



## President's Message

*Tim Sullivan, President*

My term as President ends this month. It has been a privilege to hold the position for the past two years and I thank members for placing their trust in me to take the Institute of Arbitrators & Mediators Australia (IAMA) forward over that time. Although more than two years would have allowed further time to introduce and develop initiatives, the demands of the position are such that two years focused on matters away from our own families and businesses is about the limit of how long most people could devote to the position.

The past two years have been most rewarding. IAMA has opened up in a way which I thought would only happen over many more years. In that time IAMA has been included as a member of the Asia Pacific Regional Arbitration Group, developed co-operation with China and Singapore, commenced training of Chinese arbitrators, introduced Corporate Membership, and developed closer working relationships with governments and industries. We have held two superb national conferences and hosted the presidents of the American Arbitration Association and the Singapore Institute of Arbitrators.

In the past two years IAMA has also launched new publications in mediation, adjudication and arbitration. *The Arbitrator & Mediator* has become a refereed journal and *The IAMA News* has reached new heights in quality of presentation and content.

IAMA has continued to demonstrate its status as the premier alternative dispute resolution body in Australia. Its contemporary approach in a rapidly changing dispute resolution environment and its relevance to all parts of the community are widely recognised. IAMA is the leading provider of services in alternative dispute resolution and the IAMA has earned and enjoys the respect of governments throughout Australia who have sought and been given our views on a wide range of things including terms for dispute resolution in international agreements, dispute provisions in legislation and the implementation of alternative dispute resolution provisions.

From the beginning of its two-year term, the present Council embarked upon a most ambitious program relating to review and development of policies in competencies, standards, training, accreditation, professional affairs, practice notes, rules and publications. A review of our senior dispute resolvers was also undertaken to determine that only those who still met the required standards were endorsed by IAMA to maintain their level of accreditation.

Also in the term of the present Council and Chapter Committees, adjudication of payment disputes in the building and construction industry expanded to cover the majority of Australian State and Territory jurisdictions. IAMA has met the challenge and has become the only professional body for nominating adjudicators in all relevant jurisdictions.

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The five-year grace period of exemption from payment of Goods and Services Tax on long term non-reviewable contracts came to an end in 2005. In the 2005-2006 period IAMA provided ADR professionals with processes to arbitrate resolution of impasses between parties who could not agree on an outcome.

The introduction of the changes to the *Workplace Relations Act 1996* (Cth) in 2006 raised new challenges for IAMA. The amendments to the *Workplace Relations Act* changed the ways in which the Australian Industrial Relations Commission deals with disputes and introduced dispute resolution provisions for resolution of workplace disputes by private providers. Although the changes were released only shortly before their commencement, the depth and breadth of expertise in IAMA's membership enabled IAMA to constitute a panel of over fifty Workplace ADR Providers across Australia to be trained and accredited in time for the commencement of the relevant provisions.

Labour disputes make up the major portion of the arbitrations handled by the American Arbitration Association. Until the 2006 amendments to the *Workplace Relations Act*, workplace disputes in Australia stayed within the jurisdiction of the Australian Industrial Relations Commission (AIRC) and the State Industrial Commissions. Whilst we respect the views on both sides of the debate as to the merits of the workplace changes, IAMA strongly supports the new regime for dealing with workplace disputes which places greater emphasis on mediation, conciliation and arbitration by private ADR providers. The changes allow the parties to choose between the AIRC and ADR Providers on the panel of organisations such as IAMA.

The way in which commercial and workplace disputes have been handled is experiencing momentous change in Australia. The need for cost efficient, time efficient, fair and accountable dispute resolution processes has been evident for decades but it is in the last few years that real progress has been made. The courts have developed efficiencies through case management, mediation, references out to experts and streaming of cases to specialist divisions or lists. Similarly, IAMA has revamped its rules, policies and processes. Negotiation, mediation and conciliation are promoted by IAMA as the first preferences to resolve disputes. IAMA's rules for dispute resolution and training for arbitrators have emphasised the need for efficiency as well as fairness.

In the term of the present Council IAMA has not only taken very forward steps in its relations with like organisations in Australia and in the Asia Pacific region but has also established closer links with organisations such as the Australian Computer Society, Australian Seed Federation, Engineers Australia and the Association of Consulting Engineers Australia. We have entered into a Memorandum of Co-operation with the Shenzhen Arbitration Commission and with the Singapore Institute of Arbitrators. We are about to enter agreements with other arbitral bodies. IAMA has worked hand in hand with parts of industry to develop specific industry schemes for resolution of disputes by conciliation and arbitration.

It can be seen that there is a quickening in the adoption of ADR. The commercial and industrial communities as well as those involved with family law disputes have invested a lot of trust in those who are engaged in providing alternative dispute resolution. It is comforting that, as IAMA has demonstrated over the last three decades, the trust placed in IAMA is not misplaced. That trust is not earned or maintained solely by IAMA as a body demonstrating that it is to be respected and trusted. That trust is earned and maintained by every member on each occasion that a member is involved in ADR. ADR will continue to grow and be an integral part of the way Australian society works provided that each of us does all things necessary to validate the trust placed in us.

I thank you for your support for me as President. Although my title and position in IAMA will change at the end of May, I will of course maintain my enthusiastic support for other members and particularly for the incoming Council and President.