Society writes with respect to the Committee's inquiry into the *Criminal Procedure Legislation Amendment Bill 2026* (**the Bill**).

The Society makes the following points in relation to the proposed amendments:

1. The Society is generally supportive of the amendments set out in the Bill and considers that the procedural amendments proposed by the Bill are likely to assist the efficient administration of justice in the Territory.
2. The Society understands that the Bill was developed through consultation with a working group including representatives from the Courts, Police, Corrections, Legal Aid NT, the Northern Australia Aboriginal Justice Agency (**NAAJA**) and the Criminal Lawyers Association of the Northern Territory. It is, in the Society's view, an example of the positive impact that consultation with relevant stakeholders can achieve.
3. Many of the reforms proposed in the Bill are targeted towards supporting efficiency of the court process and removing barriers to resolving matters including without the need to proceed to a contested hearing. It is likely that these reforms will positively contribute to the management of the significant strain on the Northern Territory's justice system, particularly felt by the Local Court.
4. However, it is also noted that the procedural reforms proposed by the Bill do not address the underlying structural factors which contribute to this pressure, including: inadequate funding and resource allocation for the judiciary, court administration and legal services; unavailability of alternatives to custody, such as supported bail accommodation, diversion and rehabilitation programs; lack of support services, and continuing laws which increase the number of persons in custody without addressing the root causes of crime. Without complementary investment into such areas, there is a real risk that any procedural inefficiencies gained by the Bill will be overcome by the volume of

matters passing through the court and have little measurable improvement in outcomes for persons on remand or victims of crime.

Reform of sentence indication

5. In practice, the Society understands that the current prohibition against giving a sentence indication within 7 days of a hearing date, means that where a matter is listed for hearing and circumstances change at the last minute the window for providing a useful sentence indication has already closed.
6. The availability of late sentencing indications proposed by the Bill, particularly when coupled with the repeal of s 123A of the *Sentencing Act 1995* (NT) such that Courts will be able to consider a late guilty plea as a factor in mitigation, is likely to facilitate the resolution of matters that otherwise may unnecessarily proceed to contested hearing. This will reduce the pressure on the resources of the Court, including the availability of rooms and Judges.
7. The Society is concerned, however, about the amendment to s 60AZA(2) of the *Local Court Criminal Procedure Act 1928* (NT) (**LCCPA**) which removes the prohibition therein on a Judge who has given a sentencing indication being the Judge who sits in determination of the charge without agreement of the parties. Removal of this prohibition raises a concern about due process noting that a Judge who has formed a view on sentence may, even unconsciously, approach the determination of the matter with a predisposition of guilt.
8. The Society appreciates that this reform is pragmatic considering the limited availability of the judiciary. However, the current s 60AZA(2) already allows for the same Judge to sit when both parties agree, which is an appropriate check and balance on any unconscious predisposition to find a defendant guilty due to already having provided an indication of their sentence.

Reforms to procedural listings

9. The introduction of the mechanism in new s 106B¹ is likely to streamline committals in straightforward cases and reduce the listings burden on the Court. The Society understands this will also bring the Territory in line with other Australian jurisdictions. The backlog of outstanding committals in the Local Court has almost doubled since June 2024² and it is important and appropriate that legislative reform targeted to increasing Local Court efficiency be directed at this issue.
10. The Society is supportive of the introduction of s 60AI(9) to the LCCPA. That provision will require the Court to list a further mention where the defendant is in custody and there are real prospects of resolution in a matter. This change will ensure matters are able to be bought back before the Court more quickly for defendants on remand and facilitate earlier resolution of those matters. It is noted however that this may place additional listing pressure on the Local

¹ Which new provision will dispense with a preliminary examination mention when the prosecution consents and the defendant is legally represented and concedes the sufficiency of the evidence.

² See Local Court and Youth Justice Court Statistics to End of February 2026, Local Court Outstanding Committals p 33, accessed online: <https://localcourt.nt.gov.au/court-performance-statistics>.

Court in circumstances where there is already extreme pressure to accommodate a large number of matters in the list.

11. The Society is concerned that without adequate resourcing, increases for the Local Court in both physical courtroom space, online capability and both judicial and administrative staff, this amendment will be difficult to meaningfully implement.

Joinder of charges

12. The introduction of the new s 183B which presumes that certain domestic violence offences involving the same victim and offender are to be heard and determined together, may have positive impacts. These could include streamlining case management of multiple offences and reducing the risk of re-traumatisation of victim-survivors of domestic violence participating in giving evidence in respect of multiple charges.
13. However, the Society notes there is also a risk that dealing with such offences together could lead to prolonged court proceedings due to complicated legal arguments about admissibility evidence, particularly noting s 183B(3) provides that the presumption is not rebutted merely because evidence on one charge is not admissible on another charge.

Summary jurisdiction

14. The Society is supportive of the amendment to s 52 of the LCCPA to allow for the laying of complaints after the 6-month limitation period where the person charged gives consent. This amendment will likely lead to more matters resolving through negotiation by way of plea to lesser summary charges, which resolution is currently unavailable due to the time limitation, ensuring that Court resources are not tied up in trials which could otherwise resolve in an alternative manner.
15. The expansion of the summary jurisdiction for property offences from \$50,000 to \$100,000 will divert more matters to the Local Court where they can be resolved more quickly and with less overall cost to the justice system, as will the similar amendment to the *Misuse of Drugs Act 1990* (Cth) to allow for the indictable offence of receiving or possessing tainted property to be determined summarily.
16. The Society has similar reservations about these provisions as those set out above in relation to the reforms to procedural hearings, in that there is the potential that these additional summary matters will add further listing pressure to the Local Court which is already overburdened. These amendments must be accompanied by an increase in resourcing for the Local Court.

Audiovisual link usage

17. The reform to insert new ss 49EA and 49EB to the LCCPA will provide for more regular use of audiovisual link (AVL) for both witnesses and defendants in custody. These are pragmatic reforms noting the Territory's unique landscape and challenges with access to witnesses in remote areas.

18. In respect of the introduction of s 49EA, the qualification that appearance by AVL is subject to circumstances where the necessary facilities are available or can be made available, and further qualification that this only occur when use of AVL would not be contrary to the interests of justice, provide appropriate safeguards to this reform.
19. However, the threshold for what would constitute a necessary facility is not addressed in the proposed reform. There is a risk that there will be inconsistency between what is accepted as necessary and that in some cases witness evidence could be compromised if there is not a robust standard of privacy required for available facilities to meet the relevant test.
20. This risk can be mitigated by a definition of “necessary facilities” being included in the Bill or addressed in subordinate legislation. Necessary facilities should be established to require a secure and private connection and a private space, among other requirements.
21. The presumption that defendants in custody appear by AVL is pragmatic in that it will reduce transport costs and delays, as well as assist Corrections with managing staff requirements. However, the Society is aware that there are already issues with accessibility of AVL in prisons and watchhouses in the Northern Territory which is likely to dramatically increase after passage of the Bill. It understands that matters are not infrequently rolled over to the following day due to lack of AVL facilities, and that legal practitioners experience significant difficulty in accessing clients by AVL due to the pressure on Corrections to use AVL facilities for Court appearances. Accordingly, the passage of this Bill must be accompanied by a comparative increase in AVL facilities available for use by persons in custody across various locations.
22. It is further noted that, while the Bill ensures that defendants must still appear in person for certain significant mentions of their matter, there is still a risk that certain defendants could be disadvantaged by appearing through AVL, such as persons with sensory or intellectual disability and persons who do not speak English as a first language.
23. Section 49EB could be altered slightly to include a requirement that the Court must be satisfied that a defendant understands the proceedings and has been afforded a meaningful opportunity to communicate with their legal representative before plea or sentencing. Alternatively, the application of the provision could be excluded when an interpreter is required.
24. As noted above, the Society is of the view that many of the proposed amendments will assist in managing the wait times for persons held on remand. The Northern Territory currently has one of the highest rates of remand custody in Australia.³ Further reforms which are to follow should continue to address this issue as a matter of priority.

³ See Local Court and Youth Justice Court Statistics to End of February 2026, Persons on Local Court Remand p 29, accessed online: <https://localcourt.nt.gov.au/court-performance-statistics>. See also Australian Bureau of Statistics, *Prisoners in Australia*, 2025, accessed online: <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>.

We are pleased to provide this submission to the Committee.

Please contact Ms Aislinn McIntyre, CEO and Ms Georgia Kalyniuk, Senior Policy and Regulatory Solicitor, on [REDACTED] in the first instance if you require clarification.

Yours faithfully,

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Aislinn McIntyre
Chief Executive Officer

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