

**MINUTES OF THE
ANNUAL GENERAL MEETING
OF THE LAW SOCIETY OF WESTERN AUSTRALIA
MONDAY, 26 OCTOBER 2009 COMMENCING AT 5.20 PM
LEVEL 36, QV1 BUILDING, 250 ST GEORGES TERRACE, PERTH**

PRESENT:

Rochelle Airey	Dr Eric Heenan	Hylton Quail
Arthur Auguste	Alexia Horton	Anthony Richards
Gregory Boyle	Patrick Hughes	Mark Richards
David Bruns	Dr Christopher Kendall	Maria Saraceni
Emma Chinnery	Matthew Keogh	Daniel Sawyer
Michael Cole	Richard Klimek	Alex Sceales
Carol Conley	Brian Lauri	Robert Sceales
Debra Constable	Teddy Lim	Theodore Sharp
Dr David Cox	Jeffrey Lin	Jeremy Sher
Jeremy Culshaw	Ian McLennan	William Sloan
Saskia de Reuck	Gregory McIntyre SC	Dudley Stow
Adam Ebell	Jonathan Meyer	Dr Michael Underdown
Susan Fielding	Darren Miller	Elaine Wambeck
John Gillett	David Murphy	Simon Watters
Graham Goeke	Simon O'Brien	Belinda Wong
Cathryn Greville	Luke Paterson	John Young
Annabel Hay	Karene Primrose	
Elizabeth Heenan	John Prior	

IN ATTENDANCE:

David Price – Executive Director
Kelly Hick – Executive Manager Membership and Professional Development
Andrea Lace - Executive Manager Policy and Professional Services
Maxina Martellotta – Executive Manager Community Services
Sonia Webster – Manager Membership and Professional Development
Sue Langmaid – Personal Assistant to Executive Director and President
Francesca Giglia – Executive Support Officer/QPS Coordinator

APOLOGIES:

The following apologies were noted:

Her Honour Judge Judith Eckert	Pamela Hass
Her Honour Judge Janine Pritchard	John Healy
Peter Jooste QC	Belinda Lonsdale
Malcolm McCusker AO QC	Tina McAulay
Tom Percy QC	Kathleen McNally
Haley Allan	Elizabeth Needham
Marie Botsis	Michelle Quigley
Ronald Bower	Craig Slater
Anne Durack	George Turnbull
Associate Professor Judith Fordham	Joel Yeldon
Graeme Geldart	

CHAIR:

Mr Dudley Stow, as President of the Society, chaired the meeting pursuant to Rule 43 of the Society's Constitution.

The President welcomed members and staff to the Annual General Meeting.

1. CONFIRMATION OF MINUTES

Motion 1: The Minutes of the Annual General Meeting held on Monday 27 October 2008 were confirmed as a true and correct record of that meeting.

Moved: Hylton Quail

Seconded: John Staude

Carried

2. MATTERS ARISING FROM MINUTES OF THE MEETING HELD 27 OCTOBER

There were no matters arising from the minutes.

3. PRESIDENT'S REPORT, FINANCIAL ACCOUNT AND ANNUAL REPORT

The President's Report is incorporated in the Society's Annual Report for the year ending 30 June 2009 which was distributed to the meeting and is also on the Society's website. The President noted that the committees do an enormous amount of work and he urged members to read the full committee reports on the website, he then thanked the committees for their hard work over the past year.

The President advised that the Society's Annual Report contained the Society's financial accounts for the year ending 30 June 2009.

Motion 2 The financial accounts of the Law Society for the year ending 30 June 2009 be adopted.

Moved: Hylton Quail

Seconded: John Staude

Carried

Motion 3 The Annual Report of the Law Society for the year ending 30 June 2009 be adopted.

Moved: Hylton Quail

Seconded: Maria Saraceni

Carried

5. GENERAL BUSINESS

5.1 Nominations for Life Membership

The President spoke in respect to Elizabeth Heenan who has been part of the Society for many years and has been a stalwart on the many committees she has served on, further details are outlined in the background to the motion. This is a well deserved honour by the Society and he was pleased that the Council put forward the recommendation to the AGM for consideration.

MOTION 4

That Elizabeth Jean Heenan be elected as a Life Member of the Law Society of Western Australia.

Moved: Hylton Quail

Seconded: John Staude

Carried Unanimously

The President spoke in respect to Honourable Justice Ken Martin. Ken Martin has been heavily involved in the Society, in particular Law Mutual and provided a very steady hand as well as assuming the role of President. He has been a wonderful example of what a person should be as a lawyer and it is with great pleasure that Council saw fit to honour Ken Martin with his hard work and dedication to the profession.

