Submission to the Review of the
National Legal Assistance Partnership 2020-25

Introduction. It may appear that the National Legal Assistance Partnership 2020-25 (NLAP) is designed specifically for those who are vulnerable and/or disadvantaged with limited means, education or opportunity (these categories not being mutually exclusive, eg. a wealthy person may still be vulnerable to abuse or exploitation). The full scope of beneficiaries under the NLAP is wider, however.

The common denominator can be described as: '*those who, because of circumstances outside their control, including appropriate legal services being unknown or unavailable, are prevented from accessing assistance necessary for their legal needs to be met'*. The maturity of a nation can be measured by the extent to which legal services are accessible to all citizens.

This submission relates to a case in which existing administrative and legal processes prevented the inherent rights and wrongs of a matter being considered and acted upon. These processes were outside the control of the applicant and, as a result, the rule of law failed him.

Outline of Matter. In 2020 the Defence Honours and Awards Appeals Tribunal (DHAAT) was asked to extend eligibility for an award made to an Army unit, to other Army units that provided the support which was essential to success on the battlefield. This had, in turn, resulted in the original award. The appeal was unsuccessful.

In its report (https://defence-honours-tribunal.gov.au/wp-content/uploads/2020/02/Cameron.pdf), DHAAT stated that the applicant expressed a particular opinion (para 49) … something he did not do (as confirmed by the recording of the proceedings). In fact, he had lodged a 57page formal submission in respect of the issue involved. The DHAAT report made no mention of this.

The applicant sought only to correct the public record (not challenge the outcome of the appeal). When raised with the DHAAT, the applicant was informed that the proceedings were '*functus officio'*, so no correction to the report could be considered. When asked under Section 13 of the Administrative Decisions Judicial Review (ADJR) Act 1977 for a statement of reasons as to why the applicant's formal response and lengthy submission were not

considered relevant evidence, the response was that the DHAAT decision was exempt from such a request and that an application to the Federal Court had to be lodged.

A request to the Federal Court for an Interrogatories Order [Rule 21] was commenced. As part of the process, the applicant had to demonstrate that he had taken steps to resolve the matter with the respondent. He provided this. He also had to show that he had sufficient funds to be able to meet the costs of the respondent if the outcome went against him. This required that the applicant ascertain what the estimated legal costs of the respondent would be. The amount advised was *"$40,000 to $70,000, or above"*.

Although not ordinarily considered a disadvantaged person, the applicant became one in these circumstances. Not being aware of any alternative, he withdrew his application to the Federal Court. A subsequent application to the Minister for Veterans' Affairs was unsuccessful.

Conclusion. The record of proceedings of a lawfully constituted public body established to consider matters of importance, is claimed to be wrong. There is no means available to challenge the record and amend it, without an enormous financial cost; one beyond the means of most applicants. The law would be well served if the NLAP corrected this to facilitate judicial review in such circumstances.

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