



NEW SOUTH WALES
BAR ASSOCIATION

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

MINUTES OF PROCEEDINGS

**Thursday 17 November 2016
in the Boardroom of the New South Wales Bar Association
at 4.30 pm**

PRESENT: Hutley SC; Moses SC; Game SC; Loukas SC; Callan;
Terracini SC; Bell SC; Weinstein SC; McHugh SC; Walker
(by phone) ; Welsh; Khandhar; Katekar; Mitchelmore (by
phone); Izzo; Gleeson; Antipas; Roy; Hutchinson

APOLOGIES: Lonergan SC; Higgins

IN ATTENDANCE: Executive Director; Deputy Executive Director; Director,
Professional Conduct (for professional conduct matters)

MINUTES

The minutes of the meeting of 27 October 2016 were confirmed.

FINANCE

Financial statements for October 2016

Noted. The Treasurer advised that at the upcoming meeting of the Finance, Investment and Audit Committee to be held on 25 November, consideration will be given to the engagement of new auditors for Association.

MEMBERSHIP

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

Patrick Wheelahan – B

Owen Dixon Chamber (Melb)

FOR CONSIDERATION

Memorandum to the Bar Council dated 26 October 2016 from the Health & Wellbeing Committee – Modification of Tristan Jepson Memorial Foundation’s *Psychological Wellbeing: Best Practice Guidelines* for NSW Barristers’ Chambers

It was agreed that the memorandum proposing modifications to the Tristan Jepson Memorial Foundation’s Psychological Wellbeing: Best Practice Guidelines for NSW Barristers’ Chambers be referred for the consideration of Penny Johnston, the Association’s current Director, Care and Assistance, and Ms Houen. Once their views have been received, the memorandum will be relisted for the consideration of the Bar Council in the New Year.

Letter to the President-Elect, Law Council of Australia dated 7 November 2016 from the President – National Model Gender Equitable Briefing Policy Implementation Measures

The Bar Council agreed that the Senior Vice-President would raise the concerns expressed in the draft letter with the Large Law Firm Group representative on the Law Council, Mr Ross Drinnan, in the course of continuing negotiations regarding the reporting obligations under the Policy.

Memorandum to the Bar Council dated 10 November 2016 from the Executive Director – 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 \$225,000 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 \$25,000 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.

Memorandum to the Bar Council dated 10 November 2016 from the Executive Director – Bar Council meetings

Noted.

Memorandum to the Bar Council dated 10 November 2016 from the Executive Director – President – reimbursement of Bar Association related costs

The Senior Vice-President took the Chair for consideration of this item. The Bar Council approved reimbursement of various expenses that would be incurred by the President and Directors in carrying out the business of the Bar Association. The Council noted that this was an annual delegation, but that the current President had indicated that he did not wish to claim all of the approved entitlements.

Draft letter to The Hon Michael Baird MP from the President and draft Joint Media Release from the President and the President of the NSW Law Society – “Justice Cluster” arrangements

The Bar Council agreed that, subject to some minor refinements, the joint release be published as soon as possible and the letter dispatched to the Premier expressing concerns regarding the current “justice cluster” administrative arrangements and proposing that those arrangements be reviewed.

Memorandum to the Bar Council dated 15 November 2016 from the Chair, Diversity & Equality Committee – Childcare Management Agreement – Guardian Corporate Early Learning Centres Pty Ltd

RESOLVED to approve the terms of the new Childcare Management Agreement with Guardian Corporate Early Learning Centres Pty Ltd and to authorise the President to execute the Agreement on behalf of the New South Wales Bar Association.

Memorandum to the Bar Council dated 17 November 2016 from the Senior Vice-President – Mental Health Survey of Barristers

Noted. The Bar Council agreed to give further consideration to the Senior Vice-President's memorandum at its next meeting.

GENERAL BUSINESS

- a) Association of Corporate Counsel Australia National Conference – The Senior Vice-President drew the Bar Council's attention to NSW Bar various marketing materials which had been produced in advance of the ACC National Conference being held in Canberra this week. He noted that members of the Practice Development Committee including the Chair, Elizabeth Cheeseman SC, were conducting a presentation at the Conference on the benefits of in house counsel briefing the Bar direct, and that a number of NSW Barristers Clerks Association were also attending the conference to provide advice to in house counsel on how best to locate the right barrister for their particular needs. The Bar Council thanked Cheeseman SC, the Practice Development Committee Chair and the Deputy Executive Director for their efforts in arranging the Association's participation in the Conference and in forging closer links between the Bar and in house counsel generally.

FOR INFORMATION

Minutes of the meeting of the Common Law Committee held on 2 November 2016

Noted. Elizabeth Welsh noted that her memorandum setting out the current situation regarding CTP reform had been circulated to Bar Council for information. Draft responses were being prepared regarding the Government's recent discussion papers regarding insurer profit and dispute resolution under the motor accidents scheme. It was agreed that the Association's efforts should be focussed upon attempting to change the Minister's mind on the reform model, as it was clear that the State Insurance Regulatory Authority's position was wedded to a workers-compensation style-model which would maximise no fault benefits at the expense of common law rights for the injured. The Bar Council noted that it may need to consider the engagement of political lobbyists in the New Year.

Memorandum to the Bar Council dated 10 November 2016 from the Director, Professional Development – For Information – Update to the Bar Examination Policy

Noted.

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

- Email to the Bar Council dated 27 October 2016 from the Executive Assistant – Media Release: ALRC Examination into indigenous incarceration

- Email to the Bar Council dated 7 November 2016 from the Executive Assistant – Statistics Booklet – Volume 17 (October 2016)
- Email to the Bar Council dated 9 November 2016 from the Executive Assistant – Amendment of the *Legal Profession Uniform Law (NSW)*

The meeting closed at 5.35pm.

Confirmed as a correct record:

Noel Hutley SC
President

Date: