



NEW SOUTH WALES  
BAR ASSOCIATION®

## DIRECTORY

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### 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

James Hoathly / Alamy Stock  
Photos

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## PRESIDENT'S REPORT



Noel Hutley SC  
President

*As part of this year's practising certificate renewal process, for the first time, members were given the option of paying for their practising certificate renewals online, and a large number took advantage of the new facility.*

I was elected president of the New South Wales Bar Association following the Bar Council elections in November 2015. I was honoured to assume the presidency at that time, as the successor to Jane Needham SC. Jane made a major contribution to the Bar Association and legal affairs more generally during her term, and many of her initiatives, including the association's Best Practice Guidelines, the remodelled National Equitable Briefing Guidelines and the child care scheme for the New South Wales Bar, will stand as a testament to her work for many years to come.

The reporting year coincided with the first year of operation of the national profession uniform laws, including the new Uniform Conduct Barristers Rules. As the executive director makes clear in his column in this annual report, the transition to the new regime has been largely seamless, due to the hard work of association staff members who deal with professional conduct issues and the issuing of practising certificates, along with the efforts, of executive director himself and the association's in-house counsel Jennifer Pearce.

As part of this year's practising certificate renewal process, for the first time, members were given the option of paying for their practising certificate renewals online, and a large number took advantage of the new facility.

As is the practice of the Bar Association, it has taken a keen interest assessing and, if appropriate, commenting upon government legislative proposals, particularly in the areas of criminal law and personal injury.

Earlier in 2016 the New South Wales Parliament passed the *Crimes (Serious Crime Prevention Orders) Bill 2016* and its cognate, the *Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016*. These bills constituted a substantial and unwarranted attack on individual freedoms, and the expressed serious concerns about the legislation regarding its potential for unwarranted interference in individuals' liberties and their day to day lives. The Bar Association's Criminal Law and Human Rights Committees were responsible for analysing and reporting to Bar Council the legislation and I wish to thank them for their efforts in this regard.

The Bar Association has been particularly involved in extensive discussions with the minister for innovation and regulation and the State Insurance Regulatory Authority since March 2016 on the form of government proposals regarding the Compulsory Third Party scheme. Along with other legal profession groups, we have consistently advocated the retention of substantial rights for the seriously and moderately injured. The association's work in this area continues.

Every year the association's committees, staff and Bar Councillors prepare and provide a high volume of policy submissions to the government, parliamentary inquiries, Law Reform Commission reviews and similar forums. Representing the views of well over 2,000 practising barristers as it does, the association provides

## PRESIDENT'S REPORT

*Along with other legal profession groups, we have consistently advocated the retention of substantial rights for the seriously and moderately injured.*

*I would like to pay tribute to the work of Philip Selth OAM as the association's executive director. Philip, who is retiring later in 2016, has made an enormous contribution to the association over the last 19 years...*

a unique perspective on law reform issues, both on a policy and practical level. I know from my interactions with the attorney and other ministers that, while they may sometimes not be particularly welcome, the association's submissions are carefully considered.

The work of our members is crucial to the development of the Bar Association's positions on legal policy matters, and I would like to thank those who volunteer their time and take time away from their practices to serve on our various committees.

In last year's president's report, Jane Needham SC advised that a working party had been convened to prepare a submission to the New South Wales Government advocating legislative amendments to allow the adoption of the title queen's counsel for those silk who wish to do so. That submission was approved by the Bar Council and provided to the attorney general, the Hon Gabrielle Upton MP, in late September 2015. At the time of writing that submission remains with the attorney for her consideration.

Other important initiatives undertaken by the Bar Association during the year included the ongoing work of the Practice Development Committee in forging closer links between the bar and in-house counsel. These measures included a presentation by committee members on the benefits of briefing the bar direct at the Association of Corporate Counsel National Conference held on the Gold Coast in November 2015. A similar presentation is taking place at this year's ACC National Conference.

This year's annual report gives an outline of the work done by the Bar Association, ranging from the work of its committees, the Bar Council, its public affairs, regulatory, educational and membership functions. It also provides an overview of another aspect of our operations where we are indebted to the voluntary work of our members, that is, our legal assistance activities. Every year our members contribute thousands of hours of work to our Legal Assistance Referral Scheme and Duty Barrister Scheme on a voluntary or restricted fee basis, and in so doing provide invaluable assistance to the courts and the community. I would like to pay tribute to the work of Philip Selth OAM as the association's executive director. Philip, who is retiring later in 2016, has made an enormous contribution to the association over the last 19 years, and he will be greatly missed. Philip's impending departure will also coincide with the retirement of Penny Johnston, who has been the association's director, care and assistance, since 2008. Penny has performed an important role over that time in organising assistance for barristers facing difficult personal circumstances with discretion, compassion and effectiveness.

I commend the 2015–16 annual report to you, and in so doing wish to thank the association's hardworking staff for their essential contribution during the past year.

## EXECUTIVE DIRECTOR'S REPORT



Philip Selth OAM  
Executive Director

### National practice

In my report for 2014- 2015 I noted the introduction of the Legal Profession Uniform Law, the objectives of which are (s 3):

to promote the administration of justice and an efficient and effective Australian legal profession, by:

(a) providing and promoting interjurisdictional consistency in the law applying to the Australian legal profession; and

(b) ensuring lawyers are competent and maintain high ethical and professional standards in the provision of legal services; and

(c) enhancing the protection of clients of law practices and the protection of the public generally; and

(d) empowering clients of law practices to make informed choices about the services they access and the costs involved; and

(e) promoting regulation of the legal profession that is efficient, effective, targeted and proportionate; and

(f) providing a co-regulatory framework within which an appropriate level of independence.

Leading up to this Act coming into force on 1 July 2015, there was in some circles confusion and ignorance about the effects the Act it would have on the profession. In practice, the legislation has made very little change to the way in which barristers practice and conduct themselves. Indeed, the only change that appears to have caused any anxiety is that now practising certificates have printed on them the standard formal conditions that have always applied to barristers. During the practising certificate renewal period earlier this year a number of barristers contacted the Bar Association's office about what they thought was the unilateral imposition on their certificates of 'new' conditions.

The only other issue that appears to have caused any concerns was the wording of clause 11 of the *Legal Profession Uniform Conduct (Barristers) Rules 2015*, which also came into effect on 1 July 2015. These Rules are largely the same as the *New South Wales Barristers Rules* that came into effect in 2011. The Bar Council asked the Australian Bar Association, which has the statutory responsibility for recommending to the Legal Services Council the adoption of Rules, for an amendment to clause 11. The Bar Council requested, and the Australian Bar Association agreed, to the words 'or conducting' being added to cl. 11 (d) so that the provision read 'representing a client in or conducting a mediation or arbitration, reference or other method of alternative dispute resolution'. At the end of the financial year this matter was with the Legal Services Council. [Note: The amended rule came into effect on 2 September 2016.]

## EXECUTIVE DIRECTOR'S REPORT

The Legal Services Council is currently considering a request by the Australian Bar Association, initiated by the Bar Council, to amend cl. 5 of the *Legal Profession Uniform Continuing Professional Development (Barristers) Rules 2015* to make it clear that the Bar Council is the Designated Local Regulatory Authority for the purposes of the rule. This is merely remedying a drafting issue.

I wrote above that this new suite of legislation has in practice had very little effect on the bar. That is correct, but it has imposed a significant workload on those association staff members who deal with professional conduct issue and the issuing of practising certificates. Much of this workload is related to the transition from the old to the new legislation. However, one matter that needs to be kept under review is the time and effort involved in responding to requests of the commissioner for uniform legal services regulation for detailed information. It is also important that the suite of legislation be reviewed on an ongoing basis. As the legislation has been applied by the various regulators, including the Bar Association, the need for a number of amendments has been identified.

### The Australian Bar Association

The New South Wales Bar Association, as are the bars of each state and territory, is a member of the Australian Bar Association. Hutley SC is the New South Wales Bar Association's director on the ABA Council. I am the (honorary) CEO of the ABA, and will remain so until the 2017 ABA office holders take office on 31 January 2017, the day of the 'new silks' dinner at the High Court of Australia. I retire as CEO that evening.

Over the past financial year the ABA has had as its president first Fiona McLeod SC, of the Victorian Bar, and since the beginning of February 2016 Patrick O'Sullivan QC of the South Australian Bar. These two presidents, along with others on the council, have spent a considerable amount of time and energy working with the Australian Government, parliamentary committees and other bodies on matter such as threats to the rule of law, the appalling rate of indigenous incarceration and the paucity of legal aid for the disadvantaged members of our community.

In July 2015 the ABA held very successful and well-attended conferences in Washington, 'Trends in American Justice: Impacts for Australia', and Boston, 'Survival of the fittest: Challenges for Advocates in the 21st Century'. The administration of these two conferences was undertaken by Chris D'Aeth, the then New South Wales Bar Association's director, professional development (and now CEO and principal registrar of the Supreme Court) and Bali Kaur, now director, professional development. I take this opportunity to record both my own appreciation for their outstanding work, and that of the ABA.

## EXECUTIVE DIRECTOR'S REPORT

*Over the past year the public profile of the ABA has been raised as a result of a combination of both proactive and reactive media activity.*

At the ABA Council meeting in Hobart on 30 April 2016 life membership was conferred on Phil Greenwood SC of the New South Wales Bar in recognition of his many years of devoted service to the ABA's advocacy training program. Life membership was also conferred on myself.

One of the difficulties the ABA faces, with its part-time secretariat and a new president each year, is the lack of continuity in some of its work. To overcome this problem, earlier this year a number of committees were established that are intended to continue their work over a period of years. The committees reflect a wide cross-section of members from all states and territories. Each committee has a chair who will work with the committee members throughout the year to develop policies, respond to requests for submissions, and effectively represent the profession to advance public debate on law reform and legal policy issues. The committees are Indigenous Issues (chaired by Phil Boulton SC, New South Wales Bar); Access to Justice; Diversity and Inclusion (chaired by Kate Eastman SC, New South Wales Bar); Futures; and Asia.

Over the past year the public profile of the ABA has been raised as a result of a combination of both proactive and reactive media activity. The current president, Patrick O'Sullivan QC, has made numerous appearances on ABC TV, ABC and commercial radio and within the legal pages of mainstream and specialist legal press. This media activity is increasing the profile, awareness and community understanding of the profession. Each quarter the ABA produces and distributes (via the state bars) a member newsletter providing information on the work of the ABA. Details of the work of the ABA can be found on its website: [www.austbar.asn.au](http://www.austbar.asn.au)

### Law Council of Australia

The New South Wales Bar Association is a constituent member of the Law Council of Australia, as is the bar in each state and territory, and Law Firms Australia. Chrissa Loukas SC is the association's director on the Law Council, succeeding Arthur Moses SC, who in November 2015 was elected to the Law Council's Executive.

*One issue that arose in the Law Council this year that did cause division was a proposal by some solicitors for the Law Council to support the introduction of contingency fees.*

At the time of writing this report there were murmurings that one of the bars may be considering withdrawing from the Law Council. The reasons for this are not clear, but it is symptomatic of the fact that numerically the bars are in the minority on the Law Council. It is rare that the Law Council divides on bar/solicitor lines.

One issue that arose in the Law Council this year that did cause division was a proposal by some solicitors for the Law Council to support the introduction of contingency fees. Here the bars and some of the law societies were clearly opposed. However, when it came to the vote, the proposal was defeated. I note here that the address to the council by Hutley SC on this issue was clearly influential.



## EXECUTIVE DIRECTOR'S REPORT

*The Bar Association's staff is one of its virtually unrecognised 'jewels in the crown'.*

Many members of the bar are also members of a Law Council section (committee). The work of the sections in the preparation of important, and often influential, submissions to the federal parliament is not as well-known as they deserve. A list of the Law Council's numerous submissions to the parliament and other bodies can be found at: [www.lawcouncil.asn.au/lawcouncil/index.php/library/submissions](http://www.lawcouncil.asn.au/lawcouncil/index.php/library/submissions)

### Vale

This is my last executive director's annual report. I retire on 21 October 2016, only a few weeks short of nineteen years with the New South Wales Bar Association. I am proud to have been executive director, and part of what the Bar Association, the Bar Council and its staff have achieved in that period. The support I received from so many members of the bar, the judiciary, and the association's loyal and hardworking staff has been second to none. I am very grateful for it.

I was appointed in November 1997 by a Bar Council of which David Bennett QC was president. I then had the privilege of working with councils the presidents of which were Ian Barker QC, Ruth McColl SC, Bret Walker SC, Ian Harrison SC, Anna Katzmann SC, Michael Slattery QC, Tom Bathurst QC, Bernie Coles QC, Phil Boulton SC, Jane Needham SC and now Noel Hutley SC. I am grateful for all their assistance - and tolerance.

The Bar Association's staff is one of its virtually unrecognised 'jewels in the crown'. The staff, the turn-over of which is well below the average of any comparable institution, are among the most dedicated and hard-working with whom I have worked in my professional career. If I were to list all my staff who have given me so much support the list would be a long one. They all know how much I value their work and support. I would, however, like to acknowledge in particular the help I received from my long-suffering executive assistants Kathy O'Neill, Corinne Gilbert and currently Georgina Stow; Chris D'Aeth as director, professional development; Jennifer Pearce, director professional conduct, who did so much to ease the strain of the move to the new national legislation; Lisa Allen for her uncanny ability to produce obscure references that no-one else seems to be able to find; and Alastair McConnachie, the deputy executive director for the past six years. I also want to particularly acknowledge the work of and help given to me, and more importantly to the bar, by Penny Johnston, director, BarCare, and our former administration manager, June Anderson.

I wish my successor, Greg Tolhurst, the very best as executive director of Australia's largest bar association.

## 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 2016 there were 2353 barristers with a NSW PC, including practitioners based interstate and overseas. The Bar Association had 3128 members.

PRACTITIONERS HOLDING NSW PCS*	
Male	1849
Female	504
Total	2353
* (inc. practitioners based interstate and overseas)	
PRACTITIONERS WHO ARE SENIOR COUNSEL	
Male	352
Female	38
Total senior counsel	390
JUNIOR BARRISTERS**	
Male	1497
Female	466
Total junior barristers	1963

LOCATION OF HOLDERS OF A NSW PC					
	Juniors		Silks		Total
	Male	Female	Male	Female	
NSW	1491	465	349	37	2342
ACT	2	0	0	0	2
Queensland	4	0	0	0	4
WA	0	1	0	0	1

OVERSEAS PRACTITIONERS BY COUNTRY OF RESIDENCE					
	Juniors		Silks		Total
	Male	Female	Male	Female	
New Zealand	0	0	1	0	1
UK	0	0	2	1	3

MEMBERS WHO HOLD A NSW PC (including members based interstate & overseas and seven life members who have a current NSW PC)	
Male	1838
Female	500
Total	2338
Number of senior counsel (QC or SC)	
Male	352
Female	38
Total	390
Number of 'junior' barristers	
Male	1486
Female	462
Total	1948

MEMBERS (inc. honorary life members, judges and non-practising barristers)	
Male	600
Female	190
Total	790
(Inc. 32 honorary life members without a current NSW PC)	

OCCUPATION OF NON-PRACTISING MEMBERS	
Academic	14
Clerk	41
Crown prosecutor (interstate / Commonwealth)	1
Former barrister	169
Former judge / magistrate	107
Interstate / overseas barrister	195
Judge	183
Judicial officer	5
Magistrate	26
Statutory appointment	9
Other	37
Member of parliament	2
Solicitor-general (Commonwealth)	1

Of the 2338 members who hold a NSW PC, 2328 have a practising address in NSW; two practise in the ACT, three in Qld, one in WA and four are overseas.



## OFFICE BEARERS



Noel Hutley SC  
President



Arthur Moses SC  
Senior Vice-President



Tim Game SC  
Junior Vice-President



Chrissa Loukas SC  
Treasurer



Paresh Khandhar  
Honorary Secretary

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## BAR COUNCIL

As at 30 June 2016



Noel Hutley SC  
Arthur Moses SC  
Tim Game SC  
Chrissa Loukas SC  
Paresh Khandhar  
David Bennett AC QC  
Andrew S Bell SC

Margaret Cunneen SC  
Julia Lonergan SC  
Michael McHugh SC  
Mary Walker  
Elisabeth Welsh  
Anna Mitchelmore  
Kara Shead

Ruth Higgins  
Sophie Callan  
Catherine Gleeson  
Greg Antipas  
Julia Roy  
Lisa-Claire Hutchinson  
Warwick Hunt

## BAR ASSOCIATION STAFF

As at 30 June 2016

### OFFICE OF THE EXECUTIVE DIRECTOR

Executive Director	Philip Selth OAM BA (Hons) LLB
Executive Assistant	Georgina Stow

### ADMINISTRATION DEPARTMENT

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

### BAR LIBRARY

Librarian	Lisa Allen B App Sc (Info) M Inf Stud
Assistant Librarian	Jennifer Hughes BA DIM
Assistant Librarian	Leonie Anderson B App Sc (Info)
Technical Services Librarian	Meeghan Oliver

### FINANCE DEPARTMENT

Finance Manager	Basil Catsaros B Comm CA
Deputy Finance Manager	Lubaina Paisawala
Certification Officer	Barrie Anthony JP

### LEGAL ASSISTANCE REFERRAL SCHEME

Legal Assistance Manager	Heather Sare
Administrative Assistant	Ray Burgess

### PROFESSIONAL CONDUCT DEPARTMENT

Director, Professional Conduct	Jennifer Pearce BEc LLB
Deputy Director	Helen Barrett LLB
Deputy Director	Peter Smith LLB BLJS

### LAW REFORM AND PUBLIC AFFAIRS

Deputy Executive Director	Alastair McConnachie LLB
Publications Manager	Chris Winslow BA (Hons) MIntS
Senior Policy Lawyer	Roshana Wikramanayake BEc LLB
Senior Projects Lawyer	Kim Kemp LLB
Paralegal	Megan Batchelor BSLS

### PROFESSIONAL DEVELOPMENT DEPARTMENT

Director, Professional Development	Bali Kaur BA (Hons)
Professional Development Coordinator	Tiffany McDonald
Event Manager	Katie Retford BM
Education Assistant	Courtney Ford

## REPORTS

Arranging and promoting continuing professional development

# PROFESSIONAL DEVELOPMENT DEPARTMENT

## Examination Working Party

Richard Weinstein SC (chair)  
Michael Hall SC  
Patrick Griffin SC  
Edward Muston SC  
Andrew Pickles SC  
Melissa Fisher  
Mark Seymour  
Warwick Hunt  
Hayley Bennett  
Peter Maddigan  
Michelle Swift

## Bar Practice Course Director

Michael Fordham SC

*The new examination contains elements of all of the previous examinations structured to combine the elements within the various questions, to better reflect practice as a barrister.*

## 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; and
- 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 focussed 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 identify areas of need and interest to members and to provide services that address those needs and interests in a timely and cost effective manner.

