

### 1. NEW SOUTH WALES TENDER INQUIRY

In the report on the New South Wales Government's Tender Inquiry published as item #3 in Issue #4 of the Newsletter, the following statement was made:

"It remains to be seen whether the findings of this Inquiry will be made public. It is to be hoped that the findings will be published as there is a potential that the Inquiry could be of interest to other Governments, private clients and to the industry generally."

Dr Brian Jinks, secretary of the Standing Committee on State Development, has written requesting that Newsletter readers be informed that the Legislative Council Standing Committee on State Development holds all of its hearings in public, that all discussion papers and reports prepared by the Standing Committee will be tabled in Parliament and that they will therefore be available to the public.

### 2. BUILDING CODE OF AUSTRALIA

The first edition of the Building Code of Australia is now available from the offices of the National Building Technology Centre (CSIRO Division of Building, Construction and Engineering) at \$49.95 per copy, plus \$5.00 postage.

The National Building Technology Centre may be contacted at P.O. Box 310 North Ryde NSW 2113, Telephone 02 888 8888, Fax 888 9335.

For a commentary on the features and status of the Building Code, see the article by Hugh Knox in Issue #5.

### 3. U.K. MASTERS IN CONSTRUCTION LAW

According to a report in the Law Society's Journal, King's College London is offering a two year part time Master of Science course in Construction Law and Arbitration. Entry requirements for the course are a good honours degree in law, engineering, surveying or architecture, combined with at least one year's practical experience.

The course shall cover construction technology, construction law and arbitration in the construction industry.

For details contact:

Centre of Construction Law and Project Management  
The Old Watch House  
King's College London  
Strand  
London WC2R 2LS

A similar post graduate course in Australia would probably attract a good deal of support and would be of greater relevance to Australians.

### 4. ARBITRATION SURVEY

The Institute of Arbitrators, Australia recently surveyed the experiences of fourteen senior arbitrators in 336

arbitrations, over the last three years.

It was found that:

- the average sum in dispute was in excess of \$1,000,000;
- 37 arbitrations were settled prior to a preliminary conference;
- 264 arbitrations were settled after the preliminary conference, but prior to the commencement of the hearing;
- 13 were settled during the hearing;
- only 22 or approximately 7% proceeded to a formal award.

It was found that the arbitrators' fees averaged approximately \$300.00 for each of the disputes which settled prior to preliminary conference. Fees for the 264 disputes which settled prior to formal hearing averaged approximately \$1,000.00, including room hire and appointment fee.

The survey also indicated that the parties had not incurred extensive legal fees in relation to the disputes which were settled prior to hearing.

According to the report on this survey published in Arbitration Australia, the quarterly report of the Institute of Arbitrators, Australia, the Uniform Arbitration Acts had contributed to the results in establishing "arbitration as a genuine alternative to Court proceedings and strongly encourag[ing] the arbitrator to effect a fast, low cost resolution of disputes".

Another key factor in the incidence of settlement of construction disputes (the report does not indicate which industries were covered by the survey) would seem to be the almost universal use of arbitration clauses in construction contracts and the consequent initiation of arbitration as a necessary step in dealing with claims and disputes, which are not readily resolved at site level. Often, provision of notice of arbitration is a tactical step to protect procedural rights, whilst negotiations continue. At times, a contractor's claim or dispute is not taken seriously, until the client/consultant is forced to do so by the prospect of an impending arbitration.

- JT

### 5. QUEENSLAND FOREIGN LAND OWNERSHIP REGISTER

The Queensland Foreign Ownership of Land Register Act commenced in April 1989 to establish a register of foreign land ownership, due to concerns at the extent of foreign land ownership in Queensland. It is likely that the functioning of the Act will attract a good deal of interest in the other States and in other countries, where there have been similar concerns.

The Act provides that every document lodged for registration and every dealing of an interest in land lodged for recording after the commencement of the Act must be accompanied by a notification of ownership within 90 days of the acquisition. "Interests" in land are defined to include Real Property Title, leasehold interests under the