

‘With My Own Two Hands’



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Elizabeth Nicholson speaks with Richard Lancaster SC of Martin Place Chambers about his work as the Co-Chair of the Climate Change Committee of the NSW Bar Association.

Can you please tell me a little bit about what motivated your decision to be involved with the Climate Change Committee?

When Tim Game SC was the President of the Association, he established the Committee because of the obvious importance of its subject. I readily agreed to join. It is important that the Bar should have an active, specialist committee to consider all legal aspects of climate change, so as to assist and arm the Bar Council for its submissions and representations, and to inform the Association’s members of developments in the area.

What kind of things has the Committee been doing on the climate change issues we are facing as a society?

We’ve addressed a range of specific issues, in different formats. I’ll give some examples:

- (1) We contributed to the Law Council of Australia’s 2021 Background Paper on the ‘*Legal implications of climate change*’ – which, by the way, is an excellent introductory read, if you can call 130 pages introductory.
- (2) We also contributed to the LCA’s 2022 submission to the Commonwealth Treasury on ‘*Climate-related financial disclosure*’, which involved substantial work led by Sebastian Hartford Davis.
- (3) We hosted a debate between Tim Game SC and Georgina Wright SC about issues in environmental prosecutions, which was an excellent discussion about where

and how environmental crime should be prosecuted, and some of the difficulties of existing legislation.

- (4) At the EPLA conference in November 2022, I gave a presentation on a panel with Eddie Synot and Prof Merlin Crossley addressing ways that science, law and Indigenous studies can come together to address climate change.
- (5) More recently, through the Bar Association’s 2023 NSW Election policy statement, we called for specific State government action to ensure that New South Wales is able to contribute meaningfully to Australia achieving compliance with its commitments under the Paris Agreement.

Are you optimistic or pessimistic about the Earth’s future?

The enormity and urgency of the problem is dispiriting, but I try to fight the pessimism. In the face of the increasingly obvious truth that conscientious conduct as individuals has not slowed, let alone solved, climate change, individuals should not lose heart and turn away. Putting aside any hope of a miracle cure from our scientists, the path forward must be urgent government action. Barristers can be valuable contributors to that process, since we have expertise in advocacy; in understanding the drafting and application of legislation; in environmental and planning law processes and outcomes; and in understanding how environmental, financial and other regulation might be used for widespread change in the conduct of people and businesses. So a committee of a State Bar association will not itself solve anything, but we can try to help governments take steps in the right direction, and perhaps along the way help make the wider debate better informed.

What should we be reading or watching about climate change?

So much to read, so little time. I’ve mentioned the LCA Background Paper. It is about four years since David Wallace-Wells wrote *The Uninhabitable Earth* but if you really want to shock yourself out of any residual complacency about the scale of the climate change problem, you should read it, or anything by Jim Hansen or Michael Mann or Naomi Klein. Then watch the Apple series ‘*Extrapolations*’ or read Kim Stanley



Robinson’s *The Ministry for the Future*. After all that you will need a few long lunches with your family and friends and time focussing on other things, like whether the Swans can string together a few wins.

What are some of the benefits that you have found in volunteering your time for the Committee?

I am sure they are the same benefits that so many of us find when giving time for the work of the committees of the Bar Association – participation, collegiality and contribution in an area of practice that is interesting and meaningful to you.

What general advice would you give NSW Barristers who would like to serve in a volunteer capacity with one of the NSW Bar Committees?

Our Bar has a long and proud history of a constant stream of volunteers for committees, and you should continue that history. I’d suggest focus your attention on one committee that you are very interested in and, when your time comes to do some committee work, devote the time and effort required for a well-prepared end product.

Any NSW barrister that is interested in the work of the Climate Change Committee is able to raise specific climate change-related suggestions with a member of the Committee, or apply to be a member of the Committee (annual applications will open again in 2024).

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