

## DIRECTORY

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75 Elizabeth Street  
Sydney 2000

### Annual General Meeting

The Annual General Meeting  
will be held at 5.00pm on  
3 November 2016 in the Bar  
Association Common Room.

### Cover photo

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## CONTENTS

### The year in review

President's Report.....	2
Executive Director's Report.....	6

### About us

Statistics.....	8
Bar Council and office bearers.....	10
Bar Association staff.....	11

### Reports

Arranging and promoting continuing professional development .....	12
Professional Development Department	
Education Committee	
New Barristers Committee	
Promoting the interests of practising barristers.....	15
Practice Development Committee	
Wellbeing Committee	
Indigenous Barristers' Strategy Working Party	
Bar Library	
Diversity and Equality Committee	
Costs and Fees Committee	
BarCare	
Making recommendations and promoting the administration of justice .....	24
Law Reform and Public Affairs	
Human Rights Committee	
Family Law Committee	
Criminal Law Committee	
Alternative Dispute Resolution Committee	
Common Law Committee	
Legal Aid Committee	
Promoting access to justice.....	30
Legal Assistance Referral Scheme	
LARS statistics	
Professional Conduct Department.....	39
Professional conduct	
Professional conduct statistics	
Appointments.....	45
Financial statements	
Bar Association.....	50
Barristers' Benevolent Association .....	70
Indigenous Barristers' Trust.....	86

## PRESIDENT'S REPORT



Arthur Moses SC  
President

### Change, transformation and innovation

On the far wall of the Bar Association's boardroom hang pictures of past presidents. It's a gallery of great advocates and fine leaders of the New South Wales Bar, such as the Hon Tom Hughes AC QC, the Hon Murray Gleeson AC QC, Ian Barker QC, Bret Walker SC. Some, such as the Hon Murray Tobias QC and the Hon Justice Ruth McColl, demonstrated great leadership as president during challenging times for the New South Wales Bar. To a great extent, the work of each president and Bar Council builds upon the diligence and experience of their predecessors.

The policies and initiatives of the Bar Association which have been implemented or are in the process of being implemented are the result of collaborative work by presidents, bar councillors, executive directors, committee members, independent experts and the staff of the Bar Association, both past and present. I am indebted to each of them.

First among those I wish to thank for their work in the past year is my immediate predecessor, Noel Hutley SC. I was appointed President by the Bar Council in May 2017, shortly before the end of the financial year, the subject of the report. During Noel's 18 months in the role he guided the bar through the first year of operation of the Legal Profession Uniform Law. Like eleven presidents before him, Noel was assisted by the indefatigable former executive director, Philip Selth OAM. The New South Wales Bar Association's reputation among its members and its standing in the wider legal profession is a tribute to the quality of his leadership. The Bar Council and I extend our sincerest gratitude to Philip for his dedication to the profession, and wish him the very best in his future endeavours.

Of course, finding a replacement for such a long-standing executive director was one of the more difficult tasks Bar Council has had to undertake in recent times. Following an extensive executive search conducted by the firm Korn Ferry, Professor Greg Tolhurst was appointed to the role, which he commenced on 24 October 2016. Greg was a professor of commercial law and chair of the Teaching and Curriculum Committee at the Sydney Law School. Greg is uniquely well-qualified to lead the staff at the Bar Association during what I believe will be challenging times for the New South Wales Bar.

### Strategic Plan 2017-20

Guiding Greg and his staff will be the Bar Association's Strategic Plan 2017-2020, which was endorsed by the Bar Council. It can be found at [nswbar.asn.au/the-bar-association](http://nswbar.asn.au/the-bar-association). It was drafted during the reporting year by a sub-committee comprised of councillors and former councillors: ably assisted by the Bar Association's deputy executive director Alastair McConnachie. The preamble observes that we are experiencing 'a time of disruption and change in the provision of legal services', then section five of the plan lists several manifestations of rapid transformation. Collectively, they make sobering reading, especially when one takes into account the inexorable force of technology-driven innovation, over which Bar Council has little or no influence. The best we can do is to adapt, prepare and, where possible, exploit opportunities which present themselves.

Point 5(i) observes that: 'In the public domain of legal affairs, there are many other competing voices which often overshadow that of barristers.' In New South Wales and in other jurisdictions, there are a growing number of dynamic, specialist organisations representing the interests of specialist legal practitioners. This is especially so in matters to do with commercial arbitration (including international commercial arbitration), commercial class actions and trans-national commercial litigation. It is for this reason that the new executive director was tasked with presenting to Bar Council options for the creation of

## PRESIDENT'S REPORT

a group to represent the interests of the commercial bar. The Bar Council recently determined to establish a Commercial Law Section which will engage with solicitors, corporate in-house counsel and members of the judiciary. Sydney is the commercial capital of Australia and it is important that significant commercial litigation be conducted in this State. The Commercial List of the Supreme Court of NSW, the NSW Court of Appeal and the NSW Registry of the Federal Court are well placed for large scale commercial litigation.

In addition to identifying the challenges, the 2017-20 Plan sets out the strategic objectives of the Bar Association over the next three years, grouped under 12 sub-headings:

1. National profession
2. Internationalisation of the law
3. Dispute resolution outside courts
4. Marketing and promoting the work of barristers
5. Assisting barristers with the economic and personal challenges of a sole practitioner
6. Promoting the administration of justice by controlling and reducing the cost of litigation
7. Equity and diversity of membership
8. Supporting readers and the junior Bar
9. The Bar Association website
10. Contribute to public debate
11. Corporate governance
12. Provision of services to members

I will not reiterate the contents here. Some of the stated objectives are

long-standing and featured in earlier strategic plans. One noteworthy addition is 'Corporate governance' and its provision to 'establish a Corporate Governance Committee of Bar Council to review current corporate practices to implement best practice in this area'. Transparency and good governance of the Bar Association is essential, not just for the benefit of its members but also for reputation of New South Wales barristers as a source of expertise in matters related to corporate law. There would be more than a few company directors who have been cross-examined on their fiduciary duties, who would be interested to see how barristers manage their own incorporated association. The Strategic Plan offers members a set of performance indicators, against which members can judge the work of their elected Bar Council and the staff of the Bar Association. I also have held a joint meeting of the Committees of the chairs of the Bar Association to ascertain their views. I intend having regular joint meetings with these leaders of the Bar in order to ensure that the Committees are working in a collaborative manner. I invite everyone to read the plan, which can be found on the Bar Association's website at [nswbar.asn.au/the-bar-association](http://nswbar.asn.au/the-bar-association).

### Financial position

If the Bar Association is to give effect to the Strategic Plan, then it must have the resources and the capacity to do so. The financial position of the association, under the watch of the Finance, Investment and Audit Committee, is sound.

### Member services

Compared to other professional bodies, such as the Royal Australian College of General Practitioners or the Royal Australasian College of Surgeons, the Bar Association has provided only rudimentary services and benefits to its members. That is about to change as we revitalise existing programs, improve online delivery and roll out new initiatives that will help members to:

- Promote their skills and experience to prospective clients
- Better manage their practice
- Care for their health and wellbeing
- Balance family and work commitments
- Cope in times of personal hardship, tragedy or ill-health
- Foster a sense of collegiality at the bar

In coming months members will notice new or upgraded web pages for BarCare, Barristers Classifieds, BarADR and wellbeing at the bar.

## PRESIDENT'S REPORT

### Policy leadership

In addition to running various programs for the benefit of members and fulfilling its statutory duties in relation to the regulation of the legal profession, the Bar Association makes representations to governments on legal policy and disseminates to the public the bar's views on the rule of law and the administration of justice. Though I have commented elsewhere, it bears repeating that the existence of a skilled, respected and independent bar remains as fundamental to the proper administration of justice as ever before. We know that the application of the cab rank principle is difficult, some say impossible, to apply in the context of a 'fused' profession. Unpopular or offensive people or persons associated with unpopular causes would be left without representation in courts of justice. This is all the more pertinent while our politicians retreat from their defence of democratic traditions. As Australia's oldest and largest independent bar, we will not flinch from our duty to help all those who are elected to parliament - ministers above all - understand and accept that the privileges of legal representation should not only be available to the powerful or the popular.

To give effect to that duty, bar presidents must use all means at their disposal. Nowadays, that includes not just Bar News and other traditional media, but social media as well. If the contents of this annual report seem familiar, it is possible that you have been reached by one or more of the Bar Association's growing battery of

online publications and social media accounts, including Twitter, Facebook and LinkedIn. I encourage members to stay in touch with developments via one or more of these social media platforms and to share our messages as far and as wide as possible.

### Legal Aid

There are real and prescient issues confronting junior counsel at the private Bar in New South Wales who accept briefs to appear in District and Supreme Court trials when funded by Legal Aid NSW.

Day rates of \$987 + GST for junior counsel have remained unchanged since May 2007, save that the day rate in the Supreme Court was adjusted from \$1,142 + GST to \$1,150 + GST upon the commencement of the 'Complex Crime Panel' for barristers during the period under consideration – an increase of \$8 per day, or expressed as a percentage – 0.7%.

**Legal Aid Rates for Junior Counsel  
as at May 2007 and May 2017**

	May 2007	May 2017 (unchanged at 8/17)
District Court day rate	\$987 + GST	\$987 + GST
Supreme Court day rate	\$1,142 + GST	\$1,150 + GST

The cumulative level of inflation (Consumer Price Index) from financial year ending 30 June 2007 to financial year ending 30 June 2017 is 26.4% with an annual average increase in inflation of 2.4%.

This situation cannot be allowed to continue. The Bar Association is currently engaged in discussions with the Government to ensure that our members who undertake this most difficult work are fairly remunerated.

### Diversity and renewal of the bar

Our use of social media is already resulting in another, very important benefit. Our comments on matters ranging from Indigenous incarceration and our efforts to raise legal aid pay rates for junior barristers appearing in criminal trials, through to an invitation to apply for the Katrina Dawson Award are reaching new, more diverse professional and demographic groups. In particular, they are being seen by law students and solicitors. It is not unusual for one of the Bar Association's LinkedIn updates, tweets or Facebook posts to reach an audience many times the size of the bar itself, and to be seen directly by the media, politicians and academics. As I mentioned above, this is helpful in propagating our messages, to be sure. However, it also helps to de-mystify the New South Wales Bar and make it an institution with which an increasingly diverse range of people can identify. I mean this both as a source of information on matters of public policy but also as a career choice. I made that choice when I came to the bar in 1993 as a 24 year old. Bret Walker SC and the Hon Justice Katzmann also came straight to the bar as young practitioners.

## PRESIDENT'S REPORT

Why does this matter? The bar is in need of renewal and new sources of referral work. At the risk of labouring the point, the New South Wales Bar isn't changing as fast as the community, the legal environment or the market for legal services which support it. I began this report with an observation about the gallery of presidents on the boardroom wall. It is, of course, an unbroken line of men until the election of Ruth McColl SC (as her Honour was then). Currently, 31.4% of practising barristers are over 60 years of age - most of them men. Over the past 14 years the total number of practising barristers in NSW has increased by only 221. During this same period, the total number of practising solicitors in NSW has increased by more than 13,400.

Change is a difficult thing, but it must come. It is an aim of my presidency to recruit younger, more diverse practitioners to the bar. It is also an aim of my presidency to engage with solicitors, in-house corporate counsel and Government to promote the early briefing of counsel to minimise costs and avoid Court time being wasted. These initiatives are vital to ensuring the New South Wales Bar remains the largest and strongest independent bar in Australia.

### A final word

I commend the 2016-17 annual report to you, and in doing so I wish to thank Greg Tolhurst and the hardworking staff of the Bar Association, as well as bar councillors, members of committees, working parties and sections.

**Arthur Moses SC**  
**@NSWBarPresident**

## EXECUTIVE DIRECTOR'S REPORT



Greg Tolhurst  
Executive Director

I would like to thank the members of Bar Council for trusting me with the position of Executive Director. I would also like to thank Philip Selth for helping me settle into the role of Executive Director. At the same time that I came on board our long term director of Bar Care, Penny Johnston, retired. Her replacement, Jenny Houen, has settled into her new role and I wish to thank her for the tremendous support she has provided to members over the last year.

I have spent much of this year getting to know the annual diary of the Bar Association and its processes. In addition, every year brings a number of unique projects. This year that has included:

- The implementation of the equitable briefing reporting obligations;
- Reviews of:
  - the bar examination;
  - the junior barrister mentoring program; and
  - the CPD regional conference programs;
- The launch of the Katrina Dawson Award; and
- A greater focus of university engagement.

It should also be noted that the staff ran 67 CPD seminars, workshops as well as the mini-conferences which were run throughout February and March in Orange, Newcastle, Parramatta, the North Coast, and two in Sydney. The staff also helped in the running of the ABA International Conference in London

and Dublin. There has also been an increase in sponsorship requests made to the Bar Association and the Bar Council revisited out sponsorship policy. Major sponsorships in 2017 included, in addition to the traditional university prizes, the Women Lawyers Achievement Awards, the Clerks conference, the Redfern Legal Centre 40<sup>th</sup> anniversary and the ACC National Conference held in Canberra in November 2016.

Over the last year the Bar Association has continued to adapt its operations to suit current and expected challenges. It is worth mentioning a number of these. First, there has been an increase in the number of complaints made against barristers. Under the Uniform Law a preliminary assessment must be carried out for all complaints. This requires a large allocation of resources and has resulted in increased workloads for our professional conduct committees (PCCs). It is important we have the procedures and staff in place to properly support those PCCs. In addition, as the Commissioner for Uniform Legal Services Regulation continues to roll-out the Uniform Law we are coming under greater reporting obligations which require modifications to our systems.

Second, the provision of legal services is being impacted upon by technology and it is important that the Bar Association is at the forefront of conversations as to how that technology is deployed in the legal system, particularly in litigation.





Third, there has been an increase in calls made upon on the Bar Association to comment on law reform packages as it is understood that Bar Association members can provide quick, reliable and expert comment. This year members and policy staff have worked on over 70 submissions and counting. Particular mention should be made of the extensive consultations on the Attorney General's criminal justice package, the Motor Accident Injuries Act 2017 and regulations and the response to the ALRC Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples. This is in addition to the policy work members are doing for the Law Council of Australia and the Australian Bar Association. Often the time frames for such comments are short and it is necessary that the Association have staff available to support the members who undertake to provide such comment. Finally, Bar Association Committees are making greater calls on the Association to provide them with reliable data so that they can make informed decisions on matters that are within the remit of the committee. The wellbeing survey is a good example of where reliable data is required so that committees can recommend sound policy initiatives to Bar Council.

To a significant degree the Bar Association operations are paper based and our ability to react to some of the above challenges requires us to move away from being so dependent on paper. This is particularly the case in relation to renewals and Professional Conduct matters. It also impacts on our ability to provide good data to Bar Council and Bar Association Committees. The Association captures a lot of data but it is not always easy to access that data when it is on paper or stored in different systems. In addition, it is important to ensure that we collect the data our committees require to do their work.

In 2018 we will commence work on the platform for on-line renewals. We hope to test that system with some members in 2018 with a full roll-out in 2019. We will also review the Professional Conduct work system to make them less dependent on paper files and this will extend to the work of some committees. We have also begun a large data audit of the Association. This project will take some time and impact on many of our systems. As regards technology, the Bar Council resolved to create an Innovation and Technology Committee with a charter to be the means by which the Association and its members can:

- embrace innovative practices that better serve the administration of justice, the community, and its members;
- assist the Association to lead public debate and to anticipate and respond to emerging social, economic, and technological developments;
- use research and scholarship to understand how changes in society affect the administration of justice and the delivery of independent legal services; and
- support the development and implementation of strategies to facilitate an effective independent bar.

The work of that committee is now under way with Michael Green SC as Chair.

In 2018 the New South Wales Bar Association will be hosting the ABA bi-annual national conference. We look forward to seeing you there and participating.

I would like to thank all my staff for their efforts, support and collegiality throughout the year.

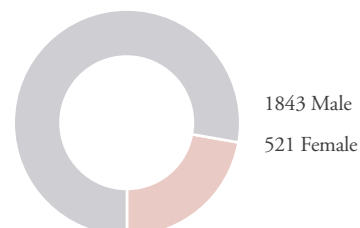
## STATISTICS

The Bar Association is a voluntary association. Being a member and holding a NSW barrister's practising certificate (PC) are separate. The following is a statistical profile of both membership and barristers who hold a NSW practising certificate. As at 30 June 2017 there were 2364 barristers with a NSW PC, including practitioners based interstate and overseas. The Bar Association had 3150 members.

**Practitioners holding NSW PCs\***

Male	1843
Female	521
<b>Total</b>	<b>2364</b>

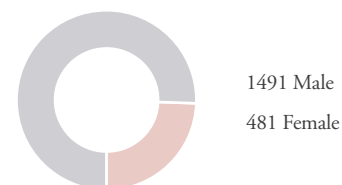
\* (inc. practitioners based interstate and overseas)

**Practitioners who are senior counsel**

Male	352
Female	40
<b>Total senior counsel</b>	<b>392</b>

**Junior barristers\*\***

Male	1491
Female	481
<b>Total junior barristers</b>	<b>1972</b>

**Location of holders of a NSW PC**

	Juniors		Silks		Total
	Male	Female	Male	Female	
NSW	1488	478	349	40	2355
ACT	1	0	0	0	1
Queensland	2	0	0	0	2
WA	0	2	0	0	2

**Overseas practitioners by country of residence**

	Juniors		Silks		Total
	Male	Female	Male	Female	
USA	0	1	0	0	1
New Zealand	0	0	1	0	1
UK	0	0	2	0	2



## STATISTICS

### Members who hold a NSW PC

(including members based interstate & overseas and 13 life members who have a current NSW PC)

Male	1832
Female	518
Total	2350
Number of senior counsel (QC or SC)	
Male	351
Female	40
Total	391
Number of 'junior' barristers	
Male	1481
Female	478
<b>Total</b>	<b>1959</b>

### Occupation of non-practising members

Academic	14
Clerk	43
Former barrister	179
Former judge / magistrate	106
Interstate / overseas barrister	197
Judge	179
Judicial officer	4
Magistrate	29
Statutory appointment	11
Other	36
Member of parliament	2

### Members

(inc. honorary life members, judges and non-practising barristers)

Male	608
Female	192
<b>Total</b>	<b>800</b>

(Inc. 32 honorary life members without a current NSW PC)

Of the 2350 members who hold a NSW PC: 2341 have a practising address in NSW, two practise in QLD, two in WA, one in the ACT and four are overseas.

## OFFICE BEARERS



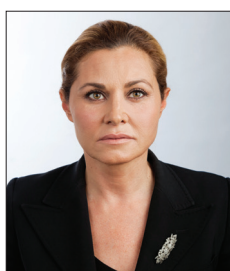
Arthur Moses SC  
President



NEW SOUTH WALES  
BAR ASSOCIATION®



Tim Game SC  
Senior Vice-President



Chrissa Loukas SC  
Junior Vice-President



Andrew Bell SC  
Treasurer



Sophie Callan  
Honorary Secretary

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## BAR COUNCIL

As at 30 June 2017

Arthur Moses SC

Tim Game SC

Chrissa Loukas SC

Andrew Bell SC

Sophie Callan

Winston Terracini SC

Richard Weinstein SC

Michael McHugh SC

Kylie Nomchong SC

Kara Shead SC

Mary Walker

Elisabeth Welsh

Paresh Khandhar

Ben Katekar

Anna Mitchelmore

Michael Izzo

Ruth Higgins

Catherine Gleeson

Greg Antipas

Julia Roy

Lisa-Claire Hutchinson

## BAR ASSOCIATION STAFF

As at 30 June 2017

### Office of the Executive Director

Executive Director	Greg Tolhurst
Executive Assistant	Georgina Stow

### Administration Department

Receptionist	Maree Fitzgerald
Admin. Assistant (Records)	Kim Ellis
Records Assistant	Melanie Whitehorn
IT Consultant	Darren Covell
Software Developer	Matthew Vickers

### Bar Library

Librarian	Lisa Allen
Assistant Librarian	Jennifer Hughes
Assistant Librarian	Leonie Anderson
Technical Services Librarian	Meeghan Oliver

### Finance Department

Finance Manager	Basil Catsaros
Deputy Finance Manager	Lubaina Paisawala
Certification Officer	Barrie Anthony

### Legal Assistance Referral Scheme

Legal Assistance Manager	Heather Sare
Administrative Assistant	Ray Burgess

### Professional Conduct Department

Director, Professional Conduct	Jennifer Pearce
Deputy Director	Helen Barrett
Deputy Director	Peter Smith
Legal Officer	Angela Huang
Senior Administrative Assistant	Corinne Gilbert

### Law Reform and Public Affairs

Deputy Executive Director	Alastair McConnachie
Co-ordinator, Services & Benefits	Chris Winslow
Senior Policy Lawyer	Roshana Wikramanayake
Senior Projects Lawyer	Kim Kemp
Policy Lawyer	Ting Lim
Paralegal	Megan Batchelor

### Professional Development Department

Director, Professional Development	Bali Kaur
Professional Development Coordinator	Tiffany McDonald
Event Manager	Katie Retford
Education Assistant	Courtney Ford

## PROFESSIONAL DEVELOPMENT DEPARTMENT

### The role of the department

The professional development department provides education, training and additional learning and development services to all practising barristers in NSW. The main responsibilities of the department are to:

- co-ordinate induction to practice of, and services for, new barristers. There are two main aspects to the substantive educational services for new barristers: the Bar Examinations; and the Bar Practice Course;
- provide continuing professional development (CPD) seminars and conferences;
- arrange the various social functions put on by the association for members, such as the Bench & Bar Dinner, the Tutors & Readers Dinner and the 15-Bobber functions.