MOTION 5

That the Honourable Justice Kenneth James Martin be elected as a Life Member of the Law Society of Western Australia.

Moved: Hylton Quail

Seconded: John Staude

Carried Unanimously

5.2 Amendments to the Constitution of the Law Society of Western Australia (Inc.) (“Constitution”)

Jeremy Sher spoke to this motion, the purpose of these constitutional amendments is to reflect that legal training has changed. A large proportion of the legal profession no longer undertake articles, they undertake training through the College of Law, the view is that this is an appropriate way of incorporating the changing nature of legal training. There is no reduction in the representation of young lawyers on the Council, there will still be three young lawyers. As for articled clerks, articled clerks are involved in the young lawyers committee so there is still representation there for articled clerks. The YLC have discussed these motions in some detail and support the motion.

MOTION 6

That amendments to the Constitution of the Law Society of Western Australia as set out below, be approved.

1. That **Rule 2 (Meaning of Terms Used)** be amended by inserting the following new definitions.

Approved Practical Legal Training’ means either, or a combination of both, of the following –

- (a) practical legal training by participation in course work;
 - (b) supervised practical legal training, whether involving articles of clerkship or otherwise,
- approved or registered by a relevant admitting authority in Australia.

‘Legal Trainee’ means a person undertaking Approved Practical Legal Training who at the date he or she applies to become an Associate Member is ordinarily resident in Western Australia.

‘Local Practising Certificate’ means a practising certificate granted under the *Legal Profession Act 2008*.

2. That the definitions of ‘Legal Practitioner’ and ‘Interstate Practitioner’ in **Rule 2 (Meaning of Terms Used)** be deleted and new definitions, as shown below, be inserted.

Legal Practitioner’ means a person who is an Australian lawyer (as defined in the *Legal Profession Act 2008*) who holds a current Local Practising Certificate.

‘Interstate Legal Practitioner’ means a person –

- (a) who is admitted to the legal profession under a corresponding law, but not under the *Legal Profession Act 2008*;
- (b) who holds a current interstate practising certificate but not a Local Practising Certificate; and
- (c) whose principal place of practice is not Western Australia.

3. That sub-rules (e) and (f) of **Rule 43 (Composition of the Council)** be deleted and a new sub-rule (e) be inserted, as shown below.

(e) Three junior members none of whom at the election date has been admitted to practice for more than five years. A Legal Trainee at the election date is eligible to nominate for election as a junior member of the Council if the Legal Trainee can demonstrate to the reasonable satisfaction of the Executive Director that:

- (i) he or she is likely to be admitted to practice before 1 April in the year following the election date; and
- (ii) he or she will be based principally in Western Australia in the year following the election date.

~~(f) One member, known as the articled clerk member, who shall be co-opted by the Council.~~

~~(g)~~ (f) The immediate past President of the Society for a term of one year following retirement from the office of President.

4. That sub-rules (b) and (d) of **Rule 44 (Term of office on Council)** be amended as shown below.

(b) All members of the Council are to take office on the 1st day of January next following their election. ~~except for articled clerk~~

~~members who are to take office on the 1st day of January next following their co-option or on the day their articles are registered or the day on which they become associate members, whichever is the later.~~

(d) The Country Member, and the junior members ~~and the articled clerk member~~ are each to hold office for a term of one year.

5. That sub-rule (d) of **Rule 48 (Creation of Council vacancies)** be deleted and new sub-rules (d) and (f), as shown below, be inserted.

The office of a Council member becomes vacant if the Council member:

- (d) ceases to be a Legal Practitioner holding a current unrestricted practising certificate; or
- (f) being a junior member who is a Legal Trainee when elected as a member of the Council, is not admitted to practice by 1 April in the year following the election date.

6. That sub-rules (a) and (b) of **Rule 49 (Filling of Council vacancies)** be amended as shown below.

- (a) If there is a vacancy in the office of President or a Vice President during the currency of any term, the Council must elect one of its members ~~(other than the Articled Clerk member)~~ to fill the vacancy.
- (b) If there is a vacancy in the office of Ordinary, Country, or Junior ~~or Articled Clerk~~ member of the Council, or if there are insufficient persons standing for election to, or who are elected to Council (for any reason, including without limitation, the invalidity of all or a part of an election process, or the ineligibility of a candidate, or otherwise), the Council may resolve to appoint eligible members to fill the vacancy or vacancies.

7. That **Rule 18 (Rights and Privileges of Membership)** be deleted and a new Rule 18, as shown below, be inserted.

18. Associate, Judicial, Honorary and Constituent members are entitled to all privileges of membership of the Society other than the right to vote at general meetings, polls or elections of the Society or to seek election to the Council except that Legal Trainees are entitled:

- (a) to vote for the election of junior members to the Council; and
- (b) subject to Rule 43(e), to stand for election as a junior member of the Council.

8. That sub-rule (c) of **Rule 41 (Postal Ballots)** be amended as shown below.

The following provisions apply if a postal ballot is required:

- (c) ~~Articled clerk members may vote only for the Junior member positions.~~ As provided in Rule 18(a), Legal Trainees may only vote for junior member positions.
9. That sub-rules (a) and (b) of **Rule 9 (Persons entitled to become Ordinary Members)** be deleted and new sub-rules (a) and (b) as shown below, be inserted.
- (a) Legal Practitioners holding a current local practising certificate and Legal Practitioners deemed to hold a current local practising certificate; and
- (b) Interstate Legal Practitioners who are partners of Legal Practitioners holding a current local practising certificate or who are directors of an incorporated legal practice a director of which holds a current local practising certificate.
10. That sub-rules (b), (c), (d) and (h) of **Rule 11 (Persons entitled to become Associate Members)** be deleted and new sub-rules (b), (c), (d) and (h) as shown below, be inserted.
- (b) Persons who have been admitted in a Supreme Court in Australia to the legal profession and who are not Disqualified Persons but who are not entitled to become Ordinary Members.
- (c) Legal Trainees.
- (d) Interstate Legal Practitioners who are not entitled to become Ordinary Members.
- (h) Law students enrolled in undergraduate Bachelor of Laws or legal studies courses in recognised faculties of law at Australian universities.
11. That **Rule 12 (Judicial Members)** be amended as shown below:
12. The following persons are entitled to be Judicial Members of the Society:
- All persons who are or have been Judges or Masters of the Supreme Court of Western Australia or Judges of the District Court of Western Australia, the Family Court of Western Australia or any other Court of Record in Western Australia or who are or have been ~~Stipendiary~~ Magistrates in Western Australia or who are or have been Judges of the Federal Court of Australia normally resident in Western Australia.

Moved: Jeremy Sher

Seconded: Matthew Keogh

Carried

5. VOTE OF THANKS

The President made a few brief comments and provided some background on meetings over the last six weeks in relation to the proposed new National Legal Profession Act. The current position, in summary, Conference of Law Societies drafted a letter containing thirteen principles and those principles are incorporated in the Law Council of Australia letter to the Taskforce. The timetable for the new Act or draft Bill is April 2010. The model being discussed at the Society is based on the fact that the States will not transfer powers to the Commonwealth. A proposal that there will be a standard Act, being a National Act. It is difficult to see how this is going to work, given the variations and regulators in each state. There is a concern about the cost to the profession. The President undertook to keep the profession informed on this matter through Friday Facts.

The President then informed the meeting of the nominations for the 2010 Council:

- The President for 2010 will be Hylton Quail and he congratulated Hylton and wished him well for 2010.
- The Senior Vice President Simon Watters and Vice President will be Christopher Kendall were elected unopposed for a one year term and he congratulated each of them.
- There are eight nominations for six ordinary member positions for a two year term being: John Staude, Grahame Goerke, Belinda Lonsdale, Simon Creek, Denis McLeod, Konrad de Kerloy, Natalie Dimmock, and John Prior – election papers will be distributed in due course.
- One nomination for Country Lawyers position: Carmel McKenzie is again re-elected unopposed and he congratulated Carmel.
- Four nominations for three junior member positions for a one year term being Elaine Wambeck, Natalie Dimmock, Eric Heenan and Matthew Keogh.

The President thanked all persons who have stood and he wished them well in the elections.

The President gave special thanks to Maria Saraceni who is the Immediate Past President of Council and retires at the end of 2009. He then went on to thank all the Executive and particularly Hylton Quail who stepped in and helped a great deal with the media enquiries for criminal law matters which have been many and vast. He thanked Judith Fordham for being Treasurer for 2008/2009. He also thanked all members of Council for their work during the year and especially thanked those members who are retiring: Rhonda Parks, Michelle Quigley, Haley Allen, Jeremy Sher and Gabrielle Clarke.

The President went on and also particularly thanked David Price and his staff for their very hard work and dedication.

The President then thanked Jason Ricketts, Freehills for making the room available for the Annual General Meeting and for providing refreshments afterwards.

Hylton Quail then took the opportunity on behalf of the Society to thank Dudley Stow for being President of the Society for the past two years.

There being no further business the President closed the meeting at 5.45 pm.