

EDITORIAL

John Twyford

It is hoped that our readers will forgive yet another change to the format of *ACLN*. This time the changes have been made to bring the newsletter into conformity with the publication style generally used by the University. We hope you will find the new format equally readable.

Again the matters dealt with range over a number of topics. Dispute resolution remains firmly on the agenda. Justice Spigelman in his interesting address to LEADR dealing with court-annexed mediation gives the process a cautious tick. His Honour however reminds us of the value to our society of the public administration of justice. Ian Bailey's article is a helpful compendium of the attributes that go to make a good referee's report. As this form of litigation seems on the increase, the article will be of more than passing interest to referees or people aspiring to that office. Finally, on the question of dispute resolution, Robert Hunt tells us about the professional certificate course available to aspiring arbitrators. This course was devised by and is mentored by the University of Adelaide. Lectures and tuition are available in each State and Territory through an association sponsored by the Institute of Arbitrators & Mediators with universities in each capital. The UTS Law School conducts the course in Sydney and if we might be permitted a little self-praise, the courses to date have been very successful.

There are two articles in this issue that at first blush would seem more directed to management issues than construction law. Even so, we think our readers will find each of interest. Firstly, Deepak Bajaj from UTS discusses techniques for risk identification. There is little doubt that much of the litigation in the industry

results from inappropriate risk allocation in contractual documents. To date the effort has been directed to offloading as much of the risk as possible on to one's contractual partner. This is often attempted by the use of subtlety, some of the less gross forms of duress or misplaced faith in standard documents. The article suggests ways of assessing the risks in advance from a theoretical point of view. It follows that once a risk is identified it can be dealt with rationally.

The second article suggests a simplified approach to the vexed issue of quality management. Two lecturers from the University of Western Sydney, Meena Chavan and Les Mahoney are proposing a simplified solution to the need to institute quality management systems. The requirement to have such systems in place is nearly always a contractual obligation imposed on contractors by principals. What the authors of this scheme propose is intended to lessen the burden of this obligation on small businesses.

Finally some reference to the collapse of the HIH Insurance Group seems appropriate. Clearly the insurer's failure will impact on home purchaser's warranty schemes and professional indemnity insurance. We are presently seeking and commissioning articles dealing with this important matter. It is hoped that some discussion will appear in the next issue of *ACLN*.