

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

**MINUTES OF PROCEEDINGS**

**Thursday 5 September 2013  
in the Boardroom of the New South Wales Bar Association  
at 4.30 pm**

**PRESENT:** Boulten SC; McHugh SC; Traill; Hutley SC; Street SC; Game SC; Moses SC; McGrath SC; Lydiard; Walker; Healey; Stone ('phone'); Toomey; Callan ('phone').

**APOLOGIES:** Needham SC; Temby QC, Hunt; Steggall; Peden.

**IN ATTENDANCE:** Executive Director; Deputy Executive Director; Director, Professional Conduct (for professional conduct matters); Walker SC, Slater QC

**INCORPORATION OF BARRISTERS' PRACTICES**

- **Anthony Slater QC - Memorandum of Advice – Incorporation of Barristers' Practice.**
- **Bret Walker SC - Opinion – Incorporation of Barristers' Practices.**

The President noted that, at the Council's request, Slater QC and Walker SC had come to the meeting to answer any queries Bar Councillors may have on the advices they had prepared for the Bar Council on the issue of incorporation of barristers' practices.

Slater QC and Walker SC spoke to their advices and answered questions from Bar Councillors.

Bar Council expressed its appreciation to Slater QC and Walker SC for giving freely of their expertise in providing their advices and attending the Council meeting to clarify queries raised by Councillors. The Council sincerely regretted that that they had been exposed to highly charged unfounded and unfair comments for the advice they had provided the Council

The Bar Council also expressed its gratitude to Carol Webster SC and Jim Nolan for the advices on this issue that they had prepared.

Bar Council noted that Hyde Page had advised that he would not be attending this meeting of the Council as he believed Walker SC was attending so that he could 'influence the outcome'. Accordingly, he would not be present 'when the NSW Bar Council embarrasses itself'.

**Draft Bar Council resolutions concerning general meeting on incorporation of barristers' practices – Common Room, 17 September 2013.**

RESOLVED that Mr Matthew Hall of SWAAB Attorneys attend the General Meeting to be held on 17 September 2013 in order to be available to advise the Chair on procedural issues.

RESOLVED that Association staff be present at the General Meeting to be held on 17 September 2013 to assist in the administration of the meeting and ballot.

RESOLVED that two representatives from the Association's auditors HLB Mann Judd act as scrutineers for the ballot count at the General Meeting to be held on September 17 2013.

**Memorandum to the Bar Council from the Director, Organisation & Development dated 3 September 2013 – Extraordinary General Meeting**

RESOLVED that the following members be appointed as Polling Officers for the General Meeting to be held on 17 September, and, following the general Meeting, to assist the Returning Officer in relation to any ballot that may occur:

- Catherine Gleeson, Seven Wentworth;
- Matthew Lewis, 5 Wentworth;
- David Scully, Sixth Floor Selborne/Wentworth; and
- Mary Rebehy, Third Floor Wentworth.

The President briefly outlined the proposed arrangements for the meeting, noting that advice had been received from SWAAB Attorneys on meeting procedure. He noted that correspondence had been received from Hyde Page on aspects of procedure for the General Meeting.

The President advised that it was likely a ballot would be held once requested by five members at the meeting pursuant to the Constitution, and that arrangements would be made to ensure a ballot could be held on the night in the event that it is demanded. Ballot papers will be provided to members with voting rights at the meeting on production of identification. The President also indicated that he would accede at the meeting to Hyde Page's request to amend his original motion.

A note will be issued to the Bar prior to the meeting setting out procedural matters. Members will be asked to register for the meeting at 4.30pm on the day, and advised that the meeting will commence at 5.15pm. One hour would be allowed for debate, with five minutes speaking time allocated to the mover and seconder of the motion. Other speakers will be allowed three minutes speaking time each, alternating between supporters and opponents of the motion.

The President noted that Hyde Page would be granted access to inspect proxies once the time for lodging proxies had expired and their validity had been determined.

## MINUTES

The minutes of the meeting of 22 August 2013 were confirmed.

## FINANCE

### **Minutes of the meeting of the Finance, Investment and Audit Committee held on 27 August 2013.**

Noted.

### **Financial statements for 1 July 2012 to 30 June 2013**

The Bar Council RESOLVED that in their opinion as Directors of The New South Wales Bar Association:

- (a) the financial statements and notes as circulated are in accordance with the *Corporations Act 2001*, including:
  - (i) complying with Accounting Standards – Reduced Disclosure Requirements (including the Australian Accounting Interpretations) and the *Corporations Regulations 2001*; and
  - (ii) giving a true and fair view of the company’s financial position as at 30 June 2013 and of its performance for the financial year ended on that date; and
- (b) there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

Bar Council further RESOLVED that the President and the Treasurer sign the Directors Report on page 3 and the Directors Declarations on page 20 on behalf of the Council..

The Bar Council approved the Financial Statements to be included in the Association’s Annual Report for 2012-13.

## FOR CONSIDERATION

### **Note from the Executive Director to the Bar Council dated 7 August 2013 – New South Wales Barristers’ Rules – ADR.**

Bar Council RESOLVED that the Executive Director report to the Council in March 2014 on the status of the implementation of the ABA national rules across Australia.

### **Memorandum from the Equal Opportunity Committee to the Bar Council dated 27 August 2013 - Jobsupport**

Bar Council approved (a) the distribution of a letter to Heads of Chambers inviting them to participate in the Jobsupport program; and (b) circulation of a copy of the letter in *In*

*Brief*, to ensure that members are made aware of the initiative and can raise it with their Head of Chambers should they wish to do so.

**Memorandum from the Chair, Practice Development Committee to the Bar Council dated 22 August 2013 – Marketing the Bar.**

Bar Council considered the memorandum from the Chair of the Practice Development Committee and agreed that the Committee should prepare a proposal concerning potential CPD sessions and draft marketing materials for the Council's further consideration.

**Email from Mary Walker to the Bar Council dated 18 July 2013 – Working Group to investigate and review professional and/or business models relevant to carrying on the practice of a barrister in NSW.**

The Bar Council noted the issues raised in Walker's memorandum, and agreed to defer consideration of them until after the General Meeting relating to the incorporation of barristers' practices to be held on 17 September.

**Submission from the Criminal Law Committee to the Attorney General – Crimes Amendment (Zoe's Law) Bill 2013 (No 2).**

Bar Council approved the draft submission to the Attorney General, subject to the wording of the finalised version being settled by the President and McGrath SC.

**FOR INFORMATION**

**Memorandum from the Projects Officer to the Bar Council dated 26 August 2013 – Aggregated Claims Information for period ended 30 June 2013.**

Noted.

**Minutes of the meeting of the Practice Development Committee held on 14 August 2013.**

Noted.

**Letter to John Hyde Page from the President dated 29 August 2013 – General Meeting of the New South Wales Bar Association – 17 September 2013.**

Noted.

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

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- Draft minutes of the meeting of the Law Council of Australia Directors' meeting held on 22 June 2013.
- Law Council of Australia – *Précis* – 20 August 2013

- Law Council of Australia – *Précis* – 3 September 2013
- Note from Jim Nolan dated 24 August 2013 – ‘Incorporation of Barristers – Some Employment Issues’.
- Media Release from Paul Lynch MP, State Member for Liverpool dated 27 August 2013 – ‘Labor opposes Barrister’s tax dodge’.
- Law Council of Australia – Inquiries and Consultation Lists as at 29 August and 2 September 2013.
- Letter from The Hon Greg Smith SC MP, Attorney General to the President dated 30 August 2013 – ‘Incorporation of barristers’ practices’.
- Letter from John Hyde Page to the President dated 3 September 2013 – General Meeting – 17 September 2013.
- Email correspondence between Mary Walker and the President dated 3 September 2013 - Uniform Legal Profession

The meeting closed at 7pm.

*Confirmed as a correct record:*

Phillip Boulten SC  
President

Date: