



Judicial Conference of Australia

## **EXECUTIVE COMMITTEE**

### **MINUTES OF MEETING: 2020/4**

Held by Microsoft Teams on **Thursday 29<sup>th</sup> October 2020**  
commencing at 5.00 pm (AEDT)

#### **Participating**

Justice Judith Kelly (President) in the Chair  
Chief Justice Alan Blow AO  
Judge Rachelle Lewitan AM  
Justice Glenn Martin AM  
Magistrate Jan Maclean  
Justice Neil McKerracher  
Justice Steven Moore  
Justice Michael Walton

#### **Apology**

Justice Michael Baumann AM  
Justice John Burns  
Deputy Chief Magistrate Brett Dixon [technical difficulty in joining the meeting]

#### **In attendance**

Christopher Roper AM (Secretary)

#### **1 Minutes of the previous meeting and resolution sought by flying minute**

The minutes of the previous meeting held on 23<sup>rd</sup> July 2020 had been circulated. In addition, the minutes of a resolution sought by flying minute circulated on 25<sup>th</sup> September 2020 had also been circulated.

##### Resolved:

That the minutes of the meeting held on 23<sup>rd</sup> July 2020, and of a resolution sought by flying minute circulated on 25<sup>th</sup> September 2020, be approved.

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

A list of the correspondence sent and received by the President since the last meeting had been circulated and was noted.

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

The President reported in regard to the following matters:

### **3.1 Retirement of Judge Chivell**

The President reported that she had received a letter from Judge Chivell advising her of his retirement from his Court and from his offices in the JCA. She said she had replied and noted that there had been a tribute to him in the *JCA News & Media*. She proposed that there be a vote of thanks for his services to the JCA.

Resolved:

That the Executive Committee, on behalf of all members of the JCA, express their thanks to Judge Wayne Chivell for his contributions to the work of the JCA over a number of years.

The Secretary noted that the position of Intermediate Courts Representative would need to be filled at the forthcoming Governing Council meeting. He was asked to send the names of all potential holders of this office to the Office Bearers.

### **3.2 Governing Council meetings and Annual General Meeting on 28<sup>th</sup> November 2020**

The President noted that the meetings would be going ahead. It was agreed there would be an informal dinner on the evening before the meetings, which Justice Martin would arrange. There was brief discussion of how Governing Council members would join the meeting.

### **3.3 Sub-committee re elimination of inequality of outcomes for indigenous people**

The President referred members to the correspondence she had had with Chief Justice Kourakis, which had been circulated. She noted that Chief Justice Kourakis had agreed to chair a proposed sub-committee to consider this matter. She proposed that the JCA establish a sub-committee for this purpose and there was agreement that it should do so.

Resolved:

That the Executive Committee propose to the next Governing Council meeting that the JCA form a sub-committee, to be chaired by Chief Justice Chris Kourakis, to examine and report to the Governing Council on whether there is anything in the structural way courts operate, in their administrative and judicial aspects, which can be improved in an effort to eliminate inequality of outcomes for indigenous people.

### **3.4 Australian Law Reform Commission's review in regard to judicial impartiality**

The President referred to the announcement from the Australian Law Reform Commission that it had been asked to undertake a review of the laws relating to impartiality and bias as they apply to the federal judiciary, and asked whether the JCA should consider making a submission. It was decided that this question be deferred until the Discussion Paper was released in April 2021.

### **3.5 Revision of chapter 7 of the Guide to Judicial Conduct**

A Discussion Paper in regard to this matter, prepared for the Council of Chief Justices, had been circulated with the agenda papers. There was general discussion, particularly in regard to the issue that not all retired judicial officers are in receipt of a pension. It was noted that there would be strong and divergent views in regard to what was proposed in the Discussion Paper. There was also some discussion in regard to retired judges returning to the Bar and conducting mediation practices.

It was decided that the Discussion Paper should be referred to the Governing Council for discussion at its meeting on 28<sup>th</sup> November, and that Chief Justice Blow and Magistrate Maclean be asked to prepare a paper providing an alternative perspective to that in the Discussion Paper, which would also be circulated to Governing Council members for discussion at the November meeting.

Resolved:

That the President's report be received.

#### **4 Media releases, letters to the editor or articles issued since the last meeting of the Executive Committee**

There had been no media releases, letters to the editor or articles issued since the last meeting.

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

A profit & loss report for the period 1<sup>st</sup> July to 30<sup>th</sup> September 2020 had been circulated, and was noted. It was also noted that the balance in the accounts and term deposits at the bank as at 22<sup>nd</sup> October 2020 totalled \$600,214.70.

Resolved:

That the Treasurer's report be received.

#### **6 Move of the Secretariat to the ANU College of Law**

Justice Martin reported that he would be visiting the ANU College of Law in early December and that he would be finalising arrangements then. He said he would prepare a memorandum of understanding to be entered into by the JCA and the ANU College of Law.

#### **7 Change of name of the Association**

Justice Martin reported that the proposed new name had been reserved with Access Canberra, the relevant ACT Government agency, and that the new web address had also been reserved. He noted that the change of name would only be finalised when it was approved by the ACT Government, which would occur after a request for the name had been lodged following the Annual General Meeting in late November.

**8 Membership matters**

A membership report as at 22<sup>nd</sup> October 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 Secretary noted that the report indicated that there were 70 members, of whom 56 were active judicial officers, who had not renewed despite various forms of follow-up. He said that this represented 70 new members who would need to be recruited in the current financial year simply to maintain the JCA's existing number of members.

The Secretary was asked to undertake an historical analysis of what the situation has been in previous years in regard to non-renewing members.

Resolved:

That the membership report be received.

**9 Secretariat matters**

The report from the Secretariat was noted.

**10 Attendance at Governing Council meetings by a representative of the Commonwealth Magistrates' & Judges' Association**

A memorandum prepared by Mr John Lowndes had been circulated and was considered. It was decided that no action be taken to have a representative of the Commonwealth Magistrates' & Judges' Association attend Governing Council meetings.

**11 Meeting dates for 2021**

A memorandum, together with an Excel spreadsheet showing potential conflicting events, had been circulated and was noted.

Resolved:

To recommend to the Governing Council that it resolve that the meetings of the Governing Council and Executive Committee in 2021 be held as follows –

|            |   |              |
|------------|---|--------------|
| January 28 | Executive Committee                               |              |
| March 13   | Governing Council                                 | in Sydney    |
| April 22   | Executive Committee                               |              |
| June 19    | Governing Council                                 | in Melbourne |
| July 22    | Executive Committee                               |              |
| October 9  | Governing Council<br>(and Annual General Meeting) | in Auckland  |
| October 21 | Executive Committee                               |              |

and that this resolution be relayed to Governing Council members immediately.

## **12 Colloquiums**

Justice Martin introduced discussion in regard to the 2021 Colloquium. It was noted that, given the current circumstances, there may be a reluctance to commit to registering for the Colloquium as early as has been the case in the past. It was agreed that updating bulletins be distributed to members in the weekly *JCA News & Media*.

Justice Martin also reported that, in regard to the appointment of conference organisers, an invitation to tender document, prepared by Justice Walton, had been sent out to about six firms. It was noted that the date for submission of tenders was not until 20<sup>th</sup> November.

It was agreed that a sub-committee comprising Justices Martin, Walton and Baumann, and the Secretary would consider the submissions and make a recommendation to the Governing Council meeting to be held on 28<sup>th</sup> November.

## **13 Member Benefits Scheme**

A report had been circulated and was noted.

## **14 Judicial Incapacity**

Justice Martin reported that he would talk with Professor Andrew Lynch to discuss how this project might be taken forward. He said he would also discuss the Modern Judiciary project which had fallen into abeyance because of the pandemic.

## **15 Next meeting**

It was noted that, subject to confirmation by the Governing Council, the next meeting would be held on Thursday 28<sup>th</sup> January 2021 at **5.00pm** AEDT.