

### SCPOs undermine basic tenets of our justice system

By Noel Hutley SC



At the time of writing the New South Wales Parliament has recently passed the *Crimes (Serious Crime Prevention Orders) Bill 2016* and its cognate, the *Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016*. These bills constitute a substantial and unwarranted attack on individual freedoms. The Bar Association, along with other legal profession groups, has expressed serious concerns about this legislation on the basis of its potential for unwarranted interference in individuals' liberties and their day to day lives. It is worth noting that the Bar Association was not consulted by government before the introduction of this legislation.

In doing so, the Bar Association has been the subject of some criticism for its public stance against the bills. I do not for one moment resile from the position this organisation has taken in this regard. The association's position was based on advice from its specialist committees, in this case, the Criminal Law and Human Rights Committees, which are comprised of leading barristers in their fields.

The Bar Association's submissions on the legislation and other related materials can be found at [www.nswbar.asn.au/the-](http://www.nswbar.asn.au/the-)

[bar-association/submissions](http://bar-association/submissions) and [www.nswbar.asn.au/docs/mediareleasedocs/MR\\_13042016.pdf](http://www.nswbar.asn.au/docs/mediareleasedocs/MR_13042016.pdf)

The legislation undermines the rule of law and basic tenets of our justice system. Given that the Bar Association's constitutional objects include promotion of the administration of justice and making recommendations regarding law reform, this organisation has a duty to speak out against proposed laws which curtail individual rights and undermine the administration of justice. The association will continue to make itself heard in these circumstances.

The Bar Association has also finalised its submission to government in response to its recent CTP Options Paper. The paper sets out a number of options for reform to the CTP scheme ranging from retaining existing common law rights to a full blown no fault system. The association's Common Law Committee has spent a great deal of time and effort in reaching an appropriate policy position in this regard, which strikes a balance between the need to protect the entitlements of injured people while addressing issues of cost and inefficiency within the scheme. The Bar Association will continue to engage with government in an attempt to preserve the rights of those injured in motor vehicle accidents, and to ensure that the injured receive appropriate legal representation in suitable cases.

The Bar Association has also been working on a number of other submissions to government on a variety of law reform issues, ranging from a critique of the NSW Government's inclosed lands legislation to a proposal to the attorney general to reinstate the use of juries in civil trials. Further, the Bar Association is currently taking part in the Law Council of Australia's national campaign for additional federal legal

aid funding. An event was recently held in the Common Room on 27 April and other events are planned for the future. A properly funded, workable legal aid system is essential to the proper operation of the justice system, and also provides legal practitioners with an important source of work.

The 2016–17 practising certificate process is now underway, and for the first time the Bar Association is trialling a system of online renewals. This is being done in concert with the traditional hard copy submission of renewal documentation, to provide members with a choice of formats in which to renew their practising certificates. I would encourage you to complete your renewals as soon as possible to assist in the orderly processing of documentation by the Bar Association's staff.

Finally, the Bar Association's 2016 program of regional CPD conferences has recently come to an end. Our annual conference program provides members, particularly those in regional and rural areas, with an opportunity to obtain the majority of their annual CPD points at the one event. Members are also encouraged to take advantage of the range of CPD options available through sessions in the Common Room or online through the association's website. The regional conferences also provides members of the Bar Council Executive the opportunity to interact with our members outside the Sydney metropolitan area and hear of their interests and concerns. It is one of the great strengths of the NSW Bar that a diverse organisation comprised of individual sole practitioners from across the state holds common values regarding the importance of the rule of law and the independence of the justice system.