## Exams

On 25 June 2015 the Bar Council approved a revised Examination Policy and proposed new examination arrangements as recommended by the Education Committee. The new examination arrangements were implemented by the department and the Examination Working Party in February 2016 and June 2016.

The new examination format involves candidates sitting only a single, integrated examination (in 2x2-hour papers) rather than the previous three standalone examinations (Practice & Procedure, Evidence and Ethics, each of three hours). The new examination contains elements of all of the previous examinations structured to combine the elements within the various questions, to better reflect practise as a barrister.

For the February 2016 bar examinations, 87 candidates submitted a registration to sit for the new single integrated examination. Not all that registered sat the examination in February; 77 candidates sat the single examination. Transitional arrangements were put in place to allow candidates carrying one or two passes obtained in June 2014 or thereafter the option of sitting the remaining exam or exams in the old format in February 2016. Forty-one candidates registered for the February 2016 Transitional Bar Exams, 18 candidates registered and sat for Practice and Procedure; 19 candidates registered with 17 sitting Evidence; and 20 candidates registered with 18 sitting Ethics.

## PROFESSIONAL DEVELOPMENT DEPARTMENT

*The course continues to see a greater percentage of women undertaking the course (34 per cent) than the overall percentage of women in practice at the bar generally (21.7 per cent).*

*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.*

In June 2016, 112 registered and 85 candidates sat the single Bar Examination. A total of 31 members of the association assisted in the preparation and marking of papers in February 2015 and 37 assisted with the June 2015 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 2015 and May 2016 course represented the 50th and 51th BPC. The courses were directed and overseen (for the tenth year) by Michael Fordham SC with assistance from Gillian Mahony. In 2015–16, 96 readers completed the two courses. This is exactly the same number of readers as 2014–15. The course continues to see a greater percentage of women undertaking the course (34 per cent) than the overall percentage of women in practice at the bar generally (21.7 per cent).

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.

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

Amongst the goals of the Bar Council in introducing CPD in 2002, as a requirement of maintaining a barrister's practising certificate in New South

## REPORTS

Arranging and promoting continuing professional development

## PROFESSIONAL DEVELOPMENT DEPARTMENT

*In 2015–16 the department offered 79 seminars (118 points) covering all four strands plus a number of workshops and conferences.*

*The department also provided a full calendar of social events, with the Bench and Bar Dinner again being the highlight of the year.*

Wales, is a recognition that in order to maintain the professional reputation of the bar, it is essential that it maintains the highest professional standards. Continuing education was, and remains, the most obvious and direct means of achieving that end. This sentiment was echoed in the articulation of the Uniform Rules that entered into effect on the 1 July 2015 and will guide CPD activity in the years to come.

In 2015–16 the department offered 79 seminars (118 points) covering all four strands plus a number of workshops and conferences. The conference program continued to enjoy strong support from all members. 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 2017 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.

### The 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 examination process and a review of the reader/tutor information on the Bar Association website.

### 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, such as: 15 Bobbers, the Tutors' and Readers' Dinner, and 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 an eye only to the improvement of the bar. It simply would not be possible for the department to operate without the support and commitment of so many.

### Promoting the interests of practising barristers

## PRACTICE DEVELOPMENT COMMITTEE

### Committee members

Elizabeth Cheeseman SC (chair)  
Noel Hutley SC  
Tom Thawley SC  
Michael McHugh SC  
Ian Hemmings SC  
Michelle Painter SC  
Peter Lowe  
Christopher Wood  
Patrick Knowles  
Philip Wallis  
Stephanie Patterson  
Caspar Conde  
Michelle Kearns (clerk)

The Practice Development Committee continued to focus on promoting and marketing the bar's services to in-house counsel (corporate and government). The corporate counsel sector is growing, constituting 19.9 per cent of the solicitor branch of the profession in 2015 and predicted to grow by 3.5 per cent per year.<sup>1</sup> Government lawyers constituted 10.4 per cent of all solicitors in NSW, which is predicted to remain constant.<sup>2</sup> The Association of Corporate Counsel (ACC), formerly the Australian Corporate Lawyers Association, reports that 30 per cent of its members surveyed used direct briefing in 2015, with organisations with higher level legal spends being more likely to use direct briefing. ACC predict that the trend will continue to rise with 18 per cent of members who had not used direct briefing reporting that they intended to do so in the next two years.<sup>3</sup> ACC has identified the benefit of direct briefing for in-house counsel as:

Direct briefing a barrister is a growing practice that uses the skills of in-house legal to instruct and obtain succinct, expert and timely advice or representation at a fee commensurate with a barrister's experience, but generally at a lower cost than if obtained through a law firm.<sup>4</sup>

The Practice Development Committee has concentrated on:

- (a) informing members, clerks and in-house counsel of the benefits of direct briefing in appropriate matters, both in dispute resolution and in the context of advice; and
- (b) highlighting to in-house counsel the advantages of early strategic briefing (whether direct or through external solicitors) as a means of supplementing existing strategies to manage legal expenditure.

*The Practice Development Committee's major priority in the second half of 2015 was the preparation and delivery of a New South Wales Bar Association sponsored session on direct briefing at the ACC National Conference in November 2015.*

The Practice Development Committee's major priority in the second half of 2015 was the preparation and delivery of a New South Wales Bar Association sponsored session on direct briefing at the ACC National Conference in November 2015. The committee also updated the resources for in-house counsel on the association's website, the availability of which was promoted at the ACC conference.

The Practice Development Committee initially prepared a precis of the presentation for ACC/ACLA'S consideration in August, and four members of the committee, Noel Hutley SC, Elizabeth Cheeseman SC, Christopher Wood and Michele Kearns, conducted the session on 13 November. The panel presentation was broad ranging. It included an explanation of how the New South Wales Bar operates, the role of chambers and clerks, a comparison of the

Promoting the interests of practising barristers

### PRACTICE DEVELOPMENT COMMITTEE

*There was a great deal of interest from conference delegates in briefing the bar direct in suitable cases, and the panel session was a success.*

fees of barristers and solicitors of similar experience (highlighting in particular the value represented by the junior bar), the basics of putting together a brief and the availability of resources for in-house counsel on the association's website, including Find-A-Barrister. The individual barristers spoke to the cost efficacy of obtaining advice direct from specialised, experienced barristers who are experts in their fields and who bring a broad perspective based on acting for a variety of stakeholders in the relevant sector; the cost, forensic and reputational advantages which flow from briefing the bar early (and if necessary, episodically, at key stages) to frame and review dispute resolution strategy; and the role of clerks in assisting in-house counsel in finding counsel.

A number of major corporations and government departments were represented at the conference, which provided an excellent opportunity for the bar representatives to network with in-house counsel. There was a great deal of interest from conference delegates in briefing the bar direct in suitable cases, and the panel session was a success.

The Bar Association will conduct another sponsored presentation at the upcoming ACC National conference in November 2016. ACC have accepted the committee's proposal that the New South Wales Bar conduct a 'Direct Briefing Masterclass' involving case studies and hypotheticals, which will be held on the second day of the conference. In addition, the committee has arranged for a New South Wales Bar Association stall to be in the exhibition space throughout the conference. The stall will be staffed by clerks and barristers, who will be available to interact with conference delegates and to hand out information. Ahead of the conference the Find-a-Barrister search function on the association's website will be updated to include a specific search for barristers who accept direct briefs.

The Bar Association continued its corporate alliance with ACC during the period and the committee was responsible for furthering links with corporate in-house counsel by:

- settling questions for in-house counsel relating to briefing the bar, which were included in ACC's annual survey of its members. The survey results indicated that in the past 12 months 45 per cent of respondents had directly briefed a barrister (a slight increase on the previous year's findings) and that the reasons for directly briefing barristers are for the specialist expertise provided by the bar, value for money and, interestingly, for major litigation;



Promoting the interests of practising barristers

### PRACTICE DEVELOPMENT COMMITTEE

*The committee has also been involved in the early stages of planning for a second bar survey to build on the information gleaned from the initial survey of New South Wales barristers held in 2014.*

- organising and approving articles of interest to in-house counsel written by members of the New South Wales Bar which were included in editions of the ACC/ACLA journal. The first article, by Tom Thawley SC and Courtney Ensor, concerned transfer pricing provisions of the *Income Tax Assessment Act 1997* (Cth). The second, from Nicholas Smith, dealt with strategies for resolving trade marks and domain names disputes;
- obtaining Bar Council approval for the sponsorship of the 2016 ACC NSW Corporate Counsel Day drinks function, which allowed members of Bar Council and the committee to network with in-house counsel attending the event; and
- sponsorship of the ACC Young Lawyer Achiever of the Year Award.

The Practice Development Committee prepared a memorandum to Bar Council proposing changes to the association's protocols aimed at more effective promotion of the association's involvement in conferences and other events via social media.

Representatives of the committee also met with the developer of a package entitled Brief.Direct, a software system which is intended to connect in-house counsel with suitable barristers for direct briefing purposes. The committee has a watching brief in monitoring the development of the software and will report to Bar Council on further developments.

*The Practice Development Committee also further considered the functionality of the association's 'Find-a-Barrister' facility in 2016, and implemented an improvement which now allows a primary search to be conducted of barristers by chambers.*

The Practice Development Committee also further considered the functionality of the association's 'Find-a-Barrister' facility in 2016, and implemented an improvement which now allows a primary search to be conducted of barristers by chambers.

Finally, the committee also spent time on planning its priorities for the upcoming year. Other committee projects under development include the planning of a CPD presentation on personal marketing and the development of marketing materials for the association. The committee has also been involved in the early stages of planning for a second bar survey to build on the information gleaned from the initial survey of New South Wales barristers held in 2014.

#### Endnotes

1. Urbis Keys Young Report for the Law Society of NSW 'The Solicitors of NSW in 2015', p 10.
2. Ibid.
3. Australian Corporate Lawyers Association 2015 Benchmarks and Leading Practices Report, p 177.
4. Ibid.

Promoting the interests of practising barristers

### HEALTH AND WELLBEING COMMITTEE

#### Committee members

Arthur Moses SC (chair)  
Anthony Lo Surdo SC  
Chrissa Loukas SC  
Kylie Nomchong SC  
Peter McGrath SC  
Adrian Gruzman  
David Jordan  
Anne Healey  
Dominique Hogan-Doran  
Adam Casselden  
Scott Corish  
Eva Elbourne  
Matthew Lewis  
Michael Gleeson  
Elizabeth James  
Talitha Fishburn  
Ben Mee

The aim of the Health and Wellbeing Committee (formerly the Health, Sport and Recreation Committee) is 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 Association's website provides links and contacts to a diverse range of sporting and social activities that are on offer to members throughout the year.

Earlier this year, the Bar Council voted to adopt the Tristan Jepsom Memorial Fund Guidelines which address mental health and wellbeing issues in the legal profession. There are alarming rates of depression and anxiety (both on a self-reported and a diagnosed basis) within the bar. Addressing this issue has been and will remain a priority for the committee in the coming year. The committee are keen to continue to provide the members of the bar with the information and tools to assist themselves and their colleagues in more practical ways.

As reported last year, the annual flu shots to ward off illness in the winter period was once again well attended by many members.

### NEW BARRISTERS COMMITTEE

#### Committee members

Greg Antipas (chair)  
Awais Ahmad  
Nicholas Smith  
Callan O'Neill  
Ingrid King  
Giles Stapleton  
Mary Rebehy  
Janet McKelvey  
Melissa Tovey  
Corrie Goodhand  
Felicity Graham  
Paul Walker (clerk)

The goals and objectives of the New Barristers' Committee are: to promote the pursuit of excellence through targeted Continued Professional Development, camaraderie through social events and other traditions of the general bar amongst NSW barristers under six years; to assist NSW barristers under six 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 six 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 eighth annual cross-examination workshop for under 6s. The workshop provides an informal opportunity for under 6s to practice their advocacy skills. The workshop comprises an initial seminar, followed by a group cross-examination exercise and concludes with a demonstration by senior members of the bar. The next scheduled cross-examination workshop will be in February / March 2017. The Committee will also be introducing a new cross examination of expert's workshop later this year.

Promoting the interests of practising barristers

## INDIGENOUS BARRISTERS' STRATEGY WORKING PARTY

### Working Party members

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

The Indigenous Barristers' Strategy Working Party is dedicated to the implementation of the Indigenous Lawyers' Strategy at the New South Wales 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, identifies as an Aboriginal person or a Torres Strait Islander and is accepted by the relevant community as an Aboriginal person or a Torres Strait Islander. To obtain any benefits from any of the Bar Association's programs, an applicant must provide written verification of their acceptance in an ATSI community.

The working party's major focus in 2015–16 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 New South Wales 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 18 years' experience in creating pathways for Aboriginal and Torres Strait Islander people to practice at the New South Wales Bar.

*Mentors have worked with many students who have now graduated and there were 39 Indigenous law students being mentored by NSW barristers in 2015–16.*

Over the past year, the working party continued to develop its already strong focus on Indigenous law students, by providing encouragement and incentives for students to progress through their studies so one day they can realistically consider the bar as a career choice.

A mentoring scheme was established in February 2009. Mentors have worked with many students who have now graduated and there were 39 Indigenous law students being mentored by NSW barristers in 2015–16. Mentors frequently remain in contact with and provide professional support for graduates once they become new solicitors. 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. Under the scheme, students are provided with the opportunity to conduct administrative work and research for barristers and gain an understanding of the role of a barrister.

Promoting the interests of practising barristers

## INDIGENOUS BARRISTERS' STRATEGY WORKING PARTY

*In October 2015, Tony McAvoy SC became Australia's first Aboriginal silk, which was very exciting not just for him but for his many admirers and supporters and as an important role model for Aboriginal lawyers and law students around Australia.*



Tony McAvoy SC speaking at the ABA High Court dinner in Canberra on 1 February 2016.  
Photo: idphoto.com.au

In October 2015, Tony McAvoy SC became Australia's first Aboriginal silk, which was very exciting not just for him but for his many admirers and supporters and as an important role model for Aboriginal lawyers and law students around Australia. In February 2016, Tony spoke on behalf of all new silks at the High Court Silks' Dinner. His speech has been published in the *Australian Bar Review* with an introduction by Chief Justice French AC.

The 2015 silks gave a substantial donation to the trust, in a long standing but not continuous tradition of making the trust one of the recipients of the donations. This is a unique program that encourages new silks to donate one day's fees to the selected charities.

In August 2015, Janet Manuell SC assisted the organisers of the UNSW Law Mooting Competition for Australia's First Peoples with the question to be used during the moot by UNSW Aboriginal law students. For the second year, a group of 10 barristers worked with individual students for the two weeks before the mooting period and assisted them with their advocacy skills and their preparation. The students enthusiastically reported that their skill level was greatly enhanced by this mentoring. The barristers found it an interesting and rewarding experience.

Three members of the New South Wales Bar are long standing members of the Law Council's Indigenous Legal Issues Committee. In September 2015, Tony McAvoy SC, Sarah Pritchard SC and Chris Ronalds SC attended a day long committee meeting in Melbourne.

Promoting the interests of practising barristers

## INDIGENOUS BARRISTERS' STRATEGY WORKING PARTY

*For the ninth year, the trust funded 17 Aboriginal law students from all NSW law school to attend the National Indigenous Legal Conference.*

In September 2015, the trust made an inaugural award at the UNSW Indigenous Students Awards to Teela Reid 'a final year Aboriginal law student, for her efforts in increasing advocacy by designing and implementing the UNSW Law Mooting Competition for Australia's First Peoples in 2014 and 2015' with an award of \$500.

The Law Council held an important symposium of Indigenous Incarceration on 26 November 2015 attended by several working party members and many judges, senior politicians and lawyers from around Australia.

On 16 December 2015, the UNSW pre-law students attended a one-day program at the association. This is the sixteenth 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. Seven 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 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).

*An Aboriginal barrister, Leon Apostle, finished the May Bar Practice Course and started practising, specialising in family provisions and criminal law.*

There are four trustees: the current president of the New South Wales Bar Association, Noel Hutley SC since November 2015 and Jane Needham SC before then, Justice Michael Slattery of the NSW Supreme Court, Mullenjaiwakka, an Aboriginal barrister, and Chris Ronalds AM SC.

An Aboriginal barrister, Leon Apostle, finished the May Bar Practice Course and started practising, specialising in family provisions and criminal law.

For the ninth year, the trust funded 17 Aboriginal law students from all NSW law school 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 2015, over 400 mainly ATSI lawyers and law students met in Melbourne 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.

Promoting the interests of practising barristers

## EQUAL OPPORTUNITY COMMITTEE

### Committee members

Anthony McGrath SC (chair)  
Kate Eastman SC  
Ingmar Taylor SC  
Sally Dowling SC  
David Price  
Richard Scruby  
Lucinda Wilson  
Penny Thew  
Theresa Baw  
Sophie Callan  
Brenda Tronson  
Lucinda Wilson  
Amy Douglas-Baker  
Anna Perigo  
Ishita Sethi  
Aruna Sathanapally  
Andrew Laughlin (clerk)

*The committee has also continued to promote the adoption and implementation of the Model Best Practice Guidelines for chambers on dealing with sexual harassment, discrimination, bullying, victimisation, parental leave and grievance handling.*

During the last financial year the Equal Opportunity Committee (renamed the Diversity and Equality Committee from 1 July 2016) has continued its important work to develop, implement and promote initiatives and strategies towards increasing diversity at the New South Wales Bar and equality of opportunity for all members. Through its contribution to the Equal Opportunity Committee of the Law Council of Australia, the committee also contributes to similar work undertaken at a national level.

The committee's most significant work continues to be undertaken in response to the Law Council of Australia's *National Attrition and Re-engagement Study Report* delivered in 2013 and the association's Practising Certificate Renewal Survey of members in 2014.

Members of the committee were centrally involved in the work which led to the Law Council of Australia's adoption of the new Equitable Briefing Policy in June 2016 which is aimed at driving cultural change within the legal profession, supporting the progression and retention of women barristers, addressing the significant gender pay gap amongst barristers and correcting the underrepresentation of women in superior courts.

The committee developed the Practising Certificate Fee Waiver Policy which has been adopted by the association that enables a barrister taking parental leave as a primary carer for at least two months to obtain a 100 per cent waiver of the practising certificate fee and a barrister taking carer's leave as a primary carer for at least two months to obtain a pro rata waiver of the practising certificate fee.

