



NEW SOUTH WALES  
BAR ASSOCIATION

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

**MINUTES OF PROCEEDINGS**

**Thursday 6 February 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; Moses SC; McGrath SC;  
Triall; Walker; Healey; Morris; Stone; Khandhar; Callan;  
Hunt; Gleeson; Page; Dobraszczyk

**APOLOGIES:**

Game SC

**IN ATTENDANCE:**

Executive Director; Deputy Executive Director; Director,  
Professional Conduct (for professional conduct matters);  
Executive Assistant.

**MINUTES**

The minutes of the meeting of 12 December 2013 were confirmed.

**MATTERS ARISING FROM THE MINUTES OF THE MEETING OF BAR  
COUNCIL OF 12 DECEMBER 2013**

- (a) Memorandum from Moses SC to the Bar Council dated 12 December 2013 – Fair Work Commission – Bar Council noted that the appeal has been listed for hearing on 28 February before a Full Bench of the Fair Work Commission.

## OUTSTANDING ACTIONS AS AT 30 January 2014

Bar Council considered the note from Walker concerning the appropriate format for the Outstanding Actions Report and additional matters to be added to the list.

Bar Council agreed that the existing format of the Report should be retained and that it should be included on the agenda for each monthly “policy” meeting. It was also agreed that matters listed should not be restricted only to matters referred by Bar Council to committees and working groups.

The President indicated that if members of Bar Council wished to raise additional matters for consideration they should do so by way of a separate memorandum to the Council.

## PRESIDENT'S REPORT

The President spoke to his tabled report.

Meeting with President, NSW Civil and Administrative Tribunal The President advised that he had attended the official launch of the NSW Civil and Administrative Tribunal on 29 January. He had also met the President of the Tribunal, the Hon Justice Robertson Wright, to discuss the appointment of Association members to the Tribunal and it was agreed that this was best achieved by the Tribunal advertising for expressions of interest, which could then be brought to the Bar’s attention through *In Brief*.

Australian Bar Association meeting, Canberra - The President advised that Mark Livesey QC, SA Bar, had been elected as the new President of the Australian Bar Association at the ABA meeting held in Canberra on 3 February. Fiona McLeod SC (Victorian Bar) and the President are the Vice President and Honorary Treasurer respectively. Bruce McTaggart, Tasmanian Bar, is the ABA Secretary. He also noted that the ABA had a new part-time Executive Officer, Ms Jacqueline Stone, formerly with the Victorian Bar Association.

Appointment of Queen’s Counsel in Victoria - The President noted that the Victorian Bar and Attorney General had announced earlier this week that an optional system for the appointment of Senior Counsel as Queen’s Counsel would be established in that State. The issue of appointment of Queen’s Counsel in NSW will need to be considered by Bar Council.

The President noted that Hyde Page had submitted a paper on this issue that will be considered by the Executive next week, and then by the Bar Council, in conjunction with an Issues Paper setting out the background on the abolition of the office of Queen’s Counsel in NSW and the current statutory provisions. Bar Council also noted the President’s media release of 6 February concerning the issue.

Mandatory Minimum Sentencing Legislation - The President advised that he had made a number of media appearances over the last two weeks concerning the Government’s recent mandatory minimum sentencing legislation for “one punch” offences. He indicated that at this stage it appears that the second tranche of the Government’s mandatory

minimum sentencing legislation was likely to be introduced when Parliament returns in late February.

## **EXECUTIVE DIRECTOR'S REPORT**

Noted.

## **FINANCE**

The Treasurer spoke to the financial statements. The Bar Council noted the Treasurer's advice that at this stage it is intended to budget for a small deficit in the 2014-15 financial year. It was agreed that the Treasurer would raise this issue with the Association's auditors and report back to Bar Council.

