



Law Council
OF AUSTRALIA

A fresh take: Supporting lawyers in regional, rural and remote communities

Speech delivered by Dr Jacoba Brasch QC, President, Law Council of Australia at the launch of the LCA's RRR National Strategic Plan, Cooma Court House.

9 March 2021

Good afternoon and thank you all for welcoming us here to lovely Cooma. The last time I was in Cooma was high school when we travelled by bus from Brisbane to Thredbo, stopping for a look around at various towns along the way – here included.

I suspect we stopped more often than we needed to, really for the teachers' benefit who were otherwise stuck in a bus with 30 cranky and tired teenage girls...what could go wrong?

Before I talk about the Plan, I would like to thank a few people who have worked hard to make this event happen.

Thank you to the RRR Committee, particularly Joanne van der Plaat for her assistance organising the event.

The committee's expertise and experience in RRR practice and their stakeholder network have played a critical role in developing the plan into one which is not aspirational, but achievable.

Emma Smith and BMR Lawyers who also assisted in the event preparation and planning.

To Registrar Angela Wilson, the Cooma Court Registrar who has given us the use of this beautiful venue.

And to the Country Women's Association who prepared the refreshments, the Cooma Car Club for the crockery, and the Country Universities Centre for the use of the lectern.

I am delighted to be launching the Law Council of Australia's rural, regional, and remote committee's National Strategic Plan 2021-2023, as part of our reinvigorated commitment to RRR lawyers.

The Plan represents the determination of the Law Council's Constituent Bodies (that is, it's law societies and bar associations), its RRR Expert Advisory Committee, expertly chaired by Joanne, other RRR experts, past President Pauline Wright, herself a regional practitioner, and me, to refine and update our policy initiatives impacting RRR lawyers and the communities they serve.

Up front I ought to declare that yes, I am a city girl, but my mum and dad met in Mt Isa, where my dad was doing his country service as a teacher and my mum worked as a dental assistant.

Yet, whilst I have lived most of my life in a capital city and a couple of years in the ultimate city of New York, years ago, I had the great privilege of working for an Attorney-General, who was determined to travel to the then almost 80 local courts all around Queensland, to meet the lawyers, the Magistrates and Judges, and the community.

I travelled with him on all of those trips. Over the years since, I have witnessed the devastation that "progress" can make to RRR towns when say the road no longer goes through town, but a freeway is built by-passing it and the traffic that goes with it.

Before working for the Attorney, I worked for E-A-R-C-, which had the task of re-drawing our local and state electoral boundaries to get rid of the infamous Joh-gerrymander. We trawled the electoral boundaries throughout the state and conducted numerous public hearings. Again, I was privileged to be on the road with the commissioners.

Much of what I will say today is informed by those experiences.

I don't have to tell you that RRR communities are diverse and dynamic, and the kinds of legal needs experienced within and between them vary – from, say, water rights allocation, to environment and planning restrictions, to farm succession planning (something I am all too familiar with as a family law lawyer when things go wrong) and laws which have special relevance to Indigenous people.

And yet data indicates that only 10.5 per cent of the country's solicitors practise in a country or rural area– servicing the 7 million - or close to 30 per cent of Australians who live in RRR areas.

In New South Wales (NSW), the ratio of residents to solicitors in RRR NSW is just one-third of that for NSW overall.

As you would also well know, there has been a decline in the number of local courts around states and territory, and limited court circuits, both of which present real access to justice challenges.

Of course, delays and distance in being able to attend court have real, sometimes irreversible consequences – one legal aid service in Mildura has described these concerns in the following way:

There is certainly a disadvantage for RRR clients in court. In one current example, there's a three month wait for child protection matters, compared to three weeks in Melbourne. The family is really disadvantaged. The mother in this case has lost, because in that time the new status quo is set and the baby has been put in care... It's seven hours on a bus to get to Melbourne. The child protection jurisdiction won't fund our clients to get there.

A further core issue is the lack of courts delivering specialist, problem solving or therapeutic justice in RRR areas.

While these approaches are increasingly supported by evidence as being more effective – such as Drug Courts offering integrated, multi-disciplinary responses to the underlying issues of eligible offenders – they are generally less available outside urban centres.

Similarly, specialist courts including Aboriginal sentencing courts are also generally less available in RRR Australia – again, despite increasing evidence of their effectiveness.

For example, recent NSW Bureau of Crime Statistics and Research findings are that Aboriginal offenders who participate in circle sentencing are less likely to receive a prison sentence, less likely to reoffend and take longer to reoffend when and if they do, than Aboriginal and Torres Strait Islander offenders who are sentenced through the usual court process.

This may mean people in difficulties, who could most benefit from these interventions, are missing out.

Connected to the absence of such specialised courts is the absence of comprehensive support services – from mental health, to bail support, to drug rehabilitation.

These may be important underlying factors behind statistics which highlight a clear disparity between remote and urban justice.

For example, the Australian Institute of Health and Welfare has recently published its findings that children aged 10 to 17 years from very remote areas are nine times as likely as those from major cities to be under youth justice supervision in Australia, a disproportionate number of whom will be Indigenous.

Then as separate challenge, many RRR communities are particularly vulnerable to cycles of natural disaster, which exacerbate existing legal problems and directly trigger others, including credit, debt and insurance problems.

And we are all enduring COVID-19 which brought with it a range of other issues for RRR communities with legal services, regional circuits and bush courts being cancelled in response to the pandemic.

In turn, fewer flight routes, remote communities' closures and state and territory border closures made travelling to obtain legal services or to physically attend court or your lawyer, almost impossible.