The committee has also continued to promote the adoption and implementation of the Model Best Practice Guidelines for chambers on dealing with sexual harassment, discrimination, bullying, victimisation, parental leave and grievance handling. This has included encouraging chambers to adopt the guidelines, arranging for training sessions and CPDs to be held on the guidelines and their implementation and writing articles for inclusion in *Bar News*.

The committee developed and promoted the proposal which has now been adopted for the association to become a member of Pride in Diversity, the not for profit support program specifically designed to assist member organisations nationally with all aspects of lesbian, gay, bisexual, transgender and intersex inclusion. The committee has also devoted considerable time to each of the following initiatives:

- the review and expansion of the association's childcare scheme, which now involves the guarantee of 15 full-time places at the Martin Place Early Learning Centre (up from 10 places);



Promoting the interests of practising barristers

### EQUAL OPPORTUNITY COMMITTEE

*In preparation for the new regime, the committee undertook a full review of costs precedents and the costs and billing pages on the Bar Association's website.*



Lieutenant General David Morrison AO (rtd) speaking at 'Tipping the Scales'. Photo: Murray Harris Photography.

- participating in the operation of the Junior Barrister Mentoring Program with 31 participating junior barristers matched with barrister mentors, in collaboration with the Women Barristers Forum and McCarthy Mentoring;
- developing and promoting the association becoming an official supporter of the Australian Human Rights Commission's 'Racism. It Stops With Me' Campaign;
- arranging and hosting the 'Tipping the Scales: Equity and Diversity at the Bar' event held in the Banco Court in November 2015 at which addresses were given by Chief Justice Bathurst, Lieutenant General David Morrison AO (rtd) and Jane Needham SC;
- arranging and hosting a presentation to members by Dr Tim Soutphommasane, the Race Discrimination Commissioner, in March 2016;
- arranging and hosting a presentation to members by Dr Michael Kimmel, a world renowned authority on gender equality, in May 2016 in collaboration with White Ribbon Australia (the campaign against domestic violence);
- providing training on unconscious bias to members in July 2015;
- arranging and hosting the Successful Speakers panel of Pauline Nguyen (owner of Red Lantern restaurant), Sally Stevenson AM (chair of the Indigo Foundation) and Ruth Medd (chair of Women on Boards) to address members in February 2016 on 'Lessons in Resilience and Courage: the Road to Achieving Success and Fulfilment';



Promoting the interests of practising barristers

## EQUAL OPPORTUNITY COMMITTEE



Jane Needham SC speaking at 'Tipping the Scales'. Photo: Murray Harris Photography.

- consideration of various proposals regarding the possible establishment of a paid parental leave scheme for the New South Wales Bar, in collaboration with the Women Barristers Forum;
- developing a proposal for a pilot program to have short hearings listed to commence on days other than Monday, to be done in conjunction with the Law Society;
- promoting the JobSupport employment scheme, which assists people with mild intellectual disabilities to secure employment in chambers;
- hosting the Open Day for Female Law Students in August 2015 with 107 students from Macquarie University, Australian National University, University of New South Wales and University of Newcastle visiting 18 Judges and being assisted by 33 barristers; and
- organising a very successful breakfast to raise funds for the Pink and Blue Ribbon charities, held at Hyde Park Barracks in October 2015.

### Promoting the interests of practising barristers

## COSTS AND FEES COMMITTEE

### Committee members

Mark Brabazon SC (chair)  
John Sharpe  
Michael Eagle  
Mark Walsh  
Philippe Doyle Gray  
Janet McDonald  
Michelle Castle  
David Stewart  
Oliver Jones

*The committee provided advice to Bar Council in relation to a proposal ... that the Law Council should seek statutory amendments to permit percentage-based contingency fee arrangements.*

The Costs and Fees Committee undertook a number of initiatives to assist the association and its members following the introduction and implementation of the Uniform Law on 1 July 2015. The chair conducted a CPD 'costs clinic' seminar in July 2015 to inform members and assist their transition to the new regime, which was very well attended. Members of the committee have made themselves available by phone to answer questions raised by members of the association. The committee completed a review of the costs precedents on the association's website and updated those precedents following the introduction of the Uniform Law and the costs assessment rules. Revised precedents were available on the Bar Association website before the new regime commenced, and have been fine-tuned since. Members of the committee presented a range of CPD seminars in Sydney and at conferences in regional New South Wales.

The chair provided comments on a number of confidential proposals and guidelines from the Legal Services Council relating to costs aspects of the Uniform Law, and the committee made submissions on related draft rules. The chair also participated in confidential consultations regarding amendments to the *Legal Profession Uniform Law Application Act 2015* which were enacted in late 2015.

The Costs and Fees Committee reviewed the first tranche of the draft practice notes released for comment by the Federal Court and provided input into the association's response to the Federal Court, particularly to support the proposal to facilitate the making of lump sum costs orders.

The committee provided advice to Bar Council in relation to a proposal, raised by other members of the Law Council of Australia, that the Law Council should seek statutory amendments to permit percentage-based contingency fee arrangements. In February 2016 the chair spoke at a CPD consultation seminar, identifying a number of practical and ethical concerns. With the support of the association, the Law Council decided that the proposal should not be pursued.

The committee made submissions to the Costs Assessment Rules Committee on proposed guidelines for costs assessors, which were substantially accepted in relation to the usual range of counsel's fees.

## Promoting the interests of practising barristers

### THE BAR LIBRARY

#### Library statistics 2015–16

- The library handled an average of 54 loans and returns daily in 2015–16, compared to 56 in 2014–15.
- The library made 12,700 loans, down slightly from the 13,300 in 2014–15.
- Textbooks comprised more than half of all loans.
- The library responded to 3506 reference requests in 2015–16. This is an average of 15 requests per day or 292 per month. This excludes figures for training, directional, quick answers and loans.

The Bar Library provides an efficient and effective library service supporting practising members of the legal profession and the staff of the Bar Association. Some of the library's aims are to :

- manage and develop library priorities, programs, policies and procedures which anticipate and meet the information and service needs of the association's members and staff;
- manage the selection, acquisition and cataloguing of material to enable the provision of quality information to members and staff;
- provide library orientation tours and legal research training; and
- provide appropriate access to both subscription and non-subscription based legal materials.

During the year the library has reviewed, expanded and improved access to legal materials via the library's website. The library has subscribed to the Oxford University Press' Law Journal Collection which can be accessed via the catalogue. Similarly, the library's unreported judgments collection can be accessed by searching the catalogue.

The library has also been trialing access to looseleaf publications on the LexisNexisRed platform. Members of the regional bar with an ipad or PC were able to test this product. We eagerly await the release of Red 3.0 so that Mac (Apple) users may benefit.

In their management of the collection, the librarians continuously assess the service delivery processes and systems so that the use of resources may be optimized. The library has maintained its networks to assist in meeting the information needs of members. These include court libraries, law firm libraries in the Legal Inter-Library Loans Interchange (LILLI) and other legal libraries via listservs. The Bar Library works more formally with university and other libraries via the LADD (Libraries Australia Document Delivery) service.

The assistant librarian, Jenny Hughes has been on maternity leave in January 2016 and Leonie Anderson has capably assumed the role for the 12 months. Meeghan Oliver has also joined the team to help cover Jenny's absence.

The Bar Book Club and the Bar Knit Group meet in the library monthly and are a service aimed at improving well-being for members.

The library continues to collect books for the Benjamin Andrew Footpath Library (<http://footpathlibrary.org/>).

Promoting the interests of practising barristers

## WOMEN BARRISTERS FORUM

### Executive Committee

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

The Women Barristers Forum is a section of the New South Wales Bar Association. It exists to:

- promote awareness, discussion and resolution of issues which particularly affect women barristers;
- identify, highlight and seek to eradicate discrimination against women in law;
- advance substantive, and not merely formal, equality for women at the bar and in the legal profession generally;
- provide a professional and social network for women barristers and promote their interests and skills; and
- support diversity and flexibility at the bar.

All women members of the Bar Association are members of the WBF.

### Activities

In 2015–16 the WBF continued to work on a number of projects.

Social functions, speaking engagements and networking

- The social networking sub-committee organised a number of drinks nights at Verandah Bar, which were well-attended and very enjoyable for all. Among them were the drinks for the new female silks of 2015.
- The chair of the WBF regularly sends letter of congratulations to female members (and other female lawyers) who are appointed to the bench or other important positions.
- The WBF, together with the NSW Women Lawyers Association, organises the biannual Janet Coombs lunch for new female barristers.
- The chair, Michelle Painter SC, attended the Commonwealth Women Parliamentarians 2015 Conference, which hosted a highly successful fundraising luncheon for The Katrina Dawson Foundation at NSW Parliament House in July 2015.
- The chair also spoke at the new female readers lunches, the NSW Women Lawyers Association awards gala dinner and the NSW Women Lawyers Law Week event, 'Coming to the Bar'.
- A female clerk, Trish Hoff, was appointed as an ex officio member of the WBF.

Promoting the interests of practising barristers

## WOMEN BARRISTERS FORUM

### Professional development

The CPD sub-committee has organised a number of CPD seminars during 2015–16. Among them were:

- ‘Juggling Practice and Family Responsibilities’, presented by Julie Soars, Stephen Free, Elizabeth Peden, Kavita Balendra and chaired by Talitha Fishburn;
- ‘Is Your Voice Doing You Justice? Maximising Performance for Advocates’, presented by Lucy Cornell and chaired by Kavita Balendra in November 2015; and
- ‘Competition and Consumer Law,’ presented by Delia Rickard and Sarah Court and chaired by Michelle Painter SC.

The Bar Practice Course and Tutoring Sub-committee drafted questions for the Bar Ethics Exam dealing with sexual harassment and bullying and the chair is discussing the possibility of having more female presenters at the Bar Practice Course.

### Diversity and equality at the bar

The Women Barristers Forum continued its work fostering diversity and equality of opportunity at the New South Wales Bar. The WBF has:

- had regular meetings with the chair of the Equal Opportunity Committee, Anthony McGrath SC, to foster and continue strong relationships between the committee and the WBF;
- worked with the Equal Opportunity Committee to assist in implementing the Law Council of Australia’s revised Gender Equitable Briefing Policy;
- had ongoing discussions with the senior vice-president of the Bar Association regarding the Equitable Briefing Policy; and
- appointed a representative to the Equal Opportunity Committee’s Parental / Carer’s Leave Sub-committee.

Furthermore, the Court Amenities sub-committee of the WBF has drafted a letter regarding facilities in court complexes to assist barristers returning from maternity leave who are breastfeeding or expressing.

Work continues on the WBF website.

## Promoting the interests of practising barristers

### BARCARE

This will be my last annual report. The years have passed so quickly since I was first appointed. BarCare was expanded from a basic service involving a static website and fridge magnets bearing an emergency phone number to a triage service in 2008. It was an initiative of the then president, Anna Katzmann and the Executive Director Philip Selth. I agreed to give the role a six months trial to determine if the additional service would be worthwhile. Time has shown that there is a demand sufficient for the service to continue.

I would like to take this opportunity to thank the many people that have assisted in making the service function smoothly. In particular I thank the many members who have served on the Benevolent Fund Executive in the last eight years and the members of the Panel of Specialists who generously have provided appointments at short notice. I will be retiring towards the end of the year. Details of the ongoing service will be provided in due course.

**Penny Johnston**

The Barristers Benevolent Fund provides support for barristers through BarCare. The service is strictly confidential and provides counselling for barristers and their families. BarCare services are totally separate from the Bar Association. Any information provided to BarCare is not given to the Bar Association without the barristers express permission.

BarCare offers the services of psychologists, psychiatrists, general practitioners and financial advisors. The first consultation with any member of the BarCare Panel of Specialist is covered by the fund and additional sessions can be paid on a needs basis. BarCare can provide funds via a grant or a loan in crisis situations. A submission for financial assistance is prepared and considered by the Executive.

BarCare has had busy year with a record number of calls. Issues involving stress/ anxiety and depression represent the largest proportion of calls. This reflects the level of personal demands placed individual barristers in daily practice. Again there have been a large number of self-referrals suggesting that barristers are aware of the pressure they are under and are seeking professional help early.

Chambers or individual Barristers call BarCare to discuss concerns that they may be having regarding a colleague. They may be seeking guidance on the best manner to approach the colleague. Another option is for BarCare to call the barrister and indicate that colleagues are concerned about their wellbeing. In these circumstances the name of the referring person or persons is not disclosed. The responses received to these cold calls are varied. Most are surprised and grateful that colleagues are concerned about their welfare. Others indicate that they are currently seeking treatment and need no additional assistance. While a few are perplexed and unsure why there is concern and reject any offer of assistance. No further follow up is made with this last group.

Each year BarCare receives a few referrals from the Professional Conduct Department where the staff are concerned about a barrister's mental health. In some instances a complaint has been made about a barristers' behaviour or work that is below par. In many cases the barrister has been depressed and not functioning at the standard required. In these situations support and treatment is offered to the barrister. The goal of BarCare is to provide early intervention with professional help to avoid the risk of a complaint.

## REPORTS

Promoting the interests of practising barristers

## BARCARE

1: PRIMARY PRESENTING PROBLEM	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Siege					15	2
Bereavement	5	4	3	2	4	3
Psychological	8	12	15	7	17	2
Depression	13	8	10	11	6	20
Stress/anxiety	8	7	10	4	15	23
Relationship difficulties	4	4	1	8	9	4
Career advice	0	0	0	0	1	3
Physical health	3	3	4	9	4	9
Alcohol	2	1	1	3	1	3
Financial	9	9	3	5	2	5
Advice and NFA	5	10	6	7	5	9
Rejected offer of assistance	1	1	2	1	0	0
<b>TOTAL</b>	<b>58</b>	<b>60</b>	<b>55</b>	<b>57</b>	<b>79</b>	<b>83</b>

2: SOURCE OF REFERRAL	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Colleague via bar	0	0	2	2	0	
Bar staff	9	11	14	14	13	11
Self	31	28	27	22	48	46
Colleague	10	9	7	6	7	13
Family	3	4	1	3	2	2
Clerk	0	3	2	3	4	2
Advice for colleague	5	5	2	7	5	9
<b>TOTAL</b>	<b>58</b>	<b>60</b>	<b>55</b>	<b>57</b>	<b>79</b>	<b>83</b>

3: GENDER	MALE	FEMALE
2012-13	37	18
2013-14	37	20
2014-15	47	32
2015-16	46	37



4: AGE (YRS)	<34	35-44	45-55	56-65	>65	UNKNOWN
2012-13	6	12	13	13	4	7
2013-14	3	12	11	15	5	11
2014-15	6	22	27	13	2	9
2015-16	9	14	24	17	2	17

5: YEARS AT BAR	<5	6-15	16-25	26-35	>35	UNKNOWN
2012-13	12	14	10	7	5	7
2013-14	8	16	12	6	3	12
2014-15	22	26	13	7	2	9
2015-16	25	19	10	11	1	17



Making recommendations and promoting the administration of justice

## LAW REFORM AND PUBLIC AFFAIRS

*The Bar Association's media activities are designed to educate the public as to the role of the justice system and about rule of law issues as they arise in public debate.*

The public affairs role of the Bar Association involves the promotion of fundamental tenets relating to our system of justice such as the rule of law. The Bar 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 Bar Association made a number of contributions to public debate regarding justice and law reform issues.

The state government's *Crimes (Serious Crime Prevention Orders) Bill 2016* and its cognate, the *Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016*, was introduced in the Legislative Assembly in March 2016. Taken together, the bills represented an unprecedented package of legislation with grave implications for the rule of law and individual freedoms in NSW. Among other things, the bills provided for the application of serious crime prevention orders providing for severe constraints upon individual liberty and privacy, arbitrary powers of arrest and detention and substantial interference with freedoms of movement, expression and communication and assembly. The legislation also provided, among other things, for the application of control orders to individuals who had been tried but acquitted of serious offences, or those who were involved (even unknowingly) in the commission of a serious offence. The definition of 'serious offence' was also defined extraordinarily widely, so that the orders could apply to individuals committing relatively minor offences such as drug possession or petty larceny.

The Bar Association's Criminal Law and Human Rights Committee prepared a comprehensive joint submission from the Bar Council to government regarding the infringements on fundamental freedoms imposed by the bills. This submission was also distributed to the state opposition and cross bench members of the New South Wales Parliament.

The Bar Association also released a media brief regarding the legislation and its opposition to the legislation received widespread media coverage. The president made appearances on ABC Radio 702's *Breakfast with Robbie Buck* program and 2GB's *Alan Jones Show* to enlarge on the association's concerns regarding the bills:

The law, which is at the moment the proposed law, a bill, proposes a conferring of power to make orders, which are called Serious Crime Prevention Orders, which are orders which can constrain the liberty of citizens in ways which are undefined, but on its terms seem to be very broad.

Noel Hutley SC, *Breakfast with Robbie Buck*, 14 April 2016.

Despite opposition from the Bar Association and other legal profession bodies, the legislation passed the New South Wales Parliament on 4 May. The Bar Association will continue to monitor the practical operation of the legislation, and if necessary make further representations regarding its effect on individual rights and freedoms.

Making recommendations and promoting the administration of justice

## LAW REFORM AND PUBLIC AFFAIRS

*..lawyers who had acted for the perpetrator and judicial officers involved in previous hearings were becoming the target of unjustified criticism (and in one case, threats to their physical safety) from individuals and the media.*

One can then be careful to see how it operates. There will be decisions of courts from time to time. As it comes into operation one must keep that under surveillance and check if the law is being used in what might be conceived of as an oppressive fashion and it may become the subject of a challenge as we've indicated as to its constitution of liberty and of course that will be a matter ultimately for the courts.

Noel Hutley SC, *Alan Jones Show*, 9 May 2016

The first half of 2016 also saw the commencement of a process of consultation on government proposals to change the compulsory third party motor accidents scheme in NSW. Throughout that process, the association has expressed concerns that a workers compensation-style system would be established, imposing a system of no fault statutory benefits and removing common law rights for all but the most severely injured.

After the announcement on 29 June 2016 of a proposed hybrid no fault/common law system by the government, Bar Association representatives warned of the implications for many of those significantly injured in motor accidents, both in terms of decreased common law rights and legal representation:

People with fractures, who can't get their arm above their elbow... We can pull anybody from the street and of course they will say they want cheaper premiums. But ask them - I am about to injury you in a motor vehicle accident what do you want the benefits to be like and they will give you a very different answer.

Andrew Stone SC, *ABCTV News*, 29 June 2016.

So if the insurance company says you don't need an operation, you can argue it out yourself without a lawyer. Good luck with that.

Andrew Stone SC, *Channel Nine News*, 29 June 2016.

