



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CRIM/JDad806142

9 December 2013

The Hon James Wood AO QC
Chairperson
New South Wales Law Reform Commission
DX 1227 Sydney
By email: nsw_lrc@agd.nsw.gov.au

Dear Mr Wood,

Criminal Appeals: Further proposals for consultation

I write to you on behalf of the Criminal Law and Juvenile Justice Committees ("the Committees") of the Law Society of New South Wales in relation to the Law Reform Commission's further proposals for consultation on criminal appeals.

I thank you for the invitation to comment, and now attach the Committees' submission for your consideration.

Yours sincerely,

John Dobson
President

Criminal Appeals: Further proposals for consultation

Appeals against conviction from proceedings on indictment

The Committees refer to the NSWLRC criminal appeals reference and have considered the four different options set out in the paper.

In relation to question 1.4, the Committees prefer Option 1.

Appeals against acquittal in judge-alone trial

Question 1.7 (1)

The Committees' strongly held view is that an appeal against acquittal in a judge-alone trial for an indictable offence should not be expanded to be available on any ground. It should be confined to a question of law only.

Question 1.7 (2)

While it is the Committees' strongly held view that appeals from judge-alone trials should be confined to questions of law only, if the NSWLRC nevertheless recommends that the avenues for appeal should be broadened, it would be the Committees' view that there should be a high threshold. The Committees' further view is that it should be confined to questions of mixed fact and law and not fact alone. The Committees are of the view that it should also be limited to circumstances where the offence is punishable by imprisonment for 15 years or more (as with double jeopardy). It is the Committees' further view that there should be a requirement for leave similar to the requirement for special leave where it is a matter of public importance as required for appeals to the High Court.