The department remains focused on our core objectives: to continue to provide relevant, practical and intellectual content to members to assist in their ongoing professional, and practice, development. The department continues to work closely with the Bar Council and the committees to promote collegiality and mutual assistance among its members and to implement the strategic plan. This involves identifying areas of need and interest to members and to provide services that address those needs and interests in a timely and cost effective manner.



Photo: Darren Covell / New South Wales Bar Association

### Exams

For the February 2017 Bar examinations 146 candidates submitted a registration to sit for the Bar examination. Not all that registered sat the examination in February - 99 candidates sat the single examination.

In June 2017, 124 registered and 97 candidates sat the single Bar Examination. A total of 34 members of the association assisted in the preparation and marking of papers in February 2017 and 36 assisted with the June 2017 examinations.

The Bar Examination Working Party, chaired by Richard Weinstein SC continues to provide support, guidance and assistance to the department in the implementation of the Bar Council policy in relation to the Bar Exam.

### Bar Practice Course

The August/September 2016 and May 2017 course represented the 51<sup>th</sup> and 52<sup>nd</sup> Bar Practice Course (BPC). The courses were directed by Gillian Mahony. In 2016/17 84 readers completed the two courses. This is twelve readers less than 2015/2016. The course continues to see a greater percentage of women undertaking the course (39.1%) than the overall percentage of women in practice at the Bar generally (21.9%).

The course continues to be structured as a four week program of intensive, full-time study. The overall format of the course has remained constant in recent years while individual components have been developed and refined in response to feedback, as well as to developments in practice. The Bar Practice Course would not be possible to deliver to the high standard that it is without the very generous support of over 140 barristers and members of the judiciary who give so willingly of their time, frequently for both courses and year after year, to help provide readers with the best possible induction to practice at the bar.

## PROFESSIONAL DEVELOPMENT DEPARTMENT

The Bar Practice Course spans over 50 scheduled lectures, mini-trials and workshops, and the involvement of vast numbers of barristers assisting as tutors, lecturers, workshop leaders and advocacy coaches as well as judges, past and present, from all jurisdictions. As such, the course continues to be a major part of the professional development calendar and a considerable administrative task but culminates in some of the most rewarding experiences of the year. Through the Bar Practice Course, we see the very best of practice at the Bar by way of collegiality, mentoring and tutelage, and dedication to court craft as well as the increasing diversity within the profession. The commitment of all involved is absolute.

We could not run these courses without the continuing support from the presenters, instructors and judges who set aside time from their busy practices to assist in welcoming and guiding the newest members of the bar. The Bar Council wishes to extend its sincere thanks to all those involved in the Bar Practice Course.

### CPD

The CPD requirement in order to maintain a barrister's practising certificate in New South Wales, is fundamental to maintain the professional reputation of the Bar and the highest professional standards.

In 2015-2016 the department offered 79 seminars (118 points) covering all four strands plus a number of workshops and conferences. The professional development department

introduced live-streaming to increase and improve regional inclusivity. With the support of the IT department, the CPD program and supporting software continue to undergo development and upgrading in order to increase member take up of this service. New microphone and computing software were introduced in 2017 to improve the video and audio quality.

The conference program continued to enjoy strong support from all members and provided excellent opportunities for promoting collegiality. Conferences were run throughout February and March in Orange, Newcastle, Parramatta, the North Coast, and two conferences in Sydney. The conference programs were designed to offer a wide range of topics and speakers that would be of interest to all members.

As in previous years, the preparation for the conferences for 2018 will commence around the time of the publication of the Annual Report. If any member would like to be involved in the conferences – or any aspect of the CPD program – you are encouraged to contact the professional development department.

### Additional activities

The University Open Day remains a popular day in the calendar. Held in spring each year it attracts over 100 students from the 10 law faculties in NSW. The department also provided a full calendar of social events, with the Bench and Bar Dinner again being the highlight of the year. A wide variety of social functions including 15-Bobbers, the Tutors' and Readers' Dinner, A Judicial Q&A were put on for members.

### Thank you

As in previous years, the department is extremely grateful for all the assistance provided by a great many volunteers. All give of their time freely and willingly with the end goal being the improvement of the Bar. It simply would not be possible for the department to operate without the support and commitment of so many.



## EDUCATION COMMITTEE

The committee provides oversight to the professional development department's activities, including (but not limited to) the exams, the Bar Practice Course, the reading program and CPD activities. The committee has made a number of

recommendations relating to policy to the Bar Council and has worked collaboratively with the Examination Working Party and the New Barristers' Committee in relation to the exams and issues impacting upon the junior Bar. The committee this

year focussed on improvements to the reader/tutor guidelines and a review of the reader/tutor information on the Bar Association website.



Photo: Murray Harris Photography

## NEW BARRISTERS COMMITTEE

The goals and objectives of the New Barristers' Committee are: to promote the pursuit of excellence through targeted Continued Professional Development (CPD), camaraderie through social events and other traditions of the general Bar amongst NSW barristers under 6 years' seniority; to assist NSW barristers under 6 years' to build and develop their practices; to make submissions to the Bar Council regarding issues and matters that affect the interests of barristers under 6 years seniority; and to

otherwise support the work of the Bar Council as and when needed.

The New Barristers' Committee provides a great deal of assistance to the professional development department, particularly in the design and provision of CPD for the junior Bar. The committee ran its ninth annual cross-examination workshop for under 6s. The committee also introduced its first workshop for the cross-examination of experts. These workshops provide an informal opportunity for under 6s to practice

their advocacy skills. The workshops comprise an initial seminar, followed by a group cross-examination exercise and conclude with a demonstration by senior members of the Bar. The next scheduled cross-examination workshop will be in February / March 2018.



## Promoting the interests of practising barristers

### PRACTICE DEVELOPMENT COMMITTEE

The Practice Development Committee continues to focus on promoting and marketing the Bar's services to in-house counsel, both corporate and government, in two principal areas, direct briefing and early briefing. The committee has been active in developing new ways to promote the services of the Bar beyond our traditional, and still core, market of instructing solicitors.

A major focus has been the committee's proposal and the co-ordination of the 2017 IBA Open Chambers Evening as a satellite event during the 2017 IBA conference in Sydney in October 2017. At the time of writing, 17 chambers have agreed to host events and registration details have been circulated to conference delegates.

The second half of 2016 saw the delivery of a NSW Bar Association-sponsored session on direct briefing at the ACC National Conference. The Association's presentation comprised a 'Direct Briefing Masterclass' by panellists Elizabeth Cheeseman SC, Caspar Conde and in-house counsel Terri Esparza, TAL Life Ltd. Case studies and hypotheticals were followed by a discussion of how in house counsel can best use the Bar, both by direct briefing and by early briefing.

The committee with the Clerks Association organised an exhibition booth at the Conference, where clerks and junior barristers were available to answer questions from and provide practical advice to in house counsel. Emphasis was placed on the use of the Association's 'Find a Barrister' facility and 'Find a Barrister' merchandise was made available for delegates at the Conference.

The 'Find a Barrister' function on the Association's website was upgraded to enable searches to be limited to barristers who accept direct briefs. Promoting the existence of this new search functionality to both members and in-house and government counsel is ongoing. Making recommendations for further improvements to the Association's website remains on the committee's agenda.

The Association is a major sponsor of 2017 ACC National Conference with the session this year focusing on direct briefing in employment law, which is one of the top three areas in which in house counsel directly engage the Bar. The panel session will be led by Arthur Moses SC with Ingmar Taylor SC, Kellie Edwards and an in-house counsel. The Association will also operate a barista cart throughout the conference with NSW clerk representatives in attendance promoting the NSW Bar and providing practical advice and guidance for delegates.

The Association's corporate alliance with ACC continued by contributing articles by members of the NSW Bar for inclusion in editions of the ACC/ACLA journal, sponsoring the 2017 ACC NSW Corporate Counsel Day drinks function (at which Arthur Moses SC spoke on the benefits of direct briefing) and sponsoring the ACC Young Lawyer of the Year Award.

In mid-2017, the committee arranged for the Association's sponsorship of the 10<sup>th</sup> Anniversary of the Toongabbie Legal Centre Seminar Series and liaised with the New Barristers' Committee to provide members with the opportunity to present and chair sessions.

The committee also held a CPD panel on marketing tools and strategies for barristers (Michelle Painter SC, Green SC, Tean Kerr and Jeh Couthino).

The committee is drafting a policy regarding third party service providers, for submission to the Bar Council for consideration later in 2017.

## Promoting the interests of practising barristers

## WELLBEING COMMITTEE

The recognition of significant health issues, particularly mental health issues, affecting the membership led to the establishment of the Health and Wellbeing Committee in 2016. It is now titled simply the Wellbeing Committee. The work of the committee has been to raise awareness of the health issues within the profession, try to identify causal factors leading to the onset of poor health issues and to encourage members to maintain a balanced and healthy lifestyle through education and by providing the opportunity to participate in organised sporting social and recreational activities.

## The website

In early 2017 the items pertaining to Health and Wellbeing pages on the Bar Association's website were 'branded' and substantially re-written, under the guidance of the committee and its chairperson, Kylie Nomchong SC. The content is now structured according to four sections.

1. Get help: with information and links to BarCare, BarCover and the newly renovated Benevolent Fund page.
2. Get involved: with information about:
  - social events such as the Bench & Bar Lunches, the Bench & Bar Dinner, the Tutors & Readers Dinner, 15-Bobbers and other events; and
  - how to get involved in sporting and recreational events in which members of the Bar are involved such as football, golf, tennis, chess, book club, knitting club, yoga and sailing.

## Tristan Jepson Memorial

**Foundation Guidelines:** providing information about the TJMF Guidelines for psychological wellbeing which were modified for the Bar and a pro forma Chambers Policy.

**Vicarious Trauma:** with information about vicarious trauma and a link to the video streaming of a CPD seminar presented by Robyn Bradey, organised by the Wellbeing Committee and held at the Bar Association on 7 March 2017.



## WELLBEING

at the New South Wales Bar

In the coming months, the committee plans to further enhance and upgrade the information available on the Wellbeing page of the website to include short video interviews with the President, senior members of the profession and the judiciary about the importance of wellbeing.

In addition, the committee will have input into plans by the coordinator of services and benefits to replicate the Wellbeing at the Bar website created by the Bar of England and Wales. This would be done by moving the content to a 'spin-off' website with its own domain name.

## Quality of Working Life (QoWL survey)

The most notable initiative to do with wellbeing at the bar was the Quality of Working Life survey distributed to all practising barristers in March 2017. The chairperson of the committee had substantial input into the drafting and distribution of the survey and will have ongoing input into the interpretation, promulgation and use of the survey results to inform the manner in which the Association may further assist members to address

health and wellbeing concerns.

## A resource point for chambers experiencing trauma

Illness and incapacity can strike chambers and in the past these situations have been dealt with in an *ad hoc* manner. The committee has been working on a project to provide chambers with a central resource point to assist in dealing with traumatic events in chambers, for example, where a member of chambers dies or is involved in a life-threatening accident or has a debilitating illness. In those circumstances, chambers will be required to deal with a wide range of issues including assisting the family, dealing with the barrister's current work, fielding inquiries, providing counselling to those

### Promoting the interests of practising barristers

affected on the floor and sometimes dealing with the media.

#### Informing the readers

The committee requested and was provided with the opportunity to make presentations to each Bar Practice Course, informing new readers about the work of the Wellbeing Committee.

#### BarCare and the Benevolent Fund online presence

The committee is providing input and guidance on the Bar Association's efforts to improve the BarCare and Benevolent Fund websites.

#### Health Initiatives

In March 2017, nearly 100 members took advantage of influenza vaccinations. The committee plans to repeat this useful service next year. Similarly, the committee will arrange a further CPD on vicarious trauma and is looking into a project to teach and assist in mindfulness.



Photo: Chris Winslow / New South Wales Bar Association

#### Bench and Bar Lunches

Following the closure of the Bar Common Room many years ago, Phil Greenwood SC organised the informal Bench & Bar Lunches. Jeremy Gormly SC took over a few years later and then handed the reins to Kylie Nomchong SC in 2011. Those lunches were organised personally by those barristers who also had financial responsibility for the functions. The purpose of the lunches is to provide an informal and inexpensive lunch where members of the bench and bar are seated next to the last person who arrived – in the very same way as the old Common Room lunches, thereby promoting collegiality in the profession and with the bench. They have been extremely successful with each lunch attracting about 70 participants and being held at venues such as The Barracks, Sky Phoenix and the Hellenic Club.

With the support of Arthur Moses SC (President) and Greg Tolhurst (CEO), the Wellbeing Committee has taken over the organisation of the Bench & Bar Lunch program.

The Bar Association has taken over responsibility for organising payments through its CVENT system, which is used for other social events, like the 15-Bobbers. The committee will soon begin the important task of taking Bench and Bar lunches to regional bars, such as Parramatta and Newcastle.

Promoting the interests of practising barristers

## INDIGENOUS BARRISTERS' STRATEGY WORKING PARTY

The Indigenous Barristers' Strategy Working Party is dedicated to the implementation of the Indigenous Barristers' Strategy at the NSW Bar.

The Bar Association uses the definition of Aboriginal people and Torres Strait Islanders as adopted by the High Court in the *Tasmanian Dams Case (Commonwealth v Tasmania)* (1983) 158 CLR 1) which is a three part test. A person must be of Aboriginal or Torres Strait Islander descent, identify as an Aboriginal person or a Torres Strait Islander (ATSI) and is accepted by the relevant community as an Aboriginal person or a Torres Strait Islander. To obtain any benefits from any of the Association's programs, an applicant must provide written verification of their acceptance in an ATSI community.

The Working Party's major focus in 2016-17 was the further promotion and implementation of the Bar Association's Reconciliation Action Plan (RAP) which commenced in January 2013. This involved a range of activities. The RAP documents the Bar Association's responsibility to ensure that the NSW Bar reflects the values of equity and diversity, and sets out the Association's goals for the future and the way in which those goals can be achieved. In doing so, the Association is building on over 20 years' experience in creating pathways for Aboriginal and Torres Strait Islander people to practice at the New South Wales Bar.

Over the past year, the Working Party continued to develop its already strong focus on new ATSI barristers and also ATSI law students, by providing encouragement and incentives for students to progress through their studies so that one day they can realistically consider the Bar as a career choice.

Two new Aboriginal barristers, Leon Apostle and Damian Beaufile, commenced practice at the Sydney Bar in 2016.

A mentoring scheme was established in February 2009. Mentors have worked with many students who have now graduated and there were 19 Indigenous law students being mentored by NSW barristers in 2016-17. Students continue to report substantial increases in their understanding of the way the legal system works which provides a significant input to their legal studies. Barristers continue to remark on the rewarding nature of the scheme and frequently claim the benefits are higher to them than to the student.

Developing part-time employment opportunities for Indigenous law students and mentoring opportunities for new Indigenous law graduates is also a priority for the Working Party. The employment scheme for Indigenous law students has run over the last 14 years with three law students working with barristers.

The 2016 Silks gave a significant donation to the Trust, in a long-standing but not continuous tradition of making the Trust one of the recipients of the donations.

In August 2016, six barristers assisted the organisers of the UNSW Law Students Mooting Competition for Australia's First Peoples worked with individual students for the two weeks before the mooting period and assisted them with their advocacy skills and their preparation. Martin Gorrick assisted the winning team.

In September 2016, the Trust made the second award at the UNSW Indigenous Students Awards to Aaron Louth with an award of \$500 for promoting advocacy.

On 14 December 2016, the UNSW pre-law students attended a one day program at the Association. This is the seventeenth year that this program has been conducted and was the usual successful exchange from the students, all of whom had just completed their HSC and were admitted to various law schools as a result of attending the five week program. Eight barristers joined the students and explained their careers and then took them on small group tours of chambers. Justice Slattery addressed the group on the various roles and functions of a Supreme Court judge.

The Indigenous Barristers' Trust The Mum Shirl Fund (the Trust) was established in 2002 to create a pool of funds to provide financial assistance to Indigenous barristers especially in their



Promoting the interests of practising barristers

## INDIGENOUS BARRISTERS' STRATEGY WORKING PARTY

first few years of practice and to Indigenous law students and lawyers. The fund has deductible gift recipient as a public benevolent institution under the *Income Tax Assessment Act 1936* (Cth).

There are four trustees: the current president of the NSW Bar Association, Arthur Moses SC since May 2017 and Noel Huntley SC before then; Justice Michael Slattery of the NSW Supreme Court;

Mullenjaiwakka, an Indigenous barrister until August 2016 and since then Anthony McAvoy SC and Chris Ronalds AM SC.

For the tenth year, the Trust funded 18 Aboriginal law students from all NSW law schools to attend the National Indigenous Legal Conference, an initiative of the Working Party and now seen as the leading ATSI legal conference in Australia. In September 2016,

over 180 mainly ATSI lawyers and law students met in Canberra for two days of papers and discussions on all important Aboriginal legal issues and also specific issues involving law students.

The Trust continues to provide financial support to any Aboriginal law students who have a significant financial problem that threatens their ability to continue with their law studies.



Photo: Darren Covell / New South Wales Bar Association

## BAR LIBRARY

The Library is an essential tool for all NSW barristers. Access to high quality and up to date resources is critical for the maintenance of professional standards and service.

The Bar Library provides essential legal reference material in a timely and accurate manner to practising NSW barristers and other members of the Bar Association. The Library is available to all barristers, including interstate practitioners appearing in NSW courts, and where the Law Society's library is unable to assist, to solicitors.

The library also supports the work of the Bar Association staff by providing access to resources to assist in committee work.

While maintaining a core collection, the library aims to collect and make available resources that practitioners may not have access to individually

The library is part of a co-operative network of primarily legal libraries that share resources, extending the range of materials available to library users.

An average of 50 loans and 17 substantial requests for information per day were completed in the 2016-17 period with only three full-time staff members.

This year the library subscribed to a number of current e-book titles via CCH's ePlatform. Links to individual titles can be found via the catalogue.

The library also provides support to The Bar Book Club and the Bar Knit Group, services aimed at improving wellbeing for members.

## Promoting the interests of practising barristers

## DIVERSITY AND EQUALITY COMMITTEE

The 2016 – 2017 financial year has seen the Diversity and Equality Committee (DEC) working on significant initiatives that include gender diversity and equality, family responsibilities, LGBTI inclusion and cultural diversity issues at the NSW Bar.

In June 2016, the Law Council of Australia released its National Model Gender Equitable Briefing Policy (Policy) which was adopted by the NSW Bar Association in September 2016. Since that time, the DEC, jointly with the Women Barristers Forum, have formed a working group which aims to successfully implement the Policy at the NSW Bar. This saw the development of a comprehensive implementation plan for the Policy over the next three years to raise awareness, increase adoption, support reporting, monitor progress and evaluate the success of the Policy. Further initiatives of the working group included organising continuing professional development seminars with members of the Bar and solicitors to raise awareness, adoption and implementation of the Policy. In May 2017, the NSW Bar Association (in partnership with the Law Society of NSW) hosted the first in three networking functions to facilitate female barristers meeting with solicitors and becoming known by them.

The DEC also prepared a strategic framework for action for the NSW Bar to address the gender pay gap between its members. The framework provides guidance for future work required on this issue.

In addition to gender equality, the NSW Bar Association joined Pride in Diversity, a specialist LGBTI workplace inclusion agency which has assisted the NSW Bar in raising awareness of LGBTI issues through specialist training modules delivered in the NSW Bar Common Room. The NSW Bar Association looks forward to another 12 months of working with Pride in Diversity in progressing towards a more inclusive Bar.

