



GOVERNING COUNCIL MINUTES OF MEETING: 2010/4

Held on **Saturday 9th October 2010** at the Henry Jones Art Hotel, Hobart.
The meeting recommenced at 12:40pm after the Annual General Meeting.

Note

Occasionally some material may be redacted from the minutes of the Governing Council for the purposes of its inclusion on the Members' Section of the JCA's website. Further information can be obtained, if required, from your Court's representative on the Governing Council.

Present

Justice Ruth McColl AO (in the Chair)	Supreme Court of New South Wales
Federal Magistrate Michael Baumann (alternate)	Federal Magistrates Court of Australia
Magistrate John Birch	Magistrates Court of the Northern Territory
Justice Alan Blow, OAM	Supreme Court of Tasmania
Chief Magistrate Elizabeth Bolton	Magistrates Court of South Australia
Magistrate Maria Doogan	Magistrates Court of the Australian Capital Territory
Judge Allan Fenbury	District Court of Western Australia
Chief Magistrate Ian Gray	Magistrates Court of Victoria
Justice David Harper AM	Supreme Court of Victoria
Chief Magistrate Graeme Henson (alternate)	Local Court of New South Wales
Magistrate Don Jones	Magistrates Court of Tasmania
Justice Judith Kelly	Supreme Court of the Northern Territory
Justice Glenn Martin	Co-opted
Justice Philip McMurdo	Supreme Court of Queensland
Judge Geoffrey Muecke	District Court of South Australia
Justice Michael Murray	Supreme Court of Western Australia
Magistrate Leanne O'Shea	Magistrates Court of Queensland
Justice Hilary Penfold	Supreme Court of the ACT
Judge Michael Shanahan	District Court of Queensland
Justice Terry Sheahan, AO	Land and Environment Court of New South Wales
Justice Margaret Stone	Federal Court of Australia

Justice Michael Walton
Judge Jon Williams
Justice Richard White

Industrial Court of New South Wales
District Court of New South Wales
Supreme Court of South Australia

In attendance

Judge Brian Withers
Christopher Roper, AM

Treasurer
Secretary

Apologies

Apologies were received from:

Chief Magistrate Steven Heath

Magistrates Court of Western
Australia

Magistrate Julie Huber

Local Court of New South Wales

Judge Michael McInerney

County Court of Victoria

Chief Federal Magistrate John Pascoe
AO, CVO

Federal Magistrates Court of
Australia

Alternates

Alternate

Federal Magistrate Michael Baumann
Chief Magistrate Graeme Henson

Representative

Chief Federal Magistrate John Pascoe
Magistrate Julie Huber

Resolved

That the apologies be noted and received.

The Chair welcomed those attending as alternates for Governing Council members.

1 Confirmation of minutes of the previous meeting of the Governing Council

The minutes of the meeting of the Governing Council held on 19th June 2010 had been circulated.

Resolved

That the minutes of the previous meeting held on 19th June 2010 be confirmed.

2 Minutes of the meetings of the Executive Committee held since the last meeting

The minutes of the Executive Committee meetings held on 22nd July and 16th September 2010 had been circulated.

Resolved

That the minutes of the meetings of the Executive Committee held on 22nd July 2010 and 16th September 2010 be noted.

Reports

3 President's Report

The President had reported on matters before the Governing Council at the Annual General Meeting. She reported on the following additional matters –

Meeting with the Tasmanian Attorney General

The President reported that she and Justice Harper, at the initiative of Justice Blow, had met the previous day with the Attorney General of Tasmania concerning judicial pensions and superannuation.

Meeting with Justices Miller and Chisholm of the High Court of New Zealand

The President noted that Justices Miller and Chisholm of the High Court of New Zealand were attending the Colloquium and that she and Justice Harper had met with them. She said that Justices Miller and Chisholm had advised that there is an informal body of judges of the High and Supreme Courts but the proposal for a more formal body in New Zealand was under consideration.

Mr John Maconochie

The President reported that a letter from Mr Maconochie had been received the previous day, and the letter was circulated to members of the Governing Council. The President noted that she had circulated it so that each member of the Governing Council could make his/her own decision as to what to do.

