



**The 9<sup>th</sup> National Mediation Conference**  
**Hyatt Regency Perth Hotel**  
**Perth Western Australia**  
**Friday, 12 September 2008, 2.30 pm**

1. I have been asked to talk today about the new National Mediation Accreditation System – a topic that fits very well with the conference theme of *transforming the landscape*.
2. The development of the National Mediator Accreditation System is the biggest transformation to the professional landscape in the history of mediation in Australia and in my opinion these changes have been and will be some of the most beneficial to the mediation field.
3. Indeed, Australia is the only country to have established a national scheme through a process of consultation and industry self-regulation.

4. NADRAC is very pleased that the National Mediator Accreditation System has the full support of the federal Attorney-General. As the Attorney said to us the other day, the initiative is fully supported by the Government (as it was by the last Government). This fact of bi-partisan support is significant.
5. Since the establishment of NADRAC in 1995, the Council has been actively working towards, and has been a longstanding advocate of the development of a national, voluntary, industry accreditation standard for mediators, and so I was very pleased to see these standards being embedded in the form of the National Mediator Accreditation System.
6. The NADRAC charter requires the Council, among other things, to advise the federal Attorney-General on standards for the provision of ADR, on minimum qualifications for ADR practitioners, including the need for registration and accreditation of ADR practitioners or organisations, and appropriate disciplinary mechanisms.

7. NADRAC commenced work on these issues shortly after its establishment. In March 2000 NADRAC produced a discussion paper on The Development of Standards for ADR, which formed the basis for consultation on this issue. This was followed by the 2001 report to the federal Attorney-General, titled A Framework for ADR Standards, which reported on the position of ADR standards at that time and the future for the development of standards.
8. The report examined a range of possible standards models applicable to both individual practitioners and organisations. It provided discussion on the various options, including codes, benchmarks, agreements, models and exemplars and suggested the development of standards in relation to education, training, assessment and selection, supervision, professional development and discipline.
9. The report additionally recommended that a code of practice would be the appropriate framework and

sets out, in broad terms, the essential elements of such a code.

10. One of the recommendations was for self-regulation rather than enforcing compliance through more direct regulation, or leaving it to market forces. The report stressed the need for an effective complaints mechanism, based on accepted standards with access to an independent second tier for review or further dispute resolution services, perhaps in the form of an ADR ombudsman.
11. The selection processes for accreditation, it was argued, should be fair and transparent and based on assessment of knowledge, skills and ethical requirements.
12. The work to develop a national accreditation system gained renewed momentum in 2004 when National Mediation Conferences Limited received a grant from the former Attorney-General for the facilitation of consultations concerning mediator accreditation.
13. In order to progress this project, National Mediation Conferences established a broad based committee.

The committee appointed Professor Laurence Boulle to carry out a national consultation.

14. A draft proposal for a national mediator accreditation system was developed for the purpose of the consultations.
15. Professor Boulle held public consultations in Canberra, Sydney, Melbourne, Brisbane, Adelaide, Perth and Darwin. The support at the various forums for the broad parameters of the proposal ranged between 90 and 100 per cent and a general positive sense of the need to move forward was expressed.
16. In view of the positive reaction from the Australian mediation community, Professor Boulle and the National Mediation Conference Committee developed a proposal and recommendations for adoption at the 8th National Mediation Conference in Hobart
17. As you may recall this proposal for a national mediation accreditation system, which was moved by Sir Lawrence Street received unanimous support at the conference.

18. In order to continue to work towards the establishment of an implementation body and a new accreditation system a second grant from the former Attorney-General was sought and approved.
19. This grant allowed the Western Australian Dispute Resolution Association to engage Professor Tania Sourdin to progress the implementation of the National Mediator Accreditation System.
20. This next phase of the project involved the preparation of Draft Approval and Practice Standards.
21. Input into the draft standards was received from the Western Australian Dispute Resolution Association Working Group and the Reference group, which was set up for the purposes of the project.
22. In drafting the standards, the previous work that had been approved at the National Mediation Conferences in 2006 was adopted with minimal variation but with additional material.

23. The draft standards were then released for consultation and were also circulated at the NADRAC research forum held in Melbourne.
24. The draft standards were posted on the Western Australian Dispute Resolution Association website and were circulated to the Western Australian Dispute Resolution Association Reference Group.
25. Practitioner Consultation Forums were held in Melbourne, Brisbane, Sydney, Adelaide and Perth.
26. A total of 100 mediators attended these forums.
27. Interested parties were invited to arrange meetings with Professor Sourdin, discuss matters by phone or lodge written submissions.
28. Separate meetings were held with the Law Society of New South Wales, as well as with representatives from IAMA, LEADR, the Law Council of Australia, the Australian Commercial Dispute Centre and the Chartered Institute of Arbitrators to discuss practical implementation issues.

29. Generally speaking, the feedback from the consultations and submission were very supportive of the proposed system and draft standards.
30. The key outcomes of Professor Sourdin's work were the development of the Approval Standards and the Practice Standards. These standards provide the foundation for the new system.
31. Another major outcome of the project was the decision to establish the National Mediator Accreditation Committee as the implementation body, which would work towards establishing a permanent Mediator Standards Body by 2010.
32. It is proposed that the National Mediator Standards Body will be an independent industry body and will be substantially, if not wholly, funded by the mediation sector.
33. The National Mediator Accreditation System commenced on 1 January this year.
34. To help the mediation sector to fully implement the new system, NADRAC offered to provide assistance to the National Mediator Accreditation Committee

both in terms of the contribution of its members and support from the NADRAC Secretariat.

35. NADRAC has been pleased to host the historic first meeting of the National Mediation Accreditation Committee in March this year, and the meeting that was held this Tuesday in Perth.
36. The National Mediator Accreditation Committee is tasked with developing and reviewing the operation of the standards, developing a national register of accredited mediators, monitoring, auditing and supporting complaints-handling processes and promoting mediation.
37. The National Mediator Accreditation Committee is currently an unincorporated informal committee comprising representatives of the mediation sector. Its members include Recognised Mediator Accreditation Bodies, mediator training and education organisations, professional bodies, government representatives and others.

38. The work that the Committee is undertaking is considerable. It has established four working groups which are meeting regularly to progress that work.
39. Although it is not resourced to do so, the NADRAC Secretariat has been providing support to the working groups over and above its usual duties.
40. The first of these committees, the National Mediator Accreditation Committee Working Group, is considering the form and operations of the Committee, including whether it should be incorporated. It is also addressing issues such as membership and voting rights in addition to monitoring progress on the Committee's work.
41. The second of these committees, the National Mediator Standards Body Working Group, is considering the functions, constitution and funding of the proposed body.
42. The third of these committees, the Practice and Compliance Working Group, is considering a range of practice and compliance issues arising from the National Mediator Accreditation System, the role

that the National Mediator Standards Body will have in relation to those and advising on interim practice and compliance issues that are arising pending the establishment of the body.

43. The fourth of these committees, the Complaints Handling Working Group, is developing a best practice complaints framework covering mediators for voluntary adoption by Recognised Mediator Accreditation Bodies. The working group is also considering the role that the National Mediator Standards Body may have in relation to complaints including providing a resource to assist Recognised Mediator Accreditation Bodies with difficult complaints.
44. We will soon hear a report from a representative of each of these working groups. I want to thank the members of each working group for the work done by them over the last three months. As the Attorney-General said the other day – it is a first class example of what can be achieved when various groups across a diverse industry work together.

45. The National Mediator Accreditation System is intended to provide an overarching, base level of accreditation for all mediators irrespective of their field of work.
46. The System has been established as a minimum standards scheme. It is anticipated that additional accreditation requirements may be imposed in particular areas of practice, where special considerations apply. It is clear, for example, that while all mediators should meet the requirements of the national system, additional obligations would need to apply in an area such as Family Dispute Resolution, where special knowledge is required. Indigenous Mediation is another area where it might be expected that additional accreditation requirements will develop.
47. Until now there has been no national consistency in the standards required of mediators. Prior to this system, the profession was splintered in that there were diverse standards, codes of practice and

accreditation schemes, which were developed by various bodies.

48. In my opinion, disparate and inconsistent standards inhibit the ability for the mediation profession to grow and furthermore hinder the potential for ADR to be utilised more extensively in the wider community and the justice system.
49. Now is the crucial time for mediation to become a professional best practice approach for conflict resolution. Nationally consistent standards provide the basis for mediation to develop in this way. Having standards in place enhances the quality and ethics of ADR practice, facilitates consumer education and builds consumer confidence. Standards will improve the capacity and coherence of the ADR field and most importantly improves the credibility of ADR as an alternative to litigation.
50. With the standards in place the opportunities for development are significant. For example, the National Mediator Accreditation System is broadly compatible with the proposed international standards

established by the International Mediation Institute and it is important for Australian mediators to have a clear path to international recognition. The National Mediator Accreditation System will assist mediators to do this.

51. I believe that it is a time for mediators from all walks of life to look to the common goal first and to their individual goals and positions second. We will all have to give a little so we can reap the benefits of the new System.
52. The mediation field is still in a state of transition and there is much work to be done.
53. However, much progress has been made towards an independent fully functioning National Mediator Accreditation System and what has been achieved so far is a reflection of how well the diverse groups involved in this process have worked together.
54. NADRAC has been pleased to provide the administrative support for the working groups – and in this regard I must thank our hard working Secretariat who has provided that support. I also

thank the NADRAC members who have acted as convenors. But this is not NADRAC's project. As I have consistently stated NADRAC's focus has been to act as an "honest broker" in bringing the diverse parts of the mediation profession together.

NADRAC anticipates that the working parties will lead to full ownership of the process being in the hands of the mediation profession.

55. The progress that has been made is also a reflection of the desire amongst the mediation community for the establishment of unified minimum standards.

56. I would like to thank the conference co-conveners Margaret Halsmith and Judge Chris Stevens for inviting me to speak today and I would like to congratulate them and the Conference Board on a most successful conference