



NEW SOUTH WALES  
BAR ASSOCIATION

THE NEW SOUTH WALES BAR ASSOCIATION  
BAR COUNCIL

MINUTES OF PROCEEDINGS

Thursday 6 March 2014  
in the Boardroom of the New South Wales Bar Association  
at 4.30 pm

**PRESENT:** Boulten SC; Needham SC; Hutley SC; McHugh SC;  
Toomey; Temby QC; Street SC; Game SC; Moses SC;  
McGrath SC; Traill; Walker; Healey; Morris; Stone;  
Khandhar; Callan; Hunt; Dobraszczyk

**APOLOGIES:** Gleeson; Page

**IN ATTENDANCE:** Deputy Executive Director; Director, Professional Conduct;  
Executive Assistant

**MINUTES**

The minutes of the meeting of 20 February 2014 were confirmed, subject to a minor amendment.

It was agreed that, in circumstances where Bar Council agrees on an amendment to the minutes, the amended version be included in the papers for the next Bar Council meeting (other than a mere editorial correction), so Bar Councillors are aware of the precise changes made.

**MEMBERSHIP**

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

Mark Hay

3 St James Hall

Jamie Shaw – B

Crockett Chambers (Melbourne)

Katherine Thompson – B

Local Court NSW

## FOR CONSIDERATION

### Memorandum to the Bar Council dated 25 February 2014 from the Deputy Executive Director – Proposed 2014 Survey of the NSW Bar

The Bar Council noted that there had been constructive suggestions regarding the draft survey from a number of Bar Councillors. It was agreed that the Deputy Executive Director finalise the terms of the survey, taking into account the suggestions received. The Bar Council noted that, if time constraints permitted, the survey should ideally be provided for comment to the consultant who will be ultimately responsible for the analysis of the survey results.

## GENERAL BUSINESS

### Draft submission to the Royal Commission into Institutionalised Child Abuse Issues Paper 'Civil Litigation'

Jane Needham SC and Warwick Hunt declared an interest in this matter and took no part in the discussion on the issue. The President noted that a number of Bar Councillors had provided comments in relation to the draft submission that had been circulated earlier in the week. Given the divergence of views, the matter will be considered at the next meeting of the Executive, and then by the Bar Council, ideally at the next policy meeting on 27 March. In the interim, it was also agreed that a Working Party chaired by McGrath SC and comprising other interested Bar Councillors, would be convened to distil the issues in contention for the consideration of Bar Council

### The Office of Queen's Counsel

The President noted that a number of responses to the call for comment had come in from members.

### Mandatory Minimum Sentences

The President noted that the Government's *Crimes Amendment (Intoxication) Bill 2014* had been introduced and was being debated in the Legislative Assembly. The Government had modified the scope of the Bill by removing some of the offences to which minimum sentences would apply. The President also advised that the Opposition had indicated that it will move amendments to the Bill in the Legislative Council to provide for a single mandatory minimum sentence in respect of acts of 'gross violence', along the lines of Victorian provisions from 2013.

Meeting with Minister Constance, 27 March 2014

Andrew Stone noted that he, Andrew Morrison SC, the Chair of the Common Law Committee, and the Deputy Executive Director, had met with the Minister for Finance, the Hon Andrew Constance MP, to discuss motor accidents and workers compensation reform, and that a note had subsequently been circulated to Bar Council concerning the meeting. Stone also indicated that he and the Deputy Executive Director would be appearing before the Legislative Council Standing Committee on Law and Justice on 7 March in respect of its current reference on the functions of the Motor Accidents Authority and the Lifetime Care and Support Authority. Stone and Elizabeth Welsh from the Common Law Committee would be giving evidence before the Committee's hearings on 28 March in relation to the functions of WorkCover.

Crimes Amendment (Zoe's Law) Bill 2013 (No. 2)

The President noted that it appeared that the Bill, which the Association had publicly opposed, had insufficient numbers to pass the Legislative Council at this stage.

**FOR INFORMATION**

**Minutes of the Meeting of the Practice Development Committee on Wednesday, 12 February 2014**

Noted.

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

- Email to Bar Council dated 24 February 2014 from Deputy Executive Director – SMH Article – Mandatory Minimum Sentences
- Law Council of Australia – Inquiries and Consultation Lists as at 24 February 2014
- Email to Bar Council dated 25 February 2014 from Deputy Executive Director – Transcript – 702 ABC Sydney, Breakfast, Tuesday, 25 February 2014 07:14am
- Email to Bar Council dated 25 February 2014 from Deputy Executive Director – Transcript – 702 ABC Sydney, Drive, Tuesday, 25 February 2014 05:17pm
- Email to Bar Council dated 25 February 2014 from Deputy Executive Director – Mandatory Minimum Sentences – Piece from Today's *Australian*
- Draft ABA Minutes of meeting held on 3 February 2014
- Email to Bar Council dated 3 March 2014 from Executive Assistant - Proposed 2014 NSW Bar Survey
- Law Council of Australia – Inquiries and Consultation Lists as at 3 March 2014
- Email to Bar Council dated 4 March 2014 from Deputy Executive Director – Meeting with Minister Constance, 27 February
- Email to Bar Council dated 4 March 2014 from Deputy Executive Director – Draft Submission to Royal Commission into Institutionalised Child Abuse – Issues Paper on Civil Liability

The meeting closed at 5:40 pm.

*Confirmed as a correct record:*

Phillip Boulten SC  
President

Date: