



## **FAR WEST COMMUNITY LEGAL CENTRE LIMITED**

Including: Staying Home Leaving Violence Programs in Broken Hill & Wentworth, Warra Warra  
Legal Service & Women's Domestic Violence Court Advocacy Service  
**A.B.N. 49 951 130 115**

Dr Warren Mundy  
Reviewer, National Legal Assistance Partnership  
By email: [nlapreview@ag.gov.au](mailto:nlapreview@ag.gov.au)

Dear Dr Mundy

### **Re: Independent Review of the National Legal Assistance Partnership 2020-2025**

Thank you for the opportunity to make a submission for consideration as part of your review of the National Legal Assistance Partnership 2020-2025.

The Far West Community Legal Centre Ltd would welcome the opportunity to host your visit to the Far West and be very supportive of a broader conversation with legal services within the region.

I enclose a submission to the review and consent to it being published on the review website, being identified in the report of the review as having made a submission and being quoted with attribution or anonymously in the report of the review, as the review sees fit.

We look forward to further engagement with you on this important matter.

Kind regards

*Lisa Braid*

Lisa Braid  
Interim CEO  
23.10.23



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### **FAR WEST COMMUNITY LEGAL CENTRE LIMITED SUBMISSION TO THE INDEPENDENT REVIEW OF THE NATIONAL LEGAL ASSISTANCE PARTNERSHIP 2020-2025**

We acknowledge the Traditional Owners and Custodians of the land on which we work in providing services to the communities of the Far West – the people of the Barkindji nation.

We pay our respects to Elders past, present and emerging. We acknowledge that we are on land that was stolen and sovereignty never ceded.

#### **Introduction**

The Far West Community Legal Centre Limited (FWCLC Ltd) has been operating since July 2000. The organisation was formed as a result of a Commonwealth Government initiative that identified a need for more accessible legal services in the Far West region of New South Wales. FWCLC Ltd is a public company limited by guarantee under the *Corporations Act 2001 (Cth)* and registered as a charity under the *Australian Charities and Not-For-Profits Act 2012 (Cth)*.

FWCLC Ltd has its main administrative offices in Broken Hill, however its operational area extends across the Far West region. The main population centres serviced by FWCLC Ltd include Broken Hill, Tibooburra, Wanaaring, White Cliffs, Wilcannia, Menindee, Wentworth and Ivanhoe, with the entire service area covering 146,854 square kilometers.

FWCLC Ltd is funded by Commonwealth and State governments to provide four services:

- Far West Community Legal Centre – funded under the National Legal Assistance Partnership 2020-2025 (NLAP) through Legal Aid NSW to provide free legal services to the region, including representation and advice, advocacy, referral, community education, outreach and law reform. Staff are based in Broken Hill and aim to provide outreach and community legal education regularly to communities across the region.
- Warra Warra Legal Service – funded by the National Indigenous Australians Agency (NIAA) to deliver specialist Family Violence Prevention Legal Services (FVPLS). The service provides free legal advice and assistance, counselling and client support to Aboriginal and Torres Strait Islander people escaping family violence. Warra Warra staff are based in Broken Hill and visit Wilcannia, Menindee and Wentworth to provide monthly outreach and also service White Cliffs, Ivanhoe and Tibooburra areas.
- Staying Home Leaving Violence – funded by the NSW Department of Communities and Justice, supporting women and children escaping domestic and family violence to stay safe in their own homes. This service is delivered in the Broken Hill and Wentworth/Dareton Local Government Areas.
- Women's Domestic Violence Court Advocacy Service – funded by Legal Aid NSW to assist women and children seeking help and information about how to get protection through the court from domestic violence. Staff service Broken Hill, Wilcannia and Wentworth Courts.

FWCLC Ltd employs approximately 25 staff and has annual expenses of around \$3.8 million. Just under a third of our staff identify as Aboriginal or Torres Strait Islander.

### **Context**

The 2021 Census<sup>1</sup> recorded an estimated population in the Far West of 19,993 residents which accounts for 0.07% of Australia's population. The regional population is highly dispersed – geographically, the region covers 18% of the New South Wales landmass. The proportion of Aboriginal and Torres Strait Islander people is four times that of the national average at 12% of the regional population, compared to 3.2% nationally. There is a very small migrant population, with only 0.4% of Far West residents recorded as being born overseas compared to 27% nationally. The proportion of residents of working age is slightly lower than the national average at 60.4% compared to 64.7%, with a larger proportion of Far West residents reliant on the age pension at 16% compared to 10% nationally.

### **Unmet need**

April 2022 – March 2023 BOCSAR data shows the Broken Hill Local Government Area ranked 4<sup>th</sup> highest in terms of the rate of recorded domestic violence related assault incidents per 100,000 population<sup>2</sup> and amongst the highest Local Government Areas for incidents of assault, robbery, sexual offences, theft, malicious damage to property, against justice procedures and drug offences.<sup>3</sup>

Despite higher rates of social disadvantage and crime within the Far West, few services exist to prevent or reduce the incidence of offending, diversionary and drug and alcohol rehabilitation services are limited, and emergency/transitional accommodation for women and children escaping family violence is rarely available. Where services do exist, demand exceeds supply and clients have no option but to wait for the opportunity to access a service, or travel hundreds of kilometers in the hope of accessing services in other regions. FWCLC Ltd strongly supports new funding being directed to the region in particular targeting First Nations justice reinvestment and accommodation solutions for Aboriginal women and children seeking safety.

Latent demand for legal services is difficult to measure in the Far West, however it is well known that it exists. Building trust, in particular with Aboriginal clients, through face-to-face interaction is the key to being able to provide a culturally safe and effective service. Given the extraordinary distances involved in travelling to where services are provided, many potential clients will miss out on accessing the support available.

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<sup>1</sup> <https://abs.gov.au/census/find-census-data/quickstats/2021/10502>.

<sup>2</sup> [https://www.bocsar.nsw.gov.au/Pages/bocsar\\_pages/Domestic-Violence.aspx](https://www.bocsar.nsw.gov.au/Pages/bocsar_pages/Domestic-Violence.aspx).

<sup>3</sup> <http://crimetool.bocsar.nsw.gov.au/bocsar/>

In our experience, clients are far less likely to seek legal assistance via email, the internet or phone. Most of the Far West region is a communication blackspot and where available the internet is often unreliable. Telecommunications data is unaffordable to the region's most disadvantaged and many of our clients are known to share a smart phone with pre-paid data – when this runs out, maintaining contact to provide information about legal appointments and court dates for example, becomes very difficult. The lack of phone access is a critical risk to the safety of women and children experiencing or at risk of family violence.

The nature of our clientele and communication challenges necessitates extensive community engagement activities and outreach that must be delivered regularly, with consistency and by the same staff. As trust takes time to build, low client numbers on outreach are common at times of staff turnover or inconsistent service provision and are not a reliable indicator of demand.

Conflicts of interest in legal service provision are a significant issue in the Far West where the population size is small, and potential for conflicts high. FWCLC Ltd has established effective information barriers between its services to ensure it can provide assistance to as many potential clients as possible, however conflicts are inevitable and individuals often have nowhere else to seek free legal assistance and no resources to obtain assistance from the private sector. This means, in practical terms, that clients in the Far West are denied access to legal assistance that is available to other people in Australia, which is particularly concerning for vulnerable cohorts.

## **Funding**

The region has several NLAP funded legal assistance service providers, including Aboriginal Legal Services, Legal Aid NSW and the Far West Community Legal Centre.

Recruiting to a remote location such as Broken Hill is very challenging at the best of times, however the situation has been exacerbated by the opening and expansion of the Broken Hill Legal Aid NSW office. Community legal services are not funded to pay salaries on par with government agencies. Legal Aid NSW Broken Hill is offering upwards of \$30,000-\$40,000 per role more than FWCLC Ltd is funded to offer. Competition for local staff is fierce and Legal Aid NSW has recruited a number of former solicitors from FWCLC Ltd and the Broken Hill Aboriginal Legal Service. Our legal services have carried solicitor vacancies for more than 18 months notwithstanding a highly proactive, multi-pronged and continuous recruitment campaign our pay points are simply not attractive to experienced solicitors. Pay parity between Legal Aid NSW and the community legal sector must be achieved with urgency.

The funding model implemented by Legal Aid NSW requires that community legal services tender and at that point in time commit to a set of KPIs. Legal Aid NSW then requires that those KPIs carry forward from year-to-year with no downwards variation. There are real contextual challenges that have impacted our day-to-day delivery capability since we tendered for legal services some years ago, which include for example:

- Factors outside of our control that increase the cost of service provision. This includes the recent Fair Work Commission decision to raise salary levels under the Social, Community, Home Care and Disability Services Award by 5.7% from 1 July 2023 without a proportionate increase in funding, or proportionate decrease in deliverables. There have also been substantial cost of living increases impacting every aspect of service provision from utilities (energy prices up by more than 20% in the last 12 months alone) to petrol costs (up by more than 30% since 2020 which is a very significant issue for FWCLC Ltd given the distances we travel) and other operating expenses.
- Changes within the employment market more broadly post-COVID and ongoing vacancies that cannot be filled locally due to the low salaries that we can afford and staffing competition we experience with other legal service providers within the region.
- Reliance on graduates who are willing to take lower salaries when starting out in their careers who require intensive induction and supervision, diminishing our service capacity.
- Exorbitant costs incurred through use of casual/locum solicitors residing in other rural and urban areas, not just in terms of a much higher hourly rate than we would otherwise pay, but for associated unbudgeted travel and accommodation costs to provide an on-ground service.
- Inability to attract suitably qualified non-legal staff to remote areas and the need to outsource back end/internal corporate requirements at higher cost.

Anecdotally we have been advised by other community legal centres that it is “virtually impossible” to change KPIs, notwithstanding contract variations between private sector providers and the NSW Government are exceptionally common in other industries. Inflexibility by funding bodies only serves to diminish the vital services we provide and the sincere efforts of our staff dealing day-to-day with the realities of insufficient resources, vast distances within which to provide services, and complex clientele.

An evidence-based approach should be taken to determining government funding for our legal services based on a range of factors such as:

- The unique characteristics and requirements of Far West communities including a very high proportion of Aboriginal and Torres Strait Islander clients and heightened need for face-to-face services. Our legal services cannot sustain a remote service delivery model, we require staff on the ground in the Far West.
- Client complexities such as reduced literacy, disability, trauma, etc, which add to the costs of providing services. Our services and governments have an obligation to ensure equitable access to legal assistance, and particularly those most disadvantaged.

- The need for consistent delivery of outreach to a relatively small number of clients and extensive road travel associated with service provision. The Far West Community Legal Centre is funded under NLAP to employ four solicitors and even at full capacity, servicing such a vast geography is an exhausting task. Staff can travel for 6 hours in a single workday to assist clients. This means staff are effectively not working for most of the day that outreach is provided, and either KPIs need to reflect this, or the service needs to be funded to be able to backfill positions while staff are travelling.
- Acknowledgment that the pool of candidates available to remote services such as ours is extremely limited. Our budget needs a contingency such that when roles cannot be filled locally, we need to rely on fly-in-fly out solicitors which come at substantial cost and reduced service provision. KPIs need to be flexible to respond to fluctuating staffing levels.
- Case load parity between Legal Aid NSW lawyers and those employed within the community legal sector.
- The proportionately high cost of community legal sector lawyers in remote areas participating in metropolitan based professional development activities.
- Having regard to the extensive engagement activities that are required in a remote area where communities cannot rely on telecommunications or are not technologically savvy, and investment is needed to draw out vulnerable clients.
- Diseconomies of scale that impact small organisations disproportionately compared to larger regional and urban based services. Accreditation requirements for example are the same irrespective of the service - it is very difficult for small remote organisations to maintain the same policy, systems and compliance frameworks as larger entities without dedicated resourcing that is sufficient to attract qualified staff who can build and maintain corporate frameworks and systems that meet the required standard.
- The need to diversify our service offering to deliver more holistic early intervention and complementary support services noting the lack of alternate services to refer complex clients to within the region.
- The cost of evaluation and service design in our unique circumstances, including bringing in the necessary expertise to guide and manage this process.