Many existing pro bono arrangements, which are so critically important in RRR areas have also been adversely affected. For example, I understand that the Shoal Coast Community Legal Centre, a not-for-profit community legal centre some three hours away, and which attends Cooma fortnightly on a Monday, stopped coming during COVID, although they did offer phone assistance to try and avoid cancelling the service altogether, and there is no other CLC or pro bono service assisting the local community.

Yet on the upside, many of us had to come to terms with delivering legal services in an entirely new way, and do so in a matter of weeks. Indeed, there is no doubt that the pandemic has fast tracked digital innovation, which can be used to address longer-term access to justice issues in RRR areas – but only if you have a computer, are technologically literate, have sufficient bandwidth and, depending on the matter, even privacy.

While the introduction of technology to legal services, may be seen by some as the answer that non-urban Australian's have been waiting for, it is not a complete silver bullet.

Many years ago, I was volunteering at the QLD Women's Legal Service. We were rostered on to give advice one night a week every six weeks at the drop-in, no appointment necessary nights.

Most of the inquiries were about family law. To one woman asking me about divorce, I replied "*you can download the court forms online.*" She looked at me and said, "*but I don't have a computer.*"

That reality check, 21 years ago, still haunts me today that my middle-class, first world life was not the common, shared experience of everyone in this nation.

It was a salutary reminder to me that we are not, in fact, all equal in accessing the law.

That said, Cooma is a good example of where technology has assisted in the delivering of legal services – where the Registrar covers Goulburn, Cooma, Yass, Crookwell, and Braidwood Courts and works from Cooma two days a week – but can achieve continuity of work flow due to the implementation of technology which has allowed the Registrar being able to access the files at whichever office she is physically located.

All I have said so far plays into the Law Council's National Strategic Plan, which focuses of five key areas for action; they are:

These key areas include:

1. Building awareness;
2. Recruitment, retention and succession of lawyers;

3. Technology;
4. Promotion of RRR legal practice in education; and
5. Advocacy.

Each “pillar” then has corresponding projects, such as exploring collaborative arrangements and relationships between RRR and city firms, the consideration of pro bono work as a recruitment and retention tool, liaising with relevant stakeholders regarding incentive programs to attract legal practitioners to RRR areas to be implemented by the Law Council over 2021-23.

With respect to the first key area, building awareness, I am pleased to say that an updated and revitalised webpage is now live, and can be accessed via the Law Council home page.

This webpage will be updated as and when the projects outlined in the National Strategic Plan are developed and implemented.

The webpage is just one tool that will be used to build awareness, and it is expected that traditional media opportunities will also assist in this area.

And while some RRR areas still have issues with reliable internet connection and digital exclusion, one of the benefits of RRR communities is that local libraries assist with access to information, like here in Cooma, with its helpful staff, dedicated legal section and computers which may be used by the community.

Second, the recruitment, retention, and succession of lawyers in RRR areas is a vital area that needs addressing.

The National Strategic Plan aims to develop strategies that will result in

- increasing the number of suitably trained lawyers available in RRR regions; and that
- capture the valuable experience gained by lawyers working in RRR communities; hopefully, not continuously lost through attrition.

These issues can be addressed, in part, by designing effective policy focused on recruitment and succession deficits and difficulties in retaining staff.

Third, I have already briefly mentioned technology.

While the Law Council has suggested that the profession’s response to the COVID-19 pandemic offers an opportunity to build upon delivery of online courts, tribunals and dispute resolution forums, we must remember to also address issues faced by people experiencing disadvantage who may, for a variety of reasons, experience difficulties in adapting to on-line legal service delivery.

Australians who may still require face-to-face legal services must not be inadvertently excluded from accessing justice.

The National Strategic Plan recommends the development of specific policy positions and recommendations to government regarding what temporary COVID-19 related remote access working regulations ought to be made permanent, and what accommodations or adjustments are required to protect vulnerable or digitally excluded Australians.

Fourth, the Law Council's RRR committee aims to promote RRR legal practice in education within universities and/or tertiary institutions and the National Strategic Plan recommends targeted initiatives, aimed at raising awareness of RRR legal practice and issues, together with relevant skills training for lawyers considering RRR practice, be developed.

This may be achieved – for example – by:

- attending University and career fairs;
- developing relationships with key stakeholders offering RRR internships, clinical and experimental work programs; and
- liaising with key stakeholders to promote the provision of RRR law related subjects into more university and tertiary programs.

And that brings me to the fifth part of the Plan - Advocacy – the principal remit of the Law Council.

You will see that the new RRR Law webpage already features some of the Law Council's advocacy to date on RRR issues, for example, the Justice Project and this will continue to be updated to reflect the Law Council's advocacy in this space.

Overall, for the National Strategic Plan to be effective, it must necessarily evolve. Thus, the strategic plan will be reviewed and updated on an annual basis, addressing the implementation of measures as they are further canvassed and developed in consultation with the Law Council's Constituent Bodies and the RRR Expert Committee.

This may, subject to further consultation, include the incorporation of additional projects.

And so to conclude:

The challenge for us is how we work towards ensuring access to justice for RRR communities and individuals, as experienced by their urban counterparts.

The alternative – that a remote parent remains subject to family violence, or loses their child, or is unfairly convicted simply because of geographic status – is unacceptable.

Postcode justice cannot be countenanced in Australia.

For too long, there has been too little regional engagement, in law and policy development which has meant that laws and policies have become 'urban centric' and drafted with little consideration to their application in RRR communities.

Rural, regional and remote Australians deserve the careful ear of all policy and lawmakers.

Without careful consideration of the geographic, cultural, demographic and socio-economic factors in which our justice system is designed and delivered in Australia, our guarantee of equality before the law will remain somewhat shaky in practice.

Now, more than ever, is an opportunity to create lasting change in RRR Australia.

I thank you for your time today, and I look forward to what I know we shall achieve together moving forward.

Thank you.

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