



Dr Warren Mundy

Reviewer

National Legal Assistance Partnership

**By email:** [nlapreview@ag.gov.au](mailto:nlapreview@ag.gov.au)

### **Submission to the Review of the National Legal Assistance Partnership 2020-2025**

Consents: Darwin Community Legal Service receives Commonwealth funding under the NLAP

Darwin Community Legal Service consents to:

- Our submission being published on the Review website;
- Being identified in the report of the Review as having made a submission;
- Our submission being quoted with attribution in the report of the Review; and
- Our submission being quoted anonymously in the report of the Review

DCLS met with Dr. Mundy during his recent visit to the Northern Territory. We thank Dr. Mundy for meeting with us and discussing the review. This submission follows on from our meeting with Dr Mundy and provides additional information and context to points raised during the meeting.

## About DCLS

Darwin Community Legal Service (DCLS) is a non-profit community-based organisation committed to legal and social justice and the protection and expansion of rights, fairness, and wellbeing in the NT. DCLS especially works with people who are vulnerable or marginalised. DCLS:

- Provides legal help, advocacy, and support services,
- Collaborates to understand obstacles to justice and try to achieve reform, and
- Promotes understanding and acceptance of rights, justice, and inclusion

DCLS is the only generalist community legal service in the NT, which means that the DCLS incorporated structure is focused on needs and groups of all kinds facing disadvantage which for example includes all genders, Aboriginal and non-Aboriginal people, and people with and without disability.

Additionally, DCLS has targeted programs reflecting some gaps and historical factors, such as attracting resources/funding in some areas.

The main services within DCLS are the General Legal Service (GLS), the Seniors and Disability Rights Service (SDRS) and the Tenants' Advice Service (TAS). Some programs are NT-wide, and others are geographically specific, but the programs work together enabling integrated socio-legal client support.

Additional DCLS initiatives include:

- NT Older Person's Safety from Abuse initiative including NT Older Person's Abuse Information Line
- Aged Care Financial Advocacy
- NDIS Appeals Advocacy
- Homeless Legal Outreach
- NT Veterans' Legal Service.

Although resources currently available to DCLS are not sufficient in any areas, which contributes to the nature, extent and consequences of unmet legal and socio-legal needs in the NT, DCLS provides legal and advocacy assistance in relation to:

- social security legal issues
- credit and debt
- consumer
- employment
- discrimination
- residential tenancy and low-income housing (crisis, short term, transitional, boarders and lodgers etc.)
- adult guardianship
- civil law assistance of last resort in some cases subject to capacity.

Staff include advocates with expertise in aged care, health specialisations, disability, community services and staff who are legally trained.

Additionally, over 60 volunteers contribute each year providing after-hours initial legal assistance two evenings a week, and one Saturday and Monday evening a month or assisting in the office with client work, systemic advocacy efforts, community legal education, supporting capacity building and network involvements.



**1. Consideration of the current gaps in service provision for generalist legal services across the Northern Territory and substantial increase in funding allocation for Generalist Legal Services in the Northern Territory to address unmet legal need.**

DCLS is the only generalist community legal service in the NT, although only funded to cover the Darwin and Palmerston catchment areas. This means that DCLS provides generalist civil law community legal service assistance without this being as a specialist service in the sense, for example, of the NT women's legal services.

DCLS works in areas of civil law which are highly under-serviced or are gaps for client groups unable to access other non-profit legal services, including the NT Legal Aid Commission.

All of the civil law areas of law in which DCLS provides assistance represent major gaps in the NT because the assistance DCLS provides, taken together with that provided by other NT non-profit legal services, is still vastly insufficient to the levels of need.

