



JUDICIAL CONFERENCE OF AUSTRALIA

**GOVERNING COUNCIL**  
**MINUTES OF MEETING: 2011/2**

Held on **Saturday 18<sup>th</sup> June 2011** in the Old High Court Library at the Supreme Court of Victoria

**Present**

Justice David Harper AM (in the Chair)	Supreme Court of Victoria
Chief Justice Diana Bryant ( <i>alternate</i> )	Family Court of Australia
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
Magistrate Julie Huber	Local Court of New South Wales
Justice Judith Kelly	Supreme Court of the Northern Territory
Judge Michael McInerney	County Court of Victoria
Justice Philip McMurdo	Supreme Court of Queensland
Judge Geoffrey Muecke	District Court of South Australia
Magistrate Leanne O'Shea	Magistrates Court of Queensland
Chief Federal Magistrate John Pascoe, AO, CVO	Federal Magistrates Court of Australia
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	Industrial Court of New South Wales
Judge Jon Williams	District Court of New South Wales
Judge Brian Withers	Treasurer

**In attendance**

Dominic McNeil

Administrative Assistant

## Apologies

Apologies were received from:

Magistrate John Birch	Magistrates Court of Northern Territory
Justice Peter Garling	Supreme Court of NSW
Chief Magistrate Steven Heath	Magistrates Court of Western Australia
Magistrate Donald Jones	Magistrates Court of Tasmania
Justice Glenn Martin	Co-opted
Justice Michael Murray	Supreme Court of Western Australia
Justice Richard White	Supreme Court of South Australia
Justice Peter Young	Family Court of Australia

## Alternates attending

<i>Alternate</i>	<i>Representative</i>
Chief Justice Diana Bryant	Justice Peter Young
Judge Brian Withers	Justice Richard White

The President thanked Chief Justice Diana Bryant for attending as alternate for Justice Peter Young.

The President welcomed Dominic McNeil, the new administrative assistant, who was recording the minutes of the meeting.

### Resolved

That the apologies be noted and received.

## 1 Minutes of the previous meeting of the Governing Council

The minutes of the meeting of the Governing Council held on 12<sup>th</sup> March 2011 had been circulated.

Discussion ensued concerning the format and content of the minutes of Governing Council meetings.

### Resolved

That the minutes of this and each subsequent meeting of the Governing Council be placed on the JCA website after being prepared by the secretariat and settled by the President. They will record each topic discussed at each meeting and include as much information as is necessary to convey the substance of the discussion while preserving such confidentiality as is apposite.

NOTE: Governing Council members will receive in confidence a record of the meeting which will include confidential matters discussed but not otherwise minuted. Subject to any resolution of the Council to the contrary in the particular case, each

member of the Council may in his or her discretion reveal to a JCA member matters discussed at a meeting but not included in the minutes as placed on the website.

Resolved further

That the minutes of the meeting of 12 March 2011 should be dealt with in the same way.

## 2 Starring of items

The President invited members to indicate any unstarred items of the agenda that they wished to be starred.

Resolved

That the unstarred items be noted.

## 3 Business arising from the minutes of the most recent meeting of, respectively, the Governing Council and the Executive Committee

Discussion was not had at this time, the business arising being dealt with under the appropriate item.

## Officer Holders' Reports & Administration of the JCA

### 4 President's Report

The President reported on the following matters –

*Maconochie matter*

The President reported that, as this matter had been dormant since the last meeting of the Governing Council, it would not appear as an item in any future President's Report unless there were further developments.

*Judicial Registrars in Victoria*

The President moved that, because the office of Judicial Registrar in the Court of Appeal, Supreme Court of Victoria, was not held in accordance with the conditions for judicial tenure but was for a term of five years, the motion, passed at the meeting of 12 March 2011, to accept that office as a qualification for membership of the Judicial Conference of Australia, be rescinded.

Resolved

That the motion, passed at the meeting of 12 March 2011, to the effect that the office of Judicial Registrar in the Court of Appeal, Supreme Court of Victoria, qualified for membership of the Judicial Conference of Australia, be rescinded.

*Superannuation surcharge and Federal and Northern Territory judges*

The President reported that there had been no change in this issue.

The meeting agreed that, despite the sustained efforts of the Governing Council, there was no prospect of progress in the foreseeable future.

It was agreed that the matter should not be retained as an agenda item.

*Complaints against Judicial Officers Project*

Judge McInerney spoke about the current position of the Victorian Government in relation to this matter.

Judge Fenbury spoke about a proposal that there be a complaints body established in Western Australia. The President asked Judge Fenbury and Justice Murray to keep him informed of any developments in Western Australia in relation to this matter.

*Developments in Victoria in relation to court governance*

Discussion ensued concerning the Victorian Government's intention to change the relationship between government and the courts. The meeting expressed its concern regarding this matter.

The President reported that he had indicated to the Chief Justice of Victoria that the JCA would consider becoming involved in this matter if its assistance were sought. The Chief Justice had expressed her gratitude.

## **5 Secretary's report**

A report from the Secretary had been circulated and was noted.

## **6 Treasurer's report**

A profit and loss statement for the period 1<sup>st</sup> January to 31<sup>st</sup> March 2011 had been circulated and noted.

Judge Withers introduced the 2011-12 budget.

Resolved

That the budget for the 2011-12 year be noted and approved.

## **7 Membership report**

A membership report for the period 1<sup>st</sup> January to 31<sup>st</sup> March 2011 had been circulated and was noted.

The President reported on the policy of sending letters to newly appointed judicial officers. He urged all members to advise him of all new appointments to their courts.

## Activities, projects and matters of concern

### **8 The role of the JCA (particularly but not only in regard to issues in the media)**

The President reported that Prue Innes, a former journalist and court reporter with the *Melbourne Age* newspaper and media advisor the Victorian courts, had been appointed to the position of media advisor to the JCA.

Discussion ensued concerning the submission of opinion pieces to various media outlets on behalf of the JCA.

#### Resolved

That an opinion piece, signed by the President, be written and sent to all the major papers.

### **9 2011 Colloquium**

A memorandum from the Colloquium planning committee was tabled. Judge Withers reported on the Colloquium budget.

Judge Withers suggested that the registration fees be:

- \$900 for early birds
- \$1000 full price
- \$1100 for non-members
- \$200 for the Colloquium dinner

#### Resolved

That the budget be approved, with the registration fees being those proposed by the Treasurer.

### **10 Judicial pension entitlements and superannuation for magistrates**

A report prepared for RSM Bird Cameron at the behest of the Magistrates' Association of NSW had been circulated and was noted.

Justice McMurdo reported that a draft position paper had been circulated to his subcommittee. He spoke about various developments that had transpired since the last Governing Council meeting,

Discussion ensued concerning this matter. The President said that the discussion helped set the JCA on the right course.

**11 Anonymising of private and confidential matters in transcripts, sentencing remarks and judgments**

The President reported that he had not yet written to Justice Debra Mullin about this matter, but that he would do so in the next week.

**12 Trial by judge alone**

The President reported that during the last month or so, at the instigation of Judge Jon Williams, material had been contributed by members of the Governing Council concerning the current position in their jurisdiction. A compilation of that material had been circulated and was noted.

**13 Any other business**

Justice Walton reported on issues relating to the jurisdiction of judges in the Industrial Court of New South Wales.

The President asked Justice Walton to keep him informed of developments.

The President concluded by stating that the current situation raised issues of great importance for the relationship between the judiciary and the other arms of government. The JCA's involvement was now more important than ever.

**14 Next meeting**

It was noted that the next meeting would be held on Saturday 15<sup>th</sup> October 2011 during the Colloquium at Alice Springs.

There being no further business, the meeting concluded at approximately 12:30 pm.

Signed as a true record:

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President