The DEC has also worked on initiatives to attract a more gender and culturally diverse membership. In August 2016, NSW Bar Association representatives (Anthony McGrath SC, Theresa Baw and Bilal Rauf) attended the Macquarie Law School Fair to raise awareness of the Bar as a career option. In October 2016, the NSW Bar Association hosted its annual Female Law Student Open Day, where female law students spend a morning with female members of the Bar and the Bench to receive a taste of a 'day in the life at the Bar'. In the same month, the DEC successfully organised a breakfast to raise over \$8,000 for the Breast and Prostate Cancer Foundations.

Members of the DEC continued to work with members of the Education Committee, Women Barristers Forum and McCarthy Mentoring to manage the NSW Bar Association Junior Barrister Mentoring program. A new cohort of mentees and mentors were matched and the program launched in May 2017 with 32 pairs participating this year.

On 8 June 2017, on the recommendation of the DEC, the President appointed two Advocates for Change – Jane Needham SC and Hament Dhanji SC – who will participate in the formulation of strategies to promote equality, diversity and inclusion at the NSW Bar over the next 3 years.



Promoting the interests of practising barristers

## COSTS AND FEES COMMITTEE

The chair and members of the Costs and Fees Committee continued to make themselves available by phone during the past 12 months to answer questions raised by members of the Association in relation to the Uniform Law which had been implemented on 1 July 2015. Minor modifications were also made to the precedents on the Association's website.

The chair and the committee secretary participated in confidential consultations regarding the Federal Court's proposed Costs Practice Note which was under consideration as part of the National Court Framework Reforms which were implemented in October 2016.

Members of the committee joined a focus group to give feedback and aid in the design of a proposed escrow payment service for the Association. The group has met twice and negotiations with the National Australia Bank are progressing.

The chair of the committee participated in a Working Group to assist the Law Council of Australia with the preparation of a submission on the proposed extension of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) to the legal profession in Australia. The focus of the chair's work concerned issues affecting barristers and issues relating to confidentiality and legal professional privilege. He also attended a confidential briefing in Canberra.

The committee provided advice to Bar Council on whether the use by barristers of a particular suite of fee-related services would put members of the Association at risk of professional conduct issues concerning costs agreements, fee recovery, the cab rank rule and confidentiality and privilege. The committee also provided other advice to Bar Council on a strictly confidential basis and the chair prepared an advice on costs issues in pro bono scheme-litigated matters.

Members of the committee forged links with members of the Legal Project Management Committee of the American Bar Association's Law Practice Division. In March 2017 a member of the American committee, who was visiting Sydney for a few days, presented a seminar on costs in the USA Bar to members of the Association's Costs and Fees Committee. The committee intends to develop this relationship for the mutual benefit of both organisations.



Photo: Fregman1484/iStock

## Promoting the interests of practising barristers

## BARCARE

BarCare is an integral part of the Bar community that provides assistance to barristers who are experiencing difficulties in their professional or personal lives. The service is funded by the Barristers' Benevolent Fund and operates independently of the Bar Association. The service is strictly confidential and BarCare does not give any personal information to the Bar Association without the express permission of the barrister involved. In addition to providing professional psychological or other support it also has the capacity to give financial assistance in times of need, such as illness or bereavement.

The last year has been a busy one for BarCare with 73 barristers seeking assistance for themselves or for a family member. The great majority of these contacts have been self-referred. The most common presenting problems have been depression or stress/anxiety, frequently associated with the challenges and demands of life at the Bar. While these may be the primary presenting problem there are frequently secondary issues present, such as problematic alcohol use or relationship difficulties. The at times isolating and unpredictable nature of the work often contributes to a sense of feeling anxious and overwhelmed. BarCare is available to meet and talk with barristers and assist them to seek help from one of the psychologists or psychiatrists on the panel of specialists. The Benevolent Fund will pay for the first three sessions to support the barrister in accessing appropriate professional assistance.



MachineHeadz / iStock

At times colleagues, chambers staff or, on occasion, a judge, will contact the Bar Association or BarCare directly to express a concern about a barrister's health and wellbeing or to seek advice as to how best to assist a colleague. In such cases BarCare may make a 'cold call' to the barrister to offer assistance. While the barrister concerned may be initially surprised at the call, he or she is usually open to receiving support.

Earlier this year a wellbeing survey was carried out on behalf of the Bar Association. The results of this will no doubt be helpful in identifying areas where BarCare can further contribute to promoting the health and well being of barristers in NSW.

January 2017 saw the retirement of Penny Johnston who had been the Director of BarCare since 2008. Penny was instrumental in the establishment of BarCare and worked hard and constructively to build it up to be an effective and professional service. She has been replaced by Jenny Houen. Jenny is a social worker with many years'

experience as a hearing member with the Medical Council of NSW and with its Health Program.

### The Benevolent Association

The Barristers' Benevolent Association of New South Wales was established to set up a scheme whereby financial assistance may be provided to persons who are (or have been) members of the NSW Bar and who have practised predominantly in NSW. There are no fixed circumstances in which such assistance may be provided save for it being directed to 'necessitous and deserving cases'. It provides a fund for those who are suffering from hardship either in the short term or long term. The funding is an important part of the collegiate life of the Bar and how we look after each other. In FY2016-17 the Benevolent Association received \$137,338 in contribution. Ten grants were made to eight parties, totalling \$125,000.

## Promoting the interests of practising barristers

## BARCARE

1: Primary presenting problem	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Siege	-	-	-	15	2	2
Bereavement	4	3	2	4	3	2
Psychological	12	15	7	17	2	7
Depression	8	10	11	6	20	16
Stress/anxiety	7	10	4	15	23	21
Relationship difficulties	4	1	8	9	4	4
Career advice	0	0	0	1	3	3
Physical health	3	4	9	4	9	6
Alcohol	1	1	3	1	3	3
Financial	9	3	5	2	5	6
Advice and NFA	10	6	7	5	9	3
Rejected offer of assistance	1	2	1	0	0	0
<b>Total</b>	<b>60</b>	<b>55</b>	<b>57</b>	<b>79</b>	<b>83</b>	<b>73</b>

2: Source of referral	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Colleague via bar	0	2	2	0		1
Bar staff	11	14	14	13	11	8
Self	28	27	22	48	46	44
Colleague	9	7	6	7	13	11
Family	4	1	3	2	2	2
Clerk	3	2	3	4	2	2
Advice for colleague	5	2	7	5	9	5
<b>Total</b>	<b>60</b>	<b>55</b>	<b>57</b>	<b>79</b>	<b>83</b>	<b>73</b>

3: Gender	Male	Female
2013-14	37	20
2014-15	47	32
2015-16	46	37
2016-17	41	32

4: Age (yrs)	<34	35-44	45-55	56-65	>65	Unknown
2014-15	6	22	27	13	2	9
2015-16	9	14	24	17	2	17
2016-17	8	7	17	20	18	3

5: Years at bar	<5	6-15	16-25	26-35	>35	Unknown
2013-14	8	16	12	6	3	12
2014-15	22	26	13	7	2	9
2015-16	25	19	10	11	1	17
2016-17	23	19	14	11	4	2

## Making recommendations and promoting the administration of justice

## LAW REFORM AND PUBLIC AFFAIRS

Two of the major aims of the Bar Association enunciated in its Constitution relate to the promotion of the administration of justice and making recommendations with respect to legislation, law reform, Rules of Court and the business and procedure of Courts. The Association's Law Reform and Public Affairs Department provides secretariat, research and writing support to the Association's nine 'policy' committees and assists the President and other officeholders with regard to the Association's public profile.

The primary focus of the policy staff is providing assistance in the drafting of submissions on draft legislation and other policy proposals from government and statutory bodies such as the NSW Law Reform Commission and NSW Sentencing Council, Parliamentary committees and the courts.

Over the reporting year the Department finalised over 70 submissions of this sort, mostly in conjunction with particular committees, specialist working parties and sections of the Association on a diverse array of matters ranging from major criminal law proposals to specialist issues involving the transfer of the Industrial Court jurisdiction to the NSW Supreme Court to matters of privilege involving Independent Commission Against Corruption (ICAC) inquiries.

The Department also worked with the President and a Bar Council working party on the development of the Association's Strategic Plan 2017-20 and on a number of other

discrete projects. The Department also co-ordinated committee responses to requests for advice from the Law Council of Australia and the Australian Bar Association on federal law reform issues. Further details of the policy and project work of specific committees through the reporting year are provided below.

The Department also works with the President and Bar Council in the preparation and dissemination of its public statements and responds to requests for comment and background from media outlets. The co-location of the Association's policy and public affairs functions ensures a high degree of co-ordination and consistency between the Association's policy work and its public policy positions.

The Association's public affairs work involves the promotion of fundamental tenets of our system of justice such as the rule of law. The Association also seeks to inform members, the media and the broader community concerning issues of legal principle and the justice system.

During the reporting year, the Association made a number of contributions to public debate regarding justice and law reform issues.

For example, in July 2016, then-President Noel Hutley SC expressed concerns regarding the Government then-plans for reform of the CTP system which were reported in the Sydney Morning Herald, mirroring concerns that had been raised in the Association's submissions to government:

The largest flaw in the proposed new scheme is the assumption that there are only two categories of injury – 'low severity' and 'the most seriously injured'. There is in fact a wide group in between – moderate severity injury. It is this group who are being punished.

Subsequent amendments to the Government's proposals did attempt to provide more common law remedies to the moderately-injured.

In May 2017, new President Arthur Moses SC responded publicly to criticisms of conduct made by a member of the NSW Police Association, has today criticised the Lindt Coronial Inquiry process and the role of lawyers appearing in the Inquiry:

It was inappropriate and unfair for the coronial process and the lawyers to have been attacked in this manner. .... The coroner's role is to determine the manner and cause of death. The role of the coroner is also to look at whether processes can be improved or implemented that would minimise a tragedy occurring again... In the meantime, personal attacks on the coroner and lawyers are not appropriate and undermine public confidence in the important role played by the coroner.

These kinds of statements reflect the Association's dual public affairs role of contributing to policy debate and educating the media and public on issues relating to the profession and the justice system.

## Making recommendations and promoting the administration of justice

### HUMAN RIGHTS COMMITTEE

The Human Rights Committee worked on a broad range of matters during the last year.

In August 2016 the Human Rights Committee prepared a submission to the NSW Parliamentary Working Group on Assisted Dying in relation to the Voluntary Assisted Dying Bill 2016. The proposed Bill provides a legislative framework for terminally ill persons to request and receive assistance to voluntarily end their lives. The submission considered the proposed Bill from the perspective of compliance and obligations under human rights law, specifically the right to life.

The committee prepared a submission in November 2016 in relation to the Human Tissue Amendment (Trafficking in Human Organs) Bill 2016 introduced by David Shoebridge MLC. The

submission analysed the Bill from a human rights perspective and broadly supported measures designed to protect the human rights of people who are victims of illegal human tissue trafficking and organ harvesting. The committee recommended amendments to the Bill to ensure that health professionals are afforded adequate protections so as to avoid unintended consequences arising from onerous reporting obligations as well as protecting the right against self-incrimination.

In November 2016 the committee arranged a seminar presented by Professor Rosalind Croucher AM, who was then the President of the Australian Law Reform Commission, which had been asked to identify and critically examine Commonwealth laws that encroach upon traditional rights and freedoms and privileges recognised by the common law. The

Australian Law Reform Commission referred to this large and challenging project as the 'Freedoms Inquiry' and Professor Croucher spoke about the report released following the Inquiry.

The Human Rights Committee's priority for 2017 was to seek the establishment of a Joint Working Party aimed at identifying and supporting policy initiatives and programs to address the over-representation of Indigenous people in custody in NSW. The Bar Council approved this project in June 2017 and a Working Party comprising of members from the Criminal Law Committee, the Human Rights Committee, Indigenous Barristers' Strategy Working Party as well as a number of external members with relevant expertise and knowledge, has commenced its work.

### FAMILY LAW COMMITTEE

The Family Law Committee throughout 2016-17 continued to address issues in relation to the lack of judicial resources both in the Federal Circuit Court and in the Family Court of Australia in its registries within NSW.

Liaison with the Court occurred through representatives of the committee regularly meeting with Federal Circuit Court judges and Family Court judges to provide feedback to the profession and to put forward the views of the profession in relation to the conduct

of hearings and the management of delays in the Courts. The committee also responded to the Family Court's initiative to hold a Rolling List and put forward its views as to the management and organisation of such a List.

The committee joined in an initiative with the Law Society of NSW to establish a 'High Level Working Group' with judges of the Family Court and Federal Circuit Court to address delays, trial management and funding issues. A nominee of the committee has been appointed to the

group. The committee also provided nominee to the Domestic Violence Death Review Team with the aim of developing and promoting strategies to assist members in recognising and responding to domestic violence.

Throughout the year, the committee considered various draft pieces of legislation, and members also met with Ricky Welsh of The Shed, an Aboriginal Men's Outreach service to discuss LARS and the Duty Barrister Scheme.



## Making recommendations and promoting the administration of justice

## CRIMINAL LAW COMMITTEE

During the last year the Criminal Law Committee has made a significant contribution to the development of criminal law in New South Wales. Most of the work of the committee has involved responding - often at very short notice - to proposed government legislation in the area of criminal justice. In addition to writing submissions, the members of the committee are often called upon to represent the NSW Bar Association at consultation meetings. In the last year, the NSW Bar Association has been represented at consultations on issues including:

- High Risk Offenders;
- Child Sexual Offenders' Review;
- Coroners Act 2009 statutory review
- Law Enforcement (Powers and Responsibilities) Act 2002;
- Committals and Guilty Pleas Bill;
- Legal Practitioners consultative group;
- Domestic Violence Death Review team; and
- the Australian Law Reform Commission inquiry into Indigenous incarceration.

In addition to consultations and responding to requests from the Department of Justice on draft bills, the committee monitors legislative reforms that arise that may impact the NSW criminal bar. Such issues have included:

- the Law Enforcement Conduct Commission Bill 2016;
- proposed biodiversity legislation;
- proposed amendment of s6(3) of the Criminal Appeal Act 1912; and
- the proposal to establish a Koori Court.

In October 2016, the committee responded to a discussion paper on the introduction of offences relating to the non-consensual sharing of intimate images, commonly referred to as 'revenge porn'. Subsequently, the Crimes Amendment (Intimate Images) Bill 2017 was introduced into parliament, passed on 31 May 2017 and is now in effect.

On 9 May 2017, the NSW Attorney-General announced that the NSW Government intended to introduce criminal justice reforms designed to deliver justice more quickly to communities and victims as well as strengthening sentencing options and ensure that offenders are supervised when service community orders. Since the Government's announcement the committee has been kept busy reviewing draft Bills, writing submissions and attending roundtable discussions with government and other stakeholders on Bills relating to high risk offenders, committals and guilty pleas, adult and juvenile parole and sentencing options. It is likely that work relating to these proposed reforms will carry on into the next year.



Making recommendations and promoting the administration of justice

## ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

### General activities of the ADR committee

The ADR Committee continued to provide opportunities for all barristers at the NSW Bar to gain increased knowledge and experience of ADR and to promote the interest and expertise of the Bar in ADR (including barristers who practise as mediators, arbitrators and expert determiners). In 2016-17 the committee continued to administer the accreditation and re-accreditation of mediators under the National Standards and the appointment of mediators to court panels.

The Bar Association renewed its membership of ACICA of which other corporate members include Allens Linklaters, Ashurst, Clayton Utz, Clifford Chance, Corrs Chambers Westgarth, DLA Piper, Herbert Smith Freehills, Holman Fenwick Willan, King & Wood Mallesons, Minter Ellison, Norton Rose Fulbright, Sapere Research Group, Banco Chambers and the Victorian Bar.

### CPDs and other training

ADR related CPDs continued for 2016-17 allowing opportunities for NSW Bar Association members to attend ADR related training. ADR-focused CPDs included 'ADR – Refining Skills for Early Resolution', presented by Anthony Lo Surdo SC and 'Mediation and Advocacy' presented by David Ash and chaired by Ian Davidson SC.



Photo: FangXiaNuo / iStock

### ADR Masterclass 2016

In August 2016 the ADR Committee ran an ADR Masterclass day in Sydney. The Masterclass brought ADR practitioners together to discuss the future of ADR and current issues facing the field. Key guests at the event was The Hon. James Allsop AO in his role as Chief Justice of the Federal Court who spoke on the future of ADR in both the Domestic and International Context and Francois Bogacz who discussed the role of neurobiology to negotiation and mediation. The day concluded with a practical task allowing practitioners to share strategies on their approach to negotiations. Attendance at the day counted for 7 CPD points.

### Mediation accreditation

The NSW Bar Association remains one of the largest RMABs under the under the National Mediation Accreditation System (NMAS) with over 100 accredited mediators. Accreditation is for a two-year period and the committee has carried out the administration of accreditation and re-accreditation of mediators under the NMAS on behalf of the Bar Association annually since

2008. In 2016, the committee recommended to Bar Council the accreditation of a number of 'new' and 'experience-qualified' mediators as well as the re-accrediting mediators who were last accredited in 2014.

### Submission

The ADR Committee assisted in the preparation of the NSW Bar Association's submission 'Dispute Resolution: Model Provisions' to the NSW Law Reform Commission. In this submission the committee responded to the proposed model provision and addressed options and issues raised by the paper, in particular relating to a mediator's immunity and the enforcement of mediated settlement agreements.

### Broadcast email

A regular 'broadcast email' is sent by the Bar Association to all accredited mediators, approved arbitrators, approved expert determiners and other barristers who have notified their interest in receiving the broadcast. It provides details about upcoming CPDs, seminars and conferences of interest, important information about accreditation or approval, and other matters relevant to ADR.

## Making recommendations and promoting the administration of justice

## COMMON LAW COMMITTEE

The committee's primary focus over 2016-17 was its continued engagement with the NSW Government regarding its proposed changes to the motor accidents scheme, a process requiring extensive work from committee members. The committee prepared comprehensive submissions in conjunction with the Law Society and the Australian Lawyers Alliance to the Government's Expert CTP (Compulsory Third Party insurance) Panel, which was established by the Minister to examine questions of fairness in the proposed scheme, to the State Insurance Regulatory Authority (SIRA) and the Minister.

Committee representatives attended a number of meetings with the Expert Panel in mid-2016 and met with SIRA officials to put forward the Association's concerns regarding aspects of the proposal. Newspaper advertisements were jointly funded with the Law Society pointing out some of the effects that the Government's proposed changes would have on the seriously injured. By September it was clear that the Government was prepared to reconsider the broad direction of its proposals. The Minister established further expert consultative forums looking at premium and scheme design, further submissions were prepared and members participated in intensive meetings with these groups.

The resulting *Motor Accident Injuries Act* 2017, which was passed by the Parliament in March 2017, attempted to balance the Government's aim of achieving a substantial reduction in green slip prices with the preservation of common law rights for the seriously injured. Since the passage of the Act committee members have been involved in ongoing consultations with SIRA on the regulations and guidelines which will underpin the new legislation, which deal with issues ranging from the definition of 'minor injury' (particularly important as common law rights will only be activated where an injury is regarded as more than 'serious') to legal costs, dispute resolution structures and claims processes.

Other significant work done by the committee in the reporting period included:

- providing detailed submissions to the Legislative Council Standing Committee on Law and Justice Review of the Workers Compensation Scheme. Ross Stanton gave evidence to the Standing Committee's hearings as part of a legal profession panel on 4 November 2016;
- preparing detailed submissions to the Lifetime Care and Support Authority on Draft Lifetime Care and Support Guidelines, and meeting with LTCSA staff to discuss those submissions;

- liaising with the Supreme Court concerning procedures regarding evidentiary statements; Organising a successful common law drinks function on 2 September 2016 at the CBD Hotel. The Hon. Justice Margaret Beazley AO was the Guest of Honour for the evening; and
- organising the program for the Association's Personal Injury and Common Law Conference, held at the Hilton Sydney on Saturday 11 March 2017, which was particularly well attended.

Particular thanks are due to Andrew Stone SC, Elizabeth Welsh, William Fitzsimmons, Andrew Combe and Ross Stanton for their contributions during 2016-17.

After four years, the committee's chair Andrew Morrison SC stepped down at the end of the reporting period. Considerable thanks are due to Morrison SC for his calm and measured leadership of the committee during a period involving considerable challenges for the Common Law Bar.