As always, the ongoing underfunding of legal aid at Federal level was a focus for the association in its public affairs activities. During the reporting year, the association played an important role in the Law Council of Australia's national campaign 'Legal Aid Matters'. The state launch of the campaign was held in the Bar Common Room on 19 May, jointly organised by the Bar Association with the Law Society and attended by, among others, President Noel Hutley SC, Senior Vice-President Arthur Moses SC, Junior Vice-President Tim Game SC and Bar Association Treasurer and co-chair of the launch, Chrissa Loukas SC.

Speaking of the importance of legal aid, Chrissa Loukas SC quoted from a speech by the Hon Murray Gleeson AC QC at the Law Council's State of the Judicature speech in October 1999, in which he said:

The expense which governments incur in funding legal aid is obvious and measurable. What is not so obvious, and not so easily measurable, but what is real and substantial, is the cost of the delay, disruption and inefficiency, which results from absence or denial of legal representation. Much of that cost is also borne, directly or indirectly, by governments. Providing legal aid is costly. So is not providing legal aid.

Making recommendations and promoting the administration of justice

## LAW REFORM AND PUBLIC AFFAIRS

*Throughout the reporting year, the Bar Association also made other media interventions on issues as diverse as delays in District Court criminal trials, calls for the reinstatement of juries in civil cases and the proper resourcing of the Sheriff's Office to ensure better court security.*

The campaign, which includes a significant social media component utilising YouTube appearances by such public figures as Richard Roxburgh, the star of ABC TV's *Rake* program, will continue with further events involving the Bar Association and its members over the coming year.

Equality and diversity issues at the bar were also a focus of the Bar Association's public affairs work during the reporting year. 2015 saw the association's Equitable Briefing Working Party finalise recommendations to the Law Council of Australia for a revised national equitable briefing policy which were subsequently adopted. President Jane Needham SC and Junior Vice-President Arthur Moses SC made a number of media appearances emphasising the importance of the policy in fostering further gender diversity at the New South Wales Bar.

The bar is quite a flexible place to work if you are lucky enough to be able make it so and I think making the bar a better place for women to work will result in more women being there and numerically if we're there we'll be available to take the speaking roles in court.

Jane Needham SC, *Australasian Lawyer*, 21 July 2015.

Given that women make up over 50 per cent of university graduates in law, the bar needs to position itself as an inclusive, diverse profession to ensure that the bar properly reflects the society in which it operates.

Jane Needham SC, *Lawyers Weekly*, 3 September 2016.

In August 2015 the Bar Association was required to intervene to correct comments made by the then prime minister, the Hon Tony Abbott MP, to the effect that it was not in the public interest for courts to 'sabotage' certain mining projects which should be favoured by the nation as a whole. In exercising its traditional role in educating the community and media regarding the role of the judiciary and justice system, President Jane Needham SC pointed out that:

These comments demonstrate a lack of understanding of the independent role of the courts in our democracy...It is critical that our courts make decisions on the basis of the legislation they are charged to interpret and the facts of each individual case before them. Legislation imposes strict conditions on developments such as coal mines, and the courts' task in these circumstances is to scrutinise the Executive's actions to ensure that any approvals fall within legislative parameters. The courts are not the servant of the Executive – any such implication is inimical to the basic principle of the separation of powers, which is fundamental to our Westminster-style system of government' New South Wales Bar Association media release, 7 August 2015.

Throughout the reporting year, the Bar Association also made other media interventions on issues as diverse as delays in District Court criminal trials, calls for the reinstatement of juries in civil cases and the proper resourcing of the Sheriff's Office to ensure better court security.

Making recommendations and promoting the administration of justice

## LAW REFORM AND PUBLIC AFFAIRS

*The Bar Association seeks to raise issues of legal principle in the public arena. In doing so, it inevitably attracts criticism from certain media outlets...*



Chrissa Loukas SC preparing for the NSW launch of LegalAidMatters at the Law Society of NSW on 19 May 2016. Photo: courtesy of the Law Society of NSW.

Thanks are due to the chair of the Criminal Law Committee, Stephen Odgers SC and Junior Vice-President Arthur Moses SC and Andrew Stone SC of the Common Law Committee, who both undertook media duties from time to time at the president's request.

Importantly, the Bar Association's public affairs activities also involve the background briefing of journalists at Bar Council Executive and senior staff level. This crucial element of the association's work, which is often overlooked, is aimed at promoting accurate reporting in the coverage of often complex legal issues in the media, or preventing inaccurate reports from being published..

Much of the Bar Association's public affairs work does not appear in the mainstream media. Members and association staff give up their time to conduct sessions for other professional bodies and government agencies on a variety of topics, ranging from aspects of law reform to the Legal Assistance Referral Scheme. The Bar Association also sponsors a variety of university prizes and university teams for international moots.

The Bar Association seeks to raise issues of legal principle in the public arena. In doing so, it inevitably attracts criticism from certain media outlets in view of its role in addressing populist depictions of the judiciary and justice system.

Despite those criticisms, the Bar Association will continue to provide objective, independent commentary explaining the workings of our justice system and upholding the essential legal principles upon which it is built.

Making recommendations and promoting the administration of justice

### LEGAL AID COMMITTEE

#### Committee members

Dean Jordan (chair)  
Tim Game SC  
Craig Leggatt SC  
Alex Radojev  
Neil Jackson  
Maria Cinque  
Scott Cornish  
Louise Goodchild  
Luke Fermanis  
Ashley Stafford  
Emmanuel Kerkyasharian  
Peggy Dwyer  
Clyllyn Sperling

*A comprehensive submission was made in October 2015 to Legal Aid New South Wales seeking an increase in fees for counsel appearing in the care and protection jurisdiction.*

The main goal of the Legal Aid Committee is to work strategically to minimise the impact of cuts to Legal Aid New South Wales on services provided to legally aided persons as well as the work performed by members of the association and the rates of pay for such work.

The result of cuts to Commonwealth legal aid funding, which has caused major difficulties for an already massively overburdened legal aid system in New South Wales, has been of particular concern during the last year. Significant cuts have already been made and further cuts have been announced to commence on 1 July 2017. The committee is working on initiatives to mitigate the effects of these reductions. The chair and members of the committee are assisting the association with the legal aid funding campaign in New South Wales which is part of a national campaign to improve Commonwealth funding for legal aid.

A forum was held in the Bar Association's Common Room on 27 April 2016 at which members of key community legal centres and other community organisations were invited to hear from David Neal SC, co-chair of the legal aid funding campaign, and Ms Julie Hamblin. Guests were welcomed by the president of the Bar Association, Noel Hutley SC, and the forum was facilitated by Chrissa Loukas SC, the treasurer of the association. Stakeholders were encouraged to sign a petition to support the campaign. The campaign in New South Wales was formally launched on 19 May 2016.

The Legal Aid Committee considered ways in which delays in trials and problems with adequate preparation of matters may be addressed. The committee liaised with Legal Aid regarding measures to address the increasing backlog of criminal matters in the New South Wales District Court. The committee also analysed changes to the operation of grants of legal aid, particularly in criminal matters, to assist members of the association with the implementation of those changes.

A comprehensive submission was made in October 2015 to Legal Aid New South Wales seeking an increase in fees for counsel appearing in the care and protection jurisdiction. There is a large disparity in fees payable to counsel in this jurisdiction when compared to the criminal and family law jurisdictions. There are also significant discrepancies between hourly rates payable to solicitor advocates and those payable to counsel, who are regarded as specialist advocates.

The Legal Aid Committee maintains a cooperative working relationship with Legal Aid New South Wales and encourages the association to collaborate on a number of Legal Aid panels. In December 2015 the committee engaged a member to assist with the Duty Back Up Scheme for courts serviced by a Legal Aid New South Wales which had been expanded to Nowra, Port Macquarie, Wauchope, Taree and Kempsey Local Courts following a review of the scheme. A representative was also arranged for the General Family Law Panel selection committee.

Making recommendations and promoting the administration of justice

## CRIMINAL LAW COMMITTEE

### Committee members

Stephen Odgers SC (chair)  
 Tim Game SC (co-chair)  
 Nicholas Cowdery AM QC  
 Chrissa Loukas SC  
 Ian Bourke SC  
 Peter McGrath SC  
 Gaby Bashir SC  
 Penny Wass SC  
 Bernard Glennon  
 David Jordan  
 Anne Healey  
 Kieran Ginges  
 Richard Wilson  
 Maria Gerace  
 Kara Shead  
 Lester Fernandez  
 Tanya Smith  
 Jeffery Clarke  
 Belinda Baker  
 Alex Steel (UNSW)  
 David Hamer (Sydney University)

*Some of these submissions have been made on a confidential basis, others have been widely publicised*

During the last year the Criminal Law Committee has made a significant contribution to the development of the criminal law in New South Wales. As has generally been the case over the last few decades, 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. The members of the committee take very seriously the need to provide submissions on proposed reforms and do so on a regular basis, particularly to the NSW Government.

In addition to monitoring legislative and policy developments on a daily basis, the committee has made a number of contributions, written and oral submissions to the New South Wales Law Reform Commission, the New South Wales Sentencing Council, the ombudsman, the New South Wales attorney general and the Law Council of Australia on a number of issues. Some of these submissions have been made on a confidential basis, others have been widely publicised. The Bar Association has contributed to the work of taskforces and working groups on a broad range of issues, including:

- Proposed amendments to the *Bail Act 2013*
- Child sexual assault
- Indigenous incarceration (Law Council of Australia)
- Anti-libidinal treatment for child sexual assault offenders
- Early guilty pleas

The Bar Association also made written submissions on:

- Section 102 of the *Crimes (Appeal and Review) Act 2001* (double jeopardy)
- *Criminal Procedure Amendment (Child Sexual Offence Evidence Pilot) Act 2015*
- The NSW Domestic Violence Disclosure Scheme
- Proposed amendments to Local Court practice notes
- Intensive correction orders
- Police oversight
- Drug law reform
- Criminal Procedure Act
- Bail (specifically bail reports)
- Community-based sentences and driver licence disqualification reform
- Security clearances for lawyers
- Criminal responsibility and consequences (fitness to plead)
- *Criminal Procedure Amendment (Mandatory Pre-trial Defence Disclosure) Act 2013*
- *Crimes (Domestic and Personal Violence) Amendment (Review) Bill 2016*
- Fine default imprisonment
- Cross examination of victims of alleged family violence offences



Making recommendations and promoting the administration of justice

### CRIMINAL LAW COMMITTEE

*... there is no shortage of members of the criminal bar who are willing to participate in that work for the public benefit.*

In addition to responding to requests to make submissions, the association has made a number of independent submissions:

- proposing amendments to ss 8 and 9 of the *Children (Criminal Proceedings) Act 1987*;
- emphasising the serious nature of delays in District Court;
- to the attorney and cross benchers in relation to a bill introduced by the Rev F Nile MP, the *Drug Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2015*;
- requesting that urgent attention be given to high levels of Indigenous incarceration, and the consideration of driver licence disqualification reforms; and
- developing a comprehensive drug law reform proposal.

The work of the committee is important and rewarding. The demands on members in terms of preparation of submissions, debating criminal justice issues and contributing to law reform are considerable but there is no shortage of members of the criminal bar who are willing to participate in that work for the public benefit.

### FAMILY LAW COMMITTEE

#### Committee members

Richard Schonell SC  
Jonathon Priestley SC  
Michael Kearney SC  
Peter Campton SC  
Lynette Judge  
Warwick Tregilgas  
Mark Anderson  
Robyn Druitt  
Paul Sansom  
Angela Petrie  
Clyllyn Sperling  
John Longworth

In the 2016 year, the committee has continued to represent the New South Wales Bar in various ways, particularly in relation to liaising with the judiciary in the Family Court and the Federal Circuit Court at various registries throughout NSW.

The composition of the committee is quite deliberate in casting its membership not just exclusively to the Sydney bar but including members from Parramatta, Newcastle and the Lismore bars. The advantage of this is that are divergent inputs from members across NSW and a means to disseminate information to the broader profession.



## FAMILY LAW COMMITTEE

*Members of the committee, particularly those practising in Parramatta, lobbied extensively both in their capacities as members of the committee and generally in an attempt to address the chronic shortage of judicial resources.*

Members of the committee have represented the New South Wales Bar on:

- the NSW Legal Aid Review Committee;
- the Legal Aid General Family Law Panel Selection Committee;
- the Judges' Liaison Committee in the Sydney registry of the Family Court of Australia;
- the Legal Profession Liaison Committee in the Sydney registry of the Federal Circuit Court; and
- the Family Law Section of the Law Council.

During the course of the year, the committee continued to lobby for more federal judicial resources in NSW. During the latter part of 2015, an attempt was made to focus the government's attention on the dwindling resources in the Family Court and the Federal Circuit Court both in Sydney and Parramatta. This was particularly aided and assisted by the president's letter to the prime minister in early 2016 identifying the government's apparent failure to replace retiring judges in the Family and Federal Circuit Courts.

The Family Law Committee during the course of the year played a role in liaising with the listing judges in the Family Court Registry in Sydney. As a result a forum was held on 24 May 2016 attended by senior judges of the Family Court as well as the profession generally aimed at the improved delivery of judicial resources. A lively discussion ensued with the profession given the opportunity to put forward suggestions for reform and improvement in trial management and the listing of interim hearings.

The committee sees as a core function of its work over the next year the continued lobbying for the purposes of allocation of more federal judicial resources. The chronic failure on the part of the government to properly fund the Family Court and Federal Circuit Court leads inexorably to significant delays which continue to cause hardship for the clients (and more importantly their children) of both courts.

Making recommendations and promoting the administration of justice

# ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

## Committee members

Angela Bowne (chair)  
Malcolm Holmes QC  
Peter Callaghan SC  
Robert Angyal SC  
Nicholas Kidd SC  
Mary Walker  
Sandrah Foda  
Julie Soars  
Deborah Robinson  
Andrew Fox  
Dr Sean Bogan  
Mary Rebehy

*The New South Wales Bar Association remains one of the largest mediator accrediting bodies under the NMAS with over 100 accredited mediators.*

## General activities of the ADR committee

During 2015-16, the ADR Committee continued to provide opportunities for all barristers at the New South Wales Bar to gain increased knowledge and experience of ADR, to promote the interest and expertise of the bar in ADR (including barristers who practise as mediators, arbitrators and expert determiners) and to provide training for barristers as arbitrators. The New South Wales Bar Association remains one of the largest mediator accrediting bodies under the National Mediator Accreditation System (NMAS) with over 100 accredited mediators.

The committee continued to administer the accreditation and re-accreditation of mediators under the National Standards (which have been revised effective from 1 July 2015), the appointment of mediators to court panels and the approval of Bar Council of barristers as arbitrators.

The Bar Association renewed its fruitful membership of the Australian Centre for International Commercial Arbitration (ACICA). Other corporate members are 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.

The ADR Committee also gave detailed consideration to the position of ADR practitioners under the *New South Wales Barristers' Rules*. The committee unanimously recommended to the Bar Council that the definition of 'barristers' work' in what since 1 July 2015 has become clause 11 of the *Legal Profession Uniform Conduct (Barristers Rules) 2015* be amended to include: 'representing a client in or conducting a mediation or arbitration or other method of alternative dispute resolution'. The Bar Council and then the Australian Bar Association supported this proposed amendment, which was being considered by the National Legal Services Council at the end of the reporting period. The committee is very pleased that the amendment was made by the Legal Services Council and came into effect on Friday, 2 September 2016.

## CPDs and other training

In August 2015 the New South Wales Bar Association ran three arbitration workshops for barristers seeking to become approved arbitrators under the BarADR Scheme. These workshops served as introductory workshops to NSW and Commonwealth arbitration legislation for all barristers. The seminars involved practical application of skills needed in arbitration.

Making recommendations and promoting the administration of justice

## ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

*The Bar Council accredited 45 mediators for the period from 25 October 2015 – 25 October 2017 under the NMAS.*

The committee has also provided a number of other opportunities for barristers to attend ADR related training during 2015–16. ADR focused CPDs included ‘Introduction to Mediation’ and ‘The Art of Persuasion’.

### Mediator Chat

Mediator Chat is an initiative of the Mediation Practice Group, a sub-committee of the ADR Committee. These events are an opportunity for mediators at the New South Wales Bar or those interested in learning more about mediation to get together in an informal social environment, where a topic relevant to mediation is discussed in a light hearted way. Topics during 2015–16 included ‘A Good Mediator Needs Only One Day to Resolve a Dispute – Anything More is Just Fee Generation’ and ‘Mindfulness in Mediation – Magnificent or Just a Slogan?’ The events were well attended and have developed to include an informative group discussion following the topic presentation.

### Mediation accreditation

The New South Wales 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 2015, 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 2013. The Bar Council accredited 45 mediators for the period from 25 October 2015 – 25 October 2017 under the NMAS. 103 mediators are now included on the list the association provides to the Supreme Court. In addition, 25 barristers were recommended for the Family Law Settlement Service Panel.

### 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

#### Committee members

Andrew Morrison SC (chair)  
Simon Harben SC  
Robert Sheldon SC  
Eugene Romaniuk SC  
Lorna McFee  
Richard Royle  
Greg Hickey  
William Fitzsimmons  
David Stanton  
Andrew Stone  
Elizabeth Welsh  
Dominic Toomey  
Bede Kelleher  
Andrew Combe  
Ross Stanton  
Jnana Gumbert

*Members of the committee have already been involved in media appearances regarding the government's proposals.*

The Common Law Committee continued to deal with a significant workload during the reporting year.

The committee's primary focus in 2016 has been developing responses to proposed changes to the motor accidents scheme being proposed by the minister for innovation and better regulation. These changes, originally proposed to address a proliferation of small unmeritorious claims which nevertheless contributed significantly to the costs of the scheme, were originally put forward in an options paper entitled *On the Road to a Better CTP Scheme*, which was released for public comment in March 2016. The committee prepared comprehensive submissions in response, which suggested some minor alterations to costs provisions which would address the escalation of small claims, while retaining existing common law rights for the seriously and moderately injured.

As the consultation process continued, however, it became apparent that the government was considering proposals which would replace some common law rights with limited no fault statutory benefits. Representatives of the committee, Andrew Stone SC and Elizabeth Welsh, have argued for the preservation of common law rights in the course of the government's consultations. At the point of writing, the committee is continuing to advocate this position, with the assistance of case studies which set out the potential consequences of the proposed scheme, to an expert panel which has been set up by the minister to examine issues of fairness in the proposed scheme. Members of the committee have already been involved in media appearances regarding the government's proposals. It appears that the consultation will conclude and legislation be introduced later in 2016.

The Common Law Committee was also involved in preparing a detailed initial submission to the NSW Law Reform Commission's review of section 6 of the *Law Reform (Miscellaneous Provisions) Act 1946* regarding third party claims on insurance money. The committee will continue to be involved in the commission's consultation program regarding the reference.

Another focus of the committee, in the second half of 2015, was the government's ongoing workers compensation reforms. Following the passage of the 2012 workers compensation legislative package, which substantially reduced benefits for injured workers and the role of lawyers in the scheme, there was a realisation in government that the changes had gone too far. Given the substantial scheme surplus that resulted, the government came to the conclusion that it could reinstate some limited benefits to workers.

Committee representatives were involved in extensive discussions with the new State Insurance Regulation Authority (SIRA) on various aspects of regulatory reform including legal costs. The committee also provided comment on draft

Making recommendations and promoting the administration of justice

### COMMON LAW COMMITTEE

*The committee also provided comment on draft legislative and regulatory proposals ... and successfully lobbied government to ensure the continuing oversight of the workers compensation scheme by the Legislative Council Law and Justice Committee.*

legislative and regulatory proposals in this regard, and successfully lobbied government to ensure the continuing oversight of the workers compensation scheme by the Legislative Council Law and Justice Committee.

The Common Law Committee was also involved in consultations being conducted by the then Motor Accidents Authority (MAA) in relation to its online portal for motor accidents claims costs disclosure by solicitors, provided detailed comments to the then Motor Accidents Authority on draft claims handling guidelines and prepared a submission to the government's Independent Review of Insurer Profit within the NSW CTP Scheme.

In the second half of 2015, the committee prepared a number of submissions to the District Court in the course of the development of a new practice note regarding the use of concurrent evidence in that jurisdiction. Some amendments were made to the draft practice note as a result of the association's representations.

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

- undertaking initial work on the association's submission to the Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper 'Redress and Civil Litigation';
- providing a submission to the NSW Parliamentary Select Committee on the Legislative Council Committee System which recommended ongoing parliamentary oversight of the workers compensation, motor accidents and the Lifetime Care and Support schemes.
- preparing submissions to the Uniform Rules Committee relating to practice notes and rules governing evidence by witness statement;
- regular stakeholder consultation meetings with the Lifetime Care and Support Authority, SIRA and the MAA;
- organising a successful drinks function for the Common Law Bar, which was held on 21 August 2015 at the CBD Hotel. His Honour Justice Geoffrey Bellew was the Guest of Honour for the evening; and
- arranging the New South Wales Bar Personal Injury/Common Law Conference, which was held on Saturday 5 March at the Hilton Hotel.

Particular thanks are due to Andrew Stone SC, Elizabeth Welsh, Andrew Combe and Ross Stanton for their contributions during the year.

Making recommendations and promoting the administration of justice

## HUMAN RIGHTS COMMITTEE

### Committee members

Sarah Pritchard SC (chair)  
Richard Lancaster SC  
Kate Eastman SC  
David Mallon  
Simeon Beckett  
Shane Prince  
Michael Wright  
Louise Goodchild  
Trent Glover  
Stephen Tully  
Christine Melis  
Professor Andrew Byrnes (UNSW)

*The Bar Association expressed concern that the ratification of the Australia – China Extradition Treaty would be likely to expose a person extradited to denial of the right to a fair trial.*

The Human Rights Committee worked on a broad range of matters during the last year. The committee assisted the Law Council of Australia by providing input into a number of its submissions. The chair of the association's Human Rights Committee is also the chair of the Law Council's Human Rights Committee and the two committees worked closely together on various projects.

The chair and a member of the committee provided assistance with the Law Council's Working Group on Business and Human Rights and a forum was held at the Australian Human Rights Commission in November 2015, to inform stakeholders of recent developments and planned initiatives.

The Human Rights Committee prepared a detailed submission for the Law Council of Australia to assist with a submission to the Joint Standing Committee on Treaties of the Australian Parliament with regard to the Treaty on Extradition between Australia and the People's Republic of China (the Australia – China Extradition Treaty) which had been signed on 6 September 2007 but not yet ratified. The Bar Association expressed concern that the ratification of the Australia – China Extradition Treaty would be likely to expose a person extradited to denial of the right to a fair trial. The Bar Association submitted that the Law Council of Australia should oppose the ratification by Australia of the treaty in the absence of sufficiently robust protections to the right of a fair trial of those likely to be extradited to China.

The Human Rights Committee also worked collaboratively with the Human Rights Committee of the Law Society of New South Wales on submissions and education projects. Members of the two Committees presented sessions at a human rights course held at the WEA as well as 'Politics in the Pub' at the Harold Park Hotel. This work served to educate members of the public about a broad range of human rights issues.

In August 2015 the committee prepared an urgent submission to the New South Wales Parliament on the *Residential Tenancies and Housing Legislation Amendment (Public Housing – Antisocial Behaviour Bill 2015)*. The committee liaised with the Law Society of New South Wales and Redfern Legal Centre on this matter.

In March 2016 the committee prepared a comprehensive submission on behalf of the association for the New South Wales Parliament on a proposed amendment to the *Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill (NSW) 2016*. The Bar Association worked co-operatively with the Environmental Defender's Office on this task. Parts of the association's submission were relied upon by members of Parliament who sought to oppose the proposed amendments to the legislation and the submission received wide media attention although the proposed amendments were ultimately passed. The Human Rights Committee worked collaboratively with the association's Criminal Law Committee to prepare a joint submission on the *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW) which was an extraordinary piece of legislation with grave implications for the rule of law and individual freedoms in New South Wales.

## LEGAL ASSISTANCE REFERRAL SCHEME

### Highlights for 2015–16

- No fee matters comprised the highest category by a ratio of just under 3:1 in matters handled on a continuing basis.
- The number of hours contributed by barristers for the period in question, together with matters which were finalised in the period but where proceedings were instituted in the previous year/s, increased by 88 per cent.
- 59 per cent of matters referred to barristers were considered to have legal merit or prospects of success.
- 48 per cent of all referrals came from the Supreme Court of NSW. There was also a 24 per cent increase from last year in the number of referrals received from the court. This coincides with a decision of the chief justice, the Hon 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.

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 association's offices unannounced. All legal assistance enquiries were addressed to the best of our ability. For the 2015–16 financial year, 242 formal applications for assistance were received and processed. This is one less than the number of applications received last year. Of the 242 applications, 114 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 they were ultimately referred or not. 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 3200 hours of work through the scheme, with 19 matters still in the court system. This was made up of approximately 1,890 hours of work in matters referred in the current period and an additional 1,300 hours of work in continuing matters commenced in the previous financial year. Since the scheme's inception in 1994 barristers have contributed approximately 48,900 hours of work.

### The Law Kitchen (TLK)

The Law Kitchen (TLK) has as its objectives the provision of free legal services to persons who are transiently, episodically or chronically homeless. The Bar Association has continued to allocate a dedicated solicitor employee to assist Mr Les Einstein, the member of the bar who established TLK, and other barristers who have volunteered to assist TLK, to provide advice sessions for the Woolloomoolloo community at the BackShed Café managed by the Hope Street organization. This arrangement has enabled both TLK and Hope Street to provide a more holistic service where legal assistance, social work, counselling and a coffee are all accessible to some of the most marginalized individuals and families in Sydney.

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 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 alternate. The executive director of the Bar Association is a board member of Law Access. The Bar 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



Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME

- Judges, magistrates and registrars comprise the second highest referral source, just behind members of the public. Both of these categories are almost double the number of matters referred by solicitors, who make up the third-highest referral source.
- The number of referrals from country areas almost trebled.
- Nearly 76 per cent of the applications to the scheme were refused legal aid as being outside the commission's guidelines.

Disbursement Fund when he is not available. During the year the manager of the scheme attended:

- functions hosted by Salvos Legal, Gilbert & Tobin, RACS and the National Pro Bono Resource Centre;
- meetings with the deputy executive director, and the deputy president of NCAT, Ms Nancy Hennessey, with a view to commencing a referral arrangement with NCAT in its Administrative and Equal Opportunity Division;
- meetings with the deputy executive director, and local court staff, Mr Michael McTegg, deputy registrar and Ms Sonia Woodward, registry manager with a view to setting up a Duty Barrister Scheme at John Maddison Tower in addition to the existing Duty Barrister Scheme at the Downing Centre;
- a meeting of NLA as an alternate to the deputy executive director where the attorney general was in attendance; and
- a meeting of the NSW Department of Justice Civil Justice Collaboration Group as an alternate to the deputy executive director.

### Volunteers encouraged

In 2015–16, 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 Bar 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 Bar Association for assistance in obtaining the services of a barrister. Enquiries are directed to the association's website under 'Find-a-Barrister', where there have been 253,565 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, 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 Scheme, which operates at the Local and District Courts at the Downing Centre. 120 barristers from all levels of seniority have volunteered to assist. Barristers

## LEGAL ASSISTANCE REFERRAL SCHEME

*Two duty barristers see an average of four clients each per day, which equates to approximately 2,000 members of the public each year.*

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. Two duty barristers see an average of four clients each per day, which equates to approximately 2,000 members of the public each year. An iPad is now available for the use of duty barristers.

### 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, Land & Environment Court and District Court of NSW. 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, on 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 Bar Association also have to deal with the applicants who attend 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

*LARS is a scheme which operates at the coalface of offering services to necessitous people requiring legal help.*

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 Bar 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. The Bar Association believes 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.

## LEGAL ASSISTANCE REFERRAL SCHEME CASE STUDIES

*Eventually the barrister, with a combination of skill and compassion, was able to resolve the matter and a Deed of Settlement was signed.*

A member of the public made application to the scheme in relation to bank eviction proceedings in the Supreme Court possession list. The matter was set down for a five day hearing. The client had practised law overseas and was highly respected in his community. He and his wife had previously run a successful commercial business but had spent all their savings in defending the action. He had suffered a nervous breakdown and was no longer able to support his family. His mental health was precarious. He was on a disability pension. His wife was his carer. A barrister agreed to be involved and recommended that an attempt be made to settle the matter. The negotiations were difficult and lengthy, complicated by the client's steadfast view that he had a cross-claim against the bank. Eventually the barrister, with a combination of skill and compassion, was able to resolve the matter and a Deed of Settlement was signed.

\*\*\*

Justice Connect, through Mosaic, its organisation which supports refugees, referred a 20 year old man to the scheme. He is an asylum seeker who arrived in Australia by boat as an unaccompanied minor. He lives by himself without the support of any family in Australia. He is currently studying at a regional high school and is completing his Higher School Certificate. His study obligations restrict his ability to work. He is living under extreme ongoing financial pressure as he is wholly reliant on government support to meet his most basic costs of living including his very basic rental accommodation. He was casually employed at a local dry cleaner but has recently been told there is no longer work available. Since arriving in Australia he has undergone a kidney transplant operation and receives ongoing treatment at a large regional hospital. Mosaic had assisted him in making representations to the SDRO that it review the penalty notices and fines which had been issued to the client for minor driving offences. He was subsequently advised that his provisional driver's licence was to be suspended for three months. As the client needed his licence to attend medical appointments and high school, a barrister agreed to assist in appealing this decision. The matter was heard in a regional Local Court where the magistrate reduced the suspension from three months to three weeks.

\*\*\*

A couple from country NSW contacted the scheme in relation to the husband's three year old niece to dispute *ex parte* orders made by a Local Court magistrate sitting the court's family law jurisdiction. The orders were made approximately one month after the death of the child's mother, the sister of the husband. The identity and whereabouts of the child's father were unknown. The magistrate made orders, *inter alia*, that the maternal grandfather was to have sole parental responsibility of the child and she was to live with him. The couple lived approximately 600 kms from where the grandfather was living. They had concerns about the capacity of the grandfather to properly care for the child. A

## LEGAL ASSISTANCE REFERRAL SCHEME CASE STUDIES

*The judge expressed his appreciation for the kind and compassionate manner in which the barrister had dealt with the matter and took into account some of the client's requests in the orders that were made.*

barrister agreed to assist and appeared in the Local Court on the couple's behalf. The magistrate made orders that the matter be transferred to the Federal Circuit Court at Parramatta. The barrister was also able to negotiate that the child spend every third week with the couple. Another Parramatta-based barrister, instructed by the Law Society Pro Bono Solicitor, also agreed to assist and is now preparing the matter for hearing.

\*\*\*

A Supreme Court judge, sitting in the Adoptions List in the Equity Division of the Supreme Court of NSW, referred a birth father to the scheme to receive advice and representation in a mediation and if the matter did not settle, in a subsequent hearing. A barrister agreed to assist and attended at the registry to inspect the file. After a conference with the client a long letter of advice was provided. The mediation was to take place a couple of days after the conference. After advising the barrister he would attend the mediation, the client was unable to attend as he found it emotionally difficult to address the situation. The barrister liaised with the parties at the mediation to best inform them of the client's position as advised in conference. The matter was subsequently heard by the court. The judge expressed his appreciation for the kind and compassionate manner in which the barrister had dealt with the matter and took into account some of the client's requests in the orders that were made.

Legal Aid referred a woman to the scheme whose brother had been diagnosed with schizophrenia. The woman had been appointed as her brother's financial manager by the Guardianship Tribunal. As part of their father's estate the brother inherited a valuable commercial property. Before the father died he made arrangements with a close friend that the friend and his family would keep an eye on his son through life and particularly in relation to the management of the property. Over time it became obvious to the sister that something was amiss with her brother's financial situation. His condition was deteriorating and he needed a higher level of care but there was no money to pay for it. She initiated her own enquiries and determined that her brother had signed over his property to the friend and his family for no financial gain. The property had been sold. A barrister agreed to assist and on advice provided by the barrister, the client's sister acting as her brother's tutor, instructed a solicitor to commence proceedings in the Equity Division of the Supreme Court of NSW, to recover the proceeds of sale from the property. Over a period of approximately eighteen months the matter is now in the process of being settled, which will also entail seeking the formal approval of the court because of the brother's disability.

Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME STATISTICS

HIGH COURT	2014-15	2015-16
Application for special leave	2	2
Original jurisdiction	-	-
<b>TOTAL</b>	<b>2</b>	<b>2</b>

FEDERAL COURT	2014-15	2015-16
Full bench appeals	2	-
Immigration	4	2
Administrative	2	-
Discrimination	1	-
Intellectual property	-	-
Trade practices	-	-
Native title	-	2
Bankruptcy	1	2
<b>TOTAL</b>	<b>10</b>	<b>6</b>

FAMILY COURT	2014-15	2015-16
Full bench appeals	-	-
Access	4	3
Residency	5	2
Child support	-	-
Spousal maintenance	-	-
Property settlement	-	1
<b>TOTAL</b>	<b>9</b>	<b>6</b>

FEDERAL CIRCUIT COURT	2014-15	2015-16
Discrimination	1	1
Family law - access	10	4
Family law - child support	1	2
Family law - residency	2	1
Family law - property settlement	8	1
Family law - spousal maintenance	2	1
Intellectual property	-	-
Industrial relations	2	-
Immigration	19	11
Bankruptcy	4	2
General	-	1
<b>TOTAL</b>	<b>49</b>	<b>24</b>

SUPREME COURT	2014-15	2015-16
Court of Appeal	6	13
Court of Criminal Appeal	7	9
Common Law	32	38
Administrative	3	7
Equity	25	28
Criminal	2	4
Corporations List	-	-
Commercial	3	1
Family Provisions	8	8
Defamation	5	4
Professional Negligence	1	4
<b>TOTAL</b>	<b>92</b>	<b>116</b>

DISTRICT COURT	2014-15	2015-16
Criminal	10	12
Civil	12	10
Care proceedings	2	6
Defamation	3	2
Professional negligence	-	-
<b>TOTAL</b>	<b>27</b>	<b>30</b>

LOCAL COURT	2014-15	2015-16
Criminal	16	18
Civil	10	7
Coronial inquest	1	-
Family law - residency and access	-	1
<b>TOTAL</b>	<b>27</b>	<b>26</b>

OTHER COURTS	2014-15	2015-16
Land & Environment Court	5	4
Children's Court	1	1
Coroner's Court	3	3

TRIBUNALS	2014-15	2015-16
Administrative Appeals Tribunal	2	1
NCAT	16	13
Workers' Compensation Commission	-	1
<b>TOTAL</b>	<b>18</b>	<b>15</b>

COMMISSIONS	2014-15	2015-16
Fair Work Commission / NSW IRC	2	9

## Promoting access to justice

## LEGAL ASSISTANCE REFERRAL SCHEME STATISTICS

REFERRAL SOURCE	2014-15	2015-16
Community legal centre	45	20
Law Society / solicitor	75	35
Member of the public	32	66
Legal Aid	23	20
LawAccess	24	18
Judge / magistrate / registrar	32	62
Member of the bar	15	13
Member of parliament	1	2
Justice Connect	1	3
Pro bono director of a large firm	2	1
Welfare / community group	1	-
Attorney General's Department / DPP	1	2
Website hits	3,977*	4,418*
* unique hits to the pages of Legal Assistance, Duty Barrister / LARS guidelines on the updated website		

CLIENT LOCATION	2014-15	2015-16
<b>Sydney Metropolitan Area</b>		
West	70	63
North	49	30
South	41	40
East	8	21
Inner City	23	12
Central Coast	11	9
Country	12	32
Prison	16	14
Villawood Detention Centre	4	2
Interstate	5	15
Overseas	4	4
<b>TOTAL</b>	<b>243</b>	<b>242</b>

TYPES OF WORK DONE	2014-15	2015-16
Merit assessment - no fee	114	111
Advice (over & above initial merit assessment)	76	67
Conferences	40	31
Appearances	26	22
Matters settled	-	5
Appearances at hearing	12	2
Mediations	1	1
Other (inc. 2nd opinion & prep. submission)	17	26

REJECTION / NO ACTION	2014-15	2015-16
Outside guidelines	69	70
No further information received / no further contact from applicant	38	38
No longer requires LARS assistance	17	4
Subject to Federal Court RRT LAS	-	-
Subject to Federal Court LAS	-	-
Subject to Supreme Court LAS	-	-
Referred to community legal centre	-	-
Briefed barrister privately	4	4
Briefed solicitor privately	-	6
Matter discontinued	-	1
Unable to refer - insufficient resources	1	-
Requires a migration agent	-	-
Too late notification	2	6
Matter dismissed	1	-
Matter settled	2	-
Conflict of interest	-	1
<b>TOTAL</b>	<b>134</b>	<b>130</b>

TURNAROUND	2014-15	2015-16
Same day	25	20
Less than a week	30	37
1-2 weeks	21	29
2 weeks plus	35	42
<b>TOTAL</b>	<b>111</b>	<b>128</b>

BASIS BRIEF ACCEPTED	2014-15	2015-16
No fee - merit assessment	111	114
No fee - continuing involvement	76	84
Reduced fee - continuing involvement	14	13
Speculative / costs recovery - continuing involvement	20	17
Market rates - continuing involvement	1	-

BASIS ON WHICH REFUSED LEGAL AID		
Merit	35	23
Financial	20	35
Outside guidelines	188	184

MATTERS CONSIDERED BY A BARRISTER TO HAVE LEGAL MERIT / PROSPECTS OF SUCCESS		
Yes	61	67
No	50	47
Considered by a barrister to have legal merit / prospects of success	55%	59%

## PROFESSIONAL CONDUCT IN 2015–16

*The Uniform Law has brought many changes to the day to day work of the Professional Conduct Department. However, the department's main regulatory functions remain unchanged...*

The Legal Profession Uniform Law came into operation in NSW and Victoria on 1 July 2015. The Uniform Law aims to harmonise regulatory obligations while retaining local performance of regulatory functions. It regulates the legal profession across the two jurisdictions, governing matters such as practising certificates, cost disclosure and billing arrangements, complaint handling processes and professional discipline issues and continuing professional development requirements.

The suite of legislation includes the *Legal Profession Uniform Law Application Act 2014*, the Legal Profession Uniform Law (NSW) and the *Legal Profession Uniform Conduct (Barristers) Rules 2015*.

The director professional conduct continues to be involved with the implementation of the Uniform Law, representing the Bar Association in ongoing liaison with the 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.

The Uniform Law has brought many changes to the day to day work of the Professional Conduct Department. However, the department's main regulatory functions remain unchanged, namely 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;
- facilitates the provision of ethical guidance to barristers;
- responds to queries from barristers, solicitors and members of the public regarding complaints and regulatory processes more broadly;
- assists the Bar Council in connection with reports submitted to the Legal Profession Admission Board; and
- assists in the ongoing development and review of legal profession legislation, including rules relating to barristers.

### 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.



## PROFESSIONAL CONDUCT IN 2015–16

*In the course of 2015–16 the Bar Council investigated 101 complaints – 63 complaints made during the year and 38 complaints made in previous years but ongoing as at 1 July 2015.*

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 2015–16, the Bar Council has dealt with complaints both under the *Legal Profession Act 2004*, those made before 1 July 2015, and under the Legal Profession Uniform Law (NSW), those made since 1 July 2015.

In the course of 2015–16 the Bar Council investigated 101 complaints – 63 complaints made during the year and 38 complaints made in previous years but ongoing as at 1 July 2015. Of those investigations, 46 were finalised during the year – 31 complaints were dismissed under the *Legal Profession Act 2004* or closed under the Legal Profession Uniform Law (NSW), eight resulted in the barrister being cautioned or reprimanded, the Bar Council determined to refer five matters to the New South Wales Civil and Administrative Decisions Tribunal for hearing, and two complaints were withdrawn.

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 2015–16 the commissioner completed reviews of 10 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 Uniform Law.

*In 2015–16 the Bar Council was notified of three automatic show cause events, two relating to bankruptcy matters and one to a serious offence.*

### 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 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 2015–16 the Bar Council was notified of three automatic show cause events, two relating to bankruptcy matters and one to a serious offence. 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 two matters remained under investigation as at 30 June 2016.

## PROFESSIONAL CONDUCT IN 2015–16

*The professional conduct committees play a major role in the preliminary assessment and investigative process.*

### Professional conduct committees

There are four professional conduct committees. Each committee is chaired by a senior member of the New South Wales Bar. Committees are comprised of barrister members and community members. The committees may also include a legal academic. The deputy directors of the Professional Conduct Department serve as secretaries of the committees. The committees held 45 meetings in total during the reporting year.

The professional conduct committees play a major role in the preliminary assessment and investigative process. 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 Davison, Sandra Fleischmann OAM, Jane Fry, Allan Gibson OAM, Brian Gold, Catherine Hart, Jennifer Mason, Bronwyn Preston, Carolyn Stone, Jim Tsirimiagos and Rachel Williams.

The Bar Council also thanks Maxine Evers who provided valuable input as a PCC academic member.

*In 2015–16 the officers of the professional conduct department received almost 300 calls seeking either ethical guidance or information.*

The Bar Council wishes to express its sincere appreciation to the 59 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 senior counsel were available to assist members in 2015–16. 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 the *New South Wales Barristers' Rules*, conduct issues and the processes relating to complaints and show cause events. In 2015–16 the officers of the professional conduct department received almost 300 calls seeking either ethical guidance or information.

## PROFESSIONAL CONDUCT STATISTICS 2015–16

### Number & type of complaints referred to the Bar Council during 1 July 2015–30 June 2016

Figures comprise complaints referred by the LSC to the Bar Council for assessment, investigation and determination (including complaints made by the Bar Council).

COMPLAINT TYPE	NUMBER
Communication	3
Competence and diligence	15
Compliance matters	10
Costs	11
Ethical matters	22
Personal conduct	2
<b>TOTAL NUMBER OF COMPLAINTS</b>	<b>63</b>

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

COMPLAINANT	NUMBER
Bar Council	5
Barrister	3
Client / former client	31
Government department / statutory body	1
Instructing solicitor	1
Legal services commissioner	4
Opposing party	4
Opposing solicitor	6
Witness	3
Other	5
<b>TOTAL NUMBER OF COMPLAINTS</b>	<b>63</b>

## PROFESSIONAL CONDUCT STATISTICS 2015-16

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

Nil

### Number & type of complaints investigated during the year by the Bar Council

Figures include all complaints in respect of which the Bar Council made a decision, complaints that were withdrawn during the year and complaints remaining under investigation as at 30 June 2015.

Note: No matters were investigated by an independent investigator under s 532 LPA 2004.

COMPLAINT TYPE	COMPLAINTS INVESTIGATED THAT WERE MADE	
	DURING THE YEAR	IN PREVIOUS YEARS
Communication	3	3
Competence and diligence	15	9
Compliance matters	10	5
Costs	11	2
Ethical matters	22	18
Personal conduct	2	1
<b>Sub-totals</b>	<b>63</b>	<b>38</b>
<b>TOTAL NUMBER OF COMPLAINTS INVESTIGATED</b>		<b>101</b>

## REPORTS

Professional Conduct Department

# PROFESSIONAL CONDUCT STATISTICS 2015-16

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	0	2
Competence and diligence	5	6
Compliance matters	1	2
Ethical matters	7	8
<b>Sub-totals</b>	<b>13</b>	<b>18</b>
<b>TOTAL NUMBER OF COMPLAINTS DISMISSED / CLOSED</b>		<b>31</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	1	0
Compliance matters	0	1
Ethical matters	0	6
<b>Sub-totals</b>	<b>1</b>	<b>7</b>
<b>TOTAL NUMBER OF REPRIMANDS OR CAUTIONS</b>		<b>8</b>

Number & type of complaints withdrawn during the year by the Bar Council

COMPLAINT TYPE	COMPLAINTS MADE DURING THE YEAR	COMPLAINTS MADE IN PREVIOUS YEARS
Competence and diligence	1	0
Ethical matters	0	1
<b>Sub-totals</b>	<b>1</b>	<b>1</b>
<b>TOTAL NUMBER OF COMPLAINTS WITHDRAWN</b>		<b>2</b>

## PROFESSIONAL CONDUCT STATISTICS 2015–16

Number & type of complaints referred by the Bar Council to the New South Wales Civil and Administrative Tribunal during the year

COMPLAINT TYPE	COMPLAINTS MADE DURING THE YEAR	COMPLAINTS MADE IN PREVIOUS YEARS
Communication	0	1
Compliance matters	0	1
Ethical matters	1	1
Personal conduct	0	1
<b>Sub-totals</b>	<b>1</b>	<b>4</b>
<b>TOTAL NUMBER OF COMPLAINTS REFERRED TO TRIBUNAL</b>		<b>5</b>

Number & type of complaints in respect of which proceedings were instituted in the New South Wales Civil and Administrative Tribunal during the year by the Bar Council

NUMBER AND TYPE OF COMPLAINT WHERE PROCEEDINGS WERE INSTITUTED	NUMBER
Communication	1
Compliance matters	1
Ethical matters	1
Personal conduct	1
<b>TOTAL NUMBER OF COMPLAINTS</b>	<b>4</b>

Number of matters referred to mediation during the year & the outcome of those matters	Number of compensation orders made under section 540(2)(c) <i>Legal Profession Act 2004</i> or s 306 of the Legal Profession Uniform Law (NSW)
Nil	Nil

## PROFESSIONAL CONDUCT STATISTICS 2015–16

**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**

Note: These complaints remain under investigation

AGE OF COMPLAINTS NOT FINALLY DEALT WITH AT THE END OF THE YEAR	NUMBER	COMPLAINTS MADE IN THE YEAR ENDING 30 JUNE
Up to three months	20	2016
Between four and six months	13	2016
Between seven and twelve months	14	2015
Between thirteen and eighteen months	5	2015
Between nineteen and and twenty four months	2	2014
Up to four years	1	2013
<b>TOTAL</b>	<b>55</b>	

**Time intervals involved in the complaint process, being the time between receipt of a complaint and the decision of the Bar Council in respect of the complaint**

Note: figures relate to complaints in respect of which a decision was made by the Bar Council during the year

TIME INTERVALS BETWEEN RECEIPT OF COMPLAINT AND DECISION OF THE BAR COUNCIL	NUMBER
Up to six months	20
Between seven & twelve months	16
Between thirteen and eighteen months	5
Between nineteen & twenty four months	5
<b>TOTAL</b>	<b>46</b>



## COMMITTEES

For the year 2015-16

### Alternative Dispute Resolution

Ian Davidson SC (chair)  
Malcolm Holmes QC  
Peter Callaghan SC  
Robert Angyal SC  
Nicholas Kidd SC  
Mary Walker  
Sandrah Foda  
Julie Soars  
Deborah Robinson  
Andrew Fox  
Dr Sean Bogan  
Mary Rebehy

### Bar News

Jeremy Stoljar SC (chair)  
Greg Burton SC  
Richard Beasley SC  
Richard Bell  
David Robertson  
Nicolas Kirby  
Daniel Klineberg  
Catherine Gleeson  
Victoria Brigden  
Caroline Dobraszczyk  
Talitha Fishburn  
Juliet Curtin  
Radhika Withana  
Charles Gregory  
Christine Melis

### Common Law

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

Elizabeth Welsh  
Bede Kelleher  
Andrew Combe  
Ross Stanton  
Jnana Gumbert

### Costs and Fees

Mark Brabazon SC (chair)  
John Sharpe  
Michael Eagle  
Mark Walsh  
Philippe Doyle Gray  
Janet McDonald  
Michelle Castle  
David Stewart  
Oliver Jones

### Criminal Law

Stephen Odgers SC (chair)  
Tim Game SC (co-chair)  
Nicholas Cowdery AM QC  
Chrissa Loukas SC  
Ian Bourke SC  
Peter McGrath SC  
Gaby Bashir SC  
Penny Wass SC  
Bernard Glennon  
David Jordan  
Anne Healey  
Kieran Ginges  
Richard Wilson  
Maria Gerace  
Kara Shead  
Lester Fernandez  
Tanya Smith  
Jeffery Clarke  
Belinda Baker  
Alex Steel (UNSW)  
David Hamer (Sydney University)

### Education

Tony Payne SC (chair)  
Tom Blackburn SC  
Richard Weinstein SC

Robert Hollo SC  
Michael Fordham SC  
Carol Webster SC  
Michael Hall SC  
Patrick Griffin  
Philippa Ryan  
Ben Katekar  
Hamish Stitt  
John-Paul Redmond  
Kellie Edwards  
Elisabeth Peden  
Yaseen Shariff  
Kavita Balendra  
Jane Paingakulam

### Equal Opportunity

Anthony McGrath SC (chair)  
Kate Eastman SC  
Ingmar Taylor SC  
Sally Dowling SC  
David Price  
Richard Scruby  
Lucinda Wilson  
Penny Thew  
Theresa Baw  
Sophie Callan  
Brenda Tronson  
Lucinda Wilson  
Amy Douglas-Baker  
Anna Perigo  
Ishita Sethi  
Aruna Sathanapally  
Andrew Laughlin (clerk)

## COMMITTEES

For the year 2015–16

### Family Law

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

### Finance Investment and Audit

Noel Hutley SC (chair)  
Alan Sullivan QC  
Dominic Toomey SC  
Justin Hogan-Doran  
Gregory Antipas

### Health and Wellbeing

Arthur Moses SC (chair)  
Anthony Lo Surdo SC  
Chrissa Loukas SC  
Kylie Nomchong SC  
Peter McGrath SC  
Adrian Gruzman  
David Jordan  
Anne Healey  
Dominique Hogan-Doran  
Adam Casselden  
Scott Corish  
Eva Elbourne  
Matthew Lewis  
Michael Gleeson  
Elizabeth James  
Talitha Fishburn  
Ben Mee

### Human Rights

Sarah Pritchard SC (chair)  
Richard Lancaster SC  
Kate Eastman SC  
David Mallon  
Simeon Beckett  
Shane Prince  
Michael Wright  
Louise Goodchild  
Trent Glover  
Stephen Tully  
Christine Melis  
Professor Andrew Byrnes (UNSW)

### Legal Aid

Dean Jordan SC (chair)  
Tim Game SC  
Craig Leggatt SC  
Alex Radojev  
Neil Jackson  
Maria Cinque  
Scott Cornish  
Louise Goodchild  
Luke Fermanis  
Ashley Stafford  
Emmanuel Kerkyasharian  
Peggy Dwyer  
Clyllyn Sperling

### New Barristers

Greg Antipas (chair)  
Awais Ahmad  
Nicholas Smith  
Callan O'Neill  
Ingrid King  
Giles Stapleton  
Mary Rebehy  
Janet McKelvey  
Melissa Tovey  
Corrie Goodhand  
Felicity Graham  
Paul Walker (clerk)

### Practice Development

Elizabeth Cheeseman SC (chair)  
Noel Hutley SC  
Tom Thawley SC  
Michael McHugh SC  
Ian Hemmings SC  
Michelle Painter SC  
Peter Lowe  
Christopher Wood  
Patrick Knowles  
Philip Wallis  
Stephanie Patterson  
Caspar Conde  
Michelle Kearns (clerk)

### Senior Counsel Selection

Jane Needham SC  
Noel Hutley SC  
Robert Sutherland SC  
Sarah McNaughton SC  
Sophie Goddard SC  
Michael Fordham SC  
The Hon Joe Campbell QC

## COMMITTEES

For the year 2015–16

### PCC #1

Tim Game SC (chair)  
 Jeffrey Phillips SC (deputy chair)  
 Anthony Payne SC  
 Julia Lonergan SC  
 Matthew Darke SC  
 Peter Russell  
 Christopher Wood  
 Edward Muston  
 Madeline Avenell  
 Scott Maybury  
 Kara Shead  
 Michael Izzo  
 Daniel Klineberg  
 Catherine Gleeson  
 Theresa Dinh

### PCC #2

Richard Weinstein SC (chair)  
 David Bennett AC QC (deputy chair)  
 Wendy Abraham QC  
 Stephen Rushton SC

Ingmar Taylor SC  
 Dominic Toomey SC  
 Matthew Johnston  
 Justin Young  
 David McLure  
 Justin Hogan-Doran  
 Mark Seymour  
 Simon Buchen  
 Donna Ward  
 Scott Aspinall  
 Stephanie Patterson

### PCC #3

Arthur Moses SC (chair)  
 Andrew Coleman SC (deputy chair)  
 Thomas Thawley SC  
 Michael Kearney SC  
 Ian Bourke SC  
 James Duncan  
 Janet Oakley  
 Hamish Stitt  
 Amanda Tibbey  
 Nicholas Owens

Bill Nield  
 Regina Graycar  
 Sophia Beckett  
 Yaseen Shariff  
 Michelle Swift

### PCC #4

Julia Baird SC (chair)  
 Alan Sullivan QC (deputy chair)  
 Tim Faulkner SC  
 Matthew White SC  
 Angus Stewart SC  
 David Kell  
 Kate Williams  
 Stefan Balafoutis  
 Adrian Williams  
 Nicholas Eastman  
 Fenja Bergland  
 Sophie Callan  
 Amy Douglas-Baker  
 Adam McGrath  
 Ishita Sethi

## WORKING PARTIES

For the year 2015–16

### Indigenous Barristers Strategy

Chris Ronalds SC (chair)  
 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 2015–16

### 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

## MEMBERS APPOINTED TO STATE AND FEDERAL COURTS

For the year 2015-16

### Supreme Court of NSW

The Hon Justice Anthony Payne  
The Hon Justice Natalie Adams

### Land and Environment Court of NSW

The Hon Justice Tim Moore

### NSW Industrial Relations Commission

Commissioner John Murphy

### District Court of NSW

Her Honour Judge Penelope Wass SC  
Her Honour Judge Kate Traill  
His Honour Judge Greg Farmer SC  
His Honour Judge John Pickering SC  
Her Honour Judge Siobhan Herbert SC

### Federal Court of Australia

The Hon Justice Robert Bromwich  
The Hon Justice Stephen Burley

### Federal Circuit Court of Australia

His Honour Judge Philip Dowdy  
Her Honour Judge Elizabeth Boyle  
Her Honour Judge Brana Obradovic

### Fair Work Commission

Commissioner Tony Saunders

## NATIONAL LEGAL PROFESSIONAL BODIES

For the year 2015-16

### 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 2015–16

### 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  
Warwick Hunt

### 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

## REPRESENTATIVES ON EDUCATIONAL BODIES

For the year 2015–16

### Legal Profession Admission Board

Garry McGrath SC  
Magaret Allars SC

### 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

## STATUTORY APPOINTMENTS

For the year 2015–16

### 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

### Law Week

Philip Selth OAM

### Professional Standards Council

Brian Rayment QC

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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 8 September 2016. 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 Bar Association') for the year ended 30 June 2016 and the auditors' report thereon.

### Directors

The following persons were directors of the Bar Association during the whole of the financial year and up to the date of this report:

S Callan	N Hutley SC	A Moses SC	M Cunneen SC
T Game SC	P Khandhar	M Walker	G Antipas

The following persons were directors from the beginning of the financial year to 6 November 2015:

J Hyde Page	P Menzies QC	I Sethi	C Wood
J Needham SC	H Stitt	J Phillips SC	J Hogan-Doran
D Toomey	D A Bennett AC QC	A Sullivan QC	P Doyle Gray

The following persons were directors from 6 November 2015 up to the date of this report:

C Loukas SC	C Gleeson	W Hunt	L Hutchinson
A Bell SC	J Roy	K Shead	A Mitchelmore
J Lonergan SC	A Payne SC	E Welsh	R Higgins
M McHugh SC			

K Traill resigned on 27 August 2015. T Hughes was appointed on the same day. He resigned on 6 November 2015. A Payne SC was appointed on 6 November 2015 and resigned on 17 March 2016. D A Bennett AC QC was appointed on the same day.

All directors are practising barristers.

### 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:

- running various programs for the benefit of members of the Bar Association, including Professional Development, ABA Member Benefits, Cost Recovery Assistance, BarCare, social programs and the publications of reports, briefings and ancillary publications. In addition, operating the Bar Association's library and administering the Bar Association's Professional Standards Scheme;
- making various representations 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's position on key issues;
- co-ordination of 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
- fulfilling the Bar Association's statutory duties in relation to the regulation of the legal profession through the work of its Professional Conduct Committee 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 Bar Association's short-and-long-term objectives 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; and
- maintain and impose standards of professional conduct and participate in the discipline of members when required.

The Bar Association's strategy for achieving these is set out in our strategic plan and includes:

- making representations to government concerning legislation and otherwise;
- encouraging public discussion on topics concerning the law and other matters of public interest, by seminars and otherwise;
- running continuing professional development programs for its members;
- organising social gatherings, for its members and others;
- through BarCare, assisting members, and through its Benevolent Association helping those in financial distress;
- setting up and promoting the work of committees, including those concerned with professional discipline, and sections.



## 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 Bar Association's objectives over a three year period.

### Review and results of operations

The Bar Association continued to engage in its principal activities during the financial year. The comprehensive deficit of the association for the year ended 30 June 2016 was \$89,577 (2015: \$55,559).

### 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 2015 to 30 June 2016 there were 19 meetings.

NAME	MEETINGS ATTENDED	MEETINGS ENTITLED TO ATTEND
Jane Needham SC (president to 6 /11/2015)	7	7
Noel Hutley SC (senior vice-president to 6/11/15; president from 6/11/15)	15	19
Arthur Moses SC (junior vice-president to 6/11/15; senior vice-president from 6/11/5)	19	19
Michael McHugh SC	9	12
Dominic Toomey	5	7
Justin Hogan-Doran (treasurer to 6/11/15)	6	7
Philippe Doyle Gray (secretary to 6/11/15)	4	7
Gregory Antipas	19	19
David Bennett AC QC	9	14
Sophie Callan	14	19
Margaret Cunneen SC	14	19
Andrew Bell SC	11	12
Tim Game SC (junior vice-president from 6/11/15)	19	19
Julia Lonergan SC	9	12
Catherine Gleeson	10	12
Warwick Hunt	9	12
John Hyde Page	5	7
Paresh Khandhar (secretary from 6/11/15)	15	19

## DIRECTORS' REPORT

NAME	MEETINGS ATTENDED	MEETINGS ENTITLED TO ATTEND
Chrissa Loukas SC (treasurer from 6/11/15)	11	12
Paul Menzies QC	7	7
Jeffrey Phillips SC	6	7
A Payne SC	5	5
Ishita Sethi	7	7
Hamish Stitt	7	7
Alan Sullivan QC	6	7
Kate Traill	1	3
Elisabeth Welsh	10	12
Thomas Hughes	1	3
Mary Walker	12	19
Christopher Wood	6	7
Anna Mitchelmore	11	12
Kara Shead	12	12
Ruth Higgins	9	12
Julia Roy	11	12
Lisa-Claire Hutchinson	11	12

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

From 1 July 2015 to 30 June 2016 there were four meetings.

NAME	MEETINGS ATTENDED	MEETINGS HELD
Alan Sullivan QC	0	1
Justin Hogan-Doran	1	1
Dominic Toomey	1	1
Noel Hutley SC (chair to 6/11/2015)	0	1
Gregory Antipas	4	4
Michael McHugh SC (chair from 18/3/16)	3	3
Chrissa Loukas SC	2	3
Anthony Payne SC (chair from 7/11/15 to 17/3/16)	2	3
Sophie Callan	2	3
Arthur Moses SC	3	3

### Members' guarantee

If the Bar 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 Bar Association and any such amounts as may be required. The Bar Association had 3,047 members at balance date, and the total that members are liable to contribute is \$12,188.

## DIRECTORS' REPORT

### 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 67.

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



**N Hutley SC**

President

Sydney, NSW

8 September 2016



**C Loukas SC**

Treasurer



Accountants | Business and Financial Advisers

## AUDITOR'S INDEPENDENCE DECLARATION

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 2016. 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.



Sydney, NSW

8 September 2016

**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  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 2016

	Notes	2016 \$	2015 \$
Revenue from continuing operations	2	9,374,422	8,896,467
Employee benefits expense		(3,914,980)	(3,810,653)
Legal and professional fees		(1,967,170)	(1,479,347)
Subscriptions		(833,858)	(857,416)
Communications and information technology expense		(276,381)	(316,505)
Depreciation and amortisation expense		(335,305)	(345,091)
Occupancy expense		(737,386)	(689,286)
Advertising and marketing expense		(184,153)	(208,935)
Financial expense		(365,420)	(213,774)
Seminar and function expense		(285,888)	(321,160)
Loss on financial assets at fair value through profit or loss		(202,204)	-
Other expenses from ordinary activities		(358,530)	(621,381)
Surplus (deficit) before income tax expense		(86,853)	32,919
Income tax expense (benefit)	3(a)	2,724	(4,889)
<b>Net surplus (deficit)</b>		<b>(89,577)</b>	<b>37,808</b>
<b>Other comprehensive income</b>			
Changes in fair value of available-for-sale assets		-	(129,273)
Income tax (expense) credit relating to other comprehensive income		-	35,906
<b>Other comprehensive income (deficit) for the year, net of tax</b>		<b>-</b>	<b>(93,367)</b>
<b>Total comprehensive income (deficit)</b>		<b>(89,577)</b>	<b>(55,559)</b>

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 2016

	Notes	2016 \$	2015 \$
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	13	7,496,050	9,318,639
Receivables		18,262	27,021
Other financial assets		2,700,000	-
Income tax receivable		-	10,124
Inventories		9,852	3,697
Other assets	4	125,204	238,400
<b>TOTAL CURRENT ASSETS</b>		<b>10,349,368</b>	<b>9,597,881</b>
<b>NON-CURRENT ASSETS</b>			
Other financial assets	4	3,836,340	4,021,781
Deferred tax assets		10,388	7,944
Property, plant and equipment	7	1,878,087	2,170,399
<b>TOTAL NON-CURRENT ASSETS</b>		<b>5,724,815</b>	<b>6,200,124</b>
<b>TOTAL ASSETS</b>		<b>16,074,183</b>	<b>15,798,005</b>
<b>LIABILITIES</b>			
<b>CURRENT LIABILITIES</b>			
Trade and other payables	8	991,671	747,868
Employee benefits		664,996	729,691
Fees received in advance	9	6,322,507	6,166,125
<b>TOTAL CURRENT LIABILITIES</b>		<b>7,979,174</b>	<b>7,643,684</b>
<b>NON-CURRENT LIABILITIES</b>			
Employee benefits		121,147	96,049
Deferred tax liabilities	3(b)	13,073	72,042
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>134,220</b>	<b>168,091</b>
<b>TOTAL LIABILITIES</b>		<b>8,113,394</b>	<b>7,811,775</b>
<b>NET ASSETS</b>		<b>7,960,789</b>	<b>7,986,230</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		7,960,789	7,839,190
Reserves	10	-	147,040
<b>TOTAL ACCUMULATED FUNDS</b>		<b>7,960,789</b>	<b>7,986,230</b>

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 2016

	Accumulated Surpluses	Reserves	Total Accumulated Funds
	\$	\$	\$
<b>At 30 June 2014</b>	<b>7,801,382</b>	<b>240,407</b>	<b>8,041,789</b>
Total comprehensive income for the year	37,808	(93,367)	(55,559)
<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 income 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>

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 2016

	Notes	2016 \$	2015 \$
<b>Cash flows from operating activities</b>			
Receipts from operating activities		8,853,400	8,364,905
Payments to suppliers and employees		(8,264,775)	(7,945,601)
Dividends received		158,801	164,835
Interest received		181,869	226,839
Income tax paid		10,124	32,159
Net cash inflow from operating activities		939,419	843,137
<b>Cash flows from investing activities</b>			
Payments for plant and equipment		(45,235)	(68,224)
Proceeds from investments		23,027	3,170
Payment for investments		(2,739,800)	(223,760)
Net cash inflow (outflow) from investing activities		(2,762,008)	(288,814)
Net increase (decrease) in cash and cash equivalents		(1,822,589)	554,323
Cash and cash equivalents at the beginning of the financial year		9,318,639	8,764,316
<b>Cash and cash equivalents at the end of the financial year</b>	<b>13</b>	<b>7,496,050</b>	<b>9,318,639</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 2016

### 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.

#### *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.

#### *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 Bar 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.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

#### (c) Income tax

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

In addition, under the mutuality provisions of the Income Tax Assessment Act, income and expenses wholly applicable to members of the Bar 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.

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 profit or loss, 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 Bar Association as lessee are classified as operating leases (Note 11). Payments made under operating leases (net of any incentives received from the lessor) are charged to profit or loss 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.



## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

#### **(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 Bar 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 profit or loss 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 profit or loss.

#### **(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.

##### ***(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) Available-for-sale financial assets***

Available-for-sale financial assets, comprising marketable securities, are non-derivatives that are either designated in this category or not classified in any of the other categories. They are included in non-current assets unless management intends to dispose of the investment within 12 months of the end of the reporting period. During the financial year the association reclassified all of its available for sale financial assets to financial assets at fair value through profit or loss.

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

The Bar 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 Bar 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.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

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

##### *(iv) Designated at fair value through profit and loss*

The Bar Association classified financial assets 'at fair value through profit or loss', unless they are otherwise classified. Changes in fair value of these financial assets are recognised in profit or loss.

##### *Recognition and derecognition*

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

Available-for-sale financial assets are initially recognised at fair value plus transactions costs, with, fair values based on current bid prices for listed, and on published market prices for fixed interest securities.

##### *Subsequent measurement*

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

Available-for-sale financial assets are subsequently carried at fair value. Changes in the fair value of available-for-sale financial assets are recognised directly in equity as part of other comprehensive income. For financial assets at fair value through profit or loss, gains and losses are recognised within other income or other expense.

When securities classified as available-for-sale are sold, the accumulated fair value adjustments recognised in the other comprehensive income are reclassified to profit or loss as gains and losses from available-for-sale financial assets, also the amount previously recognised in the Fair Value Reserve for the securities sold is transferred to Accumulated Surpluses.

##### *Impairment*

The Bar Association assesses at each balance date whether there is objective evidence that a financial asset or group of financial assets is impaired.

In the case of securities classified as available-for-sale, a significant or prolonged decline in the fair value of a security below its cost is considered as an indicator that the security is impaired. If any such evidence exists for available-for-sale financial assets, the cumulative loss (measured as the difference between the acquisition cost and the current fair value, less any impairment loss on that financial asset previously recognised in profit or loss) is removed from the Fair Value Reserve and recognised in profit or loss. Impairment losses recognised in profit or loss on equity instruments are not reversed through profit or loss.

#### (j) Property, plant and equipment

All property, plant and equipment is 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.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

#### (k) Intangibles

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

#### (l) Trade and other payables

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

#### (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 profit or loss 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.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

	2015 \$	2015 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
<b>Operating revenue</b>		
Subscriptions and practising certificate fees	6,222,664	6,046,531
Reading program	546,750	516,525
	<hr/>	<hr/>
	6,769,414	6,563,056
<b>Other revenue</b>		
Interest and dividends	357,892	377,156
Seminars	116,831	149,503
Administration charge	93,866	37,137
External funding	1,841,208	1,579,406
Other	195,211	190,209
	<hr/>	<hr/>
<b>Revenue from continuing operations</b>	<b>9,374,422</b>	<b>8,896,467</b>

### 3. INCOME TAX EXPENSE

#### (a) Reconciliation of income tax expense to prima facie tax payable

Net surplus / (deficit) from continuing operations	(86,853)	32,919
	<hr/>	<hr/>
Tax at the Australian tax rate of 30% (2015: 30%)	(26,056)	9,876
Increase (decrease) in income tax expense due to:		
- Net mutual expense (income)	28,013	(15,558)
Tax effect of amounts which are not deductible (assessable)	767	793
	<hr/>	<hr/>
Income tax expense/(benefit)	<b>2,724</b>	<b>(4,889)</b>

#### (b) Deferred tax liability

Recognised in profit or loss:		
Accrued interest	13,073	7,906
	<hr/>	<hr/>
Recognised in Fair Value Reserve:		
Available for sale financial assets	-	64,136
	<hr/>	<hr/>
	<b>13,073</b>	<b>72,042</b>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

	2016 \$	2015 \$
<b>4. OTHER FINANCIAL ASSETS</b>		
<b>Current</b>		
<b>Held to maturity investments:</b>		
Term deposit	2,700,000	-
<b>Non-current</b>		
<b>At cost</b>		
Investments in associates	14	14
<b>Available for sale – at fair value</b>		
Shares in Australian listed companies	-	1,854,494
Fixed interest securities - listed	-	2,167,273
	-	4,021,767
<b>Designated at fair value through profit or loss</b>		
Shares in Australian listed companies	1,762,220	-
Fixed interest securities	2,074,106	-
	3,836,326	-
<b>Total other financial assets - non current</b>	<b>3,836,340</b>	<b>4,021,781</b>

### (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 Bar 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 Bar Association also holds seven 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 Bar Association's records for many years. The shares entitle the Bar 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 Bar Association is precluded from measuring or recognising such values in its financial statements.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

	2016 \$	2015 \$
<b>5. OTHER ASSETS</b>		
Prepayments	81,629	212,048
Accrued interest	43,575	26,352
	<b>125,204</b>	<b>238,400</b>

### 6. INTANGIBLES

#### Database & website

At cost	304,665	304,665
Accumulated amortisation	(304,665)	(304,665)
<b>Net carrying amount</b>	<b>-</b>	<b>-</b>

### 7. PROPERTY, PLANT AND EQUIPMENT

	Library \$	Refurbishments \$	Furniture, computers, computer software, office machines and equipment \$	Kitchen equipment \$	Total \$
<b>At 30 June 2015</b>					
Cost	469,043	3,225,183	1,338,776	1,686	5,034,688
Accumulated depreciation and impairment	(328,333)	(1,592,363)	(941,907)	(1,686)	(2,864,289)
<b>Net carrying amount</b>	<b>140,710</b>	<b>1,632,820</b>	<b>396,869</b>	<b>-</b>	<b>2,170,399</b>
<b>At 30 June 2016</b>					
Cost	469,043	3,232,660	1,323,214	3,511	5,028,428
Accumulated depreciation and impairment	(351,786)	(1,804,623)	(992,039)	(1,893)	(3,150,341)
<b>Net carrying amount</b>	<b>117,257</b>	<b>1,428,037</b>	<b>331,175</b>	<b>1,618</b>	<b>1,878,087</b>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

Movements:

### Year ended 30 June 2015

At 1 July 2015, net

carrying amount	140,710	1,632,820	396,869	-	2,170,399
Additions	-	7,477	35,933	1,825	45,235
Disposals	-	-	(2,242)	-	(2,242)
Depreciation/ amortisation charge for the year	(23,453)	(212,260)	(99,385)	(207)	(335,305)

**At 30 June 2016, net  
carrying amount**

<b>117,257</b>	<b>1,428,037</b>	<b>331,175</b>	<b>1,618</b>	<b>1,878,087</b>
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**2016**  
**\$**

**2015**  
**\$**

### 8. TRADE AND OTHER PAYABLES

Trade and other payables	<b>991,671</b>	<b>747,868</b>
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### 9. FEES RECEIVED IN ADVANCE

#### Current

Subscriptions, practising certificate fees & other revenue received in advance

<b>6,322,507</b>	<b>6,166,125</b>
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### 10. RESERVES

Fair value reserve	-	<b>147,040</b>
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*Consists of:*

Revaluation	-	211,176
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Less: Deferred income tax	-	(64,136)
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**-**  
**147,040**

#### Nature and purpose of reserve

Changes in the fair value of available-for-sale financial assets were taken to the fair value reserve in prior years. These assets have now been reclassified as designated at fair value through profit or loss.

### 11. COMMITMENTS

#### Lease commitments

#### Operating lease commitments payable

Within one year	571,867	556,776
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Later than one year but not later than 5 years	2,258,029	2,249,108
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**2,829,896**  
**2,805,884**

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

The Bar 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.

### 12. 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	W Hunt	M McHugh SC	P Doyle Gray
S Callan	N Hutley SC	H Stitt	A Payne SC
T Hughes	J Hyde Page	A Moses SC	K Shead
T Game SC	J Lonergan SC	J Needham SC	R Higgins
C Gleeson	C Loukas SC	M Walker	D Toomey
P Khandhar	P Menzies QC	D Bennett AC QC	K M Traill
A Bell SC	J Roy	I Sethi	J Phillips SC
G Antipas	J Hogan-Doran	A Sullivan QC	C Wood
E Welsh	L Hutchinson	A Mitchelmore	

#### (b) Key management

Key management personnel compensation for the years ended 30 June 2016 and 30 June 2015 is set out below. The key management personnel are the directors of the Bar Association, and those executives with authority and responsibility for planning, directing and controlling the activities of the Bar Association.

Other than the directors, the key management personnel identified for the years ended 30 June 2016 and 30 June 2015 are as follows :

Philip Selth	Bali Kaur	Chris D'Aeth
Lisa Allen	Basil Catsaros	June Anderson
JAlastair McConnachie	Jennifer Pearce	

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

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

	2016	2015
	\$	\$
Employee benefits	1,404,164	1,412,216

#### (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 \$695,712 (2015: \$649,006) for office space to Counsel's Chambers Limited, a company of which some directors of the Bar Association are also members. The bulk of this payment was at two-thirds of the normal market rate.



## NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2016

	2016	2015
	\$	\$
<b>13. CASH AND CASH EQUIVALENTS</b>		
<b>Reconciliation of cash</b>		
Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the statement of financial position as follows:		
Cash at bank	1,082,474	943,936
Term deposits	6,412,676	8,373,803
Petty cash	900	900
	<b>7,496,050</b>	<b>9,318,639</b>

### 14. REIMBURSEMENT BY THE PUBLIC PURPOSE FUND

Section 700(n) of the *Legal Profession Act 2004* requires certification by the auditor of the costs incurred by the Bar Council in relation to its regulatory function. Expenditure on regulatory activities in 2015-16 amounted to \$1,661,208 (2015: \$1,370,299).

### 15. 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 Bar Association has impacted the total value of the financial assets. As at 22 August 2016, the total market value of financial assets at fair value through profit or loss held by the Bar Association was \$4,019,905 compared with \$3,836,340 as at 30 June 2016, a decrease of 5%.

## NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30 June 2016

### DIRECTORS' DECLARATIONS

In the directors' opinion:

- (a) the financial statements and notes set out on pages 68 to 81 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 2015 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.



**N Hutley SC**

*President*

Sydney  
8 September 2016



**C Loukas SC**

*Treasurer*



Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

To the members of the New South Wales Bar Association

We have audited the accompanying financial report of the New South Wales Bar Association ('the company'), which comprises the statement of financial position as at 30 June 2016, 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, notes comprising a summary of significant accounting policies and other explanatory information, and the directors' declaration, for the company.

### Directors' responsibility 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.

### Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the company's preparation of the financial report that gives a true and fair view 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. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

Our audit did not involve an analysis of the prudence of business decisions made by directors or management.

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

### Independence

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

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

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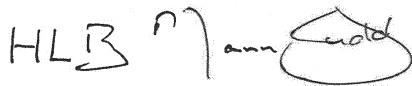
HLB Mann Judd (NSW Partnership) is a member of  International. A world-wide network of independent accounting firms and business advisers.

## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

### Opinion

In our opinion the financial report of the New South Wales Bar Association is in accordance with the *Corporations Act 2001*, including:

- (i) giving a true and fair view of the company's financial position as at 30 June 2016 and its performance for the year ended on that date; and
- (ii) complying with Australian Accounting Standards – Reduced Disclosure Requirements and the *Corporations Regulations 2001*.



**HLB Mann Judd**  
**Chartered Accountants**  
**Sydney, NSW**  
**23 September 2016**



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

## BARRISTERS' BENEVOLENT ASSOCIATION

Financial report for the year ended 30 June 2016

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Independent Auditor's Declaration .....	95

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 8 September 2016. 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 2016

	Note	2016 \$	2015 \$
Revenue from continuing operations	2	392,443	405,443
Net gains/(losses) on non-current assets held at fair value through profit or loss		(177,274)	(79,305)
Loss on sale of investments		(2,069)	(3,212)
Auditor's remuneration		(10,100)	(9,785)
Bar care costs		(33,060)	(38,460)
Employee benefits expense		(39,321)	(51,191)
Gifts		(110,155)	(92,500)
Investment fees		(2,000)	(2,000)
Allowance for impairment of loans		(7,100)	(10,322)
Other operating expenses		(277)	(576)
Surplus before income tax		11,087	118,092
Income tax expense	1(c)	-	-
<b>Net surplus</b>		<b>11,087</b>	<b>118,092</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>11,087</b>	<b>118,092</b>

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 2016

	Notes	2016 \$	2015 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		500,365	294,531
Held-to-maturity investments	4	886,371	719,624
Loans and receivables	3	51,084	61,958
<b>TOTAL CURRENT ASSETS</b>		<u>1,437,820</u>	<u>1,076,113</u>
<b>NON-CURRENT ASSETS</b>			
Other financial assets	5	<u>3,461,799</u>	<u>3,816,425</u>
<b>TOTAL NON-CURRENT ASSETS</b>		<u>3,461,799</u>	<u>3,816,425</u>
<b>TOTAL ASSETS</b>		<u>4,899,619</u>	<u>4,892,538</u>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		<u>12,100</u>	<u>16,106</u>
<b>TOTAL CURRENT LIABILITIES</b>		<u>12,100</u>	<u>16,106</u>
<b>TOTAL LIABILITIES</b>		<u>12,100</u>	<u>16,106</u>
<b>NET ASSETS</b>		<u>4,887,519</u>	<u>4,876,432</u>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		4,887,519	2,444,550
Reserves	6	<u>-</u>	<u>2,431,882</u>
<b>TOTAL ACCUMULATED FUNDS</b>		<u>4,887,519</u>	<u>4,876,432</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 2016

	Accumulated Surpluses	Capital Reserves	Total Accumulated Funds
	\$	\$	\$
<b>At 30 June 2014</b>	<b>2,326,458</b>	<b>2,431,882</b>	<b>4,758,340</b>
Total comprehensive income	118,092	-	118,092
<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>

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 2016

	2016 \$	2015 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Receipts from members, sponsorship and general activities	193,336	171,180
Payments to suppliers	(208,920)	(193,118)
Interest & dividends received	137,285	137,586
<b>Net cash inflow from operating activities</b>	<b>121,701</b>	<b>115,648</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Proceeds from other financial assets	605,318	69,809
Proceeds from held to maturity investments	75,000	199,211
Payments for other financial assets	(376,185)	(47,679)
Payments for held to maturity investments	(220,000)	(754,489)
<b>Net cash (outflow) inflow from investing activities</b>	<b>84,133</b>	<b>(533,148)</b>
Net increase (decrease) in cash and cash equivalents	205,834	(417,500)
Cash and cash equivalents at the beginning of the year	294,531	712,031
<b>Cash and cash equivalents at the end of the year</b>	<b>500,365</b>	<b>294,531</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 2016

### 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 judgements*

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 Benevolent 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 profit or loss 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, cash and cash equivalents includes cash at bank.



## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

#### **(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 Benevolent 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 profit or loss.

#### **(f) Other financial assets**

##### *Classification*

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

##### **(i) Financial assets at fair value through profit or loss**

##### *Recognition and derecognition*

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

##### *Subsequent measurement*

Financial assets at fair value through profit or loss are subsequently carried at fair value. Gains or losses arising from changes in fair value are presented in profit or loss in the period in which they arise. Dividend income is recognised in profit or loss as part of revenue from continuing operations when the Benevolent 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.

##### *Impairment*

The Benevolent Association assesses at each balance date whether there is objective evidence that a financial asset or group of financial assets is impaired.

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

#### (f) Other financial assets (continued)

##### (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 Benevolent 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 Benevolent 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.

	2016 \$	2015 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions	121,397	116,266
Distribution dividend income	230,926	248,436
Interest income	39,420	40,259
Membership income	700	482
<b>Revenue from continuing operations</b>	<b>392,443</b>	<b>405,443</b>

### 3. LOANS AND RECEIVABLES

#### Current

New South Wales Bar Association	47,858	49,277
Accrued interest	3,123	1,409
Interest free loans	17,100	30,000
Allowance for impairment of interest free loans	(17,100)	(20,000)
GST receivable	103	1,272
	<b>51,084</b>	<b>61,958</b>

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

### 4. HELD-TO-MATURITY INVESTMENTS

#### Term deposits

Current	886,371	719,624
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### 5. OTHER FINANCIAL ASSETS

#### Non-current

Designated at fair value through profit or loss

- Fixed interest securities	1,279,919	1,296,932
- Shares in Australian listed companies	2,181,873	1,945,031
- Australian managed funds	7	574,462
	<u>3,461,799</u>	<u>3,816,425</u>

### 6. RESERVES

Capital reserve	-	<u>2,431,882</u>
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#### Nature and purpose of reserves

##### *Capital reserve*

Changes in the fair value of financial assets at fair value through profit and loss had been transferred from accumulated surplus to reserves in prior years. This practice was discontinued some years ago. The balance of the capital reserve was transferred to accumulated surplus in the 2016 financial year.

### 7. RELATED PARTY DISCLOSURES

#### (a) Committee of Management

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

M Cunneen SC	W Hunt	M McHugh SC	A Payne SC
S Callan	N Hutley SC	H Stitt	D Bennett AC QC
T Hughes	J Hyde Page	A Moses SC	K Shead
T Game SC	J Lonerger SC	J Needham SC	R Higgins
C Gleeson	C Loukas SC	D Toomey	M Walker
P Khandhar	P Menzies QC	K M Traill	I Sethi
A Bell SC	J Roy	A Sullivan QC	J Phillips SC
G Antipas	J Hogan-Doran	P Doyle Gray	C Wood
E Welsh	L Hutchinson	A Mitchelmore	

The members of the Committee of Management are also directors of the New South Wales Bar Association.

#### (b) Key management

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

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

### (b) Key management (continued)

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

### (c) Other transactions

The Benevolent Association conducts its business from the premises of New South Wales Bar Association at no cost to the Benevolent Association.

## 8. 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 Benevolent Association have impacted the total value of the financial assets. As at 22 August 2016, the total market value of financial assets at fair value through profit or loss held by the association was \$3,578,978 compared with \$3,461,799 as at 30 June 2016, an increase of 3%.

## 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 85 to 92 are in accordance with 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) presenting fairly the association's financial position as at 30 June 2016 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 its debts as and when they become due and payable.

Signed in accordance with a resolution of the Committee of Management:



**N Hutley SC**



**C Loukas SC**

**Sydney, NSW  
8 September 2016**



Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

### To the members of Barristers' Benevolent Association of NSW:

We have audited the accompanying financial report of Barristers Benevolent Association of NSW ('the Benevolent Association'), which comprises the statement of financial position as at 30 June 2016, 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, notes comprising a summary of significant accounting policies and other explanatory information, and the Committee of Management declaration, as set out on pages 85 to 93.

### Committee of Management Responsibility for the Financial Report

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

### Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Benevolent Association's preparation and fair presentation of the financial report 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. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Committee of Management, as well as evaluating the overall presentation of the financial report.

Our audit did not involve an analysis of the prudence of business decisions made by the Committee of Management or management.

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

### Independence

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

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

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Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT (CONTINUED)

### Auditor's opinion

In our opinion the financial report presents fairly, in all material respects, the financial position of Barristers' Benevolent Association of NSW as at 30 June 2016, and its performance and its cash flows for the year then ended in accordance with Australian Accounting Standards – Reduced Disclosure Requirements and Division 60 of the ACNC Act and the Regulations thereto.

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

**HLB Mann Judd**  
**Chartered Accountants**

**Sydney, NSW**  
**23 September 2016**

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

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

## INDEPENDENT AUDITOR'S DECLARATION

**To the committee of management at 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 2016.

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

**Sydney, NSW**  
**23 September 2016**

**HLB Mann Judd**  
**Chartered Accountants**

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

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## CONTRIBUTIONS TO THE BARRISTERS' BENEVOLENT FUND

Mr J Abernethy	Mr J Berry OAM	Mr R J Carruthers
Ms Wendy Abraham QC	Mr D A Bertini	Mr Charles H Cassimatis
Mr Michael Adamo	Dr C J Birch SC	Mr T D Castle
Ms Sandrine Alexandre-Hughes	Ms E A Bishop	Mr Christopher Catt
Ms Clarissa Amato	Mr J D Blackah	Mr J J Cauchi AM SC
Mr M W Anderson	Mr Paul Blackburn-Hart SC	Mr R Cavanagh SC
Mr Edward Anderson	Mr Craig Bolger	Ms Victoria Cha
Mr K W Andrews	Mr R A Bonnici	Mr Keith Chapple SC
Mr Nic Angelov	Mr P R Boulten SC	Mr Ali M Cheema
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His Honour Judge D Arnott SC	Mr Carl Boyd	The Hon M J Clarke QC
Mr J A Arnott	Mr M L Brabazon SC	Mr J R Clarke SC
Her Honour Judge L M Ashford	Mr Luke Brasch	The Hon Justice M Cleary
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Mr G E Babe	Mr W P Brewer	Mr R Cobden SC
Mr A Bannon SC	Mr Campbell Bridge SC	His Hon Judge Richard Cogswell SC
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Mr I Barker QC	Mr David Brogan	Mr I R Coleman SC
Mr P A Barnes	Mr P Bruckner	Mr M A Coleman
Mr Darrell Barnett	The Hon J P Bryson QC	Mr B A Coles QC
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Mr T J Bates	Mr L J Byrne	Ms A Cotter-Moroz
Mr Paul Batley	Ms Melanie R Cairns	Mr G P Craddock SC
Mr R C Beasley SC	Mr P Callaghan SC	The Hon M G Craig QC
Mr S A Beckett	Ms S Callan	His Honour Judge C Craigie SC
His Honour H H Bell	Ms Cleopatra Calokerinos	Mr M Cranitch SC
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Mr R I Bellamy	Mr A D Campbell	Mr I Cullen
Mr A J Bellanto QC	Ms M Campbell	Mr P R Cummings SC
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His Honour Judge J Bennett SC	Mr G Carolan	Mr M J Darke SC
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Mr G Berecny	Ms Nicole S Carroll	Mr I E Davidson SC



## CONTRIBUTIONS TO THE BARRISTERS' BENEVOLENT FUND

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Mr B A Odling	Mr R E Quickenden	Mr J J Ryan
Ms Beth Oliak	Mr Tom Quilter	Mr J R Sainty

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Mr S J Stanton	Mr Martin John Walsh	
Mr G J Stanton	Dr C S Ward SC	
Mr R A Stanton	Mr E Wasilenia	
Mr C Steirn SC	Mr G J Watkins	
Ms A Stenmark SC	Mr O G Watt	
Magistrate Janet Stevenson	Mr P Webb QC	
Mr C Stewart	Dr R J Webb	
Mr K L Stewart	Ms C A Webster SC	
Mr D C P Stewart	Mr Michael J Weightman	
Mr Angus Stewart SC	Mr D S Weinberger	
Mr Robert Stitt QC	Mr R H Weinstein SC	
Mr H W M Stitt	Miss E Welsh	
Mr P G W Stitz	Mr J N West QC	

**INDIGENOUS BARRISTERS' TRUST – THE MUM SHIRL FUND**

Financial report for the year ended 30 June 2016

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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 24 August 2016. The trustees have the power to amend and re-issue the financial statements.

**STATEMENT OF SURPLUS AND OTHER COMPREHENSIVE INCOME**

As at 30 June 2016

	<b>Note</b>	<b>2016</b> \$	<b>2015</b> \$
Revenue from continuing operations	2	135,521	88,963
Audit and accounting		(5,000)	(4,850)
Bank charges		(91)	(71)
Conference expenses		(20,037)	(8,576)
Fundraising		(556)	(8,029)
Grants made		(90,117)	(41,500)
Other expenses			(13)
			<hr/>
Surplus before income tax expense		19,720	25,924
Income tax expense	1(c)	-	-
			<hr/>
<b>Net surplus</b>		19,720	25,924
<b>Other comprehensive income</b>		-	-
			<hr/>
<b>Total comprehensive income</b>		<b>19,720</b>	<b>25,924</b>
			<hr/>

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 2016

	Note	2015 \$	2015 \$
<b>CURRENT ASSETS</b>			
Cash and cash equivalents		45,392	44,582
Held-to-maturity investments	4	457,690	439,551
Other receivables	3	38,388	37,467
<b>TOTAL CURRENT ASSETS</b>		<b>541,470</b>	<b>521,600</b>
<b>TOTAL ASSETS</b>		<b>541,470</b>	<b>521,600</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables		5,000	4,850
<b>TOTAL CURRENT LIABILITIES</b>		<b>5,000</b>	<b>4,850</b>
<b>TOTAL LIABILITIES</b>		<b>5,000</b>	<b>4,850</b>
<b>NET ASSETS</b>		<b>536,470</b>	<b>516,750</b>
<b>ACCUMULATED FUNDS</b>			
Accumulated surpluses		536,470	516,750

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 2016

	2016 \$	2015 \$
<b>As at 1 July - opening</b>	<b>516,750</b>	<b>490,826</b>
Total comprehensive income	19,720	25,924
<b>As at 30 June - closing</b>	<b>536,470</b>	<b>516,750</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 2016

	2016 \$	2015 \$
<b>Cash flows from operating activities</b>		
Receipts from sponsorship and general activities	134,600	78,302
Payments to suppliers & grantees	(115,651)	(62,888)
Net cash inflow / (outflow) from operating activities	18,949	15,414
<b>Cash flows from investing activities</b>		
Proceeds (payments) from term deposits	18,139	(70,592)
Net increase (decrease) in cash and cash equivalents	810	(55,178)
Cash and cash equivalents at the beginning of the year	44,582	99,760
<b>Cash and cash equivalents at the end of the year</b>	<b>45,392</b>	<b>44,582</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 2016

### 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 judgements*

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 2016

### 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.

#### **(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.



# NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2016

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

	2015 \$	2015 \$
<b>2. REVENUE FROM CONTINUING OPERATIONS</b>		
Contributions received	122,799	74,233
Interest	12,722	14,730
<b>Revenue from continuing operations</b>	<b>135,521</b>	<b>88,963</b>

## 3. OTHER RECEIVABLES

### Current

New South Wales Bar Association	34,173	33,469
GST receivable	2,738	2,076
Accrued interest	1,477	1,922
	<b>38,388</b>	<b>37,467</b>

## 4. HELD-TO-MATURITY INVESTMENTS

### Current

Term deposits	<b>457,690</b>	<b>439,551</b>
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## 5. REMUNERATION OF AUDITORS

During the year the following fees were paid or payable for services provided by the auditor of the trust:

Audit of the financial statements	5,000	4,850
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## 6. 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	Jane Needham SC
Justice Michael Slattery	Mullenjaiwakka
Noel Hutley SC	

## NOTES TO THE FINANCIAL STATEMENTS

For the financial year ended 30 June 2015

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

#### (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.

### 7. EVENTS OCCURRING AFTER THE REPORTING DATE

No significant events have occurred since the reporting date which would impact on the financial position of the trust disclosed in the statement of financial position as at 30 June 2016 or on the results and cash flows of the trust for the year ended on that date.

## TRUSTEES' DECLARATION

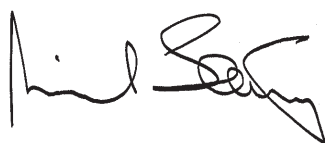
In the opinion of the trustees of Indigenous Barristers' Trust – The Mum Shirl Fund (the trust):

(a) the financial statements and notes as set out on pages 101 to 106:

- (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 2016 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:



**M Slattery**  
*Trustee*

**Sydney, NSW**  
**24 August 2016**



**C Ronalds SC**  
*Trustee*



Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

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

We have audited the accompanying financial report of The Indigenous Barristers' Trust – The Mum Shirl Fund (the trust), which comprises the statement of financial position as at 30 June 2016, 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, notes comprising a summary of significant accounting policies, and other explanatory information, as set out on pages 101 to 106.

### Trustees responsibility for the financial report

The trustees 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 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.

### Auditor's responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the trustee's preparation and fair presentation of the financial report 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. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the trustees, as well as evaluating the overall presentation of the financial report.

Our audit did not involve an analysis of the prudence of business decisions made by the trustees or management.

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

### Independence

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

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

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Accountants | Business and Financial Advisers

## INDEPENDENT AUDITOR'S REPORT

### Auditor's opinion

In our opinion the financial report presents fairly, in all material respects, the financial position of The Indigenous Barristers' Trust – The Mum Shirl Fund as at 30 June 2016, and of its performance and its cash flows for the year then ended in accordance with Australian Accounting Standards – Reduced Disclosure Requirements.

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

HLB Mann Judd  
Chartered Accountants  
Sydney, NSW  
23 September 2016

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

D K Swindells  
Partner