



THE LAW SOCIETY  
OF NEW SOUTH WALES

# ANNUAL REPORT OF COMMITTEES 2017

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# INTRODUCTION

*The Law Society's committees are committees of the Council with powers, authorities and tasks delegated by the Council. They are established as a source of expert advice and assistance to Council, the Society and the profession and are convened annually on the basis of need.*

Functions vary somewhat from committee to committee but, typically, are as follows:

- A source of policy proposals and reform initiatives
- A forum for consideration of practical issues and resolution of problems
- A review body and commentator (in relation to legislation, discussion papers, reports, etc.)
- A monitor of practice standards and advocate of ongoing training and skills development
- A liaison body

Committees address a range of issues and can be broadly divided into three categories:

- Policy and practice committees – for example:
  - Business Law
  - Family Law
- Liaison committees – for example:
  - Office of State Revenue/Law Society Liaison
- Regulatory committees – for example:
  - Fidelity Fund Management
  - Licensing

The Society ensures that the effectiveness of its committee network is maintained by

1. An annual assessment of the relevance of existing committees and the need for new committees
2. Providing committees with a balance of necessary skills and knowledge and a dynamic membership
3. Ensuring that committees are manageable in terms of numbers
4. Testing optional structures
5. Maximising profession-wide awareness of and interest in the committees and their role
6. Having a membership broadly representative of the Society's constituent groups and of relevant outside bodies
7. Requiring that committees prepare papers in accordance with quality principles

# ALTERNATIVE DISPUTE RESOLUTION

## 2016 membership:

Z. Kekeff (Chair), P. Argy, J. Baillie, S. Carmichael, J. Connelly, J. Dawson, N. Flaskas, T. Griffiths, A. Herro, R. Hughes, S. Lancken, L. Levy, P. Lewis, D. Mallett, J. McDermott, C. Meduri, S. Olischlager, A. Scarcella, M. Scott, M. Shepherd, A. Tesoriero, T. Toemoe, J. Vohralik, N. Harvey (Policy Lawyer).

## 2017 membership:

Z. Kekeff (Chair), S. Lancken (Deputy Chair), L. Absalom, P. Argy, J. Dawson, G. Ettinger, R. Everingham, J. Fan, N. Flaskas, B. Haines, A. Herro, M. Kofman, Judge L. Levy, P. Lewis, A. Limbury, P. Lumley (until May 2017), J. McDermott, C. Meduri, H. Miedzinski, G. Nitsolas-Pirc, S. Olischlager, T. Peisley, E. Riches, A. Scarcella, M. Shepherd, A. Tesoriero, J. Vohralik, N. Harvey (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to alternative dispute resolution.

The Committee's priorities include educating the legal profession about changes to the law and the application of ADR, and providing guidance on practice and other issues.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Engage in the NSW Law Reform Commission's consultation on dispute resolution frameworks in NSW
- Review and contribute to the development of the NSW Government's Civil Justice Strategy
- Educate and promote Solicitor Mediators and Arbitrators by (but not limited to) the promotion of the Family Law Settlement Service ("FLSS"), holding Continuing Professional Development (CPD) events and contributing to *LSJ* articles
- Undertake a project on arbitration in family law relating to the new Family Law Arbitration Rules which commenced on 1 April 2016

## Activities

The Committee carried out the following activities during the year under review:

- Attended the Australasian Law Awards 2017 on 18 May 2017 in Sydney
- Attended the Global Pound Conference Series 2016-2017. The Sydney Series was held on 29 May 2017
- Prepared material for and attended the Elder Law & Alternative Dispute Resolution Panel Discussion CPD on 22 June 2017
- Supported the expansion of the FLSS to include referrals for parenting disputes
- Represented at the Mediator Standards Board by a Committee member and undertook ongoing discussions regarding the National Mediator Accreditation System process

The Committee contributed to the following joint submissions during the year under review:

- Australian Law Reform Commission Elder Abuse Discussion Paper
- Courts and tribunal fees
- Dispute resolution: Model provisions
- Justice for everyday problems: Civil Justice in NSW
- Relocation of Strata Mediations
- Retail Leases Amendment (Review) Bill 2016
- Review of the *Guardianship Act 1987* - Question Paper 2: Decision-making models

# BUSINESS LAW

## 2016 membership:

C. Kenny (Chair), H. Adams, L. Adams, L. Brown, J. Burke, D. Castle, A. Cerny, S. Collantes, R. Lee, I. Luke, P. Martin, K. McLean, R. Quigley, R. Snowden, P. Stevenson, G. Walsh, T. Waterhouse, L. Booth (Policy Lawyer).

## 2017 membership:

C. Kenny (Chair), A. Cerny (Deputy Chair), B. Bourke, L. Brown, J. Burke, D. Castle, S. Collantes, K. Harris, J. Kabos, A. Lam, A. Liu, I. Luke, K. McLean, P. Martin (until June 2017), K. Montano, R. Snowden, J. Stathis, P. Stevenson, T. Waterhouse, L. Booth (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to business law.

Without limiting the Committee's area of review, subcommittees have been convened for the following specific areas which fall within the Committee's consideration: Competition and Consumer Law; Contract Law; Corporations; Financial Services; Insolvency; and Taxation.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Review of the Australian Consumer Law
- Data sharing in the corporate sector
- Regulation of the financial sector
- Monitoring continuing competition law reform
- Developing practitioner guidance in identified areas

## Activities

The Committee carried out the following activities during the year under review:

- Provided advice and input into the one day business law conference held jointly with the Law Council's Small to Medium Enterprise (SME) Business Law Committee and other CPD activities
- Participated in legal profession roundtable discussions with the Australian Taxation Office (ATO)
- Participated in consultative forums with the Tax Practitioners Board
- Participated in a series of stakeholder consultations with the Department of Finance, Services and Innovation in relation to the Australian Consumer law
- Participated in a stakeholder meeting with Treasury representatives to discuss business payment times
- Updated relevant "Know your rights" brochures

The Committee made the following submissions during the year under review:

- *Associations Incorporation Regulation 2016*
- Consumer Law Enforcement and Administration – Issues Paper
- Insolvency Practice Rules 2016
- National Innovation and Science Agenda – Employee Share Schemes
- National Innovation and Science Agenda – Improving Corporate Insolvency Law
- Privacy Amendment (Re-Identification Offence) Bill 2016
- Productivity Commission Inquiry into Data Availability and Use
- Review of Tax and Corporate Whistleblower Protections in Australia
- Social Impact Investing Discussion Paper
- Treasury Consultation – Beneficial Ownership of Companies

The Committee also contributed to the following joint submissions during the year under review:

- Australian Consumer Law Review – Interim Report
- Deferred Prosecution Agreement Scheme Consultation Paper
- Productivity Commission Inquiry into Data Availability and Use

# CHILDREN'S LEGAL ISSUES

## 2016 membership (Juvenile Justice):

A. Lumsden (Chair), K. Anderson Clark, J. Bargen, J. Irwin, F. Kay, R. Khalilizadeh, D. Maher, H. McDonald, J. O'Connell (until August 2016), K. Mumford (from September 2016), J. Symons, A. Tang, T. White, A. Whitehead, M. Lee (Policy Lawyer).

## 2017 membership:

A. Lumsden (Chair), J. Irwin (Deputy Chair), K. Anderson Clarke, J. Bargen, K. Beckhouse, H. Bruce, N. Callander, A. Choi, R. Davidson, A. Elliott, A. Johnson, A. Jones, F. Kay, D. Maher, B. Mallinson, C. Neilson, S. Niles, K. Phillips, C. Samuels, G. Slack-Smith, J. Symons, K. Tallon, A. Tang, A. Van Gent, A. Whitehead, J. Wong, M. Lee (until May 2017)/A. Jenner (from May 2017) (Policy Lawyers).

The Committee's name changed to Children's Legal Issues in January 2017.

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to children and child rights, both in the civil (including care and protection matters) and criminal contexts.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Young people in long term segregation
- Remand rates, and the intersection between juvenile justice and care and protection (i.e. "crossover kids"), including the over-representation of Indigenous children in both systems
- Use of early intervention initiatives in care and protection matters (including in legislation, procedures and resourcing)
- Adolescent peer sexual relationships and welfare and criminal justice responses
- Children as victims of domestic violence

## Activities

The Committee carried out the following activities during the year under review:

- Participated in the Juvenile Justice Advisory Committee and its behaviour management consultation
- Liaised with and contributed to the work of the NSW Inspector of Custodial Services' review relating to the

use of force and use of separation, segregation and confinement of detainees in juvenile justice centres

The Committee made the following submissions during the year under review:

- Apprehended Domestic Violence Orders involving child defendants
- Children's criminal records – spent convictions
- Juvenile Justice – consultation questions on behaviour management
- Consultation Report: What children and young people experiencing homelessness have to say
- Department of Education procedures for interviewing students
- Segregation and confinement of children in juvenile justice centres
- Statutory Review of the *Child Protection (Working with Children) Act 2012* (NSW)
- Young Offenders Regulation Public Consultation

The Committee also contributed to the following joint submissions during the year under review:

- Amendments to the *Family Law Act 1975* to respond to family violence
- Civil penalties regime for non-consensual sharing of intimate images
- Consultation on draft terms of reference – Australian Law Reform Commission inquiry into the incarceration rate of Indigenous Australians
- Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016
- Counter-Terrorism Legislation Amendment Bill (No. 1) 2016
- Distributed courtrooms
- Diversion of low level offences in NSW
- Draft Crimes Amendment (Intimate Images) Bill 2017
- Inquiry into the Sexualisation of Children and Young People
- Justice for everyday problems: Civil Justice in NSW
- Koori Courts in NSW
- NSW Ombudsman's review of the consorting law
- Royal Commission into the Protection and Detention of Children in the Northern Territory
- Statutory review of the *Victims Rights and Support Act 2013*
- The distribution of intimate images without consent
- Voluntary Assisted Dying Bill 2016

# CORPORATE LAWYERS

## 2016 membership:

C. Kenny (Chair), E. Espinosa (Deputy Chair), A. de. Govrk, D. Glasgow, A. Golden, P. Housden, R. Hunter, T. May, J. Moses, B. Moss, M, Patrk, D. Ramsay, A. Sachdev, E. Howard (from July 2016) (Executive Member).

## 2017 membership:

C. Kenny (Chair), E. Espinosa (Deputy Chair), A. de. Govrik, D. Hamilton, P. Housden, R. Hunter, K. Iles, M. Lee, E. Liondis, I. Luke, T. May, J. Moses, B. Moss, D. Ramsay, N. Justen-Hoven (Executive Member).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to corporate lawyers.

The Committee's priorities include:

- Developing and commenting on law reform and legal policy proposals (including preparing submissions and liaising with government and other stakeholders in this process)
- Educating the legal profession about changes to the law and providing guidance on practice and other issues
- Exchanging information about issues arising in legal practice (such as recent case law) that may indicate policy issue or concern

## Committee priority issues for 2017

The Committee has identified the following priority issues for 2017:

- Running quarterly forums to discuss issues of relevance to in-house lawyers
- Preparation of practitioner guidance

## Activities

The Committee carried out the following activities during the year under review:

- The Committee welcomed the Law Society's Corporate Lawyers Segment Manager, Linda Cazzolli, as a permanent attendee at the committees meetings in order to fulfill the above identified priorities
- Ms Cazzolli and the committee created a subcommittee on publications and worked together to draft a communications and marketing plan to assist in raising the profile of Corporate Lawyers using the Law Society's existing publications
- The Committee collaborated with the Australian Pro Bono Centre and the Association of Corporate Counsel (ACC) to create "Pro Bono Work - A Guide for In-House Lawyers". The Committee launched the Guide at a very successful forum and networking event
- The committee worked on drafting a response around the *Future of Law and Innovation in the Profession Report* (FLIP) recommendations
- Provided advice on the quarterly forums and other relevant CPD activities
- Prepared articles for inclusion on the Corporate Lawyers Committee hub webpage
- Considered ethical and other practice issues raised by corporate solicitors through the Committee and its members

The Committee also contributed to the following joint submission during the year under review:

- Proposed Amendments to Foreign Bribery Offences

# COSTS

## 2016 membership:

T. Stern (Chair), S. Akerman, R. Amon, A. Ashe, G. Daley, J. Dobson, P. Ferguson, J. Hedge, V. Higinbotham, R. Nicholas, K. Rosati, P. Rosier, R. Walker, M. Whelan.

## 2017 membership:

T. Stern (Chair), S. Akerman, A. Ashe, C. Banks, B. Bellach, P. Ferguson, V. Higinbotham, H. Macken, R. Nicholas, K. Rosati, P. Rosier, J. Thurgood, J. Tyrell, R. Walker, M. Whelan, M. Williams.

## Functions

The role of the Committee is to:

- Review Law Society costs publications
- Comment on costs issues
- Provide guidance to the profession on costs queries
- Monitor the Costs Assessment Scheme
- Provide guidance and education to the profession on costs issues
- Review legislation relating to costs

## Activities

The Committee conducted the following activities during the year under review:

- Provided guidance to the Law Society and the profession on the costs provisions of the *Legal Profession Uniform Law*
- Updated the Law Society's costs precedents
- Finalised the 7th Edition of the Costs Guidebook
- Considered the costs tab to be published in the diary
- Monitored costs issues arising from the Costs Assessment Schemes and judgments, for the education of the profession
- Assisted various other Law Society committees with costs issues



# CRIMINAL LAW

## 2016 membership:

P. Wright (Chair), I. Abdul-Karim, A. Biliias, V. Chan, C. Day, S. De Brennan, S. Doumit, R. Funston (until September 2016), P. Gibson, D. Giddy, K. Ginges, J. Hunter, L. Kaban, R. Leary, A. Lumsden, M. Mantaj, R. McMahon, R. Mooy, P. Musgrave, C. O'Brien, J. Pheils, V. Reiss (from May 2016), J. Sanders, V. Sentas, T. Spohr, J. Styles, B. Thomas, R. Tumeth, E. Heaney (until September 2016)/R. Geare (from September 2016) (Policy Lawyers).

## 2017 membership:

A. Lumsden (Chair), T. Spohr (Deputy Chair), G. Archer, C. Bell, D. Browne, L. Cavell, V. Chan, K. Chater, E. Conditis, S. Doumit, D. Giddy, K. Ginges, R. Hoyles, Prof. J. Hunter, L. Kaban, H. Ketley, M. Lagana, B. Mallinson, M. Mantaj, R. McMahon, P. Musgrave, Deputy Chief Magistrate C. O'Brien, J. Pheils, J. Sanders, J. Styles, R. Tumeth, P. Wright, R. Geare (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to criminal law and to uphold the rule of law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Sexual assault offences, particularly the Royal Commission's work on historical and child sexual assault, and changes to the *Evidence Act 1995*
- Funding of the criminal justice system
- The rising prison population, including the over-representation of Indigenous people in the criminal justice system
- Police powers and accountabilities

## Activities

The Committee carried out the following activities during the year under review:

- The Committee was represented on, and contributed to the work of: the Criminal Court of Appeal User Group, District Court User Group, Encouraging Appropriate Early Guilty Pleas Steering Group, Bail Monitoring Committee, *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA) Working Group, Audio and Visual Links (AVL) Project, Distributed Courtroom Forum, Child Sexual Assault Taskforce, Child Sexual Offences Evidence Pilot Implementation Monitoring Group, Corrective Services NSW Legal Practitioners Consultative Group and the Criminal Justice Reforms Stakeholder Roundtable
- The Committee liaised with the NSW Department of Justice, NSW Bar Association, NSW Police Force, NSW Local Court, Office of the Director of Public Prosecutions (Cth and NSW), Legal Aid NSW, the Aboriginal Legal Service, NSW Young Lawyers, and Corrective Services NSW on various matters relevant to the criminal justice system

The Committee made the following submissions during the year under review:

- Amendment of Local Court Practice Note Comm 1
- Application of the Early Guilty Plea Blueprint to Matters in the Children's Court
- Availability of Aboriginal and Torres Strait Islander Mental Health Clinicians
- Client Legal Privilege
- Consultation on legislative amendments to implement the National Domestic Violence Order Scheme
- *Criminal Legislation Amendment (Organised Crime and Public Safety) Act 2016* – safeguards to protect vulnerable persons
- Domestic Violence Evidence in Chief Reforms
- Draft Crimes (Administration of Sentences) Amendment (Parole Applications) Regulation 2017 – manifest injustice

## CRIMINAL LAW

- Draft Crimes (Sentencing Procedure) Regulation 2017
  - Draft Justice Legislation Amendment (Committals and Guilty Pleas) Bill 2017
  - Draft Justice Legislation Amendment (Crime) Bill 2017
  - Draft Report – Criminal Appeals Review
  - Draft Review report: Statutory review of the *Crimes (High Risk Offenders) Act 2006* NSW
  - Fine Default Imprisonment
  - Funding for Criminal Justice Support Network
  - Implementation of the Appropriate Early Guilty Plea Reform proposals
  - Inquiry into the ICAC Inspector’s Report to the Premier
  - Inquiry into Violence against Emergency Services Personnel
  - *Law Enforcement (Powers and Responsibilities) Regulation 2016*
  - *Mental Health (Forensic Provisions) Act 1990*
  - National Domestic Violence Order Scheme
  - Non-compliance with subpoenas by NSW Police
  - Offender population report – statistics by correctional centre
  - Proposal to amend the *Evidence (Audio and Visual Links) Act 1998* to create a presumption for first appearance bail proceedings via AVL
  - Review of Legal Aid NSW Criminal Law Appeal Policy
  - Review of the Legal Aid NSW Specialist Barrister Panel (Complex Criminal Law)
  - Rolling List Court proposal – Parramatta District Court
  - Royal Commission into Institutional Responses to Child Sexual Abuse – Evidence (Tendency and Coincidence) Model Provision
  - Statutory Review of ‘One-punch’ laws – sections 25A and 25B of the *Crimes Act 1900* – proposals for legislative amendment
  - Subpoenas to produce
  - *Tattoo Parlours Amendment Act 2017*
- The Committee also contributed to the following joint submissions during the year under review:
- Abortion Law Reform Bill 2016
  - Access by designated agencies to Children’s Court Clinic Reports
  - Amendments to the *Family Law Act 1975* to respond to family violence
  - Child Protection Reforms Proposal Paper
  - Consultation draft terms of reference – Australian Law Reform Commission inquiry into the incarceration rate of Indigenous Australians
  - Consultation of serious vilification laws in NSW
  - Crimes Legislation Amendment (Powers, Offences and Other Measures ) Bill 2017
  - Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016
  - Counter-Terrorism Legislation Amendment Bill (No. 1) 2016
  - Courts and tribunal fees
  - Distributed courtrooms
  - Diversion of low level offences in NSW
  - Draft Crimes Amendment (Intimate Images) Bill 2017
  - Fine default imprisonment
  - Inquiry into the Sexualisation of Children and Young People
  - Just Reinvest NSW draft policy paper – reducing Indigenous incarceration
  - Koori Courts in NSW
  - Law Enforcement Conduct Commission Bill 2016
  - NSW Ombudsman’s review of the consorting law
  - Review of ASIO questioning and detention powers
  - Review of the *Guardianship Act 1987* – Question Paper 4: Safeguards and procedures
  - Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper on Criminal Justice
  - Statutory review of the *Coroners Act 2009*
  - Statutory review of the *Crimes (High Risk Offenders) Act 2006*
  - The distribution of intimate images without consent
  - Voluntary Assisted Dying Bill 2016

# DIVERSITY AND INCLUSION

## 2016 membership:

J. Warner (Chair), A. Lumsden (Deputy Chair), D. Anthony, E. Bartlett, K. Boland (from November 2016), S Campbell (from November 2016), D. Chang, E. Espinosa, M. Fahy, R. Gao, R. Harvey, T. Janke, J. Ji, C. Kenny, D. Kelly, B. McGrath (from August 2016), R. MacSweeney, B. Moss, M. Panagoda, S. Price, A. Totoeva, T. Tran, P. Wright, E Howard (from July 2016) (Policy Lawyer).

## 2017 membership:

J. Warner (Chair), E. Espinosa (Deputy Chair), D. Anthony, E. Bartlett, S. Campbell, D. Chang, M. Fahy, R. Grant, R. Harvey, D. Kelly, C. Kenny, C. Kerley, M. Khoo, K. Liu, A. Lumsden, A. Lyras, R. MacSweeney, B. McGrath, T. Mundy, B. Moss, T. Nicholls, R. Pietrini, J. Skelton, A. Totoeva, T. Tran, P. Wright, E. Howard (to May 2017)/K. Stouppos (from May 2017)(Policy Lawyers).

## Functions

The role of this Committee is to promote diversity, equality and inclusion in the legal profession, in particular by progressing initiatives to ensure the equality of opportunity for all members of the profession, regardless of race, ethnicity, heritage, gender, age, religion, disability, sexual orientation, gender identity or intersex status.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Support the implementation of Advancement of Women initiatives
- Revise and update the 2001 Equal Opportunity Handbook and Model Equal Opportunity, Harassment and Grievance Handling Policies
- Develop resources in line with the Committee's mission, including in relation to the business case for diversity and inclusion in the legal profession, and flexible working arrangements
- Review available diversity data and consider what additional data may be useful
- In collaboration with other relevant Law Society Committees, develop policy in relation to marriage equality

## Activities

The Committee carried out the following activities during the year under review:

- In support of the Law Council's National Model Gender Equitable Briefing Policy and in conjunction with the NSW Bar Association, organised a networking event for solicitors and women barristers working in civil litigation
- Supported the launch of the Law Society's Charter for the Advancement of Women in the Legal Profession in October 2016 and continued to promote and monitor the uptake of the Charter
- Published additional guidance for solicitors, supervisors and law firms on flexible working
- Recommended the inclusion of additional optional questions regarding diversity in the annual Practising Certificate survey

The Committee made the following submission during the year under review:

- Breastfeeding facilities and parenting rooms

# ELDER LAW, CAPACITY & SUCCESSION

## 2016 membership (Elder Law and Succession):

P. Suttor (Chair), D. Browne (Deputy Chair), L. Brown, J. Clarke, R. Cunich, S. Field, D. Geddes, J. Goode, B. Hayward, A. Hill, P. McGowan, J. McMillan, R. Neal, L. Perez, R. Pollard, A. Ryan, L. Schyvens, K. Turner, R. Ward, E. Liddle (Policy Lawyer).

## 2017 membership:

P. Suttor (Chair), R. Neal (Deputy Chair), L. Baber, L. Brown, J. Clarke, T. Cowen, L. Critchley, S. Field, J. Goode, B. Hayward, A. Hill, B. Hughes, Y. Lipianin, J. Mann, P. McGowan, J. McMillan, M. Morris, R. Pollard, L. Rogers, M. Schyvens, K. Whitley, L. Booth (until March 2017)/K. Stouppos (from March until May 2017)/A. Jenner (from May 2017)(Policy Lawyers).

The Committee's name changed to Elder Law, Capacity & Succession in January 2017.

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to elder, capacity and succession law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Engage in the NSW Law Reform Commission's review of guardianship laws
- Elder abuse issues, including engaging in the Australian Law Reform Commission's inquiry and the NSW Legislative Council's inquiry
- Develop resources for the legal profession on capacity issues
- Policy in relation to powers of attorney, enduring guardians and advance care directives
- Update the Law Society's intestacy commentary
- Other legislative changes, such as in relation to family provision (and, in particular, step children)

## Activities

The Committee carried out the following activities during the year under review:

- The Elder Abuse subcommittee ran CPD events on elder abuse and assessing mental capacity
- Participated in roundtable discussions at the NSW Law Reform Commission relating to guardianship law reform
- Published the Law Society's "When a Client's Mental Capacity is in Doubt: A Practical Guide for Solicitors"
- Participated in NCAT's Guardianship Division Consultative Forum

The Committee made the following submissions during the year under review:

- Banking indemnity requirements on deceased estates
- NSW Trustee and Guardian Surety Bond Scheme (several submissions)
- Proposed amendments to the *Powers of Attorney Act 2003* (NSW)
- Remake of the *Births, Deaths and Marriages Registration Regulation 2011* (NSW)
- Use of powers of attorney instruments by banks

The Committee also contributed to the following joint submissions during the year under review:

- Australian Law Reform Commission Elder Abuse Discussion Paper
- Justice for everyday problems: Civil Justice in NSW
- Review of the *Guardianship Act 1987* - Question Paper 1: Preconditions for alternative decision-making arrangements
- Review of the *Guardianship Act 1987* - Question Paper 2: Decision-making models
- Review of the *Guardianship Act 1987* - Question Paper 3: The role of guardians and financial managers
- Review of the *Guardianship Act 1987* - Question Paper 4: Safeguards and procedures
- Review of the *Guardianship Act 1987* - Question Paper 5: Medical and dental treatment and restrictive practices
- Review of the *Guardianship Act 1987* - Question Paper 6: Remaining issues
- Voluntary Assisted Dying Bill 2016

# EMPLOYMENT LAW

## 2016 membership:

A. Woods (Chair), S. Chandra, P. Costigan, M. Doherty, A. Feltham, M. Hryce, L. Izzo, N. Keats, L. Kepars, C. Kerley, D. King, P. Murphy, A. Paul, D. Potts, S. Wescott, A. Wilson, E. Woodgate, E. Liddle (Policy Lawyer).

## 2017 membership:

N. Keats (Co-Chair), J. van der Plaat (Co-Chair), B. Akers, P. Costigan, M. Doherty, B. Feltham, M. Hryce, L. Izzo, C. Kerley, D. King, K. Lewis, H. Macken, P. Murphy, M. Nguyen, P. Noakes, A. Polites, D. Potts, W. Steenson, A. Van Gent, N. Venville, S. Wescott (until April 2017), S. Williams, A. Woods, L. Booth (until May 2017)/ A. Jenner (from May 2017)(Policy Lawyers).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to employment and industrial law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Employment arrangements of legal graduates
- Online employment law resources for practitioners
- Monitor practical issues for Fair Work matters in the Federal Court and Federal Circuit Court

## Activities

The Committee carried out the following activities during the year under review:

- Held a dinner with members of the Fair Work Commission and Industrial Relations Commission
- Provided feedback on the Law Society's 2017 Equal Opportunity Handbook and model policies
- Appointed representatives to attend the Industrial Relations Commission user group

The Committee made the following submissions during the year under review:

- Inquiry into Violence against Emergency Services Personnel – Supplementary Question
- Integration of the Industrial Court with the Supreme Court of NSW
- Statutory Review of the *Work Health and Safety Act 2011* (NSW)

# ENVIRONMENTAL PLANNING & DEVELOPMENT

## 2016 membership:

P. Wright (Chair), M. Bonanno, A. Cahill, B. Charlton, F. Douglas (until July 2016), C. Drury, L. Finn, A. Gadiel, S. Higginson, N. Highman, N. Laing, M. Pearce, T. Poisel, E. Ryan, J. Sheehan, P. Wright, L. Booth (Policy Lawyer).

## 2017 membership:

P. Wright (Chair), L. Finn (Deputy Chair), M. Bonanno, A. Cahill, B. Charlton, C. Drury, J. Fan, S. Higginson, N. Highman, R. James, B. McCann, M. Pearce, T. Poisel, E. Ryan, J. Sheehan, J. Walsh, L. Booth (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to planning and environmental law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Review of the Environmental Planning and Assessment Amendment Bill 2017
- Review of just terms legislation
- Review of Aboriginal cultural heritage laws
- Reform of the *Local Government Act 1993*

## Activities

The Committee carried out the following activities during the year under review:

- Participated in stakeholder forums with the Department of Planning and Environment to discuss proposed reforms to the *Environmental Planning and Assessment Act 1979*
- Participated in stakeholder forums to discuss proposals for new Planning Panels
- Participated in, and contributed to, the work of the Land and Environment Court Users Group
- Committee representatives met with officials from the office of the Minister for Finance Services and Property to discuss proposed reforms to the *Land Acquisition (Just Terms Compensation) Act 1991*

The Committee made the following submissions during the year under review:

- Draft State Environmental Planning Policy (Coastal Management) 2016
- *Environmental Planning and Assessment Act 1979* legislative updates: section 149 certificate reform
- Improving voluntary planning agreements
- Land Acquisition (Just Terms Compensation) Amendment Bill 2016
- New Wind Energy Planning Framework
- Simplified Housing Code

The Committee also contributed to the following joint submissions during the year under review:

- Consultation on proposed reforms to strengthen building fire safety
- Crown Lands Management Bill 2016
- Draft Environmental Planning and Assessment Amendment Bill 2017
- *Environmental Planning and Assessment (ePlanning) Regulation 2017*
- Inquiry into Crown land
- Land Acquisition (Just Terms Compensation) Amendment Bill 2016
- Land management and biodiversity conservation reforms
- *Local Land Services Amendment Act 2016* and register of set aside areas
- Review of the *Conveyancing (Sale of Land) Regulation 2010* and the Conveyancing Process in NSW

# ETHICS

## 2016 membership:

D. Browne (Chair), R. Anderson, G. Bates, S. Crelin, P. Driesen, R. Fletcher, J. Gallagher, J. Glowrey, A. Iuliano, H. Macken, G. Maher, A. McGarrigle, E. McKenzie, D. Miller, B. Moss, J. Robb, T. Spohr, M. Tiyce, P. Monaghan RLO and L. Barnes ethics solicitor assisting committee.

## 2017 membership:

D. Browne (Chair), S. Alden, R. Anderson, G. Bates, J. Brooke-Cowden, S. Crellin, J. Crittenden, R. Fletcher, J. Gowrey, R. Hoyles, H. Macken, G. Maher, L. Maitland, E. McKenzie, D. Miller, G. Morahan, B. Moss, S. O'Regan, J. Robb, T. Spohr, M. Tiyce, P. Waters.

## Mission Statement for 2016-2017

- To maintain and preserve the integrity of the legal profession and to ensure the proper discharge by members of the profession of their obligations to the Court, clients and community
- Encourage, maintain and enhance desirable professional practices and to prevent and resist undesirable professional practices within the profession
- To identify and prevent undesirable professional conduct by members of the legal profession
- To provide timely information and education of ethical obligations of solicitors to the legal profession
- To ensure continuity of the required professional standards and to provide guidance to the legal profession on issues of professional ethics

## Functions

The directives of the Council of the Law Society define the functions of the Ethics Committee. These Council directives provide the general delegation of powers, authorities and discretions to the Ethics Committee and are designed to maintain and promote the high ethical standards of the profession.

The services provided by the Ethics Committee include:

- Access to a body of specialist legal knowledge that can provide detailed and timely guidance of information on ethical issues for the legal profession. The solicitor enquiries requesting guidance include enquiries from the legal profession in general, government departments and within the Law Society itself, when working in conjunction with other committees of the Law Society. This promotes a culture of integrity and

independence to the legal profession, promoting ethics and professional standards for solicitors and providing a foundation for maintaining public confidence about the ethical standards of the profession

- To maintain and enhance high ethical standards for the legal profession by identifying and preventing undesirable practices. This is achieved by designing and implementing education programs, providing professional ethical guidance as required and publishing relevant guidelines and materials to assist the legal profession
- Undertake research, inquiries and make submissions on relevant ethical topics on legal policy and regulation for the legal profession

The members of the ethics committee provide a diverse pool of practical skills, drawing on its membership of practitioners from government departments, private practice (large, medium and small) and in-house departments. This provides a broad and comprehensive base of experience of specialist expert guidance on ethical issues for solicitors.

- There are currently 22 members of the legal profession on the Committee including four Councillors of the Law Society
- The Committee is supported with administrative and legal resources, from the Ethics department of the Professional Support Unit (PSU) within the Professional Standards Department (PSD) of the Law Society
- Meetings of the Ethics Committee are held regularly each month and consider a broad range of matters arising from the demand for services by members of the legal profession

## Highlights of the Year – Specific Tasks for 2016-2017

- Designing new and enhanced education programs on ethics for the legal profession to address continuing professional development requirements
- Ethics modules in new formats using the latest information technology to promote access and availability to content and use by the legal profession
- Engaging the public and legal profession to promote ethics issues, public confidence and access to professional standards of the legal profession
- Liaison and monitoring of state and national ethical issues for the legal profession
- Providing a wide range of assistance to the Law Society, standing committees and departments on ethical issues

# FAMILY LAW

## 2016 membership (Family Issues):

Z. Kekeff (Chair), C. Banks, K. Beckhouse, J. Dawson, A. Domalewski (until September 2016), P. Doolan, C. Dunn, J. Eades, L. Goodwin, P. Lewis, J. Loughman, H. Miedzinski, C. Samuels, A. Sanderson, P. Sim, G. Slack-Smith, S. Staka, G. Thompson, J. Vincent, J. Wong, E. Liddle (Policy Lawyer).

## 2017 membership:

Z. Kekeff (Chair), C. Banks (Deputy Chair), T. Aroyan, K. Beckhouse, L. Callanan, A. Colquhoun, J. Dawson, P. Doolan, C. Dunn, L. Goodwin, A. Iuliano, R. James, M. Lama, J. Loughman, L. Maitland, C. McFawn, L. McGirr, A. Sanderson, M. Shepherd, G. Slack-Smith, G. Thompson, A. Weidner, M. Whitehead, J. Wong, C. Milliken (to March 2017)/K. Stouppos (from March 2017)(Policy Lawyers).

The Committee's name changed to Family Law from January 2017.

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to family law issues in NSW.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Access by designated agencies to Children's Court Clinic Reports
- Advocate for adequate judicial and other resources in the Family Court and Federal Circuit Court
- Identify measures to address court delays in family law matters
- Promote access to legal representation in family law matters
- Develop information and resources on domestic and family violence for legal practitioners practising in family law
- Promote the use of arbitration and mediation in family law property matters

## Activities

The Committee carried out the following activities during the year under review:

- Liaised with and contributed to the work of the Family Law Courts Self-represented Litigants Working Party
- Represented the Law Society on a number of Legal Aid Commission of NSW panels – including the Family Law General Panel, Panel for Independent Children's Lawyers and Care and Protection Panel
- Represented the Law Society on a number of court groups – including the Family Court Liaison Group and the Federal Circuit Court Liaison Group
- Represented the Law Society on the Greater Sydney Family Law Pathways Network
- Monitored the uptake of the Law Society's FLSS
- Established a subcommittee to progress initiatives in relation to arbitration in family law matters
- Established and contributed to a high level working group to address delays in family law proceedings in NSW
- Developed and updated resources for family lawyers – including the Law Society's "Know Your Rights" brochures on De Facto Relationships, Divorce and Children and Separation

The Committee made the following submissions during the year under review:

- Civil Law and Justice Legislation Amendment Bill 2017
- Domestic Violence Death Review Team recommendations
- Proposal to establish a high-level working group to address delays in family law proceedings in NSW

The Committee also contributed to the following joint submissions during the year under review:

- Access by designated agencies to Children's Court Clinic Reports
- Amendments to the *Family Law Act 1975* to respond to family violence
- Child Protection Reforms Proposal Paper
- Homelessness in NSW – Foundation for Changes
- Inquiry into child protection
- Parliamentary inquiry into a better family law system to support and protect those affected by family violence
- Urgent review of resourcing in the Family Court of Australia and Federal Circuit Court of Australia



# FIDELITY FUND MANAGEMENT

## 2016 membership:

J. Eades (Chair), A. Bentley, A. Boog, P. Coster, J. Glowrey, R. Harvey, V. Higinbotham, W. Readford, P. Smith, R. Williams.

## 2017 membership:

J. Glowrey (Chair), A. Bentley, A. Boog, D. Browne, P. Coster, V. Higinbotham, P. Lewis, N. McBride, W. Readford, P. Smith.

## Functions

The function of the Committee is to administer the Legal Practitioners Fidelity Fund in the exercise of powers delegated to it by the Council of The Law Society of New South Wales.

## Activities

The Committee carried out the following activities during the 2016-2017 year:

- Met on 12 occasions to consider and determine claims made against the Fund, recoveries and matters relating to the Fund's management
- Determined 49 claims worth \$4,318,869.56. Of the 49 claims, 30 for an aggregate amount of \$1,705,664.52, were allowed, partly allowed or settled. A total of 19 claims were totally disallowed. Additionally, three claims for \$486,517.89 were barred and seven claims for \$2,104,331.91 were withdrawn
- Recoveries during the year amounted to \$168,242.58
- As at 30 June 2017, there were 35 undetermined claims against the Fund (involving 21 solicitors or law practices) amounting to \$3,889,658.75, compared with 56 undetermined claims totalling \$6,294,546.41 the previous year
- Of the 35 claims mentioned above, outstanding claims involve \$2.4m regarding five solicitors (15 claims). The remaining 16 solicitors are the subject of claims for \$1.5m
- The total paid to claimants during the year was \$1,195,667.27 comprising principal of \$1,151,399.39 and interest of \$44,267.88, involving claims in respect of 15 solicitors. In a financial year, not all claims determined may be paid in that same period, as formal requirements may not be completed in that year
- New claims received during the year totaled \$4,562,805.52
- Provision for claims is \$5,781,000 which comprises claims received and likely to be successful as well as an amount for instances where there is evidence that there may have been default or failure to account but where the claims are yet to be lodged. In addition, there are contingencies of \$4,638,821. This amount comprises notices of default or failure to account in respect of which a claim has not been made and where there is presently insufficient evidence that there may have been a default or failure to account, claims received which, based on current information, are considered not likely to be successful and disallowed claims subject to appeal or possible appeal
- All allowed claims for default or failure to account have been paid at 100 cents in the dollar
- Solicitors' contributions to the Fund for the 2016/2017 year were \$70 per solicitor where required by the *Legal Profession Uniform Law* (NSW) to contribute
- 15 solicitors or firms have been the subject of paid claims during the year. Of those, three defaulting solicitors have been bankrupted and in the other instances proceedings are being considered by the Committee

# FUTURE OF LAW AND INNOVATION IN THE PROFESSION (FLIP)

## 2016 membership:

G. Ulman (Chair)(Executive), P. Wright (Deputy Chair) (Executive), L. Nadj (Executive), C. Bibby, D. Browne, C. D'Aeth, J. Dowd, E. Espinosa, J. Glowrey, K. Hocking, R. Kumaragamage, M. Legg, D. Porter, E. Santow, B. Stack, J. Thurgood, M. Tidball, J. Warner, E. Yamine.

## 2017 membership:

G. Ulman (Chair)(Executive), P. Wright (Deputy Chair) (Executive), L. Nadj (Executive)(until March 2017), C. Bibby, D. Browne, C. D'Aeth, J. Dowd, E. Espinosa, J. Glowrey, K. Hocking, R. Kumaragamage, M. Legg, D. Porter, E. Santow, B. Stack, J. Thurgood, M. Tidball, J. Warner, E. Yamine.

## Functions

In March 2016, the Law Society established the Future of Law and Innovation in the Profession (FLIP) Committee. In April 2016, the FLIP Commission of Inquiry commenced. The Law Society established this Commission to:

- Identify and understand the changes currently affecting the profession
- Inform solicitors and to gather data for use in future policy
- Place itself at the centre of change, so as to help the profession develop the leadership required to respond to the challenges ahead

The *FLIP Report* was launched on 28 March 2017. The *FLIP Report* draws on the testimony of 103 witnesses who gave evidence at the FLIP Commission of Inquiry, and on a number of a separate interviews and written submissions.

The *FLIP Report* also had the benefit of receiving input from members of the FLIP Committee as its members are from various sectors of the legal services sector. The FLIP Committee members included:

- Legal and university academics
- senior court officials and technology experts
- Operation and change manager
- General counsel
- The Australian Human Rights Commissioner (at the time)
- Lawyers from both city and country practices
- Members of the Law Society Council

## Activities

The FLIP Commission convened twice each month from July to November 2016 and on each occasion the Commission Panel was represented by members of the Committee. The Commission was chaired by Gary Ulman and Pauline Wright (who has now succeeded Mr Ulman as the Law Society President).

The composition of the Commission Panel on any given occasion was dependent upon the areas of expertise and interests of individual Committee members and their availability.

To facilitate engagement, and in homage to the oral tradition of the common law, the project relied primarily on spoken testimony, using video-link capabilities where necessary.

To keep the time commitment manageable, two hours were set aside twice each month for the hearings, and witnesses were allocated approximately 10-25 minutes each, including their introductory remarks and time spent responding to questions from the Commission Panel.

Each hearing was open to the public and the profession in the same way the public gallery of a court room or tribunal is available. Sessions were filmed with the permission of witnesses and quickly uploaded to the project website to be available for viewing by the profession and the public. These videos can be viewed on the Law Society's website at [lawsociety.com.au/flip](http://lawsociety.com.au/flip).

The Committee conducted the following activities during the year under review:

- Met monthly to lead the FLIP project
- Heard evidence from 67 individuals in person and by video on the following days and topics:
  - New ways of working – 7 July 2016 and 28 July 2016
  - Legal education, information systems and training – 22 August 2016 and 29 August 2016
  - Community needs, courts and funding – 7 September 2016 and 29 September 2016
  - Diversity, new processes and managing change – 19 October 2016 and 28 October 2016
  - Globalisation – 16 November 2016
  - Regulation – 23 November 2016
  - Published this evidence on an online public video library
- Undertook reviews of literature related to topics
- Conducted private meetings with individuals related to topics
- Invited and reviewed six written submissions made to the Commission
- Heard from the Law Society's Regional Presidents and the Law Society's Legal Technology Committee

## Committee Priority Issues for 2017

The *FLIP Report* contains a number of key findings and 19 recommendations for the Law Society to consider and implement.

The findings and recommendations of the *FLIP Report* cover a broad range of issues including clients' needs and expectations, technology, the new ways the profession is working, legal education, the community's needs in courts and funding, diversity, managing change, globalisation and regulation.

In 2017, the Law Society commenced work on executing the *FLIP Report's* recommendations, which will be overseen by the Committee which will continue to meet on a regular basis.

# GOVERNMENT SOLICITORS

## 2016 membership:

D. Humphreys (Chair), E. Espinosa (Deputy Chair), D. Allen, H. Armstrong, M. Bateman, H. Bear, J. Camden, R. Fletcher, K. Harry, L. Houston, L. Howes, M. Keenan, C. Kelso, A. Lumsden, S. Martinez, K. Nash, L. Nguyen, J. O'Connell, M. Pearce, G. Ross, R. Spitzer, J. Stathis, C. Tipene, K. Turner, L. Booth (until January 2017) (Executive Member).

## 2017 membership:

D. Humphreys (Chair), E. Espinosa (Deputy Chair), S. Alden, M. Bateman, J. Camden, E. Chan, R. Fletcher, A. Gordon, K. Harry, L. Houston, M. Keenan, M. Listing, A. Lumsden, S. Martinez, A. McGarrigle, K. Nash, R. Parsons, M. Pearce, G. Ross, R. Spitzer, J. Stathis, J. Tozer, J. Windsor, N. Justen-Hoven (from January 2017) (Policy Lawyer/Executive Member).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to government solicitors.

The Committee's priorities include:

- Developing and commenting on law reform and legal policy proposals (including preparing submissions and liaising with government and other stakeholders in this process)
- Educating the legal profession about changes to the law and providing guidance on practice and other issues
- Exchanging information about issues arising in legal practice (such as recent case law) that may indicate policy issue or concern

## Committee priority issues for 2017

The Committee has identified the following priority issues for 2017:

- Development of a detailed plan/strategy to raise the profile of Government Solicitors within the rest of the legal profession
- Identify initiatives to increase the engagement of Government Solicitors within the profession, other segments of the profession and within the government segment itself
- Preparation of practitioner guidance
- Development of topics for the Government Solicitors Conference

- Administration and promotion of the John Hennessy Legal Scholarship and the Michelle Crowther PSM Excellence Award

## Activities

The Committee carried out the following activities during the year under review:

- The Committee welcomed the Law Society's Government Lawyers Segment Manager, Ann-Marie Boumerhe, as a permanent attendee at the committees meetings in order to fulfil the above identified priorities
- Ms Boumerhe and the committee created a subcommittee on initiatives and worked together to draft a communications and marketing plan to assist in raising the profile of Government Solicitors using the Law Society's existing publications
- Ms Boumerhe and the subcommittee worked together in identifying crucial areas of practitioner guidance including a more intuitive and interactive guideline on the topic of Legal Professional Privilege
- Ms Boumerhe and committee worked closely with the Law Society's PSD and Licencing departments on the communication of Transitional Exemptions and responding to queries by individual government lawyers on the *Legal Profession Uniform Law*
- Provided advice on the Government Solicitors Conference and other relevant CPD activities
- Promoted and administered the John Hennessy Legal Scholarship and the Michelle Crowther PSM Excellence Award
- Managed the Reciprocal In-House CPD program for government solicitors
- Prepared articles for inclusion on the Government Solicitors Committee hub webpage
- Considered ethical and other practice issues raised by government solicitors through the Committee and its members
- The review of and endorsement of a Charter for NSW Government Cluster Legal Services on Conflict of Interest

The Committee also contributed to the following joint submission during the year under review:

- Review of Tax and Corporate Whistle-blower Protections in Australia

# HUMAN RIGHTS

## 2016 membership:

K. McKenzie (Chair), D. Porter (Deputy Chair), R. Bakoss, S. Calnan, B. Coglein, M. Coidan, W. Condon (until October 2016), R. Cook, N. D'Souza, A. Drayton, K. Dunbar, A. Mojtahedi, M. Payne, I. Reiss, J. Steward (until July 2016), S. De Brennan (until July 2016), A. Krivenkova (from July 2016)(Policy Lawyer).

## 2017 membership:

A. Mojtahedi (Chair), V. Edwards (Deputy Chair), W. Ahmed, R. Bakoss, A. Burton, S. Calnan, M. Coidan, N. Cutcher (until June 2017), N. D'Souza, A. Drayton, B. Greenwood, D. Hobday (from April 2017), A. Levin, K. McKenzie, N. Najjar, I. Reiss, A. Sinclair, A. Totoeva (until July 2017), A. Krivenkova (until May 2017)/ C. Milliken (from May 2017)(Policy Lawyers).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to the obligations of Australia and NSW under international and domestic human rights law, and to uphold the rule of law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Asylum seekers
- Counter terrorism and human rights
- Business and human rights

## Activities

The Committee carried out the following activities during the year under review:

- Assisted with preparation for the President's Thought Leadership events on the rule of law, asylum seekers, and on human rights jurisprudence
- Attended NGO Forum on Human Rights
- Attended Administrative Appeals Tribunal Migration and Refugee Division Community Liaison Meeting
- Attended meeting on vilification laws in NSW
- Attended Australian Human Rights Commission roundtable on Australia's UN Human Rights Council bid

The Committee made the following submissions during the year under review:

- 2017 Independent Intelligence Review
- Australian Human Rights Commission Disability Discrimination - National Consultation Paper
- Crimes and Anti-Discrimination Legislation Amendment (Vilification) Bill 2016
- Inquiry into establishing a Modern Slavery Act in Australia
- Inquiry into human trafficking
- Inquiry into the serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre and Manus Regional Processing Centre
- Offshore processing and the treatment of asylum seekers
- Practical Guide for the Australian Legal Profession on Business and Human Rights
- Proposed Activities (Public Amenity and Security) Local Law 2017 (Vic)

## HUMAN RIGHTS

The Committee also contributed to the following joint submissions during the year under review:

- Abortion Law Reform Bill 2016
- Consultation on serious vilification laws in NSW
- Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2017
- Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016
- Counter-Terrorism Legislation Amendment Bill (No. 1) 2016
- Courts and tribunal fees
- Draft Law Council Regional Processing Policy Statement
- Human Tissue Amendment (Trafficking in Human Organs) Bill 2016
- Inquiry into freedom of speech in Australia
- Inquiry into the design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative
- Inquiry into the Legislative Council committee system
- Law Enforcement Conduct Commission Bill 2016
- National framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women
- NSW Ombudsman's review of the consorting law
- Outcomes of the 2017 First Nations National Constitutional Convention
- Productivity Commission Inquiry into Data Availability and Use
- Review of ASIO questioning and detention powers
- Review of the *Guardianship Act 1987* – Question Paper 1: Preconditions for alternative decision-making arrangements
- Review of the *Guardianship Act 1987* – Question Paper 2: Decision-making models
- Review of the *Guardianship Act 1987* – Question Paper 3: The role of guardians and financial managers
- Review of the *Guardianship Act 1987* – Question Paper 4: Safeguards and procedures
- Review of the *Guardianship Act 1987* – Question Paper 5: Medical and dental treatment and restrictive practices
- Review of the *Guardianship Act 1987* – Question Paper 6: Remaining issues
- Royal Commission into the Protection and Detention of Children in the Northern Territory
- Statutory review of the *Crimes (High Risk Offenders) Act 2006*
- Statutory review of the *Victims Rights and Support Act 2013*
- The distribution of intimate images without consent
- Voluntary Assisted Dying Bill 2016

# INDIGENOUS ISSUES

## 2016 membership:

J. Behrendt (Chair), P. Wright (Deputy Chair), Z. Armytage, D. Barker, D. Beckett, P. Bertram, J. Christian, A. Cregan, B. Dufty, M. Dupuis, M. Gleeson, M. Holden, N. Laing, C. Longman, J. Lovric, R. Mackay, V. Marshall, T. McComsey, P. MacGillivray (until August 2016), N. Miles, P. Mewburn (until August 2016), P. Mulroney, B. Murray, M. Myers, C. Orr, A. Seiver, J. Symons, F. Toose, J. Weate, R. Welsh, A. Krivenkova (Policy Lawyer).

## 2017 membership:

J. Behrendt (Chair), C. Orr (Deputy Chair), Z. Armytage, D. Barker, P. Bertram, B. Cansdale, R. Cook, N. Cutcher (until June 2017), A. Dawson, B. Dufty, M. Dupuis, A. Elliott, M. Gleeson, B. Greenwood, D. Hobday, N. Laing, T. Lim, C. Longman, J. Lovric, R. Mackay, T. McComsey, N. Miles, S. Mortimer, P. Mulroney, B. Murray, Judge M. Myers, A. Seiver, T. Shepherd, J. Symons, J. Weate, R. Welsh (from March 2017), P. Wright, A. Krivenkova (until May 2017)/C. Milliken (from May 2017)(Policy Lawyers).

## Functions

The role of this Committee is to represent the Law Society and its members on legal policy and practice issues arising in relation to Indigenous people in NSW.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Indigenous incarceration rates (including driver licence disqualification reform; disability and cognitive impairment; birth certificates and identity documents; sentencing and diversion; police accountability; and deaths in custody)
- Care and protection and family law
- Domestic and family violence
- Housing and homelessness

## INDIGENOUS ISSUES

### Activities

The Committee carried out the following activities during the year under review:

- Provided steering advice and oversight of the Law Society's Indigenous Reconciliation Strategic Plan
- Assisted the Law Society in respect of its Indigenous Enterprise Legal Assistance Scheme
- Participated in the Legal Profession Reconciliation Network
- Attended consultative meetings with various government agencies and bodies, including with the NSW Civil and Administrative Tribunal (NCAT)
- Facilitated direct consultations between Aboriginal community members and NSW Parliamentary committees conducting consultations on elder abuse and on child protection
- Facilitated Aboriginal community legal education on the role of lawyers, and the lawyer/client relationship

The Committee made the following submissions during the year under review:

- Aboriginal cultural awareness training for lawyers
- Australian National Standards for Working with Interpreters in Courts and Tribunals
- Funding for trauma services for children in out of home care
- Indigenous incarceration rates and justice targets
- Inquiry into access to transport for seniors and disadvantaged people in rural and regional NSW
- Inquiry into Driver Education, Training and Road Safety
- NSW Civil and Administrative Tribunal (NCAT) consultative forum on tenancy, social housing and Aboriginal issues
- Senate Legal and Constitutional Affairs Legislation Committee inquiry into the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017

The Committee also contributed to the following joint submissions during the year under review:

- Australian Law Reform Commission Elder Abuse Discussion Paper
- Child Protection Reforms Proposal Paper
- Consultation draft terms of reference – Australian Law Reform Commission inquiry into the incarceration rate of Indigenous Australians
- Courts and tribunal fees
- Crown Lands Management Bill 2016
- Diversion of low level offences in NSW
- Draft Bill to amend s 6 of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW)
- Fine default imprisonment
- Homelessness in NSW – Foundation for Changes
- Inquiry into child protection
- Inquiry into Crown land
- Inquiry into freedom of speech in Australia
- Just Reinvest NSW draft policy paper – reducing Indigenous incarceration
- Koori Courts in NSW
- Land Acquisition (Just Terms Compensation) Amendment Bill 2016
- National framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women
- NSW Ombudsman's review of the consorting law
- Outcomes of the 2017 First Nations National Constitutional Convention
- Parliamentary inquiry into a better family law system to support and protect those affected by family violence
- Review of the *Guardianship Act 1987* – Question Paper 1: Preconditions for alternative decision-making arrangements
- Royal Commission into the Protection and Detention of Children in the Northern Territory
- Statutory review of the *Coroners Act 2009*
- Statutory review of the *Victims Rights and Support Act 2013*



# INJURY COMPENSATION

## 2016 membership:

T. Stern (Chair), J. Thurgood (Deputy Chair), S. Butcher, W. Chau, T. Concannon, P. Curtis, G. Daley, L. Davidson, D. De Paoli, R. Everett, G. Galvin, M. Issa, I. Jones, C. Ktenas, H. Macken, P. Macken, R. May, K. McCusker, A. Mulcahy, F. Pantelis, D. Potts, M. Warton, B. Williams, L. Wilson (Policy Lawyer).

## 2017 membership:

T. Stern (Chair), H. Macken (Deputy Chair), S. Butcher, W. Chau (until June 2017), T. Concannon, P. Curtis, G. Daley, L. Davidson, G. Galvin, M. Issa, I. Jones, C. Ktenas, E. Liondis, P. Macken, K. Martin, R. May, K. McCusker, A. Mulcahy, D. Potts, C. Slan, S. Stern, J. Thurgood, K. Toshack, M. Warton, B. Williams, M. Lee (to April 2017)/L Booth (from May 2017)(Policy Lawyers).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to injury compensation law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Motor accidents reforms
- Workers' compensation reforms
- Implementation and issues arising in relation to the National Disability Insurance Scheme/National Injury Insurance Scheme
- Compensation/redress schemes for victims of abuse
- State regulation of automated vehicles

## Activities

The Committee carried out the following activities during the year under review:

- Continued consultation and engagement with the Government's reform of the NSW Compulsory Third Party Scheme, including preparation of submissions and involvement in various forums and meetings
- Liaised regularly with the State Insurance Regulatory Authority (SIRA), and the Government with respect to the workers compensation scheme generally and various proposed legislative amendments

- Monitored and contributed to reviews of the Dust Diseases Scheme and Lifetime Care and Support Scheme
- Engaged in consultation with the Association of Superannuation Funds of Australia on issues relating to insurance in superannuation

The Committee made the following submissions during the year under review:

- Changes to Green Slip Legislation
- Compulsory Third Party insurance reform – Claims handling guidelines
- First review of the Compulsory Third Party insurance scheme
- First review of the Dust Diseases scheme
- First review of the Lifetime Care and Support scheme
- First review of the Workers Compensation Scheme
- National guidelines for automated vehicle trials – discussion paper
- NSW Compulsory Third Party insurance scheme reform (several submissions)
- Protocols for superannuation Total and Permanent Disability claims
- Regulation for legal costs for work capacity decision reviews
- Review of the Lifetime Care and Support Guidelines

The Committee also contributed to the following joint submissions during the year under review:

- Compulsory Third Party insurance reform (with NSW Bar Association)
- Compulsory Third Party insurance reform (with NSW Bar Association and Australian Lawyers Alliance – multiple submissions)
- Draft Dispute Resolution Guidelines (with Australian Lawyers Alliance)
- Draft Motor Accidents Compensation Regulation – Suggested Schedule 1 costs for legal services (with Australian Lawyers Alliance)
- Statutory review of the *Victims Rights and Support Act 2013*

# LEGAL TECHNOLOGY

## 2016 membership:

P. Argy (Chair), H. Brown, G. Channell, C. Chow, C. Eddison-Cogan, J. Ellis, T. Kaldor, C. Libro, C. Moraza, D. Porter, T. Rollo, A. Templeman, K. Tickle (Executive Member).

## 2017 membership:

P. Argy (Chair), R. Bakoss, H. Brown, C. Eddison-Cogan, R. Grant, K. Iles, T. Kaldor, R. Prangell, T. Robinson, T. Rollo, L. Bustin (Executive Member).

## Functions

- Provide information, education and recommendations on technology matters for members
- Identify technology issues that the profession should be made aware of and which would be of benefit to members
- Promote standards and guidelines in relation to technology and online services for members
- Communicate and foster technological collaborative arrangements with the wider legal community
- When invited, respond to technology initiatives that originate outside the Law Society but which have an impact on Law Society members
- Give priority to consideration of any matters as may be referred to the committee by the Council, President or Chief Executive Officer from time to time
- To report promptly to the Council on all matters and business in respect of which it exercises the powers delegated by Council.

## Activities

The Committee conducted the following activities during the year under review:

- Continued the development and distribution of publications pertaining to the use of technology in the legal profession
- Identified strategies aimed at raising awareness of how solicitors can:
  - enhance their ability to deliver legal services through the use of available technology
  - minimise the risk of cyber threats while also optimising their capacity to recover following an attack through improved systems and security policies
  - protect their practice and the confidentiality of client information when using technology and social media
- Maintained a watching brief on the national delivery of e-Conveyancing

# LICENSING

## 2016 membership:

D. Humphreys (Chair), C. Kenny (Co-Chair) A. Biliias, M. Curran, G. Daley, P. Ferguson, K. Harry, J. Patterson, T. Gibson (Head of Licensing), S. Borg, J. Furio, C. McKenzie, M. Velasco-Sumcad (Executive Members).

## 2017 membership:

D. Humphreys (Chair), C. Kenny (Co-Chair), A. Biliias, M. Curran, G. Daley, P. Ferguson, K. Harry, J. Patterson, T. Gibson (Head of Licensing), S. Borg, J. Furio (Executive Members).

## Functions

- Functions contained in Chapter 3 Part 3.3, 3.4 and 3.5 of the *Legal Profession Uniform Law*, pertaining to the grant and renewal of practising certificates
- Monitor compliance with all statutory conditions and licensing requirements
- Impose discretionary conditions with consent of practitioner
- Consider applications to vary types of practising certificates
- Consider non-standard applications to remove or exempt from Supervised Legal Practice (SLP) condition or a reduction thereof
- Consider applications made under the Transitional Exemption provisions pertaining to government and corporate lawyers
- Monitor CPD compliance requirements
- Monitor compliance with Practice Management Course (PMC) and undertakings
- Consider applications for exemption from Practical Legal Training (PLT) and make recommendations to the Legal Profession Admission Board
- Consider and review Law Society policy on licensing issues

## Activities

The Committee conducted the following activities during the year under review:

- Considered non-standard applications to remove, reduce or be declared exempt from the statutory condition of SLP
- Considered applications for exemption from CPD and extensions of time to comply with CPD
- Adopted new policy and procedure regarding non-compliance with CPD
- Adopted new policy and procedure concerning the failure to notify the Society of Change of Practice details for the purpose of the statutory Register obligations of the Society
- Adopted new policy and procedure for contraventions of SLP by applicant and/or supervisor
- Considered and established policy for dealing with the changes to practising certificate categories and conditions following implementation of the Transitional Exemption provisions pertaining to government and corporate lawyers
- Adopted new policy for granting PMC undertakings and dealing with breaches thereof and requests to be released from the requirement to complete an approved PMC
- Considered applications for practising certificates by new admittees, practitioners admitted under the Trans-Tasman Mutual Recognition Act, practitioners admitted in other States and Territories in Australia entitled to practising certificates under the provisions of the legal profession legislation
- Considered applications for unsupervised practising certificates by practitioners who have not held a practising certificate for five years or more
- Considered notifications by persons practising without the correct category of practising certificate
- Considered applications for exemption from PLT
- Considered requests to be released from the requirement to provide a Certificate of Fitness and Good Standing (COF) from another jurisdiction upon applying for a NSW practising certificate
- Considered notifications by persons who practised without a practising certificate
- Considered conditions imposed on solicitors returning to practise who have previously been struck off or had a practising certificate refused or cancelled

# LITIGATION LAW AND PRACTICE

## 2016 membership:

J. Warner (Chair), T. Stern (Deputy Chair), S. Baxter, S. Brodowski, A. Eastwood, V. Edwards, A. Engels, J. Fan, S. Fernandez, C. Flax, P. Green, D. Hing, M. Hodges, J. Howard, C. Hutchinson, C. Kelso, R. Kenna, T. Kerr, J. McClelland, S. Olischlager, J. Prowse, J. Robb, P. Roberts, R. Ryan, A. Southwell, M. Stephens, K. To, J. Virgo, M. Wall, S. Watt, T. Webb, B. Xerri (until August 2016), E. Yamine, E. Howard (Policy Lawyer).

## 2017 membership:

J. Warner (Chair), G. Ulman (Deputy Chair), S. Baxter, B. Bourke, S. Brodowski, J. Emmerig, J. Fan, S. Fernandez, P. Green, K. Harris, D. Hing, J. Howard, C. Hutchinson, G. Johnson, R. Kenna, T. Kerr, J. McClelland, T. McHutchison, S. Olischlager, J. Prowse, R. Quigley, J. Robb, P. Roberts, R. Ryan, A. Southwell, M. Stephens, T. Stern, M. Wall, S. Watt, T. Webb, A. Wilson, E. Yamine, E. Howard (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to civil litigation.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Review and contribute to the development of the NSW Government's Civil Justice Strategy
- Liaise with courts and tribunals about issues affecting practitioners, including recovery of costs for garnishee orders and liability of solicitors for court fees
- Monitor the operation of the new Federal Court National Court Framework, including the general practice notes, and provide feedback to the court as necessary
- Monitor developments in relation to online courts in Australian jurisdictions and overseas
- Prepare guidance for the legal profession on civil litigation issues, including:
  - Developing new guidance on flexible working arrangements and court timetabling
  - Finalising guidance in relation to Search Orders (also known as Anton Piller orders)
  - Updating guidance for solicitors on working with barristers

## Activities

The Committee carried out the following activities during the year under review:

- Liaised with key stakeholders, including the NSW Bar Association, the Department of Justice and the courts
- Represented the Law Society on a number of court committees and user groups, including the Supreme Court ADR Steering Committee, Supreme Court Common Law (Civil) Users Group, Supreme Court Rules Committee, Uniform Rules Committee, District Court Civil Business Group, District Court Rules Committee, NSW Civil and Administrative Tribunal Liaison Group and the Civil Justice Collaboration Group (including the Debt Recovery Working Group)
- Developed and updated resources for litigation lawyers, including resources available on the Law Society website. This included contributing to updates of the Law Society's "Know Your Rights" brochures on Contracts, Problems with Debt and Problems with Neighbours
- Published updated information for members of the profession about changes in court practice and procedure, including changes to court practice notes
- Liaised with court representatives to develop guidance (jointly with the NSW Bar Association) for practitioners on requesting that a court take into account the flexible working arrangements or caring responsibilities of practitioners when listing a matter for hearing
- Sought feedback from solicitors on their experiences using the Online Registry and Online Court, to inform correspondence to the Department of Justice

- Contributed comments to the Uniform Rules Committee on the updated "Guide to Completing the Approved Forms"
- Assisted the profession with various queries regarding litigation law and practice

The Committee made the following submissions during the year under review:

- Fixed Costs: *Legal Profession Uniform Law Application Regulation 2015*
- Hearing allocation fees and hearing fees – *Civil Procedure Regulation 2012*
- Liability for Court Fees in pro bono matters
- Online Registry and the Online Court
- Refund of hearing allocation fees and hearing fees – *Civil Procedure Regulation 2012*
- Revised Search Warrant Guidelines Between the Law Council of Australia and the Australian Federal Police
- *Solicitors' Conduct Rules* and the Online Court

The Committee also contributed to the following joint submissions during the year under review:

- Australian Consumer Law Review – Interim Report
- Courts and tribunal fees
- Deferred Prosecution Agreement Scheme Consultation Paper
- Dispute resolution: Model provisions
- Draft Bill to amend s 6 of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW)
- Justice for everyday problems: Civil Justice in NSW

# MEDICO LEGAL LIAISON

## 2016 membership:

P. Macken (Chair), T. Bowen, A. Campbell, L. Cantrill, A. Carnuccio, H. Dassanayake, R. Duffy, B. Lyons, W. Madden, R. May, K. McMahon, A. Restuccia, A. Scarcella, A. Took, S. Wallace, A. Walsh, D. Weng, M. Lee (Policy Lawyer).

## 2017 membership:

P. Macken (Chair), R. May (Deputy Chair), K. Berry, T. Bowen, J. Brooke-Cowden, L. Cantrill, A. Carnuccio, S. Connors, H. Dassanayake, S. Duffy, F. Leahy, B. Lyons, W. Madden, K. McMahon, Dr. B. Reeve, P. Robertson, C. Slan, H. Winklemann, K. Stouppos (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues of mutual interest to the medical and legal professions and to maximise co-operation between the professions.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Coronial matters, including streamlining practice and procedure
- Preparing practitioner guidance in relation to the interaction between the medical and legal profession generally
- Organisation of a seminar of interest to both professions

## Activities

The Committee carried out the following activities during the year under review:

- Participated in the NSW Coroner's Court Medical-Legal User Group meetings
- Updating the document Medico-Legal Evidence Guide
- Arranged a seminar on inquests

The Committee made the following submissions during the year under review:

- Coronial Users' Group
- Use of Ante Mortem Interventions for Organ Donation.

The Committee also contributed to the following joint submissions during the year under review:

- Dispute resolution: Model provisions
- Human Tissue Amendment (Trafficking in Human Organs) Bill 2016
- Review of the *Guardianship Act 1987* – Question Paper 5: Medical and dental treatment and restrictive practices
- Statutory review of the *Coroners Act 2009*
- Voluntary Assisted Dying Bill 2016

# OFFICE OF STATE REVENUE / LAW SOCIETY LIAISON

## 2016 membership:

A. Johnston (Co-Chair), C. Kenny (Co-Chair), A. Chek, G. Chiert, F. Di Francesco, J. Dudley, R. Giannone, G. Ho (until August 2016), P. Johnson, R. Nguyen, I. Phillips, J. Seve, M. Smith, M. Telan, L. To, G. Vale, G. Lea (Policy Lawyer).

## 2017 membership:

A. Boog (Co-Chair), C. Smythe (Co-Chair), O. Berkmann, A. Chek, G. Chiert, J. Dudley, F. Di Francesco, R. Giannone, B. Hewitt, J. King, D. Lam, L. Mahtani, R. Newey, R. Nguyen, I. Phillips, J. Seve, M. Smith, M. Telan, L. To, G. Vale, G. Lea (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to state revenue issues in NSW.

## Activities

The Committee carried out the following activities during the year under review:

- Facilitated the exchange of views and proposals between the Law Society and the Office of State Revenue by reports
- Commented on relevant cases and reviewed relevant Bills, Acts and Regulations
- Reviewed the application of Office of State Revenue Rulings
- Contributed to discussions and identified the impact of proposed tax reforms

The Committee made the following submissions during the year under review:

- Draft Revenue Ruling – Definition of Foreign Person
- Draft Revenue Ruling – Definition of Residential Land
- Revenue Ruling LT097 – Land Used for Primary Production
- State Revenue Legislation Further Amendment Bill 2016

The Committee also contributed to the following joint submission during the year under review:

- Draft Purchaser/Transferee Declarations

# PRIVACY AND COMMUNICATIONS

## 2017 membership:

P. Leonard (Chair), I. Luke (Deputy Chair), S. Blanks, G. Broderick, A. Christie, O. Ganopolsky, I. Halferty, R. Jeyasingam, K. Keogh, A. Kopsias, P. Leonard, I. Luke, J. McAteer, S. McCausland, J. McDonnell, Prof. B. McDonald, M. Meares, S. Ng, J. Norgard, S. O’Gorman, K. Sainty, G. Smith, R. Tang, D. Vaile, N. Yetzotis, E. Howard (Policy Lawyer).

This Committee commenced operation in January 2017.

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to privacy, including in the context of modern communication.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Online privacy issues and appropriate remedies
- Regulation of the collection, retention and use of data, including in civil proceedings
- Regulation of the use of surveillance techniques in both the public and private sectors
- Tort of privacy and other alternative mechanisms (such as codes and statements of principle) and remedies

## Activities

The Committee carried out the following activities during the year under review:

- Liaised with key stakeholders, including the Information and Privacy Commission NSW and the Office of the Small Business Commissioner
- Established a subcommittee to consider current laws regulating the use of surveillance devices and the need for reform
- Jointly with the Legal Technology Committee, established a Cyber Security Working Group to develop guidance for solicitors about issues of cyber security, and to consider related issues.
- Reviewed the current status of proposals for a tort of privacy in NSW
- Contributed to CPD events for solicitors on data retention in civil matters
- Provided feedback to the Information Frameworks Project Team at the Federal Attorney-General’s Department on the Open Government National Action Plan

The Committee contributed to the following joint submissions during the year under review:

- Civil penalties regime for non-consensual sharing of intimate images
- Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2017
- Draft Crimes Amendment (Intimate Images) Bill 2017
- Inquiry into the design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative
- Law Council Cyber Precedent website



# PROPERTY LAW

## 2016 membership:

R. Harvey (Chair), B. Adams, M. Andrews, D. Bluth, A. Cahill, G. Channell, J. Crittenden, M. Devitt, E. Espinosa, P. Gibney, J. Glowrey, C. Huegill, M. Jebeile, T. McKibbin, G. Newton, M. Osborne, M. Pacchiarotta, Dr. S. Pallavicini, P. Rosier, D. Skapinker, M. Swan, G. Lea (Policy Lawyer).

## 2017 membership:

R. Harvey (Chair), J. Glowrey (Deputy Chair), B. Adams, M. Andrews, D. Bluth, D. Browne, L. Bueti, A. Cahill, J. Crittenden, M. Devitt, E. Espinosa, D. Fitzclarence, P. Gibney, A. Grima, F. Harris, C. Huegill, M. Jebeile, G. Maksimovic, C. Martin, T. McKibbin, G. Newton, M. Osborne, M. Pacchiarotta, Dr. S. Pallavicini, M. Raic, P. Rosier, D. Skapinker, M. Swan, K. Tran-Tsai, G. Lea (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to property law and conveyancing practice and, where relevant, prepare and review standard documentation for use by the profession (including contracts, leases etc.).

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Review and update the Law Society Lease for changes made by the Retail Leases Amendment Bill, once passed
- Update the contract for sale and purchase of land for new strata laws and any changes in vendor disclosure with the remaking of the *Conveyancing (Sale of Land) Regulation 2010* (remade 1 September 2017)
- Assist solicitors to transition to electronic conveyancing, given the Government's transition timetable

## PROPERTY LAW

### Activities

The Committee carried out the following activities during the year under review:

- Prepared a new edition of the contract for sale and purchase of land
- Participated in various roundtable discussions with NSW Fair Trading, particularly in relation to strata reform
- Participated in quarterly liaison meetings with Land and Property Information and the Office of the Registrar General
- Participated in the LPI Conveyancing Reform Committee
- Liaised with the Office of Local Government in relation to changes to swimming pool barrier requirements
- Participated in the PEXA Industry State Forum meetings
- Determined disputes under the Law Society's Conveyancing Dispute Resolution Scheme
- Participated in the Law Council's National Electronic Conveyancing System Committee
- Participated in NCAT Forums in relation to the Retirement Village, Strata and Community Title and Home Building Matter lists

The Committee made the following submissions during the year under review:

- Draft Australian Standard for Inspection of Buildings – Part 2: Common areas of group titled properties
- Draft Conveyancing (Sale of Land) Regulation 2017
- Draft Home Building Amendment (Compensation Reform) Bill 2017
- Draft Strata Living Guide
- Draft Strata Renewal Information Sheet
- Entitlement to sign registry instruments in NSW

- Foreign Resident Capital Gains Withholding Tax
- Land and Property Information (Privatisation)
- Land and Property Information NSW (Authorised Transaction) Bill 2016
- Real Estate and Property Services Industry Reform Paper
- Retail Leases Amendment (Review) Bill 2016
- Uniform National Mortgage

The Committee also contributed to the following joint submission during the year under review:

- Australian Law Reform Commission Elder Abuse Discussion Paper
- Consultation on proposed reforms to strengthen building fire safety
- Crown Lands Management Bill 2016
- Draft Environmental Planning and Assessment Amendment Bill 2017
- Draft Purchaser/Transferee Declarations
- *Environmental Planning and Assessment (ePlanning) Regulation 2017*
- Inquiry into Crown land
- Land Acquisition (Just Terms Compensation) Amendment Bill 2016
- Land management and biodiversity conservation reforms
- *Local Land Services Amendment Act 2016* and register of set aside areas
- National Register of Foreign Ownership of Water Access Entitlements
- Relocation of Strata Mediations
- Retail Leases Amendment (Review) Bill 2016
- Review of the *Conveyancing (Sale of Land) Regulation 2010* and the Conveyancing Process in NSW

# PUBLIC LAW

## 2017 membership:

P. Wright (Chair), A. Chalk (Deputy Chair), A. Abadee, Dr. G. Appleby, L. Armstrong, Assoc. Prof. S. Brennan, P. Buchberger, R. Flitcroft, C. Freer, S. Given, R. Green, A. Halstead, B. Hearnden, R. Heinrich, K. Hooper, Dr. M. Landrigan, N. McBride (to March 2017), M. Marich, A. Markus, A. Mitchelmore, S. Murray, M. Smyth, Dr. S. Thompson, Dr. A. Tsacalos, K. Wrigley, S. Wyatt, M. Lee (until March 2017)/A Krivenkova (from March until May 2017)/E. Howard (from June 2017) (Policy Lawyers).

This Committee commenced operation in January 2017.

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to public law issues, including constitutional law, administrative law, civil liberties and the rule of law.

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Monitoring counter-terrorism and national security legislation for its impact on civil liberties and the rule of law
- Monitoring the protection of human rights and civil liberties in new legislation and policy
- Identifying opportunities to improve review frameworks in relation to administrative decisions (e.g. greater provision of internal review, external merits review etc.)
- Monitoring the powers and independence of investigative bodies (e.g. ICAC, LECC, etc.)
- Monitoring the changing relationship between areas of public law and private law

## Activities

The Committee carried out the following activities during the year under review:

- Developed suggestions for future professional development events focusing on areas of public law
- Considered queries from the profession regarding issues related to the work of the Committee

The Committee made the following submissions during the year under review:

- Inquiry into protections for people who make voluntary disclosures to the Independent Commission Against Corruption
- Select Committee on a National Integrity Commission

The Committee also contributed to the following joint submissions during the year under review:

- Australian Law Reform Commission Elder Abuse Discussion Paper
- Courts and tribunal fees
- Draft Regional Processing Policy Statement
- Inquiry into the Legislative Council committee system
- Outcomes of the 2017 First Nations National Constitutional Convention
- Review of ASIO questioning and detention powers

# RURAL ISSUES

## 2016 membership:

A. Boog (Chair), J. Thurgood (Deputy Chair), C. Banks, S. Davies, J. Eades, D. Glasgow, J. Goode, F. Leahy, A. Moar, P. Moffitt, R. Powe, G. Ryan, W. Thompson, J van der Plaat, E. Heaney (until September 2016)/Rachel Geare (from September 2016)(Policy Lawyers).

## 2017 membership:

A. Boog (Co-Chair), J. Thurgood (Co-Chair), C. Banks, S. Davies, D. Fitzclarence, D. Glasgow, J. Hennessey, A. Moar, S. Mason, R. McMahon, P. Moffitt, G. Ryan, W. Thompson, J. van der Plaat, R. Geare (Policy Lawyer).

## Functions

The role of this Committee is to represent the Law Society and its members on policy and practice issues arising in relation to rural NSW and, where relevant, prepare and review standard documentation for use by the profession (including contracts, leases etc.).

## Committee priority issues for 2017

The Committee identified the following priority issues for 2017:

- Better access to justice in rural and regional areas, including the provision of adequate judicial resources in rural and regional areas
- Identifying topics for the Rural Issues Conference
- Regulation of water brokers

## Activities

The Committee carried out the following activities during the year under review:

- Provided advice on topics and speakers for the Rural Issues Conference held on 20 October 2016
- Created 11 Fact Sheets to replace the Document to Assist Rural Practitioners
- Commenced the review of the Rural Requisitions on Title
- Engaged with rural and remote practitioners in relation to access to justice issues
- Monitored Law Society activity in relation to the regulation of water brokers

The Committee made the following submissions during the year under review:

- Consultation – Register for Foreign Ownership of Water Entitlements
- Courts in rural and regional areas
- *Farm Debt Mediation Act 1994* (NSW) Review
- National Register of Foreign Ownership of Water Access Entitlements

The Committee also contributed to the following joint submissions during the year under review:

- Inquiry into Crown land
- *Local Land Services Amendment Act 2016* and register of set aside areas
- National Register of Foreign Ownership of Water Access Entitlements
- Review of the *Conveyancing (Sale of Land) Regulation 2010* and the Conveyancing Process in NSW

# JOINT SUBMISSIONS

## Made by the Law Society on behalf of more than one committee

- Abortion Law Reform Bill 2016
- Access by designated agencies to Children's Court Clinic Reports
- Amendments to the *Family Law Act 1975* to respond to family violence
- Australian Consumer Law Review - Interim Report
- Australian Law Reform Commission Elder Abuse Discussion Paper
- Child Protection Reforms Proposal Paper
- Civil penalties regime for non-consensual sharing of intimate images
- Consultation draft terms of reference - Australian Law Reform Commission inquiry into the incarceration rate of Indigenous Australians
- Consultation of serious vilification laws in NSW
- Consultation on proposed reforms to strengthen building fire safety
- Crimes Legislation Amendment (Powers, Offences and Other Measures ) Bill 2017
- Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016
- Counter-Terrorism Legislation Amendment Bill (No. 1) 2016
- Courts and tribunal fees
- Crown Lands Management Bill 2016
- Deferred Prosecution Agreement Scheme Consultation Paper
- Dispute resolution: Model provisions
- Distributed courtrooms
- Diversion of low level offences in NSW
- Draft Bill to amend s 6 of the *Law Reform (Miscellaneous Provisions) Act 1946* (NSW)
- Draft Crimes Amendment (Intimate Images) Bill 2017
- Draft Environmental Planning and Assessment Amendment Bill 2017
- Draft Law Council Regional Processing Policy Statement
- Draft Purchaser/Transferee Declarations
- *Environmental Planning and Assessment (ePlanning) Regulation 2017*
- Fine default imprisonment
- Homelessness in NSW - Foundation for Changes
- Human Tissue Amendment (Trafficking in Human Organs) Bill 2016
- Inquiry into child protection
- Inquiry into Crown land
- Inquiry into freedom of speech in Australia
- Inquiry into the design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative
- Inquiry into the Legislative Council committee system
- Inquiry into the Sexualisation of Children and Young People
- Just Reinvest NSW draft policy paper - reducing Indigenous incarceration
- Justice for everyday problems: Civil Justice in NSW
- Koori Courts in NSW
- Land Acquisition (Just Terms Compensation) Amendment Bill 2016
- Land management and biodiversity conservation reforms
- Law Enforcement Conduct Commission Bill 2016
- *Local Land Services Amendment Act 2016* and register of set aside areas
- National framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women
- National Register of Foreign Ownership of Water

## JOINT SUBMISSIONS

### Access Entitlements

- NSW Ombudsman’s review of the consorting law
- Outcomes of the 2017 First Nations National Constitutional Convention
- Parliamentary inquiry into a better family law system to support and protect those affected by family violence
- Productivity Commission Inquiry into Data Availability and Use
- Relocation of Strata Mediations
- Retail Leases Amendment (Review) Bill 2016
- Review of ASIO questioning and detention powers
- Review of the *Conveyancing (Sale of Land) Regulation 2010* and the Conveyancing Process in NSW
- Review of the *Guardianship Act 1987* – Question Paper 1: Preconditions for alternative decision-making arrangements
- Review of the *Guardianship Act 1987* – Question Paper 2: Decision-making models
- Review of the *Guardianship Act 1987* – Question Paper 3: The role of guardians and financial managers
- Review of the *Guardianship Act 1987* – Question Paper 4: Safeguards and procedures
- Review of the *Guardianship Act 1987* – Question Paper 5: Medical and dental treatment and restrictive practices
- Review of the *Guardianship Act 1987* – Question Paper

### 6: Remaining Issues

- Royal Commission into the Protection and Detention of Children in the Northern Territory
- Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper on Criminal Justice
- Statutory review of the *Coroners Act 2009*
- Statutory review of the *Victims Rights and Support Act 2013*
- Statutory review of the *Crimes (High Risk Offenders) Act 2006*
- The distribution of intimate images without consent
- Voluntary Assisted Dying Bill 2016


### Made with other organisations

- Compulsory Third Party insurance reform (with the NSW Bar Association)
- Compulsory Third Party insurance reform (with the NSW Bar Association and Australian Lawyers Alliance)(multiple submissions)
- Draft Dispute Resolution Guidelines (with the Australian Lawyers Alliance)
- Draft Motor Accidents Compensation Regulation – Suggested Schedule 1 costs for legal services (with the Australian Lawyers Alliance)
- Urgent review of resourcing in the Family Court of Australia and Federal Circuit Court of Australia (with the NSW Bar Association)

# NO RELEVANT COMMITTEE

## **Made by the Policy and Practice Department**

- Compulsory Practice Management Course for new Principals
- Inquiry into consumer protection in the banking, insurance and financial sector
- *Legal Profession Uniform Law: Review of the Australian Solicitors' Conduct Rules*
- Local Courts in rural and regional areas
- National Model Gender Equitable Briefing Policy
- National Model Gender Equitable Briefing Policy: Reporting Template and Guidelines
- Professional Regulation Committee
- Security arrangements at Local Court premises



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