



NEW SOUTH WALES
BAR ASSOCIATION

**THE NEW SOUTH WALES BAR ASSOCIATION
BAR COUNCIL**

MINUTES OF PROCEEDINGS

**Thursday 21 November 2013
in the Boardroom of the New South Wales Bar Association
at 4.30 pm**

PRESENT: Boulten SC; Needham SC; Hutley SC; McHugh SC;
Toomey (by telephone); Temby QC; Game SC; Moses SC;
McGrath SC; Traill; Walker; Healey; Morris; Stone;
Khandhar; Callan; Hunt; Gleeson; Page; Dobraszczyk.

APOLOGIES: Street SC

IN ATTENDANCE: Executive Director; Deputy Executive Director; Executive
Assistant.

MINUTES

The minutes of the meeting of 24 October 2013 were confirmed.

Bar Council noted that in respect to the tabled undated letter circulated by John Hyde Page entitled; 'Bar Council: Change needed', referred to in the minutes of the meeting of 24 October 2013 as his 'campaign letter' that a number of those Hyde Page had recommended be elected to the Council had not been consulted by him prior to their name being so listed.

Walker asked that the minutes record that she was one of those whom Hyde Page had not consulted before including them in his suggested 'ticket' for election to the Bar Council. Nor had Hyde Page sent her a copy of his campaign letter.

PRESIDENT'S REPORT

The President spoke to his tabled report.

The President advised that, in addition, he had made a number of media appearances in relation to the sentencing of Kieran Loveridge and the Government's 'one punch' laws,

which were announced last week, including an interview on the Ray Hadley Show on 2GB where he had discussed criticisms of the judiciary and the justice system.

The President also advised that it is intended to hold a public forum early next year on sentencing, in order to provide the media and the public with a better understanding of sentencing principles and practice.

The Senior Vice-President advised that she had chaired the ‘roundtable’ held on delays in sentencing on 18 November along with Game SC. Other members of Bar Council were also in attendance, along with representatives from government agencies and the courts. It appeared from the roundtable that there was general agreement among attendees as to the prime causes of sentencing delays. It is proposed that a further roundtable on this issue will be held in February 2014.

The President also noted of the meeting between members and representatives of the Department of Corrective Services concerning biometric scanning of practitioners attending prisons, and that, as a result, he will be writing to the Department outlining concerns regarding practitioners’ access to prisons.

EXECUTIVE DIRECTOR'S REPORT

The Executive Director answered a number of questions from Bar Councillors relating to his report. He drew attention to the work done by the Finance Manager in relation to the ABA’s financial systems and travel policy.

Bar Council expressed its thanks to the Finance Manager for the work he is doing within the ABA accounts and finances generally.

FINANCE

Noted.

MEMBERSHIP

The following were admitted as Class A – Local Practising Barrister – unless otherwise shown:

Robert Armitage	Sir Owen Dixon Chambers
Philip Bender – B	Owen Dixon Chambers
John Desmond – B	Isaacs Chambers
Nolan Sharkey	University of NSW
Timothy Walker – B	Aickin Chambers
Jillian Williams – B	Owen Dixon Chambers

FOR CONSIDERATION

Memorandum from the President to the Bar Council dated 15 November 2013 – Bar Council Meetings

It was agreed that agendas of ABA meetings be provided to Bar Councillors for information, as well as minutes of those meetings. Where possible, agendas will be provided in advance, depending on the time of receipt from the ABA.

Requests for the provision of ABA papers will be considered on a case by case basis; any requests should be directed to the Executive Director.

2014 Bar Council Meeting Schedule

Noted.

Memorandum from the Executive Director to the Bar Council dated 15 November 2013 – President – Reimbursement of Bar Association Related Expenses

RESOLVED to approve the reimbursement to the President the expenses as detailed in the memorandum. The President advised that he did not expect to claim all the approved expenses.

Memorandum from the Executive Director to the Bar Council dated 15 November 2013 – Delegation of Authority to the Bar Council Executive

RESOLVED that, with effect until any reconsideration of this resolution at the first meeting of the next Bar Council, and pursuant to the powers vested in it by virtue of clause 14.3.1 of the Constitution of the Bar Association (the Association), the Bar Council makes the delegation set out in paragraph 1 hereunder.

1. To a committee comprising the President, the Senior and Junior Vice Presidents, the Treasurer and the Secretary (the Executive):
 - (a) subject to the direction and control of the Council and to the matters referred to in subparagraph (b) the day-to-day administration of the affairs of the Association;
 - (b) notwithstanding the provisions of subparagraph (a) the power conferred on the Executive does not extend to:
 - (i) the power to appoint, terminate or renew the contract of the Chief Executive or to vary the terms of that contract in any substantial respect;
 - (ii) the power to enter into any contract of employment with any person at a gross salary (including benefits) in excess of \$150,000 per annum or with a termination period in excess of 12 months;

- (iii) the power to enter into any contract or undertaking of an amount in excess of \$20,000 or extending beyond a period of 12 months other than in the ordinary course of the ordinary business of the Association.”
2. The Executive is required to report to Bar Councillors upon the commencement of proceedings commenced by or against the New South Wales Bar Association and upon any matters in which solicitors are instructed by the Association otherwise than those involving disciplinary matters.

Letters from Crown Solicitor’s Office to the Executive Director dated 24 and 26 September 2013 regarding Application for an Exemption under s54(2) of the *Legal Profession Act*; Government & Related Organisations Employing Advocates and Memorandum from Director, Organisation & Development to the Bar Council dated 31 October 2013 – Bar Practice Course Participation – Statutory PC Holders and Others

Bar Council agreed to defer consideration of this item until its next meeting.

Memorandum to the Bar Council from the Equal Opportunity Committee in Relation to Childcare

The Bar Council:

- approved the establishment of a scheme that provides Association members with priority of access to childcare centres in the CBD run by Jigsaw Corporate Childcare;
- agreed to execute the Management Agreement with Jigsaw Corporate Childcare; and
- agreed that a suitable reserve list of applicants over and above those available childcare places be established; and
- agreed that priority be given to members of the Association in relation to childcare places under the arrangement with Jigsaw.

Memorandum to the Bar Council from Andrew Stone dated 11 November 2013 – Procedural Issues

RESOLVED that the agenda for Bar Council ‘policy’ meeting incorporate both a ‘Business Arising from the Minutes’ and ‘Outstanding Actions’ section to facilitate reporting back on and progression and resolution of issues previously raised and discussed.

Bar Council also considered Stone’s other recommendation in his memorandum concerning the email distribution of the Executive Director’s report no later than 24 hours before “policy” meetings of Bar Council.

FOR INFORMATION

Minutes of the Executive Meeting held on 19 November 2013

Noted.

Letter from the President to the NSW Law Reform Commission dated 4 November 2013 – Review of the Law in Relation to Parole: Question Paper 1

Noted.

Minutes of the Meeting of the Practice Development Committee held on 30 October 2013

Noted.

Letter from the President to the NSW Law Reform Commission dated 13 November 2013 – Criminal Appeals

Noted.

Email from the Deputy Executive Director to NCAT dated 14 November 2013 – Civil & Administration Tribunal – Working Party on Passage of Legislation

The Senior Vice-President noted the work done by the Association's NSW Civil and Administrative Tribunal ('NCAT') Working Party in the development of the 2013 amending legislation, the role played by Carol Webster SC in guiding the Working Party's input in the Senior Vice-President's absence, and the work of the Deputy Executive Director in supporting the Working Party. RESOLVED to thank Webster SC and the Deputy Executive Director for their efforts in relation to the NCAT reforms.

GENERAL BUSINESS

- (a) Draft submission to the Standing Committee on Law and Justice on the functions of the Motor Accidents Authority and the Lifetime Care and Support Authority – Stone noted that a draft submission had been circulated to Bar Councillors for comment via email and was due to be lodged with the Standing Committee on Law and Justice on 22 November.
- (b) Changes to Motor Accident Authority Guidelines – Stone noted that the Common Law Committee would be preparing a submission in relation to draft MAA Claims Handling Guidelines proposed to deal with the ramifications of the Court of Appeal decision in *Smalley v Allianz Australia Insurance Ltd* [2013] NSWCA 318. The submission is likely to be distributed to the Bar Council for comment in the next week.

The following papers were circulated via e-mail prior to the Council meeting.

Papers circulated via e-mail prior to the meeting -

- Law Council of Australia – Minutes of the Directors’ Meeting held on 7 September 2013
- Law Council of Australia – *Précis* – 29 October 2013
- Productivity Commission Submission dated November 2013 – A Submission Regarding the Productivity Commission’s Issues Paper, *Access to Justice Arrangements*
- Law Council of Australia – Inquiries and Consultation Lists as at 4 November 2013
- Media Release from the NSW Bar Association dated 7 November 2013 – Federal Cuts Leave Refugees, Courts in Limbo
- Letter from the President to the Minister for Immigration and Border Protection dated 7 November 2013 – Refugee Review Tribunal Advice Scheme
- Law Council of Australia – Inquiries and Consultation Lists as at 11 November 2013
- Law Council of Australia – *Précis* – 12 November 2013
- Media Release from the NSW Bar Association dated 13 November 2013 – Attacks on Judges Undermine Public Confidence in our Courts
- Transcript of Breakfast Radio Interview between the President and 2SM dated 14 November 2013 – Parameters for Sentencing
- Transcript of Breakfast Radio Interview between the President and 2GB dated 15 November 2013 – President’s Media Release Regarding the Judge who Sentenced Kieran Loveridge

The meeting closed at 6.30pm.

Confirmed as a correct record:

Phillip Boulten SC
President

Date: