



NEW SOUTH WALES  
BAR ASSOCIATION

THE NEW SOUTH WALES BAR ASSOCIATION  
BAR COUNCIL

MINUTES OF PROCEEDINGS

Thursday 27 March 2014  
in the Boardroom of the New South Wales Bar Association  
at 4.30 pm

**PRESENT:** Boulten SC; Needham SC; Hutley SC (by phone); McHugh SC; Toomey; Temby QC; Street SC; Game SC; Moses SC; McGrath SC; Walker; Healey; Morris; Stone; Hunt; Gleeson; Page; Dobraszczyk

**APOLOGIES:** Khandhar; Callan

**NON-ATTENDANCE:** Traill

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

MINUTES

The minutes of the meeting of 6 March 2014 were confirmed.

**PRESIDENT'S REPORT**

The President spoke to his tabled report. He also noted that the Government's mandatory sentencing legislation, the *Crimes Amendment (Intoxication) Bill 2014*, had been amended in the Legislative Council to create a single offence of 'gross violence', involving a degree of judicial discretion in sentencing. The Government had rejected the amendments in the Legislative Assembly and sent the Bill back for the consideration of the Upper House. The Legislative Council had again amended the Bill. It is unclear how or if this stand-off between the two Houses will be resolved.

The President also noted that he and a number of other members of the Bar had participated in the Chief Justice's recent sentencing symposia for members of parliament and the media.

## EXECUTIVE DIRECTOR'S REPORT

Noted. The Executive Director advised that the *Legal Profession Uniform Law Application Bill 2014* had been introduced in the Legislative Assembly earlier in the day. The legislation had been introduced in some haste, with insufficient consultation with the Association and others relevant agencies. The President noted that he had requested that the Government establish a working party which included representatives of the Association to work through the provisions in detail. The Attorney indicated that the Government is happy to consider further changes with a view to the introduction of an amending Bill later in the year to deal with outstanding concerns.

The Bar Council briefly discussed the Australian Corporate Lawyers Association drinks function held at the end of the ACLA Corporate Counsel Day on 27 March 2014, which the Association sponsored. It was agreed that efforts should be made to hold a New South Wales Bar Association session at next year's event, and that consideration be given to holding the Association-sponsored function earlier in the day to maximise the attendance of corporate counsel. The Council noted that the Association was holding two joint CPD events this year with ACLA, which would provide a further opportunity for in house counsel to interact with members of the Bar.

## FINANCE

Financial statements for February 2014.

Noted.

## FOR CONSIDERATION

### **Memorandum dated 13 February 2014 from Publications Manager to Deputy Executive Director – LinkedIn and Twitter Protocols**

Bar Council agreed that it was appropriate to consider the use of social media as part of its general approach to external communications. It was agreed to give further consideration to the issue in conjunction with draft protocols for the use of social media at a future meeting. The protocols should in particular address the appropriate controls over the use of Twitter in urgent circumstances.

Bar Council also requested that consideration be given to the creation of a Twitter 'handle' '@NSWBarPresident' rather than the proposed title '@NSWBarPrez'.

**Paper from Executive Director dated 14 February 2014 - Information about Candidates for election to the Bar Council; Law Society of NSW 2013 Council election documents 'Vote canvassing' and 'Voting instructions'; memorandum from Andrew Stone to President dated 14 March 2011, 'Bar Association elections- Information about candidates'**

The Bar Council discussed the proposal that a candidate for election to the Council be able to have published by the returning officer with the ballot papers information about the candidate, including a 'policy statement'. The Council, noting that it was open for candidates to themselves distribute election material, DETERMINED that such material not be published by the Association.

**Memorandum dated 17 March 2014 from Policy Lawyer to Bar Council – Application for Renewal of Practising Certificate and Application for Practising Certificate Forms for Approval; memorandum from Game SC dated 17 March 2014 , 'Question 11 in the 'Application for renewal of practising certificate ' form**

RESOLVED, pursuant to *Clause 11 of the Legal Profession Regulation 2005*, to approve the application for Renewal of Practising Certificate 2014-15, and the Application for Practising Certificate forms, subject to the addition of a new question 12 in the Application for Renewal Form as follows: 'Have you failed to comply with any obligation under any taxation or revenue legislation that may affect your fitness as a legal practitioner?'

**Memorandum to Bar Council dated 20 March 2014 from Chair, Criminal Law Committee – Proposed Legislative Response to *Barbaro v The Queen; Zirilli v The Queen* [2014] HCA 2**

The Bar Council RESOLVED to approve the draft letter to the New South Wales Attorney General, subject to a minor amendment. It was agreed that a similar letter should be sent to the Commonwealth Attorney regarding the need to amend the *Commonwealth Crimes Act 1914*.

Temby QC left the meeting at this stage, and asked that his absence be recorded.

**Memorandum to Bar Council dated 20 March 2014 from Education Committee and Director, Organisation & Development – BPC Policy (Proposed Revision) and Reader PC Conditions**

RESOLVED to approve the proposed changes to the Bar Practice Course Policy and Reader Practising Certificate Conditions.

**Letter to Executive Director & Deputy Executive Director from Bar Cover dated 21 March 2014 – Proposed Trust Deed Amendment**

RESOLVED to approve the proposed changes to Bar Cover's Trust Deed to enable the waiver of all or part of the contribution payable by Readers who apply for membership of the Fund during their first twelve months of practice at the Bar and upon their first renewal.

**Memorandum to Bar Council dated 4 March 2014 from Executive Director – Life Membership of the New South Wales Bar Association**

RESOLVED to offer life membership of the New South Wales Bar Association to the Hon Justice Virginia Bell in recognition of exceptional service to the Bar Association and to the profession of the law.

**Submission to Royal Commission into Institutional Responses to Child Sexual Abuse**

Needham SC and Hunt declared an interest and did not take part in the discussion of this matter.

RESOLVED to approve the draft submission to the Royal Commission into Institutional Responses to Child Sexual Abuse, subject to a minor amendment and adopting Toomey's proposed form of wording regarding limitation periods.

**FOR INFORMATION**

**Bar Council- Outstanding actions as at 27 February 2014.**

Noted.

**Memorandum to Bar Council dated 24 February 2014 from Director, Organisation & Development – Bar Council Action List – Bar Association Website**

Noted.

**Letter from President dated 28 February 2014 to Mr Bruce Barbour, NSW Ombudsman – Consorting provisions: Issues paper.**

Noted.

**Memorandum to Bar Council dated 3 March 2014 from Andrew Stone – Budget Reserves and the PC/Membership Split.**

Noted.

**Letter from President dated 6 March 2014 to Mr Andrew Cappie-Wood, Director General, Department of the Attorney General and Justice – Consent provisions of the *Crimes Act 1900*.**

Noted.

**Minutes of the NSW Bar Association Bar Council Executive – 11 March 2014.**

Noted. It was agreed that the minutes of Executive meetings be listed in the Bar Council papers immediately after the President's and Executive Director's reports.

**Minutes of Meeting of the Practice Development Committee – 12 March 2014.**

Noted.

**Letter from Chief Justice Bathurst dated 14 March 2014 to Assistant Director General, Department of Attorney General & Justice – Court Disability Access.**

Noted.

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

- ABA Council Meeting and AGM Minutes from meeting on 3 February 2014.
- Email to Bar Council dated 10 March 2014 – LCA Meeting Agenda – 15 March 2014.
- Email to Bar Council dated 10 March 2014 – *Legal Profession Uniform Law Application Bill 2014*.
- Law Council of Australia – Inquiries and Consultations List – 11 March 2014.
- Email to Bar Council dated 14 March 2014 from Deputy Executive Director – NSW Bar FWC Matter.
- Email to Bar Council dated 14 March 2014 from Deputy Executive Director – QCs/SCs – Composition of Committee to analyse responses and report to Bar Council
- Law Council of Australia – Inquiries and Consultations List – 17 March 2014.
- Email to Bar Association User Group Representatives dated 18 March 2014 from Deputy Executive Director – Written reports of User Group meetings.
- Email to Bar Council dated 19 March 2014 from Deputy Executive Director – Childcare Scheme Launch – 5:15 pm, Thursday 3 April.
- Email to Bar Council dated 20 March 2014 from Deputy Executive Director – *Crimes (Intoxication) Amendment Bill*.
- Email to Bar Council dated 20 March 2014 from Deputy Executive Director – Media Release – Amendments to the *Crimes (Intoxication) Amendment Bill*.

- Email to Bar Council dated 20 March 2014 from Deputy Executive Director – NSWBA Media Brief – Application of Amended *Crimes Amendment (Intoxication) Bill* to assaults.
- Email to Bar Council dated 24 March 2014 from Executive Assistant – Additional Bar Council Paper
- Law Council of Australia – Inquiries and Consultations List – 24 March 2014.
- Email to Bar Council dated 27 March 2014 from Deputy Executive Director – Political Alert – *Crimes Amendment (Intoxication) Bill 2014 (NSW)*

The meeting closed at 6.45pm.

*Confirmed as a correct record:*

Phillip Boulten SC  
President

Date: