



Judicial Conference of Australia

## EXECUTIVE COMMITTEE

### MINUTES OF MEETING: 2020/2

Held by teleconference on **Thursday 23<sup>rd</sup> April 2020**  
commencing at 5.00 pm Eastern Standard Time

#### **Participating**

Justice Judith Kelly (President)	in the Chair
Justice Michael Baumann AM	Treasurer
Chief Justice Alan Blow AO	
Justice John Burns	
Magistrate Brett Dixon	
Judge Rachelle Lewitan AM	Vice-President
Justice Glenn Martin AM	
Justice Neil McKerracher	
Justice Steven Moore	
Justice Michael Walton	

#### **Apology**

Judge Wayne Chivell  
Magistrate Jan Maclean

#### **In attendance**

Christopher Roper AM (Secretary)

#### **1 Minutes of the previous meeting**

The minutes of the previous meeting held on 30<sup>th</sup> January 2020 had been circulated.

| Resolved:

That the minutes of the meeting held on 30<sup>th</sup> January 2020 be approved.

#### **2 Correspondence received since the January 2020 meeting of the Executive Committee**

There had been no correspondence other than correspondence received and sent by the President. A list setting out that correspondence had been circulated prior to the meeting. The President said that an updated list would be circulated after the meeting.

### **3 President's report**

The President reported in regard to the following matters:

*Responses in the media to the High Court's decision in the Pell case*

The President noted the two sets of articles/media releases issued since the last meeting; in regard to the High Court's decisions in the 'Aliens' case and in *Pell v The Queen*. She said that in both cases the feedback from judicial officers had been uniformly positive. She referred to the correspondence with Sir Anthony Mason, which had been circulated to Executive Committee members, and briefly outlined her response to Sir Anthony. She noted that the paper by the Hon Michael McHugh, to which Sir Anthony had referred, was a very good one.

In regard to the article and media release in response to commentary on the High Court's decision in the Pell case, she said that all of the feedback from laypersons had been negative. She said she had responded to only one of the persons who had contacted the JCA.

The President referred to the email to her from Fr Brennan SJ and outlined her response. Fr Brennan's comments and the President's response were briefly discussed.

Justice Moore said that he had spoken to the Chief Justice of the Supreme Court of Victoria, and the President of its Court of Appeal, both of whom had specifically asked him to convey their appreciation for the JCA's prompt and strong response to the commentary.

The President then referred to a more recent article in the previous Saturday's *Weekend Australian* by Chris Merritt focussing on Justice Maxwell. She noted that it had generated concern and controversy and had given rise to a range of views on what, if any, response should be made. Justice Moore reported that the Chief Justice's personal view, shared by Justice Maxwell, was that the JCA should not respond. The President noted that the article had been careful to quote Professor Bagaric as saying that Justice Maxwell had been appointed to the Court of Appeal on merit, and this limited the JCA's capacity to respond.

*June 2020 meeting of the Governing Council*

The President referred to the comprehensive memorandum prepared by Anthony Coter of the Secretariat outlining the various options for holding the meeting other than face-to-face. Justice Moore noted that, as votes were seldom taken at Governing Council meetings, the capacity for polling was not important.

Justice Martin proposed that the agenda for the June meeting should be limited and confined to what needed to be dealt with, and that the October meeting be a longer meeting, in the hope that it will be possible to travel by then.

Chief Justice Blow suggested that there would be a range of capabilities amongst Governing Council members to use the technology and therefore a meeting by telephone might be preferable. Justice McKerracher suggested that Microsoft Teams could be used but also thought there was merit in a meeting by telephone.

The President said that her concept was that the agenda papers be distributed one week beforehand and that there then be, in effect, a chat room whereby members could post their comments under each of the items.

Justice Martin noted that it would be possible to have a combination of video and audio which would suit members' various capabilities. Judge Lewitan recommended Microsoft Teams but not Zoom because of security issues.

It was agreed that an informal sub-committee, comprising Justices Martin and McKerracher and Judge Lewitan, consider this further and make a decision as to the format, and then prepare detailed instructions to be circulated to all Governing Council members when the agenda is distributed.

| Resolved:

That the President's report be received.

**4 Media releases and letters to the editor issued since the last meeting of the Executive Committee**

The Executive Committee noted the three media releases and one article which had been issued since the last meeting.

**5 Financial matters and Treasurer's report**

A profit & loss report for the period 1<sup>st</sup> January to 31<sup>st</sup> March 2020 had been circulated, and was noted. It was also noted that the balance in the accounts and term deposit at the bank as at 17<sup>th</sup> April 2020 totalled \$496,527.65.

| Resolved:

That the Treasurer's report be received.

**6 Budget for the Year 2020 – 21**

A draft budget, together with explanatory notes and a list of possible scenarios, had been circulated. In introducing the budget the Treasurer noted that the JCA's major areas of expenditure were its accountants, the media monitoring service, the Secretariat and the member benefits scheme, and that it would be difficult for the JCA to reduce or abandon expenditure on the first three of these areas.

He noted that on the revenue side there had been no increase in membership fees over the last five years; in that time the JCA's other source of income, interest on its term deposits, had declined significantly; and that the JCA's total membership had remained more or less static over that period.

He then turned to Scenario 1 and noted that the easiest way for the JCA to generate more income would be to increase its membership. He noted that 80 new members would be needed to cover the deficit in Scenario 1 of about \$17,000.

The Treasurer said that he proposed that Scenario 1 be adopted, and that the JCA use the weekly media monitoring service, the member benefits scheme and the recent media releases and articles to promote the JCA as part of a membership drive in order to increase revenue. He said this should be done principally through

and by Governing Council members. He proposed that the contract with Member Benefits Australia be continued for a further year.

After some further discussion it was resolved as follows:

Resolved:

That the Budget for the year 1<sup>st</sup> July 2020 to 30<sup>th</sup> June 2021 be adopted.

That the membership fees for the 2020-21 year be \$240 for full members, \$60 for retired members, and \$60 for new members.

## **7 Membership matters**

A membership report as at 16<sup>th</sup> April 2020 had been circulated, together with a list of newly appointed judicial officers to whom the President had written and a list of new members, and they were noted. The Executive Committee also noted that follow-up letters from the President had been sent to judicial officers newly appointed in the period December 2018 to September 2019, and that 20% of those judicial officers had subsequently joined the JCA; and that a similar letter had been sent to those appointed from October to December 2019, and that 50% of them had subsequently joined the JCA.

Resolved:

That the membership report be received.

## **8 Secretariat matters**

A memorandum had been circulated in regard to the following matters:

### *Non-renewing members of the JCA*

A report had been circulated listing those retired and active judicial officers who had not renewed their JCA membership from the 2019 to the 2020 membership year. The Secretary pointed out that if all of the 39 active judicial officers had renewed their membership a further \$8,970 of revenue would have been generated, which would significantly reduce the deficit in the budget.

After some discussion it was agreed that:

- The President would write to all of the active judicial officers on that list enquiring as to the reason for their non-renewal and in particular whether it was due to any dissatisfaction with the JCA and, if so, the nature of that dissatisfaction. The letter would remind them of what the JCA had done and was doing for its members, and invite them to reconsider joining.
- Justice Baumann would prepare a draft of an email to be sent by Governing Council members to members of their courts who had not renewed (apart from those who had since retired) to 'back up' the President's letter and encourage their re-joining of the JCA.

*New mailing list of media officers in courts for the JCA's media releases*

The Executive Committee noted that a list of media officers in courts, together with heads of jurisdiction or registrars in courts without media officers, had been prepared, and was now being used when articles, media releases etc. were issued.

**9 Colloquium**

Justice Martin reported that, as a result of the postponement of the 2020 Colloquium to October 2021, he had written to all the speakers inviting them to participate in the 2021 Colloquium, which would have the same program except, perhaps, with the addition of a session on how courts had reacted to the impact of the Covid-19 virus.

Justice Martin noted that AM Meetings Plus' contract expired in October of this year and proposed that the JCA go out to the market and seek expressions of interest from conference organisers to manage the JCA's colloquiums over the next few years. A question was raised as to whether it would be best if AM Meetings Plus managed the 2021 Colloquium as they had already undertaken some of the work, but Justice Martin suggested that any competent conference organiser could 'pick up' the work necessary.

The Secretary reported that AM Meetings Plus had proposed that their current contract now be terminated and that they submit a final invoice, and in fact they had done that earlier on the day. He said he would contact them and ask that they put their proposal in writing, to which he would respond.

**10 Member Benefits Scheme**

A report for the month of March 2020, and a cumulative report for the period August 2019 to March 2020, had been circulated and was noted.

**11 Next meeting**

It was noted that the next meeting would be held on Thursday 23<sup>rd</sup> July 2020 at **5.00pm** Eastern Standard Time.