This impacts directly and indirectly on many Territorians. As an example – although the following have specialist community legal services funded in many other jurisdictions – there currently isn't funding for any of these in the NT:

- Youth civil law legal help – for example no NT equivalent to the ACT Youth Law Centre
- Credit and debt legal service or consumer legal service – for example no NT equivalent to the Consumer Credit Legal Service WA.
- Social security – for example no NT equivalent to Social Security Rights Victoria
- Employment law – for example no NT equivalent to JobWatch which is a community legal centre specialising in employment providing assistance to workers in Victoria, Queensland
- Disability law legal help – for example no NT equivalent to Villamanta Disability Rights Legal Service in Victoria or Queensland Advocacy for Inclusion which are specialist disability legal services.

DCLS currently has one office location which is in Darwin. This failure to establish a permanent and meaningful presence in community has contributed in no small part to the widespread failure to improve the stark inequalities which continue to plague so many Aboriginal and Torres Strait Islander communities across the NT.

While DCLS has programs which are NT wide, such as the Tenants' Advice Service and the NT Older Person's Safety from Abuse Information line - the formal geographic area of the DCLS generalist legal service is Darwin, Palmerston and surrounds. This reflects the main population centre in the NT, but it is not adequate to the size of the NT, the population spread and the nature and location of unmet civil law legal needs. The latter includes Alice Springs, Tennant Creek, Katherine, Nhulunbuy and NT very remote communities.

There are also broad factors that impact the ability of the sector to respond to high levels of need, including:

- Limited capacity to respond to law reform, policy changes, and advocate for changes based on the common presenting issues of clients.
- The role of community legal education in reducing the need for legal assistance services
- Workforce and recruitment challenges, including a lack of pro bono lawyers and specialist support
- vicarious trauma experienced by staff and burn out

- competition with Northern Territory Government rates and conditions
- Data collection and data analysis issues to accurately capture and report on unmet need.

**Current NLAP funding for generalist legal services in the NT**

DCLS currently receives NLAP funding for one arm of the organisation, being the Generalist Legal Service.

An overview of DCLS current NLAP funding and budget is set out below:

**Darwin Community Legal Service Inc - NLAP**

2022/2023 Full Year Budget		
<b>INCOME</b>		
CLC Recurrent Funding	\$809,906	
<b>Total</b>	<b>\$809,906</b>	
<b>EXPENSES</b>		
Salaries & oncosts	\$ 627,208.00	(Includes 1 Principal Solicitor, 2.5 eft Lawyers, 1 legal practice coordinator, 1 Intake/paralegal)
Contractors/Consultants		
Org Management Services Exp	\$ 157,000.00	(office overheads, rents, IT, insurances etc, pool cars etc)
Staff Training & Development	\$ 4,000.00	
NACLC Insurances (PI/AL)	\$ 4,000.00	
Accreditation/Practicing Certificates	\$ 3,000.00	
Travel/Service Delivery	\$ 5,000.00	
Comm Ed Exp/Resources, Travel		
Venue Hire ~ Advice Sessions	\$ 2,200.00	
Prog Advert/Marketing/Publication	\$ 5,000.00	
Promotional Products/Resources		
Minor Equipment <\$5000	\$2,500.00	
<b>Total</b>	<b>\$809,708.00</b>	



As outlined earlier in this submission, DCLS does not have the current budget to adequately service the areas where there is an unmet legal need. In particular there is minimal funding to resource remote travel. Remote travel is necessary when looking at funding from a Northern Territory context:

<b>Ideal /Proposed Budget for DCLS legal Practice</b>		
<b>Full Year Budget</b>		
<b>INCOME</b>		
CLC proposed Recurrent Funding (5 year agreement)	\$1,812,000	
<b>Total</b>	<b>\$1,812,000</b>	
<b>EXPENSES</b>		
Salaries & oncosts	\$1,270,000.00	(Includes 1 Principal Solicitor, 6 eft Lawyers, 1 legal practice coordinator, 1 Intake officer, 2 paralegal, 2 advocates)
Contractors/Consultants	\$10,000.00	
Org Management Services Exp	\$370,000.00	(office overheads, rents, IT, insurances etc, pool cars etc)
Staff Training & Development	\$10,000.00	
NACLC Insurances (PI/AL)	\$6,000.00	
Accreditation/Practicing Certificates	\$6,000.00	
Travel/Service Delivery	\$100,000.00	
Comm Ed Exp/Resources, Travel	\$10,000.00	
Venue Hire ~ Advice Sessions	\$5,000.00	
Prog Advert/Marketing/Publication	\$10,000.00	
Promotional Products/Resources	\$5,000.00	
Minor Equipment <\$5000	\$10,000.00	
<b>Total</b>	<b>\$ 1,812,000.00</b>	
	\$0.00	

Northern Territory is defined by its diverse population dispersed over a large region. 77% of Aboriginal



people in the Northern Territory live in remote or very remote areas.<sup>1</sup> With 96 remote communities, and over 600 homelands, all service delivery (including health, government, and legal) faces added logistical difficulties presented by physically getting to communities and maintaining a continuing presence there. Coupled with the fact that 75% of roads in the NT are unsealed, some of which famously close for large periods of the year due to weather constraints, the costs of delivering resources to communities are only exacerbated by the need to often use charter planes or boats.<sup>2</sup>

Proposed Travel expenses	
Target visits per year	
Katherine x 4	\$10,000
Galiwin'ku x 3	\$20,000
Ramingining x 3	\$18,720
Tiwi Island x 4	\$9,000
Milingimbi x 3	\$18,000
Daly River	\$10,000
Alice Springs x 4	\$20,000
<b>Total</b>	<b>\$105,720</b>

#### NDIS Advocacy and Legal Assistance in the NT

While people with disability are priority clients, we are aware of the increasing need to provide more targeted and accessible services to people with disability. This is confirmed in the Final Report from the Disability Royal Commission, which found that people with disability “continue to experience high rates of violence and abuse, multiple forms of neglect, and sexual and financial exploitation”<sup>3</sup> and that agreements that affect people with disability, including the NLAP, should be reviewed.

NDIS participation is increasing NDIS participation has continued to increase in the NT in the Early Intervention, Permanent Disability and Early Childhood Approach (ECA) groups.<sup>4</sup> The NDIA reports 5,079 people in the NT are accessing the scheme in June 2022, increased from 4,356 in June 2021. Of those 5079 participants made access under the ECA, 3,487 under the permanent disability requirements, and 1,476 under the early intervention requirements.<sup>5</sup>

<sup>1</sup> Northern Territory Department of the Attorney-General and Justice, *Pathways to the Northern Territory Aboriginal Justice Agreement* (Report, 2019) 82.

<sup>2</sup> Ibid.

<sup>3</sup> Commonwealth of Australia (2023), ‘Executive Summary, Our vision for an inclusive Australia and Recommendations, Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report, September 2023, p. 37 < <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Executive%20Summary%2C%20Our%20vision%20for%20an%20inclusive%20Australia%20and%20Recommendations.pdf>>.

<sup>4</sup> NDIS Quarterly Report to disability ministers 30 June 2022, Appendix M, Northern Territory, Table M.5, p. 720

<sup>5</sup> NDIS Quarterly Report to disability ministers 30 June 2022, Appendix M, Northern Territory, Table M.5, p. 720



NDIS access requests and outcomes are key areas for monitoring in the NT due to the potential for systemic factors to affect access to the NDIS. The most recent figures indicate that while access has been met in the NT by 5,568 people, about 800 requests were declined.

There has been a disproportionately high level of adverse NDIA decisions impacting individuals, families, and carers in the NT. Adverse decisions relating to access and plans have vastly increased pressure and anxiety, caused setbacks and increased risks.

The inadequacy of resources for advocacy support in the NT dramatically compounds these issues. This is further exacerbated by lack of sufficient resources for access to legal help. For people needing this assistance who are in the NT, it will be very important that the assistance is locally informed and locally based. Also that there is the option of face to face assistance, as far as possible.

In September 2022 DCLS requested that advocacy funding be substantially increased to the currently contracted non-profit services in the NT and any others able to deliver quality assistance quickly (that is, come online and scale up quickly). This request did not come to fruition and there remains a large gap in service delivery in this priority area.

Currently, the Northern Territory Legal Aid Commission is funded to provide legal assistance for NDIS appeal. DCLS is funded to provide NDIS Appeals Advocacy. This funding model is not client centred and has led to DCLS assisting clients with NDIS Appeals on an unfunded basis. The NT needs a focus on *the need for access to independent advocacy and legal assistance, including co-advocacy*.

### Tenants Advice and Advocacy in the Northern Territory

The rights of individuals to access tenancy legal help is a major gaps in legal assistance in the NT. For example, DCLS is currently the only legal service that receives NTG funding to provide legal assistance to people experiencing tenancy-related issues in the NT. DCLS uses the funding to provide the Tenants' Advice Service ('TAS'), consisting of 4 staff positions and funds for limited travel. TAS' client numbers increased from 430 clients in 2019 to 1200 clients in 2022/23, reflecting factors such as increased rent stress, landlord practices in the context of chronic undersupply, social housing waiting lists and housing insecurity.

While some other non-profit legal services in the NT provide some assistance with tenancy-related issues, this work is severely limited due to lack of funding for this work. The underservicing of tenants' legal needs in the NT is substantially exacerbated for:

- people living in remote communities,
- people escaping domestic or family violence,
- families with housing problems at risk of having children taken into care,
- people with a disability
- older people

Tenants, especially tenants in remote communities, need to be able to access culturally safe advocacy and legal help – which they can connect with and use routinely as required. A diversity of help is needed, with multiple providers, offering support and help for the spectrum of needs, from practical help and tenant capacity building to help sustain tenancies, to understanding and exercising rights and empowering tenants - and groups of tenants – to self-advocate.

The Santa Teresa case, which is an action by about 60 tenants in the remote Central Australian community of Santa Teresa about chronic, ongoing, maintenance failures - is a clear demonstration of how remote social housing tenants in the NT have been denied their basic legal rights and the importance of different kinds of legal help including individual and collective legal help.<sup>6</sup>

The NT is the only jurisdiction to receive no NLAP funding for its Tenancy Service. There is a lack of transparency as to why this is the case. Early in 2023 wrote to our Federal Member to ask that consideration be given to Commonwealth Funding for Tenancy Services. Currently our tenancy program is funded as an NT wide service, however with minimal funding there are not adequate resources to enable dedicated and specific assistance in terms of Law Reform and Policy work that is greatly needed in the Northern Territory.

### **CLASS Data**

Our recently established Diversity and Inclusion Working Group sought to make improvements in our data collection processes to ensure that we are accurately capturing the data of our LGBTQIA+ clients (e.g. gender types, sexual orientation and pronouns). While minor improvements have been made, the outdated definitions used by the DSM have presented as a significant limitation on further progress in this area. Through speaking with other community legal services and the CLASS Help Desk, it appears that this is a widespread and keenly felt issue across the sector. We encourage this review to consider the merits of updating the DSM (which, in turn, will be reflected in the CLASS database) to ensure that the data we collect accurately reflects and includes our LGBTQIA+ clients, as well as other diverse client groups.

Yours sincerely,

### **Darwin Community Legal Service**



Rachael Bowker  
Chief Executive Officer



Melisa Coveney  
Principal Lawyer

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<sup>6</sup> Australian Associated Press, 'Class action win opens door for remote communities to sue NT for housing neglect' The Guardian (Web Page, 28 February 2019) <<https://www.theguardian.com/australia-news/2019/feb/28/class-action-win-opens-door-for-remote-communities-to-sue-for-housing-neglect>>