KPIs need to be flexible and adaptable, without the threat of penalty of funding being withdrawn. Funders should work collaboratively with us to plan - and cost - service delivery, operations and coverage, rather than arbitrarily and unilaterally allocating funding and imposing rigid service requirements. Funding should also be indexed annually and where shortfalls are projected within a financial year due to unforeseen circumstances, there should be flexibility to seek supplementary funding.

If the Commonwealth Government can assist in the development of an evidence-based funding framework, there would be benefit to the community legal sector in having them involved in funding distribution.

## **Advocacy**

Legal assistance providers play a crucial role in advocating for the unique circumstances of their clientele and advocating for law reform to establish a fairer and more equitable system. It is critical that this remain a component of any future funding arrangements. Front-line service providers such as ours have the empirical expertise of what does and does not work, and it is essential that governments invest in the capacity of our organisations and our peak bodies to ensure that this expertise informs policy decisions and program design at the national and jurisdictional levels. Without this, governments are making policy that is not evidence-informed and will not be effective.

## **NLAP as a funding and reporting framework**

At its inception, the National Agreement Federal Financial Relations system was intended to simplify Commonwealth-State funding arrangements and provide a framework for jointly funded programs and GST revenue-sharing arrangements. As a document, the National Legal Assistance Partnership 2020-2025 (NLAP) is simple and easy to understand, however being strategic and policy orientated in nature, it is relatively meaningless to funded organisations such as ours.

One aspect of the current NLAP funded arrangements that does impact us is the focus on activity based KPIs. Focusing on outputs perversely incentivises activity over outcomes - quick interactions or instances of service delivery drive up activity data and there are currently no reporting requirements, or resourcing, to monitor client progress or centre impact over time. Data provided for reporting purposes is meaningless in terms of how the government's investment is improving the circumstances of clients in the short, medium or longer term and is therefore deficient. However, any change to the existing reporting framework would need to be considered very carefully. Determining outcome measures within the community legal sector would be a complex task – In the Far West where potential clients face significant barriers in accessing legal services, would a service interaction itself be considered a positive outcome? Is it the quality of the legal service provided and how would this be monitored and measured? Is it a positive result for a client in a legal matter? Or reduced interaction with the justice system over the longer term? Ideally, any government funded service should seek to improve the social and economic circumstances of its clients and the wider community, however taking a broader approach to outcome measures would be exceedingly resource intensive and exceptionally challenging in a region such as ours to monitor.

It is our view that NLAP has not addressed the need for the community-controlled sector to be actively and meaningfully involved in the development and implementation of legal assistance policies and programs. Legal assistance policies and programs continue to be heavily dominated by the interests of urban organisations and client needs, with limited regard for the unique service delivery challenges of remote locations such as ours. Equally, funding providers lack the understanding of local service delivery challenges in remote areas and are not well placed to acknowledge difference across the spectrum of legal services or provide the support that services such as ours needs.

FWCLC Ltd is firmly of the view that FVPLS funding should not be governed under NLAP. NIAA is holistic in its approach and best understands the component investments required to close the gap between social and economic outcomes for Indigenous and non-Indigenous people. NIAA adopts a flexible funding approach and provides resourcing for complementary services and programs where this can increase engagement with core domestic and family violence services, better meet client needs, or help services to better engage with the community. NIAA staff are equipped to engage with services in a culturally appropriate manner and to drive the broader objectives of the Closing the Gap agenda. Shifting FVPLS under NLAP, with funding administration through a mainstream agency, would be a backward step in terms of self-determination and cultural appropriateness.

Any change to funding arrangements should ensure that:

- FVPLS organisations are not required to compete with other legal services for funding to provide services to Aboriginal and Torres Strait Islander people affected by family violence; and
- Aboriginal and Torres Strait Islander program funds are not dispersed to mainstream organisations.

As an organisation that is funded both under NLAP and directly by NIAA, our assessment is that there would be no benefits in bringing FVPLS and community legal centres under a common reporting framework. In organisations such as ours where information barriers must be maintained, information systems and reporting would continue to occur separately, there would be no efficiencies gained. Further, NIAA reporting obligations are a combination of constructive discussion, quantitative and qualitative data, and are descriptive of FVPLS program delivery and client outcomes - this is considered the more meaningful when compared to that provided for Legal Aid NSW/NLAP purposes.