## Making recommendations and promoting the administration of justice

## LEGAL AID COMMITTEE

The Legal Aid Committee has continued to work strategically during the past twelve months to deal with funding cuts to legal aid services and low rates of pay for members of the Bar Association performing legal aid work.

In April 2017 the Chair and the Committee Secretary prepared a letter to the Commonwealth Attorney General concerning proposed funding cuts to Legal Aid NSW, Community Legal Centres, and Aboriginal and Torres Strait Islander Legal Services which were scheduled to commence on 1 July 2017. The Bar Association submitted that an increased contribution by the Commonwealth Government would be critical to secure long term funding for the legal assistance sector in NSW.

In June 2017 the Chair of the Committee attended a meeting with the President, Senior Vice-President and the new CEO of Legal Aid NSW, Mr Brendan Thomas. The Association raised a number of issues of concern including the lack of funding for criminal matters, particularly in relation to appeals and trials for indictable cases in which it is imperative that experienced counsel be briefed.

In November 2016 the Association received a request from a member to seek payment for counsel who would be required to attend call-overs to be conducted by telephone in advance of criminal trial circuit sittings in the District Court. The introduction of a Practice Note regarding Call Over for Trials in Circuit Sittings was

expected to make such attendances compulsory. The Legal Aid Committee prepared a submission to Legal Aid NSW which resulted in an agreement to pay counsel a mention fee for this work.

The Committee provided input into a memorandum to Bar Council regarding a proposal to establish a Rolling List Court at Parramatta. A submission was made to the Department of Justice in November 2016 by the Association.

In December 2016 the Association was informed that the Board of Legal Aid NSW was reviewing the legal aid policy dealing with grants of aid for appeals to the Court of Criminal Appeal and to the High Court. In March 2017 a workshop was arranged with members of the Legal Aid Committee as well as other Association members with appropriate expertise to provide Legal Aid NSW staff with comments on recommendations made in a draft report. Legal Aid NSW indicated that this feedback was valuable and members of the Association were satisfied with the final report released by Legal Aid NSW in June 2017.

The Committee continued to assist Legal Aid New South Wales with its panels. In September 2016 a new nominee was arranged for the Serious Criminal Law Panel and the General Criminal Law Panel Selection Committees. In February 2017 comments were provided to Legal Aid NSW on panel documentation for the Specialist Barrister Panel (Complex Criminal Law) which had been released following a review.

In September 2016 Legal Aid NSW informed the association about its review of the Domestic Violence Practitioner panel and Scheme to better reflect the current needs of victims of domestic and family violence. As a result of that review a revised model and documentation for the re-named Domestic Violence Panel had been developed as a state-wide scheme providing a specialist panel of lawyers to undertake both assigned and contested Apprehended Domestic Violence Order matters throughout NSW and duty work in a number of specialised courts. Substantial comments were made on the panel documents and a nominee for the selection committee was also arranged.

In October 2016 Legal Aid NSW announced that a new Supreme Court Bail Duty Scheme would be introduced and requested that a representative of the association sit on the selection committee to review expressions of interest for appointment to the Duty Scheme. An information package for practitioners was provided by Legal Aid NSW and this was reviewed. In November 2016 a nominee to represent the Association on the selection committee was arranged for this Scheme.

In October 2016, the Association and vLegal Aid NSW sought joint nominations from the New South Wales Bar Association and the Law Society of NSW for membership of the Legal Aid Review Committees for a two year period. It was necessary to work collaboratively with the Law Society of NSW to meet this request.

## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME

As in previous years, the Bar Association's staff received in the order of 500-600 enquiries about legal assistance and related matters. Many enquiries were made by persons visiting the offices unannounced. All legal assistance enquiries were addressed to the best of our ability.

For the 2016-17 financial year, 261 formal applications for assistance were received and processed. This is an 8% increase on the number of applications received last year. Of the 261 applications, 142 were eligible under the Scheme's guidelines for referral to a barrister. The assessment of all applications involves the expenditure of considerable time and resources, whether or not they were ultimately referred. The breakdown of those applications not referred to barristers is set out in the accompanying statistical report.

For the period in question, barristers contributed approximately 3700 hours of work through the Scheme which was a 15% increase on last year's figure. This was made up of approximately 1845 hours of work in matters referred in the current period and an additional 1855 hours of work in continuing matters commenced in the previous financial year.

Since the Scheme's inception in 1994 barristers have contributed approximately 52,600 hours of work. The following facts arising from the attached statistical analysis of the Scheme's activities over the last financial year are worth noting.

1. No fee matters comprised the highest category by a ratio of just over 4 to 1 in matters handled on a continuing basis;
2. 61% of matters referred to barristers were considered to have legal merit or prospects of success;
3. Nearly 40% of all referrals came from the Supreme Court of NSW. This coincides with a decision of the Chief Justice, the Hon. Justice T. F. Bathurst AC in December 2014 to refer all requests for legal assistance made by the judiciary on behalf of self-represented litigants in the Supreme Court of NSW to LARS rather than the requests being dealt with by the court itself;
4. Judges, magistrates and registrars comprise the highest referral source, followed by the Law Society of NSW Pro Bono Scheme's solicitors as the second highest referral source. Members of the public were the third highest referral source.
5. A 300% increase in the number of applications received in the Family Court of Australia.
6. A doubling of the number of matters received in the criminal jurisdiction of the District Court of NSW. This reflects the increase in urgent requests received from the DPP in matters currently before the court where a witness is required to receive advice on a discrete matter before the trial can continue.
7. An almost 100% increase in the number of applications received in NCAT. This is a result of the referral scheme set up between the

Association and the Tribunal in its discrimination jurisdiction.

8. Nearly 75% of the applications to the Scheme were refused Legal Aid as being outside the Commission's guidelines.

**The Law Kitchen (TLK)**

The Bar Association has continued to allocate a solicitor employee to assist The Law Kitchen (TLK) during the past twelve months. TLK has as its objective the provision of free legal services to marginalised persons including those who are transiently, episodically or chronically homeless or in danger of becoming so. It was established in 2011 by barristers Les Einstein and Geoff Pulsford and joined by Stephen Richards, solicitor and a stalwart supporter of TLK's work.

Very sadly since those early days both Geoff and Steve have passed away; Steve only in the last month, but his contribution to the work of TLK continues to have an enduring and intrinsic effect on its members.

TLK has an informal arrangement with Hope Street Urban Compassion, a charitable organisation operating in the Woolloomooloo area which manages a number of services, including the *BackshedCafe*. This arrangement which has gone on for some years now has enabled both TLK and *Hope Street* to provide a more holistic service to marginalised individuals and their families who are in need of legal assistance, social work, counselling, and more often than not, a coffee and someone to talk to.

## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME

Over the last year Steve Rickards played a very great part in assisting the Association's solicitor employee to continue to ensure that TLK provided legal advice sessions almost every week. This work has also been possible due to the number of barristers who have volunteered to assist TLK. The Association is extremely grateful to all of them.

Whilst we acknowledge that TLK is not part of the funding arrangement with the Public Purpose Fund, we include it because of its co-location and synchronicity with the work of the Legal Assistance Referral Scheme (LARS).

#### Interaction with other pro bono service providers

LARS works closely with the Law Society Pro Bono Scheme. There is also a close working relationship with RACS and Salvos Legal. Legal Aid consistently refers matters to the Scheme where it is unable to assist and Justice Connect contacts us when matters are outside its parameters for assistance.

The Bar Association is a member of the NSW Legal Assistance Forum (NLAF). The Deputy Executive Director attends Board meetings with the Manager of the Scheme as his proxy.

The Executive Director of the Bar Association is a Board Member of Law Access. The Association's Deputy Executive Director, who oversees the operation of LARS, deputises for the Executive Director at Law Access board meetings and at meetings of the Trustees of the Pro Bono Disbursement Fund when he is not available.

Some of the activities of the Manager of the Scheme during the year were as follows:

1. Was a member of the steering committee of the Justice for Refugees ('JFR') project initiated by the RACS. This led to a proposal being put to Bar Council to be a RACS fundraising partner to support the furtherance of its work.
2. Attended the National Pro Bono Conference in Adelaide.
3. Attended functions hosted by Salvos Legal, the Law Society of NSW and the Law and Justice Foundation.
4. Attended meetings with the Deputy Executive Director, and the Deputy President of NCAT, Ms Nancy Hennessey, to assess the efficacy of the referral arrangement with NCAT in its Administrative and Equal Opportunity Division.
5. Attended meetings with the Deputy Executive Director with Senior Counsel to discuss the issue of costs vulnerability of barristers who accepted referrals from the Supreme Court where the matter settled.

#### Volunteers encouraged

In 2016–17, the Executive Director and the Manager of the Scheme made two presentations to new barristers at the Bar Practice Course with a pleasing response in the number of readers who volunteered to help the Scheme and go on the Duty Barrister Roster. The President and the Executive Director, by circular and personal representation, have also encouraged members to participate in all schemes administered by the Association and in the various court-appointed pro bono schemes.

#### Barristers' Referral Service

The Barristers' Referral Service is aimed at addressing the increasing number of requests to the Association for assistance in obtaining the services of a barrister. Enquiries are directed to the Association's website under 'Find a Barrister' website facility where there have been 154,119 unique sessions on the site over the past twelve months. This avenue of assistance is invaluable for many applicants who have not qualified for assistance through LARS on financial grounds. If the enquirer does not have access to the internet, Bar office staff fax or post them a list of barristers in the relevant areas of practice.

#### Duty Barrister Schemes

The Manager and staff of LARS manage the operation of the Duty Barrister Schemes which operates at the Downing Centre and John Maddison Tower to assist the Local and District Courts. 120 barristers from all levels of seniority have volunteered to assist. Barristers



## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME

are rostered to attend each day at the courts. The schemes were promoted to readers at each of the Bar Practice courses, which resulted in a healthy number of additional volunteers being added to the roster.

Four duty barristers see an average of four clients each per day, which equates to assisting approximately 4,000 members of the public each year.

### Court appointed pro bono schemes

The Manager and staff of LARS assist with the administration of the court-appointed legal assistance schemes concerning day-to-day enquiries which may arise, together with the provision and updating of the list of barristers who have volunteered their services. Barristers now support pro bono schemes operating in the Federal Court, the Full Bench of the Family Court of Australia, Federal Magistrates Court, NSW Land and Environment Court and District Court of New South Wales. The Executive Director has ongoing discussions with members of the judiciary and court staff in relation to these schemes.

The schemes impose a significant burden on members of the bar and in cases where there is insufficient time for a judge/magistrate or registrar to make a referral under their own schemes, to Bar Association and LARS staff.

There continue to be many difficult phone calls, which often involve multiple calls from the one person, or from different individuals, which are dealt with by the Scheme. Reception staff of the Association also have to deal with the applicants who arrive unannounced. Staff have received training in dealing with difficult clients and in how to identify, and deal with, those clients suspected of having a mental illness.

The Bar Association continues to bear a significant portion of the costs for the administrative infrastructure needed to support the operation of the Scheme. The staffing component of this support, in terms of time and salary, is significant.

### Conclusion

The pro bono landscape has changed significantly since the inception of the Scheme in 1994. There are now more organisations, including courts, offering assistance. The Association is committed to ensure the highest possible level of co-ordination between legal service providers, and will continue to work with these organisations in that regard. LARS is a scheme which operates at the coalface, of offering services to necessitous people requiring legal help. We feel that the Scheme embodies and reflects the strongly held view of the profession that a person's rights and access to justice should not be diminished because of impecuniosity.

The seemingly general increase in the numbers of unrepresented litigants, due in the main to the lack of Legal Aid funding, has contributed significantly to the workload (and stress) of LARS and other Bar Association staff who manage walk-in applicants.

An aged pensioner approached the Scheme for legal assistance in defending proceedings against him which were being heard before the Equity Division of the Supreme Court of New South Wales. The proceedings had been brought under Section 37A of the *Conveyancing Act* 1919 which empowers the Supreme Court to avoid any alienation of property made with intent to defraud creditors. The applicant in the proceedings was a close neighbor and creditor of the pensioner. The debt had arisen out of a costs order in a legal dispute regarding regeneration of native bushland in a reserve between the neighboring properties. The alienation of property which the neighbor sought to avoid was the pensioner's transfer to his partner of his one-quarter share as a tenant in common in their former matrimonial home in exchange for the right for him to reside in the property for the remainder of his life pursuant to a consent order made by the Family Court of Australia following the breakdown of their marriage and separation under the same roof.



## LEGAL ASSISTANCE REFERRAL SCHEME CASE STUDIES

Following a six day hearing, the court delivered a 65 page judgment in favour of the aged pensioner dismissing the proceedings and ordered the neighbor to pay both the costs of the aged pensioner and his partner (who was separately represented). The aged pensioner however will not be able to recover his costs because they are only a fraction of the debt owed to the neighbour.

At the conclusion of the proceedings the Association received a letter of appreciation from the aged pensioner remarking that counsel's 'forensic experience, ability and dedication is a credit to the Bar Association and its Legal Assistance Referral Scheme'.

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A duty barrister rostered on at John Maddison Tower assisted a single mother with four children, regarding a \$4000 debt owed to her by her acting agent. The barrister helped her draft an application for default judgment and garnishee order against the agent, which were subsequently granted. The barrister later settled correspondence to solicitors for the agent, who had attempted to reach a settlement with the mother for much less than she was owed. Arising from the judgment and the correspondence that the barrister drafted, the agent has now paid the money in full to the mother. The barrister commented:

The mother was living in a tiny apartment with four children and \$4000 was a significant amount of money. I did a relatively small amount of work for her, which work has had a disproportionately positive impact on her life. I was more than happy to do that work, but were it not for the Duty Barrister Scheme, I would not have met this person, and she would likely have not been paid the money she was rightfully owed. In my mind, if that is the only positive outcome I help to achieve all year, I will be quite content.

\*\*\*

A judge of the Supreme Court of New South Wales sitting in the Real Property List of the Equity Division referred a man to the Scheme for legal assistance.

The proceedings had arisen out of complex Family Law property settlement proceedings regarding the settlement of marital property where the parents of the man had been joined by the ex-wife of the man and ex daughter-in-law of the parents. The parents, who were aged pensioners, had spent over \$200,000 from their superannuation on legal fees. The man, in contrast, had represented himself through the long-running dispute in the Family Court of Australia and again in the proceedings when they were transferred to the Supreme Court of NSW.

Consent orders had been drafted and it was at this stage that a referral to the Scheme was made by the Court. His Honour wanted the man to receive advice in relation to those orders.

Senior Counsel practising in the Family Law jurisdiction agreed to assist. After the advice had been given, Senior Counsel received the following email from the client:

It is nice to finally have somebody who firstly understands, and gives advice that will truly make a difference to me. The last three years or so have been very difficult and at times it has felt that there was not much point continuing on, but during this time I have met some very rare and very genuine people. Mate, you are one of these and I thank you for helping me to restore my faith in the human race.

\*\*\*

A Supreme Court judge referred a children's advocate to the Scheme in relation to a matter which was to be the subject of an appeal by the Crown to the Court of Appeal.

The Judge had presided over the matter and felt satisfied in the interests of justice that the advocate should receive the benefit of legal advice and representation in the proposed appeal proceedings.

## Promoting access to justice

### LEGAL ASSISTANCE REFERRAL SCHEME CASE STUDIES

The matter related to a high profile case involving a care and protection aspect. The primary judge had dismissed an application by the Crown on behalf of Family and Community Services for an injunction preventing the child advocate from naming the child as a child in foster care. The injunction remained in place pending appeal. A barrister agreed to assist. The appeal was dismissed with costs.

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A member of the bar referred a man to the Scheme for assistance in a childrens' care and protection matter. The referring member of the bar was counsel for the mother of the child. The father had been previously charged with offences arising from allegations made by an elder child from a previous marriage. The charges were dismissed following a Prasad direction from the Judge after a criminal trial.

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The Department of Family and Community Services had initiated care proceedings prior to the criminal proceedings. This application was maintained after the dismissal of the charges on the grounds that the father represented an unacceptable risk to the younger child from his second marriage. The question to be answered by the Court was 'if the elder child not living with the father was at an unacceptable risk was it likely that the younger child would also be at an unacceptable risk? The younger child was found to be at risk and placed in the care of her maternal grandparents.

Senior and junior counsel agreed to assist and were briefed by the Pro Bono Solicitor of the Law Society of NSW. The appeal in the District Court proceedings was unsuccessful and a judicial review application was filed in the Court of Appeal on the grounds that the presiding judicial officer had erred at law. The Court of Appeal was asked to consider the principles of *Browne v Dunn*, *s142 of the Evidence Act 1995* (NSW), the *Briginshaw* standard and the application of those principles to care and protection proceedings.

The appeal was ultimately unsuccessful. However it is worth noting that senior and junior counsel respectively contributed 120 and 125 hours of their time to the appeal in the lower court and the judicial review proceedings.

## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME STATISTICS

	2013-14	2014-15	2015-16	2016-17
<b>High Court</b>				
Application for special leave	2	2	2	3
Original jurisdiction	-	-	-	-
<b>Total</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>3</b>
<b>Federal Court</b>				
Full bench appeals	-	2	-	2
Immigration	3	4	2	5
Administrative	2	2	-	-
Discrimination	3	1	-	-
Intellectual property	-	-	-	-
Trade practices	-	-	-	-
Native title	-	-	2	1
Bankruptcy	2	1	2	2
General	-	-	-	1
<b>Total</b>	<b>10</b>	<b>10</b>	<b>6</b>	<b>11</b>
<b>Family Court</b>				
Full bench appeals	1	-	-	-
Access	5	4	3	6
Residency	7	5	2	5
Child support	-	-	-	2
Spousal maintenance	-	-	-	-
Property settlement	7	-	1	5
<b>Total</b>	<b>20</b>	<b>9</b>	<b>6</b>	<b>18</b>
<b>Federal Circuit Court</b>				
Discrimination	1	1	1	-
Family law - access	10	10	4	2
Family law - child support	1	1	2	-
Family law - residency	5	2	1	1
Family law - property settlement	4	8	2	3
Family law - spousal maintenance	-	2	1	-
Intellectual property	-	-	-	1
Industrial relations	-	2	-	-
Immigration	13	19	11	9
Bankruptcy	2	4	2	3
General	-	-	1	1
<b>Total</b>	<b>36</b>	<b>49</b>	<b>25</b>	<b>20</b>

Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME STATISTICS

	2013-14	2014-15	2015-16	2016-17
<b>Supreme Court</b>				
Court of Appeal	11	6	13	12
Court of Criminal Appeal	9	7	9	5
Common Law	26	32	38	27
Administrative	1	3	7	7
Equity	23	25	28	28
Criminal	1	2	4	7
Corporations List	-	-	-	-
Commercial	1	3	1	2
Family Provisions	8	8	8	8
Defamation	2	5	4	7
Professional Negligence	1	1	4	1
Adoptions list	-	-	-	3
<b>Total</b>	<b>83</b>	<b>92</b>	<b>116</b>	<b>107</b>
<b>District Court</b>				
Criminal	9	10	12	28
Civil	11	12	10	18
Care proceedings	1	2	6	-
Defamation	-	3	2	1
Professional negligence	-	-	-	-
<b>Total</b>	<b>21</b>	<b>27</b>	<b>30</b>	<b>47</b>
<b>Local Court</b>				
Criminal	16	16	18	10
Civil	14	14	7	7
Coronial inquest	1	1	-	-
Family law - residency and access	-	-	1	-
<b>Total</b>	<b>31</b>	<b>31</b>	<b>26</b>	<b>17</b>
<b>Other courts</b>				
Land and Environment Court	3	5	4	5
Children's Court	2	1	1	1
Coroner's Court	2	3	3	1
<b>Total</b>	<b>7</b>	<b>9</b>	<b>8</b>	<b>7</b>
<b>Tribunals</b>				
Administrative Appeals Tribunal	2	2	1	2
NCAT	8	16	13	25
Workers' Compensation Commission			1	-
<b>Total</b>	<b>10</b>	<b>18</b>	<b>15</b>	<b>27</b>
<b>Commissions</b>				
Fair Work Commission / NSW IRC			9	4

## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME STATISTICS

	2013-14	2014-15	2015-16	2016-17
<b>Referral source</b>				
Community legal centre	34	45	20	25
Law Society / solicitor	64	75	35	51
Member of the public	49	32	66	47
Legal Aid	26	23	20	22
LawAccess	21	24	18	17
Judge / magistrate / registrar	19	32	62	61
Member of the bar	15	15	13	16
Member of parliament	1	1	2	-
Justice Connect (formerly PILCH)	1	1	3	2
Pro bono director of a large firm	3	2	3	2
Welfare / community group	1	1	-	6
Attorney General's Department / DPP	1	1	2	22
Website hits	10,580	3,977	4,418	3,351

\* unique hits to the pages of Legal Assistance, Duty Barrister / LARS guidelines on the updated website

**Client location**

<b>Sydney Metropolitan Area</b>				
West	70	70	63	89
North	51	49	30	22
South	39	41	40	40
East	19	8	21	12
Inner City	12	23	12	7
Central Coast	9	11	9	17
Country	15	12	32	31
Prison	12	16	14	28
Villawood Detention Centre	8	4	2	4
Interstate	4	5	15	10
Overseas	-	4	4	1
<b>Total</b>	<b>239</b>	<b>243</b>	<b>242</b>	<b>261</b>

**Types of work done**

Merit assessment - no fee	95	114	111	142
Advice (over and above initial merit assessment)	67	76	67	113
Conferences	31	40	31	74
Appearances	22	26	22	40
Appearances at hearing	5	12	2	24
Mediations	1	1	1	13
Other (inc. 2nd opinion and prep. submission)	26	17	26	37

## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME STATISTICS

	2013-14	2014-15	2015-16	2016-17
<b>Rejection / No action</b>				
Outside guidelines	70	69	70	54
No further information received / no further contact from applicant	38	38	36	36
No longer requires LARS assistance	16	17	4	6
Subject to Federal Court RRT LAS	5	-	-	-
Subject to Federal Court LAS	2	-	-	-
Subject to Supreme Court LAS	-	-	-	-
Referred to community legal centre	-	-	-	2
Briefed barrister privately	2	4	4	6
Briefed solicitor privately	2	4	4	6
Matter discontinued	1	-	1	-
Unable to refer - insufficient resources	1	1	1	-
Requires a migration agent	-	-	-	-
Too late notification	4	2	6	8
Matter dismissed	-	1	1	-
Matter settled	2	-	-	-
Conflict of interest	-	-	1	1
<b>Total</b>	<b>143</b>	<b>136</b>	<b>128</b>	<b>119</b>
<b>Turnaround</b>				
Same day	17	25	20	37
Less than a week	19	30	37	33
1-2 weeks	29	21	29	28
2 weeks plus	30	35	42	44
<b>Total</b>	<b>95</b>	<b>111</b>	<b>128</b>	<b>142</b>
<b>Basis brief accepted</b>				
No fee - merit assessment	95	111	114	142
No fee - continuing involvement	69	76	84	93
Reduced fee - continuing involvement	14	14	13	21
Speculative / costs recovery - continuing involvement	11	20	17	22
Market rates - continuing involvement	1	1	-	6
<b>Basis on which refused legal aid</b>				
Merit	27	35	23	21
Financial	28	20	35	46
Outside guidelines	184	188	184	194
<b>Matters considered by a barrister to have legal merit / prospects of success</b>				
Yes	61	67	67	88
No	50	47	47	54
Considered by a barrister to have legal merit / prospects of success	55%	59%	59%	61%



## Professional Conduct Department

## PROFESSIONAL CONDUCT

The Professional Conduct Department has a broad range of functions. Its principal regulatory function is to facilitate the investigation of complaints about barristers, show cause events, and other disclosures. The department also

- provides advice and policy support to the Bar Council in respect of the Council's functions under legal profession legislation, including functions related to practicing certificates and legal practice in general,
- facilitates the provision of ethical guidance to barristers,
- responds to queries from barristers, solicitors and members of the public regarding complaints and regulatory processes,
- assists the Bar Council in connection with enquiries from, and reports submitted to, the Legal Profession Admission Board,
- assists in the ongoing development and review of legal profession legislation, including rules relating to barristers,
- provides assistance to the Executive and other departments within the Bar Association in relation to the interpretation and application of legal profession and other legislation, and
- liaises with the Professional Development Department in relation to CPD and other training issues which come to notice in connection with regulatory matters.

Work related to the implementation of the Uniform Law, which came into effect in NSW and Victoria on 1 July 2015, is ongoing. This includes liaison with the Legal Services Council, Commissioner for Uniform Legal Services Regulation, the Office of the Legal Services Commissioner, the Law Society, Legal Profession Admission Board and Law Council of Australia.

### Complaints

Complaints about a barrister's conduct are made to the NSW Legal Services Commissioner. The Commissioner deals with consumer disputes involving legal practitioners and refers most disciplinary matters concerning barristers to the Bar Council for assessment, investigation and determination.

Complaints referred to the Bar Council are investigated by one of the four professional conduct committees established by the Council. The committees report to the Bar Council, which makes a determination in respect of each complaint.

In 2016-2017 the majority of complaints were dealt with under the *Legal Professional Uniform Law (NSW)*, although a small number of complaints (those made before 1 July 2015) were dealt with under the *Legal Profession Act 2004*.

In the course of 2016-2017 the Bar Council investigated 150 complaints – 95 complaints made during the year and 55 complaints made in previous years but ongoing as at 1 July 2016. Of those investigations, the Bar Council

made a determination in 54 matters during the year – 37 complaints were dismissed under the Legal Profession Act 2004 or closed under the Legal Profession Uniform Law (NSW), 11 resulted in the barrister being cautioned or reprimanded, and the Bar Council determined to initiate proceedings in the New South Wales Civil and Administrative Decisions Tribunal in 6 matters. In addition, 3 complaints were withdrawn and 4 complaints were referred to the Office of the Legal Services Commissioner (1 due to conflict of interest and 3 due to jurisdictional issues).

Under the Legal Profession Act 2004 a complainant was entitled to apply to the NSW Legal Services Commissioner for a review of decision by the Bar Council to dismiss a complaint or to caution or reprimand a barrister. In 2016-2017 the Commissioner completed reviews of 3 Bar Council decisions made under that Act. In all of the review matters the Commissioner confirmed the Bar Council's decision to dismiss the complaint. There have been no reviews of Bar Council decisions made under the Legal Profession Uniform Law (NSW). An analysis of the complaints received in 2016 – 2017 shows:

- 84 barristers were the subject of one or more complaints made in 2016-2017 (approximately 3.5% of the barristers in NSW);
- Source of complaints - 40% were made by the barrister's client or former client and 24% by the opposing party or opposing solicitor;

## PROFESSIONAL CONDUCT

- Jurisdiction type – 25% relate to criminal jurisdiction and 18 % to family law;
- Complaint issues – issues relating to costs (including failure to comply with disclosure obligations, overcharging and billing issues) occur, as at least one of the issues, in about 30% of complaints. Many complaints arise from poor communication. Other significant issues include conflict of interest and instructions relating to pleas or settlement;
- Direct access - 25% of complaints arise from matters in which the barrister was directly retained by the client.

The Professional Conduct Department is liaising with the Bar Association's Professional Development Department to develop training relevant to issues arising in complaint matters.

### Show cause events

Under the Legal Profession Uniform Law (NSW) barristers must notify the Bar Council of automatic show cause events, that is, certain bankruptcy matters or a conviction for a serious offence (as defined in the legislation) or a tax offence. The Bar Council is required to determine whether the barrister is a fit and proper person to hold a practising certificate.

The investigation of show cause events is carried out by the professional conduct committees.

In 2016-2017 5 show cause events were examined. One investigation was completed during the reporting year, with the Bar Council determining that the barrister was a fit and proper person to hold a practising certificate but that it was appropriate to impose conditions on that certificate. The other matters remain under investigation as at 30 June 2017. Two relate to bankruptcy matters and two to serious offences.

### Professional conduct committees

The Professional Conduct Committees comprise barrister members and community members. Each committee is chaired by a senior member of the Bar. The deputy directors of the Professional Conduct department serve as secretaries of the committees. The committees held 50 meetings in total during the reporting year.

The professional conduct committees play a major role in the preliminary assessment and investigation of complaints. Committee members devote many hours of their time, on a voluntary basis, and their input is highly valued by the Bar Council.

Community representation on the professional conduct committees is vital to the healthy functioning of the complaint handling process. The Bar Council would like to thank the community members who served on the committees for their significant contribution – Judy Bursle, Jenny-Lea Charlier, John Coleman, John Davison, Sandra Fleischmann OAM, Jane Fry, Robyn Godding, Catherine Hart, Jennifer Mason,

Wendy Phillips, Bronwyn Preston, Carolyn Stone, Ross Tarlinton, Jim Tsirimiagos and Rachel Williams.

The Bar Council wishes to express its sincere appreciation to the 78 barristers who served on the professional conduct committees this year. Their service demonstrates the ongoing commitment of the profession to ensuring complaints regarding the conduct of barristers are fully investigated and appropriate disciplinary action taken in the interests of professional standards and maintaining public confidence in the profession.

### Ethical Guidance and information

The Bar Association Ethical Guidance Scheme enables barrister members of the Association to seek ethical guidance from the senior counsel serving on the Association's professional conduct committees. Twenty two senior counsel were available to assist members in 2016-2017. Most calls are initially directed to the Association's Professional Conduct department. The department also receives calls from barristers, solicitors and members of the public enquiring about Barristers' Rules, conduct issues and the processes relating to complaints and show cause events. In 2016-2017 the officers of the professional conduct department received over 300 calls seeking either ethical guidance or information.

## PROFESSIONAL CONDUCT STATISTICS

## Number &amp; type of complaints referred to the Bar Council during the year

Complaint type	Number	Figures comprise complaints referred by the LSC to the Bar Council for assessment, investigation and determination (including complaints made by the Bar Council).
Communication	10	
Competence and diligence	13	
Compliance matters	9	
Costs	20	
Ethical matters	38	
Personal conduct	5	
<b>Total number of complaints</b>	<b>95</b>	

## Source of complaints referred to the Bar Council during the year

Source of complaints	Number
Bar Council	10
Barrister	2
Client / former client	37
Government department / statutory body	2
Instructing solicitor	1
Legal services commissioner	4
Opposing party	16
Opposing solicitor	8
Witness	1
Other	15
<b>Total number of complaints</b>	<b>96</b>

## Number of consumer disputes referred to mediation during the year

Nil

Professional Conduct Department

## PROFESSIONAL CONDUCT STATISTICS

Number & type of complaints dismissed under the Legal Profession Act 2004  
or closed under the Legal Profession Uniform Law (NSW) during the year by the Bar Council\*

Complaint type	Complaints made during the year	Complaints made in previous years	
Communication	1	1	
Competence and diligence	1	7	
Compliance matters	2	3	* In addition, four complaints were returned to the legal services commissioner due to jurisdictional issues or conflict of interest.
Costs	2	3	
Ethical matters	10	5	
Personal conduct	1	1	
<b>Sub-totals</b>	<b>17</b>	<b>20</b>	
<b>Total Number of complaints dismissed / closed</b>		<b>37</b>	

Number & type of complaints in respect of which an Australian lawyer was reprimanded or cautioned during the year by the Bar Council

Complaint Type	Complaints made during the year	Complaints made in previous years
Communication	2	0
Compliance and diligence	0	1
Costs	1	0
Ethical matters	0	6
Personal conduct	0	1
<b>Sub-totals</b>	<b>3</b>	<b>8</b>
<b>Total Number of reprimands or cautions</b>		<b>11</b>

## PROFESSIONAL CONDUCT STATISTICS

## Number &amp; type of complaints withdrawn during the year

Complaint Type	Complaints made during the year	Complaints made in previous years
Communications	1	0
Costs	1	0
Ethical matters	0	1
<b>Sub-totals</b>	<b>2</b>	<b>1</b>
<b>Total number of complaints withdrawn</b>		<b>3</b>

## Number &amp; type of complaints referred by the Bar Council to the NSW Civil and Administrative Tribunal during the year

Complaint Type	Complaints made during the year	Complaints made in previous years
Compliance matters	1	0
Ethical matters	3	2
<b>Sub-totals</b>	<b>4</b>	<b>2</b>
<b>Total number of complaints referred to tribunal</b>		<b>6</b>

Decisions made by NCAT during the reporting year are available on the Bar Association's website at: [nswbar.asn.au/coming-to-the-bar/professional-conduct](http://nswbar.asn.au/coming-to-the-bar/professional-conduct)

## Number &amp; type of complaints in respect of which proceedings were instituted in the NSW Civil and Administrative Tribunal during the year by the Bar Council

Number and type of complaint where proceedings were instituted	Number
Ethical matters	3
<b>Total number of complaints</b>	<b>3</b>

## Number of matters referred to mediation during the year

Nil

## Number of compensation orders made

Nil



## PROFESSIONAL CONDUCT STATISTICS

## Number of complaints not finally dealt with at the end of the year

## Age of complaints not finally dealt with at the end of the year

Age of complaints not finally dealt with at the end of the year	Number	Complaints made in the year ending 30 June	Note: These complaints remain under investigation
Less than six months	41	2017	
Between seven and twelve months	25	2016	
Between thirteen and eighteen months	11	2016	
Between nineteen and and twenty four months	7	2015	
Up to three years	4	2015	
Up to four years	1	2014	
<b>Total</b>	<b>89</b>		

## Time intervals involved in the complaint process, being the time between receipt of a complaint and finalisation of the complaint

Time intervals between receipt of complaint and completion	Number
Up to six months	24
Between seven & twelve months	23
Between thirteen and eighteen months	8
Between nineteen & twenty four months	3
Up to three years	2
Up to four years	1
<b>Total</b>	<b>61</b>

## COMMITTEES

For the year 2016-17

### Alternative Dispute Resolution (ADR) Committee

Ian Davidson SC (chair)  
Stephen Walsh QC  
Peter Callaghan SC  
Robert Angyal SC  
Anthony Lo Surdo SC  
Michael McGrowdie  
Ralph Warren  
Mary Walker  
Jeffery Sewell  
Philip Bambagiotti  
Julie Soars  
Julian O'Sullivan  
Philip Carr  
Deborah Robinson  
Elizabeth Picker  
Sean Bogan

### Bar News Committee

Jeremy Stoljar SC (chair)  
Greg Burton SC  
Kristina Stern SC  
Anthony Cheshire SC  
Dominic Villa  
Daniel Tynan  
Nicolas Kirby  
Daniel Klineberg  
Catherine Gleeson  
Victoria Brigden  
Caroline Dobraszczyk  
Talitha Fishburn  
Juliet Curtin  
Radhika Withana  
Kevin Tang  
Charles Gregory  
Uche Okereke-Fisher

### Common Law Committee

Andrew Morrison SC (chair)  
Simon Harben SC  
Robert Sheldon SC  
Eugene Romaniuk SC  
Andrew Stone SC  
Lorna McFee  
Richard Royle  
Greg Hickey  
William Fitzsimmons

David Stanton  
Elizabeth Welsh  
Andrew Combe  
Ross Stanton  
Andrew Oag  
Jnana Gumbert  
Sarah Warren

### Costs and Fees Committee

Mark Brabazon SC (chair)  
Mark Walsh SC  
John Sharpe  
Michael Eagle  
Mark Cleary  
Phillipe Doyle Gray  
Janet McDonald  
Michelle Castle  
David Stewart

### Criminal Law Committee

Stephen Odgers SC (chair)  
Tim Game SC (Co-chair)  
Nicholas Cowdery QC  
Ian Bourke SC  
Gabrielle Bashir SC  
Gina O'Rourke SC  
Alex Radojev  
Bernard Glennon  
David Jordan  
Anne Healey  
Scott Corish  
Richard Wilson  
Kieran Ginges  
Maria Gerace  
Kara Shead  
Michelle England  
Sophia Beckett  
Lester Fernandez  
Sharyn Hall  
Troy Anderson  
Belinda Baker

### Academics

Luke McNamara/Alex Steel (UNSW)  
David Hamer (USYD)

### Education Committee

Carol Webster SC (chair)  
Andrew Bell SC  
Graham Turnbull SC  
Richard Weinstein SC  
Robert Hollo SC  
Michael Fordham SC  
Michael Hall SC  
Patrick Griffin SC  
Edward Muston SC  
Ben Katekar  
Gillian Mahony  
Jane Paingakulam  
Matthew Lewis  
Greg Antipas

### Equal Opportunity Committee

Anthony McGrath SC (chair)  
Kate Eastman SC  
Ingmar Taylor SC  
Adam Casselden  
David Price  
Stephanie Fendekian  
Richard Scruby  
Penny Thew  
Theresa Baw  
Sophie Callan  
Lucinda Wilson  
Brenda Tronson  
Lee-May Saw  
Zoe Hillman  
Sonia Tame  
Alexandra Rose  
Andrew Laughlin

## COMMITTEES

For the year 2016-17

### Family Law Committee

Richard Schonell SC (chair)  
Michael Kearney SC  
Peter Cummings SC  
Jonathon Priestley SC  
Peter Campton SC  
Paul Sansom SC  
Lynette Judge  
Warwick Tregilgas  
Mark Anderson  
Angela Petrie  
Clyllyn Sperling  
John Longworth

### Health & Wellbeing Committee

Kylie Nomchong SC (chair)  
Anthony Lo Surdo SC  
Peter McGrath SC  
David Jordan  
Craig Everson  
Adam Casselden  
Scott Corish  
Simon Philips  
Daniel Tynan  
Michael Gleeson  
Elizabeth James  
Ben Mee

### Human Rights Committee

Sarah Pritchard SC (chair)  
Richard Lancaster SC  
Kate Eastman SC  
Angus Stewart SC  
David Mallon  
Simeon Beckett  
Shane Prince  
Michael Wright  
Trent Glover  
Alexandra Rose  
Emma Bathurst  
Linton Teoh

### Academic

Professor Andrew Byrnes (UNSW)

### Legal Aid Committee

Dean Jordan (chair)  
Tim Game SC  
Maria Cinque SC  
Alex Radojev  
Gregory Moore  
David Price  
Michael King  
Sharyn Hall  
Emmanuel Kerkyasharian  
Peggy Dwyer  
Paul Guterres  
Michelle Swift  
Clyllyn Sperling

### New Barristers' Committee

Greg Antipas (chair)  
Corrie Goodhand  
Callan O'Neill  
Ingrid King  
Kirralee Young  
Wai Kay Soon  
Glenn Fredericks  
Danielle Woods  
Uche Okereke-Fisher  
Linton Teoh  
James Pearson  
Paul Walker

### Practice

### Development Committee

Elizabeth Cheeseman SC (chair)  
Tom Thawley SC  
Michael McHugh SC  
Ian Hemmings SC  
Michelle Painter SC  
Peter Lowe  
David Thomas  
Patrick Knowles  
Philip Wallis  
Stephanie Patterson  
Caspar Conde  
James Mack  
Wai Kaey Soon  
Michelle Kearns  
Jeh Coutinho

### PCC#1

Timothy Game SC (chair)  
Anthony McInerney SC  
Matthew Darke SC  
Paul Sansom SC  
Edward Muston SC  
Peter Russell  
Chris Wood  
Kate Morgan  
Madeline Avenell  
Scott Maybury  
Kara Shead  
Michael Izzo  
Daniel Klineberg  
Catherine Gleeson  
Caroline Dobraszczyk  
**Community Members**  
Judy Bursle  
John Davison  
Carolyn Stone

### PCC #2

Richard Weinstein SC (chair)  
Wendy Abraham QC  
Stephen Rushton SC  
Ingmar Taylor SC  
David McLure SC  
Lynette Judge  
Justin Young  
Mark Seymour  
Simon Buchen  
Anna Mitchelmore  
Donna Ward  
Scott Aspinall  
Michelle England  
Stephanie Patterson  
Julia Roy  
**Community Members**  
Sandra Fleischmann OAM  
Jennifer Mason  
Bronwyn Preston

## COMMITTEES

For the year 2016-17

### PCC #3

Julia Loneragan SC (chair)  
Andrew Coleman SC  
Michael Kearney SC  
Peter McGrath SC  
James Duncan  
Elizabeth Welsh  
Jason Lazarus  
Nicholas Owens  
Bill Neild  
James Emmett  
Reg Graycar  
Sophia Beckett  
Yaseen Shariff  
Peter Maddigan  
Hilbert Chiu  
**Community Members**  
Jenny-Lea Charlier  
Jane Fry  
Catherine Hart

### PCC #4

Julia Baird SC (chair)  
Alan Sullivan QC  
Matthew White SC  
Tim Faulkner SC  
Angus Stewart SC  
Mark Anderson  
David Kell  
Kate Williams  
Stefan Balafoutis  
Adrian Williams  
Nicholas Eastman  
Fenja Berglund  
Sophie Callan  
Amy Douglas-Baker  
Adam McGrath  
**Community Members**  
Jim Tsirimiagos  
Rachel Williams

## WORKING PARTIES

For the year 2016-17

### Indigenous Barristers' Strategy

**Chair:** Chris Ronalds SC  
Her Honour Judge Dina Yehia SC  
His Honour Judge Andrew Haesler SC  
Daniel Howard SC  
Janet Manuell SC  
Tony McAvoy SC  
Mullenjaiwakka  
Professor David Barker  
Professor Larissa Behrendt  
Jeni Engel

### PII Working Group

**Chair:** Garry Rich SC

## SECTIONS

For the year 2016-17

### Women Barristers Forum

**Chair:** Michelle Painter SC  
**Vice-chairs:**  
Kate Morgan  
Michelle McMahon  
  
Treasurer  
Rosalind Winfield  
  
Co-secretaries  
Caroline Dobraszczyk  
Theresa Power  
  
WLANSW Liaison  
Lee-May Saw  
  
IT officer  
Kavita Balendra

### Industrial Law Section

**Convenor:** John West QC  
**Secretary:** Shane Prince

### Public Law Section

**Convenor:** Neil Williams SC  
**Secretaries:** Stephen Free &  
Katherine Richardson

## NATIONAL LEGAL PROFESSIONAL BODIES

For the year 2016-17

### Law Council of Australia

Selected Director

Chrissa Loukas SC

Elected Director

Arthur Moses SC

Access to Justice Committee

Christopher Whitelaw

Client Legal Privilege

Advisory Committee

Cameron Moore SC

Dr Ruth Higgins

Equal Opportunities Committee

Garry McGrath SC

Indigenous Legal Issues Committee

Chris Ronalds SC

Dr Sarah Pritchard SC

Tony McAvoy SC

National Criminal Law Committee

Tim Game SC

Bret Walker SC

Stephen Odgers SC

Phillip Boulten SC

Human Rights Bill Committee

Dr Sarah Pritchard SC

Kate Eastman SC

Nicholas Cowdery AM QC

Australian Bar Association

Director

Noel Hutley SC

## COURT COMMITTEES AND WORKING PARTIES

For the year 2016-17

### Supreme Court

Uniform Rules Committee

Carol Webster SC

Rule Committee

Carol Webster SC

Common Law Division

Civil Users Group

Eugene Romaniuk SC

Lorna McFee

Probate Users Group

Michael Willmott SC

Court of Criminal Appeal

Users Group

Stephen Odgers SC

### Land and Environment

#### Court User Group

Thomas Howard SC

### Industrial Relations Commission User Group

Max Kimber SC

Patricia McDonald SC

### District Court

Rule Committee

Paresh Khandhar

Civil Business Committee

Larry King SC

Eugene Romaniuk SC

Criminal Listings Review Committee

Anne Healey

### Local Court

Rule Committee

Lisa-Claire Hutchinson

### NSW Civil and Administrative Tribunal (NCAT)

Occupational Division

Consultative Forum

Carol Webster SC

Guardianship Division

Consultative Forum

Irving Wallach

Administrative, Equal Opportunity  
and Consultative Forum

Penny Thew

## STATUTORY APPOINTMENTS

For the year 2016-17

### Legal Aid Commission

Board member

Peggy Dwyer

Legal Aid review committees

#### Committee No.2

Winston Terracini SC

Anne Healey

Pauline David

#### Committee No.3

Ian Bourke

Paul Blacket SC

#### Family Law Committee No.1

John Berry OAM

#### Family Law Committee No.3

Clyllyn Sperling

### Law and Justice Foundation

John Sheahan SC

### Professional Standards Council

Brian Rayment QC

## REPRESENTATIVES ON EDUCATIONAL BODIES

For the year 2016-17

### Law Extension Committee (University of Sydney)

Tony O'Brien

Janet Oakley

### University of NSW

Faculty of Law

Anne Healey

### University of Western Sydney

External Law Advisory Committee

Robert O'Neill

### University of Wollongong

Faculty of Law, Visiting Committee

Bruce Collins QC



## CONTENTS

Directors' Report .....	51
Auditor's Independence Declaration .....	54
Statement of Surplus and Other Comprehensive Income .....	55
Statement of Financial Position .....	56
Statement of Changes in Accumulated Funds.....	57
Statement of Cash Flows .....	57
Notes to the Financial Statements .....	58
Directors' Declaration .....	67
Independent Auditor's Report .....	68

These financial statements cover The New South Wales Bar Association as an individual entity. The financial statements are presented in Australian currency. The financial statements were authorised for issue by the directors on 7 September 2017. The directors have the power to amend and reissue the financial statements.

## DIRECTORS' REPORT

The Directors present their report together with the financial statements of The New South Wales Bar Association ('the Association') for the year ended 30 June 2017 and the auditors' report thereon.

### Directors

The following persons were directors of the Association i.e. members of the Bar Council, during the whole of the financial year and up to the date of this report:

S Callan	C Loukas SC	A Moses SC	A Bell SC
T Game SC	P Khandhar	M Walker	G Antipas
R Higgins	C Gleeson	L Hutchinson	A Mitchelmore
M McHugh SC	J Roy	E Welsh	

The following persons were directors from the beginning of the financial year to 4 November 2016:

M Cunneen SC	K Shead SC	D Bennett QC
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The following persons were directors from 4 November 2016 up to the date of this report:

W Terracini SC	R Weinstein SC	B Katekar	M Izzo
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W. Hunt resigned on 28 July 2016. J Mack was appointed on the same day. He resigned on 4 November 2016.

J Lonergan SC resigned on 9 March 2017. K Nomchong SC was appointed on the same day.

N Hutley SC resigned on 11 May 17. K Shead SC was appointed on the same day.

All Directors are practising barristers.

## DIRECTORS' REPORT

### Principal Activities

The principal activities of the Association during the course of the financial year were to conduct the affairs of The New South Wales Bar Association including:

- ☐ operating the Bar Library;
- ☐ organising the Bar Exams and a program of Continuing Professional Development;
- ☐ running various programs for the benefit and wellbeing of its members such as: ABA Member Benefits, Fee Recovery Assistance, Ethical Guidance, BarCare, social events, and various publications;
- ☐ administering the Bar Association's Professional Standards Scheme;
- ☐ making submissions and providing advice to government and government agencies on specific legal policy and practice issues as they arise;
- ☐ working with media organisations and other bodies in order to disseminate to the public the Bar Association's position on key issues;
- ☐ co-ordinating the provision of pro bono or reduced cost legal services to underprivileged sections of the public through the Bar Association's Legal Assistance Referral Scheme and Duty Barristers' Schemes; and
- ☐ fulfilling the Bar Association's statutory duties in relation to the regulation of the legal profession through the work of its Professional Conduct Committees and the Bar Council.

There were no significant changes in the nature of these activities during the financial year.

### Short and long term objectives and strategies

The Association's aims are to:

- ☐ promote the public good in relation to legal matters viewed in the broadest context;
- ☐ promote collegiality and mutual assistance amongst its members;
- ☐ represent the interests of its members in dealing with Government, the broader legal profession, the media and the community;
- ☐ promote fair and honourable practice among barristers;
- ☐ promote the continuing education of barristers;
- ☐ promote, maintain and improve the interests and standards of local practising barristers;
- ☐ help members grow their practice either locally or internationally through education and the development of commercial opportunities; and
- ☐ (through the statutory role of its Council) assist in matters of professional discipline of members and the resolution of complaints against them.

The Association's strategies for achieving these aims are set out in its strategic plan and include:

- ☐ Promoting a national legal profession to enhance the independence of the legal profession by retaining control over the development of practice, conduct, and continuing professional development rules;
- ☐ Marketing and promoting the work of NSW barristers;
- ☐ Assisting barristers with the economic and personal challenges of a sole practitioner;
- ☐ Contributing to informed public debate and the provision of the Bar's legal expertise in relation to law reform proposals;
- ☐ Provision of services to its members, including welfare services through BarCare;
- ☐ Supporting and encouraging equity and diversity at the NSW Bar; and
- ☐ Promoting the administration of justice.

## DIRECTORS' REPORT

### Strategies and Performance

Each year the incoming Bar Council reviews progress made over the preceding 12 months in achieving the stated objectives. The Bar Council has developed a Strategic Plan which charts many of the Association's objectives over a three year period.

### Review and Results of Operations

The Association continued to engage in its principal activities during the financial year. The comprehensive surplus of the Association for the year ended 30 June 2017 was \$1,087,489 (2016: \$89,577 deficit).

### Association Particulars

The New South Wales Bar Association, incorporated and domiciled in Australia, is a public company limited by guarantee. The address of the registered office and principal place of business is:

174 Phillip Street  
Sydney NSW 2000

### Meetings of Directors

From 1 July 2016 to 30 June 2017 there were 21 meetings.

Name	Meetings attended	Meetings entitled to attend
Noel Hutley SC (President from 6 November 2016 until 11 May 2017)	15	17
Arthur Moses SC (SV President from 6 November 2016, President from 11 May 2017)	21	21
Tim Game SC (JVP from 10 November 2016, SV President from 11 May 2017)	20	21
Chrissa Loukas SC (Treasurer from 10 November 2016, JV President from 11 May 2017)	19	21
Andrew Bell SC (Treasurer from 11 May 2017)	17	21
Sophie Callan (Hon Secretary from 10 November 2016)	14	21
David Bennett QC	5	8
Margaret Cunneen SC	5	8
Mary Walker	17	21
Greg Antipas	21	21
Julia Lonergan SC	9	13
Michael McHugh SC	20	21
Elizabeth Welsh	19	21
Paresh Khandhar	14	21
Anna Mitchelmore	14	21
Kara Shead SC	10	12
Ruth Higgins	12	21
Warwick Hunt	1	2
Catherine Gleeson	17	21
Julia Roy	19	21
Lisa-Claire Hutchinson	15	21
James Mack	5	6
Winston Terracini SC	7	13

## DIRECTORS' REPORT

### Meetings of Directors (continued)

Name	Meetings attended	Meetings entitled to attend
Richard Weinstein SC	9	13
Kylie Nomchong SC	6	8
Ben Katekar	12	13
Michael Izzo	11	13

### Meetings of the Finance, Investment and Audit Committee

From 1 July 2016 to 30 June 2017 there were 4 meetings.

Name	Meetings Attended	Meetings Held
Gregory Antipas	4	4
Michael McHugh SC	4	4
Chrissa Loukas SC	2	4
Andrew Bell SC	4	4
Sophie Callan	2	4
Arthur Moses SC	4	4

### MEMBERS' GUARANTEE

If the Association is wound up, the Constitution states that each member is required to contribute an amount not exceeding \$4 per member to meet all outstanding obligations of the Association and any such amounts as may be required. The Association had 3,135 members at balance date, and the total that members are liable to contribute is \$12,540.

### Auditor's Independence Declaration

A copy of the Auditor's Independence Declaration as required under section 307C of the *Corporations Act 2001* given to the Directors by the lead auditor for the audit undertaken by HLB Mann Judd is included on page 54.

The report is made in accordance with resolution of directors made pursuant to section 298(2) of the *Corporations Act 2001*.



A Moses SC  
President  
Sydney, NSW  
7 September 2017



A Bell SC  
Treasurer

## AUDITOR'S INDEPENDENCE DECLARATION



Accountants | Business and Financial Advisers

### To the directors of The New South Wales Bar Association:

As lead auditor for the audit of The New South Wales Bar Association for the year ended 30 June 2017. I declare that, to the best of my knowledge and belief, there have been no contraventions of;

- (a) the auditor independence requirements of the *Corporations Act 2001* in relation to the audit; and
- (b) any applicable code of professional conduct in relation to the audit.

A handwritten signature in black ink, appearing to read 'D K Swindells'.

Sydney, NSW  
8 September 2017

**D K Swindells**  
**Partner**

**HLB Mann Judd (NSW Partnership) ABN 34 482 821 289**

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Email: [mailbox@hlbnsw.com.au](mailto:mailbox@hlbnsw.com.au) | Website: [www.hlb.com.au](http://www.hlb.com.au)

Liability limited by a scheme approved under Professional Standards Legislation

HLB Mann Judd (NSW Partnership) is a member of  HLB International. A world-wide network of independent accounting firms and business advisers.

## STATEMENT OF SURPLUS AND OTHER COMPREHENSIVE INCOME

For the year ended 30 June 2017

	Notes	2017 \$	2016 \$
Revenue from continuing operations	2	9,313,143	9,374,422
Employee benefits expense		(3,667,563)	(3,914,980)
Legal and professional fees		(1,266,930)	(1,967,170)
Subscriptions		(889,307)	(833,858)
Communications and information technology expense		(313,417)	(276,381)
Depreciation and amortisation expense		(335,923)	(335,305)
Occupancy expense		(721,680)	(737,386)
Advertising and marketing expense		(311,532)	(184,153)
Financial expense		(181,548)	(365,420)
Seminar and function expense		(257,036)	(285,888)
Other expenses from ordinary activities		<u>(437,318)</u>	<u>(358,530)</u>
Surplus before investment revaluation to market		930,889	115,351
Profit/(Loss) on financial assets at fair value through surplus or deficit		<u>146,809</u>	<u>(202,204)</u>
Surplus/(deficit) before income tax expense		1,077,698	(86,853)
Income tax benefit/(expense)	3(a)	<u>9,791</u>	<u>(2,724)</u>
<b>Net surplus/(deficit)</b>		<u><b>1,087,489</b></u>	<u><b>(89,577)</b></u>
<b>Other comprehensive income/(deficit) for the year, net of tax</b>		<u><b>-</b></u>	<u><b>-</b></u>
<b>Total comprehensive income/(deficit)</b>		<u><b>1,087,489</b></u>	<u><b>(89,577)</b></u>

The above statement of surplus and other comprehensive income should be read in conjunction with the accompanying notes



## STATEMENT OF FINANCIAL POSITION

As at 30 June 2017

	Notes	2017 \$	2016 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	12	10,850,130	7,496,050
Receivables		21,731	18,262
Other financial assets	4	1,519,572	2,700,000
Inventories		11,079	9,852
Other assets	5	<u>242,772</u>	<u>125,204</u>
<b>TOTAL CURRENT ASSETS</b>		<u>12,645,284</u>	<u>10,349,368</u>
<b>NON-CURRENT ASSETS</b>			
Other financial assets	4	2,637,513	3,836,340
Deferred tax assets	3(b)	7,106	-
Property, plant and equipment	7	<u>1,623,427</u>	<u>1,878,087</u>
<b>TOTAL NON-CURRENT ASSETS</b>		<u>4,268,046</u>	<u>5,714,427</u>
<b>TOTAL ASSETS</b>		<u>16,913,330</u>	<u>16,063,795</u>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Trade and other payables	8	791,126	991,671
Employee benefits		585,577	664,996
Fees received in advance	9	<u>6,428,384</u>	<u>6,322,507</u>
<b>TOTAL CURRENT LIABILITIES</b>		<u>7,805,087</u>	<u>7,979,174</u>
<b>NON-CURRENT LIABILITIES</b>			
Employee benefits		59,965	121,147
Deferred tax liabilities	3(b)	<u>-</u>	<u>2,685</u>
<b>TOTAL NON-CURRENT LIABILITIES</b>		<u>59,965</u>	<u>123,832</u>
<b>TOTAL LIABILITIES</b>		<u>7,865,052</u>	<u>8,103,006</u>
<b>NET ASSETS</b>		<u>9,048,278</u>	<u>7,960,789</u>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		<u>9,048,278</u>	<u>7,960,789</u>
<b>TOTAL ACCUMULATED FUNDS</b>		<u>9,048,278</u>	<u>7,960,789</u>

The above statement of financial position should be read in conjunction with the accompanying notes.

## STATEMENT OF CHANGES IN ACCUMULATED FUNDS

For the year ended 30 June 2017

	Accumulated Surpluses \$	Reserves \$	Total Accumulated Funds \$
<b>At 30 June 2015</b>	<b>7,839,190</b>	<b>147,040</b>	<b>7,986,230</b>
Transfer to Accumulated Surplus- reclassification of available for sale financial assets	211,176	(147,040)	64,136
Total comprehensive (deficit) for the year	(89,577)	-	(89,577)
<b>At 30 June 2016</b>	<b>7,960,789</b>	<b>-</b>	<b>7,960,789</b>
Total comprehensive income for the year	1,087,489	-	1,087,489
<b>At 30 June 2017</b>	<b>9,048,278</b>	<b>-</b>	<b>9,048,278</b>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## STATEMENT OF CASH FLOWS

For the year ended 30 June 2017

	Notes	2017 \$	2016 \$
<b>Cash flows from operating activities</b>			
Receipts from operating activities		9,205,791	9,329,366
Payments to suppliers and employees		(8,722,647)	(8,740,741)
Dividends received		77,660	83,507
Interest received		283,705	257,163
Income tax paid		-	10,124
Net cash inflow from operating activities		844,509	939,419
<b>Cash flows from investing activities</b>			
Proceeds from sale of plant and equipment		2,448	-
Payments for plant and equipment		(127,379)	(45,235)
Proceeds from sale of investments		2,650,166	23,027
Payment for purchase of investments		(15,664)	(2,739,800)
Net cash inflow/(outflow) from investing activities		2,509,571	(2,762,008)
Net increase/(decrease) in cash and cash equivalents		3,354,080	(1,822,589)
Cash and cash equivalents at the beginning of the financial year		7,496,050	9,318,639
<b>Cash and cash equivalents at the end of the financial year</b>	<b>12</b>	<b>10,850,130</b>	<b>7,496,050</b>

The above statement of cash flows should be read in conjunction with the accompanying notes.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

#### (a) Basis of Preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and interpretations as issued by the Australian Accounting Standards Board, and the Corporations Act 2001. The New South Wales Bar Association is a Not-for-profit entity for the purpose of preparing the financial statements.

##### *(i) Historical cost convention*

These financial statements have been prepared under the historical cost convention, as modified by the revaluation of available-for-sale financial assets.

##### *(ii) Critical accounting estimates and judgments*

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Association's accounting policies. There are no estimates and judgements that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

#### (b) Revenue Recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised for the major activities as follows:

##### *(i) Subscriptions and Practising Certificate Fees*

Subscriptions and Practising Certificate Fees comprise annual fees for membership and practising certificates. Subscriptions and Practising Certificate Fees are recognised on a pro rata basis through the course of the year to which the fees relate.

##### *(ii) Administration Charge*

Administration charges comprise revenue earned from the provision of administrative services. They are recognised when the fee in respect of services is receivable.

##### *(iii) Dividends Received*

Revenue from dividends is recognised when the right to receive the payment is established.

##### *(iv) Interest Income*

Interest income is recognised on a time proportion basis using the effective interest method.

##### *(v) Grants*

Grants comprise monies received during the year in respect of the professional conduct department and legal assistance department. Income is recognised when the grant is receivable.

##### *(vi) Other Income*

Income from other sources is recognised when the fee in respect of other products or services provided is receivable.

#### (c) Income Tax

The Association has adopted the balance sheet method of tax effect accounting.

In addition, under mutuality provisions of the Income Tax Assessment Act, income and expenses wholly applicable to members of the Association are not brought to account in calculating income for tax purposes.

Deferred income tax is provided in full, using the liability method, on temporary differences arising between the tax bases of assets and liabilities and their carrying amounts in the financial statements. Deferred income tax is determined using tax rates (and laws) that have been enacted or subsequently enacted by the end of the reporting period and are expected to apply when the related deferred tax assets is realised or the deferred tax liability is settled.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Deferred tax assets are recognised for deductible temporary difference and unused tax losses only if it is probable that future taxable amounts will be available to utilise those temporary differences and losses.

Deferred tax assets and liabilities are offset when there is a legally enforceable right to offset current tax assets and liabilities and when the deferred tax balances relate to the same taxation authority. Current tax assets and liabilities are offset where the entity has a legally enforceable right to offset and intends either to settle on a net basis, or to realise the asset and settle the liability simultaneously.

Current and deferred tax is recognised in surplus or deficit, except to the extent that it relates to items recognised in other comprehensive income or directly in equity. In this case, the tax is also recognised in other comprehensive income or directly in equity, respectively.

#### (d) Leases

Leases in which a significant portion of the risks and rewards of ownership are not transferred to the Association as lessee are classified as operating leases (Note 10). Payments made under operating leases (net of any incentives received from the lessor) are charged to surplus or deficit on a straight-line basis over the period of the lease.

#### (e) Impairment of Assets

Assets are tested for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash inflows which are largely independent of the cash inflows from other assets (cash generating units). Non-financial assets other than goodwill that suffered an impairment loss are reviewed for possible reversal of the impairment at the end of each reporting period.

