[Acknowledgements]

First, may I acknowledge the traditional owners of the land we meet on – and pay my respects to their elders, both past and present.

[Other Acknowledgements]

You will be introduced by either Ms Margaret Halsmith or Judge Chris Stevenson

Welcome to Country by Ms Doolan-Leisha Eatts and Mr Walter Eatts
• Professor Hilary Astor, University of Sydney (also speaking)
• The Honourable Justice Murray Kellam AO, Chair, National Alternative Dispute Resolution Advisory Council
• Mr Johan Scheffer, MLC for Monash, Victorian Parliament
• Distinguished guests
• Ladies and Gentlemen

[Introduction]

1. Thank you for your welcome this morning.
   It’s good to be back in Perth and a great pleasure to be invited to open the 9th National Mediation Conference.

2. The overall conference theme – ‘transforming the landscape’ – offers more than a hint about the continual state of transition as we work to raise the profile of mediation and other ADR processes.
3. And as the theme of today’s discussions suggests, taking ‘the view from the hilltop’ prompts a degree of reflection about the past, to see how well mediation has entered into the lives of Australians, and to plan for the future.

4. I am sure you will agree that there remains much more to be achieved.

I would like to say something about that from the Australian Government’s perspective.

5. Since my appointment as Attorney-General, I have spoken often about the value of Alternative Dispute Resolution processes.

6. I’ve done so to encourage a justice system that is practical, cost efficient and timely in resolving disputes.

7. We must recognise the wisdom of earlier resolution of disputes by those involved, to develop a culture where attempts are made to resolve matters without immediately resorting to litigation.
8. To develop this culture, ADR processes must be nationally consistent and of the highest quality.

[National Consistency and Quality]

9. That is why the Rudd Government supports the mediation sector’s initiative in establishing the National Mediator Accreditation System. It’s a first-class example of what can be achieved when various groups across a diverse industry work together.

10. I share your expectations that the system will improve quality and consistency in mediation services across Australia.

11. The development and implementation of the National Mediator Accreditation System have been encouraged and supported by the Australian Government and NADRAC.

12. As many of you would be aware, NADRAC is charged with providing me with policy advice on the development of high quality, economic and
efficient ways of resolving or managing disputes without the need for a judicial decision.

13. I’m pleased to announce that I have recently appointed a co-convenor of this conference, Ms Margaret Halsmith as a new member of NADRAC. She has many years of experience in mediating disputes for government, business and individuals. She also has considerable experience teaching dispute resolution. And she has been closely involved in the development of the National Mediator Accreditation System. Margaret will undoubtedly make a great contribution to NADRAC’s work.

14. I'd also like to announce that I have reappointed Federal Magistrate Norah Hartnett to NADRAC. Federal Magistrate Hartnett brings to NADRAC her extensive experience of family law and
significant knowledge of ADR. I’m sure she will continue to play a very valuable role.

15. NADRAC is an independent advisory council, drawn from dispute resolution practitioners, academics, lawyers, the judiciary and other experts from across Australia. And it is well placed to provide a national overview of the ADR field.

16. This is why I have recently tasked NADRAC with an important new enquiry.

[Access to Justice and New Reference to NADRAC]

17. For some time I have had concerns that Australians are facing excessive costs in litigation. As I said recently, 'if you are a middle-income earning Australian, as the bulk of us are, the prospect of any substantial litigation is horrendous, because of the cost.

18. Indeed, former High Court Chief Justice Murray Gleeson has commented that 'the cost of
civil justice is the greatest blot on the common law system'.

19. There are often ways of reducing this cost and I see a key role here for ADR processes.

20. It is not surprising to learn from research that participants feel satisfied with ADR processes because they are able to express their views, be heard, and feel a sense of control.

21. The non-adversarial setting and structure of mediation enables participants to better speak for themselves and communicate their real feelings and interests.

22. It may well be an obvious point but it’s worth restating that if participants can discuss their differences and better understand another’s point of view, mediation can help resolve disputes.

23. It may also have a flow on effect - helping participants develop the confidence and skills they can take to future disputes.
24. Even when mediation or another ADR process does not provide immediate resolution, it can still help identify and draw sharp attention to the actual facts and issues in dispute, improving the chance that later litigation won’t be a drawn out, costly endeavour.

25. The effectiveness of ADR is why I have asked NADRAC to look at what types of incentives would encourage greater use of ADR, and what barriers need to be removed.

26. I have asked NADRAC to consult widely and to consider:
   - whether ADR processes should be mandatory in some cases;
   - how best to overcome practical or cultural barriers to the use of ADR;
   - whether greater use of private and community-based ADR services would be beneficial; and
how to guarantee that these services are of the highest quality.

27. I understand that NADRAC proposes to issue a discussion paper in due course. And they will be seeking feedback on these issues.
I encourage anyone with an interest to submit their suggestions and comments in that context.

[ADR in Government]

28. The Government cannot lecture others about the value of ADR processes without regard to its own position.

29. I am encouraging Commonwealth departments and agencies to seek to resolve matters as early as possible.

30. I have amended the Commonwealth's Legal Services Directions so that litigation can only be started by the Commonwealth or its agencies after considering other potential methods of dispute resolution.
And if litigation can’t be avoided, they must continue to consider, and where appropriate, use other methods to resolve disputes during litigation.

31. The Australian Government believes it is incumbent upon us all to nurture a ‘resolution culture’.

32. As a substantial litigator the Commonwealth can play a significant part in developing that culture.

[Family Dispute Resolution]

33. Whilst the value of ADR has not been fully realised in many areas, it has developed into one of the central pillars of Australia’s national family law system.

34. Thankfully this has been achieved through bipartisan support over the last 20 or so years.

35. Since the mid 1980s, successive Governments have supported family dispute resolution services in the community.
36. The concept of ‘primary dispute resolution’ was first introduced into the Family Law Act in 1995.
37. In July last year, it became a requirement that before a new application to a court for a parenting order was made, parties must first make a genuine effort with family dispute resolution.
   Naturally, there are exceptions – cases where there is family violence or child abuse, or where the matter is urgent.
38. Since 1 July this year, all parties applying to a court for a parenting order, including existing matters, must first attempt family dispute resolution.
   Again, the same exceptions apply.
39. A focus on such mediation can have results.
40. We have seen applications for family law matters in the Family Court of Australia and the Federal Magistrates Court decline by around 18% since July 2007.
41. We expect that the new requirements will assist in diverting family disputes involving children away from the courts to Family Relationship Centres and other family dispute resolution services.

42. Family Relationship Centres, which operate nationally, are helping to meet the increased demand for family dispute resolution.

43. This year, I’ve had the great pleasure of formally opening new centres in Queensland, New South Wales, Victoria, South Australia, and later today in Perth – all of them located in the heart of local communities.

Overall the Government will have opened 25 new Family Relationships in 2008, which will make a total of 65 across Australia.

44. I believe that the development of this family dispute resolution framework is a compelling example of how ADR processes can be
successfully integrated into Australia’s legal system.

[Indigenous Dispute Resolution/Restorative Justice]

45. Alternative dispute resolution mechanisms also have a positive role to play in conflict resolution and decision making in Indigenous communities.

46. ADR can contribute to a genuine community involvement in conflict resolution and a strengthened respect for the role of elders.

47. This can lead to improved safety, better governance and greater cohesion within Indigenous communities.

48. It is no secret that Indigenous Australians are still vastly overrepresented in the criminal justice system – both as victims and as offenders.

49. In recent years, State and Territory jurisdictions have been undertaking innovative alternative sentencing options for Indigenous offenders.
50. Indeed my colleague, the Minister for Home Affairs, was instrumental in establishing Australia’s first circle sentencing program in Nowra in 2002, when he was New South Wales Attorney-General.

51. Likewise, the Commonwealth is also funding a number of innovative Indigenous restorative justice projects around Australia.

52. Our aim is to deliver inclusive sentencing processes that have more relevance to Indigenous cultural values.

Access to justice must be able to transcend cultural divides.

53. Let me reaffirm that there is great merit in continuing to improve conventional criminal justice processes.

But, if we are to see sustained improvements for Indigenous Australians, we also need to work together to improve family and community safety
and ensure ready access to justice in ways that reflect Indigenous cultural and social context.

54. The Federal Court and the Australian Institute of Aboriginal and Torres Strait Islander Studies are currently researching conflict management processes and interventions.

55. This study will provide general principles and practical tools for government, ADR practitioners and Indigenous communities to improve conflict management for Indigenous people.

56. The Australian Government is represented on the reference group for this project, and keenly awaits its outcomes.

57. I am not so naïve to think that barriers to equality will disappear simply because there is a high degree of goodwill or that we wish it so. The Rudd Government’s approach is to incorporate practical improvements across the
board – in justice, early childhood, health, housing, employment and education.

58. And to do so, as the Prime Minister asserted in his historic apology to Australia’s Indigenous Peoples, by embracing “the possibility of new solutions to enduring problems where old approaches have failed.”

[Conclusion]

59. I want it to be clear that mediation and other ADR processes can provide efficient and enduring outcomes.

60. We need to encourage Australians to be alive to the benefits of these processes when disputes first arise.

61. Ultimately, I want mediation and other ADR processes to be seen as indispensable and practical ways for Australians to resolve conflicts.
62. Thank you all for your contributions to ensuring this will happen.
63. I wish you well during your deliberations over these three days.
64. Congratulations to conference co-convenors, Margaret Halsmith and Judge Chris Stevenson and their teams for their hard work behind the scenes to pull together an excellent conference program.
65. It’s my great pleasure to declare the 9th National Mediation Conference officially open.

ENDS