



The New South Wales Bar Association

Proposed Strategic plan – NSW Bar Association

June 2012

1. This draft strategic plan is intended for consideration and adoption by the Council of the NSW Bar Association in mid-2012 to chart some of the key objectives of the Association, and strategies to achieve them, over the next 2-3 years.
2. The NSW Bar Association is a voluntary association, comprised primarily of barristers with their principal place of practice in NSW. It also has as members some academics, judges and retired practitioners and judges.
3. The Association operates at a number of levels. It is a body which seeks to :
 - (a) promote the public good in relation to legal matters viewed in the broadest context;
 - (b) promote collegiality and mutual assistance among its members;
 - (c) represent the interests of its members in dealings with government, the broader legal profession, the media and the community;
 - (d) promote fair and honourable practice amongst barristers;
 - (e) (through the statutory role of its Council) assist in matters of professional discipline of members and the resolution of complaints against them.
4. As at 2012, the Association recognises that there is a rapid pace of change in the legal environment, as well as in the broader community, specifically:
 - (a) The move to greater national regulation and integration of the legal profession, including barristers, within Australia;
 - (b) The increasing internationalisation of the law;
 - (c) The increasing use of bodies other than the courts to resolve disputes, whether tribunals, administrative bodies, arbitration, mediation etc;
 - (d) Changing relations with those who might brief counsel, including solicitors briefing barristers less or later in a matter, and the rise of corporate counsel;
 - (e) The economic and personal challenges for barristers who must, under the NSW Bar Rules, operate as sole practitioners, and not in partnership or companies;
 - (f) Rapid changes in technology and communication in society, including social networking;
 - (g) Continued community and court concern about the cost of litigation, and drives for efficiency, including greater use of written submissions instead of or to reduce the role for oral advocacy;

- (h) Continuing moves towards equality of participation in the workforce, reducing differences based on gender, race or social background, not currently fully reflected in those coming to the bar or remaining at it over time;
 - (i) In the public domain of legal affairs, there are many other competing voices which often overshadow that of barristers.
5. With many of its activities, the Association will strive, over the next few years, to keep on doing that which it believes it is doing reasonably well at present. No specific additional focus is required by the present document for this.
 6. What is considered appropriate is to identify and focus on certain key areas and strategies where, recognising the above features and changes in the legal and community landscape, the traditional objectives of the Association identified above might be better enhanced.

Move to a national profession

7. The Association should do everything possible to assist in the move to a national profession in every sense of the word. Specifically there should be renewed collaboration with the other interstate bars, particularly in the largest jurisdictions of Victoria and Queensland, as well as through the ABA, to advance common goals. A national, uniform system for the recognition of senior counsel should be a three year goal. Further one or more of the president or the 2 vice-presidents of the Association from time to time should ideally hold senior positions within the ABA and the Law Council.

Increasing internationalisation of the law

8. The Association recognises that, increasingly, work of many barristers requires them to grapple with the law of other countries, with forum disputes, with recognition of foreign judgments, and with clients or instructors from overseas countries. The NSW Bar will seek to build a local hub of excellence in resolution of disputes with an international element, with collaboration with academics and solicitors with interests in this area. A 6 part seminar program, like the earlier successful rhetoric series, should be hosted in 2013. The Association should make a modest contribution to support a presence of the NSW Bar at annual leading meetings of international practitioners, preferably in Asia. Also, a longer term project to obtain admission for NSW practitioners to the courts of Hong Kong and Singapore.

The increasing use of bodies other than the courts to resolve disputes

9. The Association has already in 2012, with its changes to the senior counsel protocol, recognized explicitly that specialisation in and excellence in resolution of disputes out of court is part of barristers' work. We should be aiming to have a number of practitioners who can not only appear in mediations or arbitrations and add value to the presentation of a client's case, but act as the mediator or arbitrator, in matters of all range of complexity and difficulty. Additionally, there should be a section established within the NSW bar to foster the work of those barristers who regularly appear in, or sit on, tribunals or administrative bodies.

Changing briefing patterns and the rise of corporate counsel

10. Much cannot be undone. Solicitors will continue to brief the bar later in matters or not at all. But a closer collaboration is needed with all sizes of solicitors' firms to see how

we can best work with them. Corporate counsel have expressed an increased willingness to brief the bar directly and this needs to be encouraged. More can be done to assist government departments to readily ascertain the qualifications of barristers who might be briefed. Subject to budget constraints, additional resources of the Association should be applied in the area of strategy and marketing to those wishing to brief barristers.

The economic and personal challenges for barristers as sole practitioners

11. Assuming no short-term changes in economic structure, the Association should focus on those areas where it can assist sole practitioners to have the functional equivalent of some of the support that those practitioners in a firm enjoy. This partly overlaps with the sixth matter, which is how better to employ advances in technology.

Specific goals over the next 3 years in these overlapping areas are:

12. First, the Association will promote a non-compulsory sabbatical scheme for members (including a recommendation each barrister take 3 months leave every 7 years, relief from practising certificate fees and insurance for this period, encouragement to floors to arrange to cover floor fees, and recommendations for short term courses including overseas to be taken in the period). Second, an expansion of the research facilities available in the library, on a user pays basis. Third, as part of the general up-dating of the website and standardising of information about barristers, a pilot scheme for on-line booking of services of barristers especially for urgent matters. Fourth, conversely, a pilot scheme for solicitors to indicate on-line the broad nature of matters in which assistance is needed.

Continued community and court concern about the cost of litigation

13. The Association should have a committee which actively engages with the courts to find ways to reduce cost and increase productivity, not just respond to the changes the courts develop.
14. In this, while oral advocacy may continue to be curtailed in favour of written material, the Association will place a focus in the CPD program on how to do better that which should be one of the distinctive contributions of the barrister – oral advocacy, in a changing environment.
15. As a specific measure to assist in access to justice, a duty barristers scheme will be sought to be introduced in the federal magistrates court, with the co-operation of that court, on the model of the successful scheme in the local court.
16. How best to contribute in a (crowded) public legal domain.
One specific endeavour will be to host at least one open public forum each year promoting debate, on whatever sides, of issues of public legal importance – eg private prisons as the first.

Continuing development of diversity of membership of the Bar

17. Continuing review and further development of the current policies of the Bar Association to reflect the changing public environment and expectations relating to diversity of membership of the Bar and equitable advancement.