#### (f) Cash and Cash Equivalents

For purposes of presentation in the statement of cash flows, cash and cash equivalents includes cash on hand, deposits held at call with financial institutions and other short-term, highly liquid investments with original maturities of six months or less that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

#### (g) Receivables

Receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less allowance for impairment. Receivables are due for settlement no more than 60 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (provision for impairment of receivables) is used when there is objective evidence that the Association will not be able to collect all amounts due according to the original terms of the receivables.

The amount of the impairment loss is recognised in surplus or deficit with other expenses. When a trade and other receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of amount previously written off are credited against other expenses in surplus or deficit.

#### (h) Inventories

Inventories are stated at the lower of cost and net realisable value. Costs are assigned to individual items of inventory on the basis of weighted average costs. Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs necessary to make the sale.

#### (i) Investments and other financial assets

##### Classification

The Association classifies its financial assets in the following categories: receivables, available-for-sale financial assets and held-to-maturity investments. The classification depends on the purpose for which the financial assets were acquired. Management determines the classification of each investment at initial recognition.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### *(i) Receivables*

Receivables and other financial assets are non-derivative financial assets with fixed or determinable payment amounts that are not quoted in an active market. They are included in current assets, except for those with maturities greater than 12 months after the end of the reporting period which are classified as non-current assets.

#### *(ii) Held-to-maturity investments*

The Association classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Association's management has the positive intention and ability to hold to maturity. Held-to-maturity investments are included in current assets except for those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

#### *(iii) Designated at fair value through surplus or deficit*

The Association classifies financial assets 'at fair value through surplus or deficit', unless they are otherwise classified. Changes in fair value of these financial assets are recognised in surplus or deficit.

#### *(iv) Recognition and Derecognition*

Receivables and held-to-maturity investments are initially recognised at cost.

Financial assets at fair value through surplus or deficit are initially recognised at fair value plus transactions costs, with fair values based on current bid prices for listed securities, and on published market prices for fixed interest securities.

#### *(v) Subsequent Measurement*

Receivables and held-to-maturity investments are carried at amortised cost using the effective interest method.

Financial assets at fair value through surplus or deficit are subsequently carried at fair value. Gains and losses are recognised within other income or other expense.

#### **(j) Property, plant and Equipment**

All property, plant and equipment are recognised at historical cost less depreciation. Historical cost includes expenditure that is directly attributable to the acquisition of the items.

Depreciation is calculated using the straight line method to allocate the cost, net of their residual values, over the estimated useful lives, as follows:

- Library	20 years
- Refurbishments	4 to 15 years
- Furniture, Computers, Computer Software, Office Machines and Equipment	3 to 5 years
- Kitchen Equipment	5 years

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

#### **(k) Intangibles**

Intangibles consist of expenditure paid to external consultants on software used to record the Association's database. The database has been amortised over its estimated useful life of 3 years.

#### **(l) Trade and Other Payables**

These amounts represent liabilities for goods and services provided to the Association prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### (i) Investments and other financial assets (continued)

#### (m) Employee Benefits

##### *(i) Wages and salaries and annual leave*

Liabilities for wages and salaries, including non-monetary benefits and annual leave expected to be settled within 12 months of the end of the reporting period, are recognised as payables in respect of employees' services up to the end of the reporting period and are measured at the amounts expected to be paid when the liabilities are settled.

##### *(ii) Long service leave*

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the end of the reporting period. Consideration is given to the expected future wage and salary levels, experience of employee departures and periods of service.

##### *(iii) Retirement benefit obligations*

The Association contributes to accumulation superannuation plans. Contributions are charged against surplus or deficit as they are made.

#### (n) Goods and Services Tax ('GST')

Revenues, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office ('ATO'). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of the expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included in receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

#### (o) Comparative Figures

Where required by Accounting Standards, comparative figures have been adjusted to conform with changes in presentation for the current financial year.

#### (p) New accounting standards

Certain new accounting standards of the Australian Accounting Standards Board have been published that are not mandatory for 30 June 2017 reporting periods. The directors' assessment of the impact of these new standards is that they will have no material impact on the future financial reports of the Association, other than as follows:

##### **AASB 15: Revenue from Contracts with Customers and AASB 1058: Income of Not-for-Profits**

AASB 15 and AASB 1058 will apply to the Association for the first time for the year ending 30 June 2020, unless the Association decides to adopt the Standards earlier. As AASB 1058 was published in December 2016, the Association has not yet considered the likely impact of these two Standards on future financial reports.

##### **AASB 16: Leases**

This Standard will apply to the Association for the first time for the year ending 30 June 2020. This Standard will change how the Association accounts for its current operating leases, which relate currently to its premises. All such leases (other than leases with lease terms for 1 year or less and leases of low value items, i.e. for around \$10,000 or less) will be brought onto the Statement of Financial Position by the recognition of a 'Right-of-Use' asset, together with a liability for the present value of the lease payments for the life of the lease.

The future recognition of lease expenses will change, with more expenses recognised in the early periods of a lease, and less in later periods, as there will be a change from the straight-line expense currently recognised to front-ended finance charges. There will also be a change in lease expense classification from recognising operating expenses to recognising financing costs and amortisation.

The Association has not yet calculated the financial impact of these changes.



## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

	2017 \$	2016 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Operating revenue		
Subscriptions and practicing certificate fees	6,391,414	6,222,664
Bar Practice Course and bar examinations	<u>485,350</u>	<u>546,750</u>
	6,876,764	6,769,414
<b>Other revenue</b>		
Interest and dividends	356,955	357,892
Seminars	136,069	116,831
Administration charge	464	93,866
External funding	1,507,556	1,841,208
Other	<u>435,335</u>	<u>195,211</u>
<b>Revenue from continuing operations</b>	<u><b>9,313,143</b></u>	<u><b>9,374,422</b></u>
<b>3. INCOME TAX EXPENSE</b>		
<b>(a) Reconciliation of income tax expense to prima facie tax payable</b>		
Net surplus/(deficit) from continuing operations	<u>1,077,698</u>	<u>(86,853)</u>
Tax at the Australian tax rate of 30% (2016: 30%)	323,309	(26,056)
Increase/(decrease) in income tax expense due to:		
- Net mutual expense/(income)	(333,634)	28,013
Tax effect of amounts which are not deductible	<u>534</u>	<u>767</u>
Income tax (benefit)/expense	<u><b>(9,791)</b></u>	<u><b>2,724</b></u>
<b>(b) Deferred taxes</b>		
Recognised in surplus or deficit		
Deferred tax asset	7,106	-
Deferred tax liability	<u>-</u>	<u>(2,685)</u>
	<u><b>7,106</b></u>	<u><b>(2,685)</b></u>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

	2017 \$	2016 \$
<b>4. OTHER FINANCIAL ASSETS</b>		
<b>Current</b>		
<b>Held to maturity investments:</b>		
Term deposit	<u>1,519,572</u>	<u>2,700,000</u>
<b>Non-current</b>		
At cost		
Investments in associates	<u>14</u>	<u>14</u>
<b>Designated at fair value through surplus or deficit</b>		
Shares in Australian listed companies	1,710,434	1,762,220
Fixed interest securities - listed	<u>927,065</u>	<u>2,074,106</u>
	<u>2,637,499</u>	<u>3,836,326</u>
<b>Total other financial assets – non current</b>	<u><b>2,637,513</b></u>	<u><b>3,836,340</b></u>

### (a) Investments in associates

The Association holds two \$2 shares in The Barrister's Sickness and Accident Fund Pty Ltd. The sole purpose of this company is to act as trustee for the Barrister's Sickness and Accident Fund.

The Association holds one \$10 share in the Pro Bono Disbursement Fund Pty Ltd. The Executive Director of the Association is a director of that company. The purpose of that company is to hold and pay funds to reimburse legal practitioners for their disbursements incurred in the conduct of pro bono matters.

### (b) Investment in Counsel's Chambers Limited

The Association also holds 7 deferred ordinary shares ('the shares') in Counsel's Chambers Limited ('CCL'). The shares were acquired circa 1962 and have a cost of \$14, which has not been recorded in the Association's records for many years. The shares entitle the Association to: one vote per share at general meetings of CCL; the receipt of dividends as declared; and any surplus assets in the event of a winding up of CCL. The Association does not have any record of dividends having been paid by CCL. In addition, it does not have the ability to significantly influence the voting at general meetings of CCL. As there is no active market in the shares and other valuation techniques do not permit the calculation of a reasonable fair value estimate, the Association is precluded from measuring or recognising such values in its financial statements.

	2017 \$	2016 \$
<b>5. OTHER ASSETS</b>		
Prepayments	203,607	81,629
Accrued interest	<u>39,165</u>	<u>43,575</u>
	<u><b>242,772</b></u>	<u><b>125,204</b></u>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

	2017 \$	2016 \$
<b>6. INTANGIBLES</b>		
<b>Database &amp; website</b>		
At cost	304,665	304,665
Accumulated amortisation	<u>(304,665)</u>	<u>(304,665)</u>
<b>Net carrying amount</b>	<u>-</u>	<u>-</u>

## 7. PROPERTY, PLANT AND EQUIPMENT

	Library \$	Refurbishments \$	Furniture, computers, computer software, office machines and equipment \$	Kitchen equipment \$	Total \$
<b>At 30 June 2016</b>					
Cost	469,043	3,232,660	1,323,214	3,511	5,028,428
Accumulated depreciation and impairment	<u>(351,786)</u>	<u>(1,804,623)</u>	<u>(992,039)</u>	<u>(1,893)</u>	<u>(3,150,341)</u>
<b>Net carrying amount</b>	<u>117,257</u>	<u>1,428,037</u>	<u>331,175</u>	<u>1,618</u>	<u>1,878,087</u>
<b>At 30 June 2017</b>					
Cost	469,043	3,154,110	1,306,377	3,511	4,933,041
Accumulated depreciation and impairment	<u>(375,238)</u>	<u>(1,981,771)</u>	<u>(950,347)</u>	<u>(2,258)</u>	<u>(3,309,614)</u>
<b>Net carrying amount</b>	<u>93,805</u>	<u>1,172,339</u>	<u>356,030</u>	<u>1,253</u>	<u>1,623,427</u>
Movements:					
<b>Year ended 30 June 2016</b>					
At 1 July 2016, net carrying amount	117,257	1,428,037	331,175	1,618	1,878,087
Additions	-	-	127,379	-	127,379
Disposals	-	(44,398)	(1,718)	-	(46,116)
Depreciation/ amortisation charge for the year	<u>(23,452)</u>	<u>(211,300)</u>	<u>(100,806)</u>	<u>(365)</u>	<u>(335,923)</u>
<b>At 30 June 2017, net carrying amount</b>	<u>93,805</u>	<u>1,172,339</u>	<u>356,030</u>	<u>1,253</u>	<u>1,623,427</u>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

	2017	2016
	\$	\$

### 8. TRADE AND OTHER PAYABLES

Trade and other payables	<u>791,126</u>	<u>991,671</u>
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### 9. FEES RECEIVED IN ADVANCE

#### Current

Subscriptions, practicing certificate fees & other revenue received in advance	<u>6,428,384</u>	<u>6,322,507</u>
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### 10. COMMITMENTS

#### Lease Commitments

##### Operating Lease Commitments Payable

Within one year	623,749	594,564
Later than one year but not later than 5 years	2,590,010	2,537,271
Later than 5 years	<u>3,432,726</u>	<u>4,109,214</u>
	<u>6,646,485</u>	<u>7,241,049</u>

The Association leases from Counsels' Chambers the two premises from which it operates. The main premises are on a fifteen year lease, with an option to renew for a further five years. This lease expires in March 2027. Additional office space is occupied under a three year lease with rent increases of 3% in the 2<sup>nd</sup> and 3<sup>rd</sup> year. This lease expires in December 2017 and allows for one further option of three years. Balances disclosed are GST- exclusive.

### 11. RELATED PARTY DISCLOSURES

#### (a) Directors

The names of persons who were directors of the Association at any time during the financial year are as follows:

M Cunneen SC	R Weinstein SC	A Moses SC	M McHugh SC	R Higgins
S Callan	J Lonergan SC	K Nomchong SC	B Katekar	A Mitchelmore
W Terracini SC	C Loukas SC	M Walker	M Izzo	E Welsh
T Game SC	L Hutchinson	D Bennett QC	J Mack	
C Gleeson	J Roy	G Antipas	K Shead SC	
P Khandhar	W Hunt			
A Bell SC	N Hutley SC			

#### (b) Key management personnel

Key management personnel compensation for the years ended 30 June 2017 and 30 June 2016 is set out below. The key management personnel are the directors of the Association, and those executives with authority and responsibility for planning, directing and controlling the activities of the Association.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

Other than the directors, the key management personnel identified for the years ended 30 June 2017 and 30 June 2016 are as follows:

<b>Greg Tolhurst</b>	<b>Bali Kaur</b>	<b>Chris D'Aeth</b>
<b>Lisa Allen</b>	<b>Basil Catsaros</b>	<b>June Anderson</b>
<b>Alastair McConnachie</b>	<b>Jennifer Pearce</b>	<b>Philip Selth</b>

No compensation was paid or payable to directors of the Association during the financial year.

The compensation paid or payable to key management personnel during the financial year comprised.

	<b>2017</b>	<b>2016</b>
	<b>\$</b>	<b>\$</b>
<b>Employee benefits</b>	<b>1,245,606</b>	<b>1,404,164</b>

### (c) Other transactions

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

The Association paid rent (including associated air-conditioning, electricity and cleaning charges) totalling \$709,549 (2016: \$695,712) for office space to Counsel's Chambers Limited, a company of which some directors of the Association are also members. The bulk of this payment was at two-thirds of the normal market rate.

## 12. CASH AND CASH EQUIVALENTS

	<b>2017</b>	<b>2016</b>
	<b>\$</b>	<b>\$</b>
<b>Cash at bank</b>	<b>921,064</b>	<b>1,082,474</b>
<b>Term deposits</b>	<b>9,928,166</b>	<b>6,412,676</b>
<b>Petty Cash</b>	<b>900</b>	<b>900</b>
	<b>10,850,130</b>	<b>7,496,050</b>

## 13. REIMBURSEMENT BY THE PUBLIC PURPOSE FUND

Section 34(3)a of the *Legal Profession Uniform Law Application Act 2014* requires certification by the auditor of the costs incurred by the Bar Council in relation to its regulatory function. Expenditure on regulatory activities in 2016 -2017 amounted to \$1,313,711 (2016: \$1,661,208).

## 14. EVENTS OCCURRING AFTER THE REPORTING DATE

Changes since reporting date in the market values of financial assets at fair value through profit or loss held by the Association has impacted the total value of the financial assets. As at 1 September 2017, the total market value of financial assets at fair value through profit or loss held by the Association was \$2,651,608 compared with \$2,637,513 as at 30 June 2017, an increase of .53%.

## DIRECTORS' DECLARATIONS

In the directors' opinion:

- (a) the financial statements and notes set out on pages 50 to 66 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 2017 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.

This declaration is made in accordance with a resolution of the directors.



A Moses SC  
President



A Bell SC  
Treasurer

Sydney, NSW  
7 September 2017





Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

### To the Members of The New South Wales Bar Association

#### Opinion

We have audited the financial report of The New South Wales Bar Association ("the Company") which comprises the statement of financial position as at 30 June 2017, the statement of surplus and other comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the directors' declaration.

In our opinion, the accompanying financial report of the Company is in accordance with the Corporations Act 2001, including:

- giving a true and fair view of the Company's financial position as at 30 June 2017 and of its financial performance for the year then ended; and
- complying with Australian Accounting Standards – Reduced Disclosure Requirements and the Corporations Regulations 2001.

#### Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Report section of our report. We are independent of the Company in accordance with the auditor independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 Code of Ethics for Professional Accountants ("the Code") that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We confirm that the independence declaration required by the Corporations Act 2001, which has been given to the directors of the Company on 7 September 2017, would be in the same terms if given to the directors as at the time of this auditor's report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

#### Responsibilities of the Directors for the Financial Report

The directors of the Company are responsible for the preparation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and the Corporations Act 2001 and for such internal control as the directors determine is necessary to enable the preparation of the financial report that gives a true and fair view and is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the Directors are responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Directors either intend to liquidate the Company or to cease operations, or have no realistic alternative but to do so.

#### Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of

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## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the directors.
- Conclude on the appropriateness of the directors' use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the directors regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide the directors with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

A handwritten signature in black ink, appearing to read 'HLB Mann Judd'.

**HLB Mann Judd**  
Chartered Accountants  
Sydney, NSW  
27 September 2017

A handwritten signature in black ink, appearing to read 'D K Swindells'.

**D K Swindells**  
Partner

## BARRISTERS' BENEVOLENT ASSOCIATION

Financial report for the year ended 30 June 2017

Statement of Surplus and Other Comprehensive Income .....	70
Statement of Financial Position .....	71
Statement of Changes in Accumulated Funds.....	72
Statement of Cash Flows .....	72
Notes to the Financial Statements .....	73
Committee of Management Declaration .....	77
Independent Auditor's Report .....	78
Independent Auditor's Declaration.....	80

The financial statements cover Barristers' Benevolent Association of NSW as an individual entity. Its registered office and principal place of business is 174 Philip St, Sydney NSW 2000. The financial statements were authorised for issue by the Committee of Management on 7 September 2017. The Committee of Management has the power to amend and re-issue the financial statements.

## STATEMENT OF SURPLUS AND OTHER COMPREHENSIVE INCOME

For the year ended 30 June 2017

	Note	2017 \$	2016 \$
Revenue from continuing operations	2	359,640	392,443
Profit/(loss) on sale of investments		70,495	(2,069)
Auditor's remuneration		(10,400)	(10,100)
Bar care costs		(24,867)	(33,060)
Employee benefits expense		(60,718)	(39,321)
Gifts		(125,000)	(110,155)
Investment fees		-	(2,000)
Impairment of loans- (allowance)/write back		200	(7,100)
Other operating expenses		<u>(5,146)</u>	<u>(277)</u>
Surplus before fair value gains/(losses)		204,204	188,361
Net gains/(losses) on non-current assets held at fair value through surplus or deficit		<u>169,052</u>	<u>(177,274)</u>
Surplus before income tax		373,256	11,087
Income tax expense	1 (c)	<u>-</u>	<u>-</u>
<b>Net Surplus</b>		373,256	11,087
<b>Other comprehensive income</b>		<u>-</u>	<u>-</u>
<b>Total comprehensive income</b>		<u><b>373,256</b></u>	<u><b>11,087</b></u>

The above statement of surplus and other comprehensive income should be read in conjunction with the accompanying notes.

## STATEMENT OF FINANCIAL POSITION

As at 30 June 2017

	Notes	2017 \$	2016 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		464,453	500,365
Held-to-maturity investments	4	1,875,548	886,371
Loans and receivables	3	<u>58,185</u>	<u>51,084</u>
<b>TOTAL CURRENT ASSETS</b>		<u>2,398,186</u>	<u>1,437,820</u>
<b>NON-CURRENT ASSETS</b>			
Other financial assets	5	<u>2,880,822</u>	<u>3,461,799</u>
<b>TOTAL NON-CURRENT ASSETS</b>		<u>2,880,822</u>	<u>3,461,799</u>
<b>TOTAL ASSETS</b>		<u>5,279,008</u>	<u>4,899,619</u>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		<u>18,233</u>	<u>12,100</u>
<b>TOTAL CURRENT LIABILITIES</b>		<u>18,233</u>	<u>12,100</u>
<b>TOTAL LIABILITIES</b>		<u>18,233</u>	<u>12,100</u>
<b>NET ASSETS</b>		<u>5,260,775</u>	<u>4,887,519</u>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		<u>5,260,775</u>	<u>4,887,519</u>
<b>TOTAL ACCUMULATED FUNDS</b>		<u>5,260,775</u>	<u>4,887,519</u>

The above statement of financial position should be read in conjunction with the accompanying notes.

## STATEMENT OF CHANGES IN ACCUMULATED FUNDS

For the year ended 30 June 2017

	Accumulated Surpluses	Capital Reserves	Total Accumulated Funds
	\$	\$	\$
<b>At 30 June 2015</b>	<b>2,444,550</b>	<b>2,431,882</b>	<b>4,876,432</b>
Total comprehensive income	11,087	-	11,087
Transfer from Capital Reserves to Accumulated Surplus	2,431,882	(2,431,882)	-
<b>At 30 June 2016</b>	<b>4,887,519</b>	<b>-</b>	<b>4,887,519</b>
Total comprehensive income	373,256	-	373,256
<b>At 30 June 2017</b>	<b>5,260,775</b>	<b>-</b>	<b>5,260,775</b>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.