## **MEMBERSHIP**

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

Sudarshan Kanagaratnam

Banco Chambers

## **FOR CONSIDERATION**

### **Memorandum to the Bar Council from Anthony Payne SC, Andrew Bell SC and Jeremy Gormly SC dated 22 October 2013 – Senior Counsel Selection Process**

Bar Council considered the memorandum and agreed that:

- (a) the views expressed concerning the broadening of the consultation group be borne in mind in the preparation of the 2014 consultation list;
- (b) that silk applicants be required to provide as part of their application a list of their readers ; and
- (c) applicants be requested to submit a photograph with their application.

It was also agreed that amendments be made to the relevant senior counsel application documentation to implement (b) and (c) above.

### **Memorandum to the Bar Council from the Finance Manager dated 24 January 2014 – Insurance Disclosures**

Noted.

## **FOR INFORMATION**

### **Letter to The Hon Greg Smith SC MP from the President dated 10 December 2013 – Abolition of DNA Review Panel**

Noted.

**Letter to Ms Sallie McLean from the President dated 13 December 2013 – Encouraging Appropriate Early Guilty Pleas: Models for Discussion**

Noted.

**Letter to Mr Paul McKnight from the President dated 6 January 2014 – Review of the Law in Relation to Parole: Question Papers 4, 5 and 6**

Noted.

**Minutes of the Meeting of the Practice Development Committee dated 4 December 2013**

Noted.

**Minutes of the Meeting of the Common Law Committee dated 11 December 2013**

Noted.

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

- Law Council of Australia – Inquiries and Consultation Lists as at 16 December 2013
- Law Council of Australia – Inquiries and Consultation Lists as at 23 December 2014
- Law Council of Australia – Inquiries and Consultation Lists as at 6 January 2014
- Law Council of Australia – Inquiries and Consultation Lists as at 13 January 2014
- Law Council of Australia – Inquiries and Consultation Lists as at 20 January 2014
- Email to Bar Council from Deputy Executive Director dated 21 January 2014 – Media Release – Mandatory Minimum Sentences
- Email to Bar Council from Deputy Executive Director dated 22 January 2014 – Transcripts and Media Extracts – Boulten SC on the Government’s Mandatory Minimum Sentencing Proposal
- Email to Bar Council from Deputy Executive Director dated 22 January 2014 – Mandatory Minimum Sentences – Further Transcripts
- Email to Bar Council from Deputy Executive Director dated 23 January 2014 – Media Appearances – Mandatory Minimum Sentences
- Email to Bar Council from Deputy Executive Director dated 30 January 2014 – Attendance at Australia Corporate Lawyers Association Corporate Counsel Day drinks, 5:30pm, Thursday 27 February
- Email to Bar Council from Deputy Executive Director dated 31 January 2014 – Submission to the Standing Committee on Law and Justice Inquiry into the Functions of WorkCover
- Email to Bar Council from Deputy Executive Director dated 31 January 2014 – Mandatory Minimum Sentences
- Email to Bar Council from Deputy Executive Director dated 31 January 2014 – AFR Childcare Story

- Email to Bar Council from Deputy Executive Director dated 31 January 2014 - Supplementary Submissions to Standing Committee on Law and Justice Inquiries into the Functions of the Motor Accidents Authority and the Lifetime Care and Support Authority
- Email to Bar Council from Deputy Executive Director dated 1 February 2014 – Transcript Radio National 31.1.14 Mandatory Minimum Sentencing
- Email to Bar Council from Deputy Executive Director dated 4 February 2014 – CJs Opening of Law Term Speech and Bar Association Media Release
- Australian Bar Council Meeting and Annual General Meeting Agenda dated 3 February 2014 and Minutes of the Australian Bar Council Meeting on 26 October 2013
- Law Council of Australia – Inquiries and Consultation Lists as at 3 February 2014
- Email to Bar Council from Deputy Executive Directed dated 6 February 2014 – Media Release – Office of Senior Counsel in NSW
- Memorandum to Bar Council from Mary Walker dated 6 February 2014 – Action Sheet – Proposed Amendment of the Minutes of the Bar Council Meeting of 12 December 2013

The meeting closed at 6:00pm.

*Confirmed as a correct record:*

Phillip Boulten SC  
President

Date: