*I would like to pay respect to the traditional and original owners of this land the Muwinina (mu wee nee nah) people, - to pay respect to those that have passed before us and to acknowledge today’s Tasmanian Aboriginal community who are the custodians of this land.*

I’d like to start by saying that it is a great honour to be asked to open this Conference.

I can say that the topics to be canvassed in the Program and the calibre of the speakers only further demonstrates to me the conscientious way in which Tasmania’s Community Legal Centres approach their work.

They play an invaluable role within the legal sector in Tasmania and more generally, in promoting and facilitating access to justice in this State.

Indeed the recognition of the importance of access to justice is a principle that guides me in the way I approach my role as the First Law Officer of the State.

Attaining access to justice for all Tasmanians, especially those members of the community who for a variety of reasons suffer disadvantage, is an ongoing challenge that I regard as one of the most important challenges for the Justice system in Tasmania and in Australia more generally.

In fact I understand that you were to have been grappling with one challenging area of access to justice issues yesterday, namely your training with respect to communication styles and particularly dealing with clients with mental health issues.

Of course CLCs are not the only bodies supporting access to Justice in Tasmania through the provision of legal services.

However, their invaluable approach to the provision of legal services is distinguished by the manner in which they engage in law reform, community liaison and legal education.

Indeed, I have very much valued and benefited from the robust contributions made by CLCs to a range of law reforms which I have been able successfully achieve since becoming Attorney-General.

Among those reforms has been the passing of the:

* + Evidence (Children and Special Witnesses) Bill 2013, which provides greater protections from the traumas of court trials for child and special witnesses.
  + Civil Liability Amendment Bill, which allows a Court to award provisional damages for asbestos and dust related disease suffers, increasing the fairness of the system for victims.
  + Powers of Attorney and Guardianship Amendment Bills which provide greater protections from elder abuse by ensuring appropriate protections are in place for persons granting powers to others over their financial and lifestyle affairs.
  + Crimes Miscellaneous amendment Bill 2013 which included a new crime for car jacking and a new general crime of Fraud
  + *Criminal Code Amendment (Sexual Offences Against Young People) Bill 2013 –* which made a variety of important changes to way in which the Criminal Code deals with sexual offences against young people.

The Bill was developed following a report by the Tasmanian Law Reform Institute and provides that mistaken belief as to age cannot be relied upon where the victim is under 13.

* + *Anti-Discrimination Amendment Bill 2012 –* which made important amendments to the Anti-Discrimination Act 1998 which
    - allows faith-based schools to obtain a limited exemption so that preference can be given for admission of students who share the faith of the school
    - Provides greater protections from bullying-type behaviour by prohibiting conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of being intersex, their age, race, disability, sexuality, lawful sexual activity, gender identity;
    - *Makes a number of important substantive and procedural amendments to the Anti-Discrimination Act designed to improve the functionality of the Commission and Tribunal*
  + Amendments to the Criminal Code dealing with death or serious injury caused by dangerous dogs.
  + ***Commission of Inquiry Amendment Bill 2013 -*** Amendments to the Commissions of Inquiry Act to facilitate the Royal Commission proceedings into institutionalised child sexual abuse; and
  + Altruistic surrogacy legislation.

Indeed I am reminded of the important contributions made by the Hobart Community Legal Centre with respect to the Anti-Discrimination Amendment Bill 2012, particularly regarding the extension of section 17(1), which prohibits conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of an attribute, to new attributes.

We certainly engaged in some robust discussions around whether these protections would place an unacceptable burden on free expression and it was in large part due to these contributions by the Hobart Community Legal Centre that a further amendment was included in the Bill and subsequently enacted which makes the section 17 protections subject to the public purpose test contained in section 55 of the Anti-Discrimination Act.

Given the breadth of the topics that have been and are still to be covered during this conference it is not feasible for me to comment on all of them.

However, I would like to take this opportunity to speak briefly about sentencing practices and the role of the Legislature in binding the Judiciary to particular sentencing outcomes.

I am of course referring to mandatory sentencing, which unfortunately the Liberal Party in Tasmania is a strong proponent of, particularly with respect to sentencing of sex offenders.

Mandatory and/or mandatory minimum sentencing has been the topic of much debate in both the community and in government in Australia since the introduction of mandatory sentencing laws in the Western Australia car chasing legislation in 1992.

It gained momentum with the Western Australian ‘three strikes’ legislation in 1996 and the Northern Territory minimum imprisonment laws for property offences in 1997. All of these laws have since been repealed.

Mandatory sentences generally either remove or at least severely restrict the exercise of court’s discretion in what sentence might be appropriately imposed.

In its Sentencing Final Report No 11 of June 2008 the **Tasmanian Law Reform Institute** noted in relation to mandatory minimum penalties for rape and sexual offences that:

“mandatory minimum penalties can lead to injustice because of inflexibility, they redistribute discretion so that the (less visible) decisions by the police and prosecuting authorities become more important, they lead to more trials as offenders are less likely to plead guilty and there is little basis for believing that they have any deterrent effect on rates of serious crime.”

**The Sentencing Advisory Council**, in its recent Final Report on sentencing for Assaults on Emergency Service Workers released in March this year supported the following criticisms of mandatory sentencing:

* + They lead to unjust sentencing outcomes, as the factors that differentiate a case in terms of culpability cannot be taken into consideration;
  + They are inconsistent with the principle of proportionality, namely that the punishment be proportionate to the offending be behaviour, because mandatory sentencing leads to the imposition of sentences that are disproportionate to the specific circumstances of a given offence;
  + Mandatory sentencing may increase costs for the criminal justice system, because in order to avoid the imposition of a mandatory sentence of imprisonment, defendants have been found less likely to plead guilty, thus increasing demands on resources including police, legal aid and the courts.
  + The issue of avoiding trial when mandatory sentences are in play means that judges’ discretion is displaced into less transparent parts of the legal system. Lawyers tend to negotiate with the prosecutor for a less serious offence to be pursued in order to avoid trial and the prosecutor then has to decide whether to withdraw more serious charges.
  + As a result, control over the sentence moves into hands of prosecutors and lawyers rather than judges and magistrates.

The Sentencing Advisory Council, in its Report on sentencing for Assaults on Emergency Service Workers also quoted the following statement by Declan Roche:

“critics of mandatory sentencing argue that it is a crude policy, resting on crude assumptions about how crime is prevented, what the public want, and what legislation can deliver.”

I do not support this limiting of the role of the Judiciary who are aware of the facts and circumstances and sentence offenders based on the complete picture.

There are appeal mechanisms, which are, on occasion, used as a means of adjusting sentences in appropriate cases. The appeal mechanisms are available to both the prosecution and the defence.

In terms of mandatory sentencing for sex offences, if I thought it would work I would be supportive as I have seen the damage that sexual assault can cause to families and the community. However, the reality is that it doesn’t. Our independent legal advisory bodies are in agreement on that.

I would just like to finish by again acknowledging the important work of CLCs in this State and I am pleased to have been able to provide funding for Tasmania’s CLCs for a variety of projects during the last two years from the Solicitor’s Guarantee Fund.

I would particularly like to acknowledge the Launceston Community Legal Centre and its Legal Literacy Program which is not only an effective way to provide access to Justice but it is nation leading and I am sure CLCs and other legal service providers from inter-state will be looking at very carefully and endeavouring to emulate.

Again I would like to thank you for giving me the opportunity to open this fantastic conference and for your ongoing work for the Tasmanian Community and I trust you will all continue to gain a great deal from participating in this fantastic event.