## STATEMENT OF CASH FLOWS

For the year ended 30 June 2017

	2017	2016
	\$	\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Receipts from members, sponsorship and general activities	145,477	193,336
Payments to suppliers	(227,791)	(208,920)
Interest and dividends received	215,095	137,285
<b>Net cash inflow from operating activities</b>	<b>132,781</b>	<b>121,701</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Proceeds from other financial assets	1,171,567	605,318
Proceeds from held to maturity investments	15,000	75,000
Payments for other financial assets	(351,083)	(376,185)
Payments for held to maturity investments	(1,004,177)	(220,000)
<b>Net cash (outflow)/inflow from investing activities</b>	<b>(168,693)</b>	<b>84,133</b>
Net (decrease)/increase in cash and cash equivalents	(35,912)	205,834
Cash and cash equivalents at the beginning of the year	500,365	294,531
<b>Cash and cash equivalents at the end of the year</b>	<b>464,453</b>	<b>500,365</b>

The above statement of cash flows should be read in conjunction with the accompanying notes.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial statements are set out below. These policies have been constantly applied to all the years presented, unless otherwise stated.

#### **(a) Basis of Preparation**

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards - Reduced Disclosure Requirements and interpretations as issued by the Australian Accounting Standards Board, and the Australian Charities and Not-for-profits Commission Act 2012. Barristers Benevolent Association of NSW is a not-for-profit entity for the purpose of preparing the financial statements.

##### *Historical cost convention*

These financial statements have been prepared under the historical cost convention.

##### *Critical accounting estimates and judgments*

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Association's accounting policies. There are no estimates and judgments that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

#### **(b) Revenue Recognition**

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised as follows:

##### **(i) Contributions**

Revenue from contributions is recognised when the contribution is received.

##### **(ii) Dividend and Distribution income**

Distributions and dividends are recognised as revenue when the right to receive payment is established.

##### **(iii) Interest income**

Interest income is recognised as it accrues.

##### **(iv) Other Income**

Income from other sources is recognised when the income is receivable.

##### **(v) Changes in fair value of investments**

Net gains or losses on investments designated at fair value through surplus or deficit are calculated as the difference between the fair value at year end and the fair value at the previous valuation point. This includes both realised and unrealised gains and losses, but does not include interest or dividends.

#### **(c) Income Tax**

The Association is exempt from income tax.

#### **(d) Cash and Cash Equivalents**

For purposes of presentation in the statement of cash flows, and in the statement of financial position, cash and cash equivalents includes cash at bank.

#### **(e) Loans and Receivables**

Loans and receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. These are repayable on demand.

Collectability of loans and receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off by reducing the carrying amount directly. An allowance account (allowance for impairment of loans and receivables) is used where there is objective evidence that the Association will not be able to collect all amounts due according to the original terms.

The amount of the impairment loss is recognised in profit or loss with other expenses. When a loan or receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. Subsequent recoveries of amounts previously written off are credited against other expenses in surplus or deficit.



## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### (f) Other Financial Assets

##### **Classification**

The Association classifies its financial assets in the following categories: financial assets designated at fair value through surplus or deficit and held-to-maturity investments.

##### **(i) Financial assets at fair value through surplus or deficit**

###### *Recognition and Derecognition*

Financial assets at fair value through surplus or deficit are initially recognised at fair value and transaction costs are expensed in surplus or deficit. Financial assets are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and the Association has transferred substantially all the risk and rewards of ownership.

###### *Subsequent Measurement*

Financial assets at fair value through surplus or deficit are subsequently carried at fair value. Gains or losses arising from changes in fair value are recognised in surplus or deficit in the period in which they arise. Dividend income is recognised in surplus or deficit as part of revenue from continuing operations when the Association's right to receive the payment is established.

###### *Fair Value*

The fair values of quoted investments are based on current bid prices. The fair value of fixed interest securities are based on published market prices. The fair values of investments in Australian managed funds are based on the redemption price advised by the relevant fund manager.

##### **(ii) Held-to-maturity investments**

The Association classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Association's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

Held-to-maturity investments are carried at amortised cost using the effective interest method.

#### (g) Trade and Other Payables

These amounts represent liabilities for goods and services provided to the Association prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

#### (h) Goods and Services Tax ('GST')

Revenue, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office ('ATO'). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included in receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

#### (i) New accounting standards

Certain new accounting standards of the Australian Accounting Standards Board have been published that are not mandatory for 30 June 2017 reporting periods. The directors' assessment of the impact of these new standards is that they will have no material impact on the future financial reports of the Association, other than as follows:

AASB 15: Revenue from Contracts with Customers and AASB 1058: Income of Not-for-Profits

AASB 15 and AASB 1058 will apply to the Association for the first time for the year ending 30 June 2020, unless the Association decides to adopt the Standards earlier. As AASB 1058 was published in December 2016, the Association has not yet considered the likely impact of these two Standards on future financial reports.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

	2017 \$	2016 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions	137,338	121,397
Distribution and dividend income	174,352	230,926
Interest income	47,950	39,420
Membership income	-	700
<b>Revenue from continuing operations</b>	<b><u>359,640</u></b>	<b><u>392,443</u></b>

### 3. LOANS AND RECEIVABLES

#### Current

NSW Bar Association	50,407	47,858
Accrued interest	7,662	3,123
Interest free loans	16,900	17,100
Allowance for impairment of interest free loans	(16,900)	(17,100)
GST receivable	<u>116</u>	<u>103</u>
	<u>58,185</u>	<u>51,084</u>

### 4. HELD-TO-MATURITY INVESTMENTS

#### Term Deposits

Current	<u>1,875,548</u>	<u>886,371</u>
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### 5. OTHER FINANCIAL ASSETS

#### Non-Current

Designated at fair value through surplus or deficit

- Fixed interest securities	325,345	1,279,919
- Shares in Australian listed companies	2,555,477	2,181,873
- Australian managed funds	<u>-</u>	<u>7</u>
	<b><u>2,880,822</u></b>	<b><u>3,461,799</u></b>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### 6. RELATED PARTY DISCLOSURES

##### (a) Committee of Management

The names of persons who were members of the Committee of Management of the Association at any time during the financial year are as follows:

M Cunneen SC	W Hunt	M McHugh SC	A Mitchelmore
S Callan	N Hutley SC	M Izzo	D Bennett QC
W Terracini SC	R Weinstein SC	A Moses SC	K Shead
T Game SC	J Lonerger SC	J Mack	R Higgins
C Gleeson	C Loukas SC	K Nomchong SC	M Walker
P Khandhar	B Katekar	L Hutchinson	E Welsh
A Bell SC	J Roy	G Antipas	

The members of the Committee of Management are also directors of the NSW Bar Association.

##### (b) Key Management

The key management personnel are the members of the Committee of Management of the Association

No compensation was paid, or is payable, to the members of the Committee of Management of the Association.

##### (c) Other transactions

The Association conducts its business from the premises of NSW Bar Association at no cost to the Association.

#### 7. EVENTS OCCURRING AFTER THE REPORTING DATE

Changes since reporting date in the market values of financial assets at fair value through surplus or deficit held by the Association have impacted the total value of the financial assets. As at 4 September 2017 the total market value of financial assets at fair value through surplus or deficit held by the Association was \$2,886,334 compared with \$2,880,822 as at 30 June 2017, an increase of .19%.

## COMMITTEE OF MANAGEMENT DECLARATION

In the opinion of the Committee of Management of Barristers' Benevolent Association of NSW;

- (a) the financial statements and notes as set out on pages 70 to 76 satisfy the requirements of the *Australian Charities and Not-for-profits Commission Act 2012*, including:
  - (i) complying with Accounting Standards – Reduced Disclosure Requirements and the *Australian Charities and Not-for-profits Commission Regulation 2013*, and
  - (ii) giving a true and fair view of the Association's financial position as at 30 June 2017 and its performance, as represented by the results of its operations, changes in accumulated funds and cash flows, for the year ended on that date; and
- (b) there are reasonable grounds to believe that the Association will be able to pay all of its debts as and when they become due and payable.

Signed in accordance with subsection 60.15(2) of the *Australian Charities and Not-for-profits Commission Regulation 2013*.



A Moses SC



A Bell SC

Sydney, NSW  
7 September 2017



Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

To the Members of Barristers' Benevolent Association of NSW

### Opinion

We have audited the financial report of Barristers Benevolent Association of NSW ("the Association") which comprises the statement of financial position as at 30 June 2017, the statement of surplus and other comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the Committee of Management declaration.

In our opinion, the accompanying financial report of the Association is in accordance with Division 60 of the *Australian Charities and Not-for-profits Commission Act 2012*, including:

- giving a true and fair view of the Association's financial position as at 30 June 2017 and of its financial performance and cash flows for the year then ended;
- complying with Australian Accounting Standards – Reduced Disclosure Requirements and Division 60 of the *Australian Charities and Not-for-profits Commission Regulation 2013*;

### Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Association in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* ("the Code") that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We confirm that the independence declaration required by the *Corporations Act 2001*, which has been given to the directors of the Company on 7 September 2017, would be in the same terms if given to the directors as at the time of this auditor's report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Responsibilities of the Committee of Management for the Financial Report

The Committee of Management is responsible for the preparation and fair presentation of the financial report that gives a true and fair view in accordance with the Australian Accounting Standards – Reduced Disclosure Requirements and the *Australian Charities and Not-for-profits Commission Act 2012* and for such internal control as the Committee of Management determines is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

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## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

In preparing the financial report, the Committee of Management is responsible for assessing the Association's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Committee of Management either intends to liquidate the Association or to cease operations, or has no realistic alternative but to do so.

The Committee of Management is responsible for overseeing the Association's financial reporting process.

### Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Association's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Association's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Association to cease to continue as a going concern.



## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Committee of Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

A handwritten signature in black ink, appearing to read 'HLB Mann Judd'.

A handwritten signature in black ink, appearing to read 'D K Swindells'.

**HLB Mann Judd**  
Chartered Accountants

**D K Swindells**  
Partner

Sydney, NSW  
27 September 2017



Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S DECLARATION

**To the committee of management of Barristers Benevolent Association of NSW:**

We declare that, to the best of our knowledge and belief, there have been no contraventions of any applicable code of professional conduct in relation to the audit of Barristers' Benevolent Association of NSW for the year ended 30 June 2017.

A handwritten signature in black ink, appearing to read 'HLB Mann Judd'.

Sydney, NSW  
8 September 2017

**HLB Mann Judd**  
Chartered Accountants

**HLB Mann Judd (NSW Partnership) ABN 34 482 821 289**

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## CONTRIBUTORS TO THE BARRISTERS' BENEVOLENT FUND

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The Hon MJ Lawrie  
Mr R Nettleton  
Mr David Say  
Arthur Bartlett  
Jean Lowe

## INDIGENOUS BARRISTERS' TRUST – THE MUM SHIRL FUND

Financial report for the year ended 30 June 2017

Statement of Surplus and Other Comprehensive Income .....	86
Statement of Financial Position .....	87
Statement of Changes in Accumulated Funds.....	87
Statement of Cash Flows .....	88
Notes to the Financial Statements .....	89
Trustees' Declaration .....	91
Independent Auditor's Report .....	92

The financial statements cover the Indigenous Barristers' Trust - The Mum Shirl Fund as an individual entity. Its registered office and principal place of business is at 174 Philip Street, Sydney NSW 2000.

The financial statements were authorised for issue by the Trustees on 5 September 2017. The Trustees have the power to amend and re-issue the financial statements.

	Note	2017 \$	2016 \$
Revenue from continuing operations	2	96,320	135,521
Audit and accounting		(5,150)	(5,000)
Bank charges		(75)	(91)
Conference expenses		(36,780)	(20,037)
Fundraising		(2,560)	(556)
Grants made		(125,803)	(90,117)
Other expenses		<u>(500)</u>	<u>-</u>
Surplus before income tax expense		(74,548)	19,720
Income tax expense	1(c)	<u>-</u>	<u>-</u>
<b>Net surplus</b>		(74,548)	19,720
<b>Other comprehensive income</b>		<u>-</u>	<u>-</u>
<b>Total comprehensive income</b>		<u>(74,548)</u>	<u>19,720</u>

The above statement of surplus and other comprehensive income should be read in conjunction with the accompanying notes.

## STATEMENT OF FINANCIAL POSITION

As at 30 June 2017

	Note	2017 \$	2016 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		65,258	45,392
Held-to-maturity investments	4	358,422	457,690
Other receivables	3	<u>43,392</u>	<u>38,388</u>
<b>TOTAL CURRENT ASSETS</b>		<u>467,072</u>	<u>541,470</u>
<b>TOTAL ASSETS</b>		<u>467,072</u>	<u>541,470</u>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		<u>5,150</u>	<u>5,000</u>
<b>TOTAL CURRENT LIABILITIES</b>		<u>5,150</u>	<u>5,000</u>
<b>TOTAL LIABILITIES</b>		<u>5,150</u>	<u>5,000</u>
<b>NET ASSETS</b>		<u>461,922</u>	<u>536,470</u>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		<u>461,922</u>	<u>536,470</u>

The above statement of financial position should be read in conjunction with the accompanying notes.

## STATEMENT OF CHANGES IN ACCUMULATED FUNDS

For the year ended 30 June 2017

	2017 \$	2016 \$
<b>As at 1 July - opening</b>	<b>536,470</b>	<b>516,750</b>
Total comprehensive income	<u>(74,548)</u>	<u>19,720</u>
<b>As at 30 June - closing</b>	<u><b>461,922</b></u>	<u><b>536,470</b></u>

The above statement of changes in accumulated funds should be read in conjunction with the accompanying notes.



## STATEMENT OF CASH FLOWS

For the year ended 30 June 2017

	2017	2016
	\$	\$
<b>Cash flows from operating activities</b>		
Receipts from sponsorship and general activities	80,568	121,432
Interest received	10,748	13,168
Payments to suppliers and grantees	<u>(170,718)</u>	<u>(115,651)</u>
Net cash (outflow)/inflow from operating activities	<u>(79,402)</u>	<u>18,949</u>
<b>Cash flows from investing activities</b>		
Proceeds /(Payments) from term deposits	<u>99,268</u>	<u>(18,139)</u>
<b>Net increase/(decrease) in cash and cash equivalents</b>	<b>19,866</b>	<b>810</b>
Cash and cash equivalents at the beginning of the year	<u>45,392</u>	<u>44,582</u>
<b>Cash and cash equivalents at the end of the year</b>	<b><u>65,258</u></b>	<b><u>45,392</u></b>

The above statement of cash flows should be read in conjunction with the accompanying notes

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies adopted in the preparation of the financial statements are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

#### (a) Basis of Preparation

These general purpose financial statements have been prepared in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and interpretations as issued by the Australian Accounting Standards Board. The Indigenous Barristers' Trust – The Mum Shirl Fund is a not-for-profit entity for the purpose of preparing the financial statements.

##### *Historical cost conversion*

These financial statements have been prepared under the historical cost convention.

##### *Critical accounting estimates and judgments*

The preparation of financial statements requires the use of certain critical accounting estimates. It also requires management to exercise its judgement in the process of applying the Trust's accounting policies. There are no estimates and judgements that have a significant risk of causing material adjustments to the carrying amounts of assets and liabilities within the next financial year.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

#### (b) Revenue Recognition

Revenue is measured at the fair value of the consideration received or receivable. Revenue is recognised as follows:

- (i) *Contributions*  
Revenue from contributions is recognised when the contribution is received.
- (ii) *Interest income*  
Interest income is recognised as it accrues.
- (iii) *Other Income*  
Income from other sources is recognised when the income is receivable.

#### (c) Income Tax

The Trust is exempt from income tax.

#### (d) Cash and Cash Equivalents

For purposes of presentation in the statement of cash flows, and in the statement of financial position, cash and cash equivalents includes cash at bank.

#### (e) Held-to-maturity investments

The Trust classifies its term deposits as held-to-maturity investments. Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Trust's management has the positive intention and ability to hold to maturity. Held-to-maturity financial assets are included in current assets except those with maturities greater than 12 months from the end of the reporting period, which are classified as non-current assets.

Term deposits are recognised at cost.

#### (f) Other Receivables

Other receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. Other receivables are usually settled within 30 days from the date of recognition.

#### (g) Trade and Other Payables

These amounts represent liabilities for goods and services provided to the Trust prior to the end of financial year which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

#### (h) Goods and Services Tax ('GST')

Revenue, expenses and assets are recognised net of the amount of associated GST, unless the GST incurred is not recoverable from the Australian Taxation Office ('ATO'). In this case it is recognised as part of the cost of acquisition of the asset or as part of an item of expense.

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from or payable to the ATO is included in receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from or payable to the taxation authority are presented as operating cash flows.

#### (i) New accounting standards

Certain new accounting standards of the Australian Accounting Standards Board have been published that are not mandatory for 30 June 2017 reporting periods. The directors' assessment of the impact of these new standards is that they will have no material impact on the future financial reports of the Trust, other than as follows:

AASB 15: Revenue from Contracts with Customers and AASB 1058: Income of Not-for-Profits

AASB 15 and AASB 1058 will apply to the Trust for the first time for the year ending 30 June 2020, unless the Trust decides to adopt the Standards earlier. The Trustees consider that these Standards will have no impact on Trust's revenue recognition.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2017

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

	2017	2016
	\$	\$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions received	85,059	122,799
Interest	11,261	12,722
<b>Revenue from continuing operations</b>	<b>96,320</b>	<b>135,521</b>

### 3. OTHER RECEIVABLES

#### Current

NSW Bar Association	35,109	34,173
GST receivable	6,294	2,738
Accrued interest	1,989	1,477
	<b>43,392</b>	<b>38,388</b>

### 4. HELD-TO-MATURITY INVESTMENTS

#### Current

Term deposits	<b>358,422</b>	<b>457,690</b>
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### 5. RELATED PARTY DISCLOSURES

#### (a) Trustees

The names of persons who were Trustees of the Trust at any time during the financial year are as follows:

Chris Ronalds SC	Arthur Moses SC
Justice Michael Slattery	Mullenjaiwakka
Noel Hutley SC	Tony McAvoy SC

#### (b) Key management

The key management personnel are the Trustees of the Trust.

No compensation was paid or payable to Trustees of the Trust during the financial year or the previous year.

In the opinion of the Trustees of Indigenous Barristers' Trust – The Mum Shirl Fund ('the Trust'),

## TRUSTEE'S DECLARATION

(a) the financial statements and notes as set out on pages 86 to 90:

- (i) have been drawn up in accordance with Accounting Standards - Reduced Disclosure Requirements and other mandatory professional reporting requirements in Australia; and
- (ii) present fairly the Trust's financial position as at 30 June 2017 and its performance, as represented by the results of its operations, changes in accumulated funds and cash flows, for the year ended on that date.

(b) there are reasonable grounds to believe that the Trust will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of the trustees:

A handwritten signature in black ink, reading "Chris Ronalds".

C Ronalds SC

Trustee

Sydney, NSW

5 September 2017



Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

To the members of The Indigenous Barristers' Trust – The Mum Shirl Fund

### Opinion

We have audited the financial report of The Indigenous Barristers' Trust – The Mum Shirl Fund ("the Trust") which comprises the statement of financial position as at 30 June 2017, the statement of surplus and other comprehensive income, the statement of changes in accumulated funds and the statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, and the trustees' declaration.

In our opinion, the accompanying financial report presents fairly, in all material aspects, the financial position of the Trust as at 30 June 2017, and its financial performance and its cash flow for the year then ended in accordance with Australian Accounting Standards – Reduced Disclosure Requirements.

### Basis for Opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Trust in accordance with the auditor independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* ("the Code") that are relevant to our audit of the financial report in Australia. We have also fulfilled our other ethical responsibilities in accordance with the Code.

We confirm that the independence declaration required by the *Corporations Act 2001*, which has been given to the directors of the Company on 5 September 2017, would be in the same terms if given to the directors as at the time of this auditor's report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Responsibilities of Trustees for the Financial Report

The Trustees are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and for such internal control as the Trustees determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

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## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

In preparing the financial report, the Trustees are responsible for assessing the Trust's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Trustees either intend to liquidate the Trust or to cease operations, or have no realistic alternative but to do so.

The Trustees are responsible for overseeing the Trust's financial reporting process.

### Auditor's Responsibilities for the Audit of the Financial Report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report.

As part of an audit in accordance with the Australian Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.



## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Trust's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Trust to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Trustees regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

A handwritten signature in black ink that reads 'HLB Mann Judd'.

**HLB Mann Judd**  
Chartered Accountants

A handwritten signature in black ink that reads 'D K Swindells'.

**D K Swindells**  
Partner

Sydney, NSW  
27 September 2017