The President reported that the letter had, shortly after its receipt, been forwarded to the two insurers. A discussion then ensued as to what action, if any, should be taken and in particular whether any response should be sent to Mr Maconochie. There was some discussion as to whether the list of Governing Council members should be corrected, and if so as at what date.

Resolved

- 1 To note the correspondence from Mr Maconochie and that it had been forwarded to the JCA's insurers.
- 2 Subject to the advice of the insurers, not to respond to the letter.
- 3 To provide a copy of the letter to Magistrate Bernadette O'Callaghan and Justice Peter Rose.

4 Secretary's report

A report from the Secretary had been circulated. The Secretary stated that the Members' Section of the JCA website was now ready and he outlined how members could access it. He said that members of the Executive Committee would be asked to trial it, and members generally would then be advised of it and how to access it.

5 Treasurer's report

The Treasurer had reported at the Annual General Meeting.

6 Membership report

A membership report as at 31st August 2010 had been circulated. The Secretary reported that there had been changes since then and the current position was that 473 members had renewed, another 31 had joined since 1st July 2010, and 120 members had not yet renewed.

Elections

7 President

The President noted that she would not be seeking re-election. Justice David Harper was nominated as President.

Resolved

That Justice David Harper be elected President of the Judicial Conference of Australia.

8 Vice President

Justice Philip McMurdo was nominated as Vice President.

Resolved

That Justice Philip McMurdo be elected Vice President of the Judicial Conference of Australia.

9 Executive Committees

The following members of the Governing Council were nominated for election to the Executive Committee –

Justice Alan Blow

Justice Peter Garling
Magistrate Don Jones
Justice Hilary Penfold
Justice Margaret Stone
Justice Michael Walton

Resolved

That Justice Justice Alan Blow, Justice Peter Garling, Magistrate Donald Jones, Justice Hilary Penfold, Justice Margaret Stone and Justice Michael Walton be elected to membership of the Executive Committee.

The President noted that there were several other members of the JCA, who were not members of the Governing Council, would be co-opted by the Executive Committee at its next meeting, namely Federal Magistrate Michael Baumann, Chief Magistrate Graeme Henson and Magistrate Marc Sargent.

Activities, projects and matters of concern

10 Superannuation surcharge and federal and Northern Territory judges

The President had reported on this item as part of her report to the Annual General Meeting.

11 Complaints against Judicial Officers project

The President had reported on this item as part of her report to the Annual General Meeting.

12 Time Allowed for Judgment Writing project

A copy of recent correspondence between the President and Professors Mack and Anleu, in regard to the publication of their report, had been circulated, and was noted.

13 Anonymisation of Judgments project

Copies of documents, outlining the position in the Supreme Court of Western Australia, the Supreme Court of South Australia, the Local Court of New South Wales and the Industrial Relations Commission of New South Wales had been circulated. A paper by Justice Debra Mullins had also been circulated, together with a comment from Justice Hilary Penfold.

It was noted that there was also information available in regard to the Supreme Court of New South Wales and the Land & Environment Court of New South Wales, and that this would be added to the available material.

There was then discussion in regard to the placing of sentencing remarks onto court websites. It was reported that in Western Australia and Tasmania the remarks are taken down after several weeks, and the reasons for this were said to be that jurors would not be able to look at them and that a dossier on a person could not be built up. However, Justice Penfold pointed out that even so it would be possible for material on the web to be 'harvested' and stored and used later. She observed that perhaps the sentencing remarks could be anonymised.

It was decided to consider this matter further at the next Governing Council meeting.

14 National Legal Profession Reform

A copy of the JCA's submission to the National Legal Profession Taskforce had been circulated. The President briefly outlined the situation.

15 Judicial pension entitlements

A table setting out the entitlements in the States and Territories had been circulated. There was some discussion particularly in regard to the disparities in entitlements of surviving spouses.

Justice Sheahan reported that he understood that discussions were at present taking place with a view to national arrangements being put in place by legislation.

It was decided that the matter be considered at the next Governing Council meeting when it might be known what, if any, arrangements were envisaged.

There being no further business, the meeting concluded at 1.20pm.

Signed as a true record:

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President