

Selling a Business?

There is a misconception that selling a business is just a matter easily resolved on a simple handshake but, as some people would know, it is not always that straightforward.

A problem can arise when a vendor allows a purchaser occupation of the business prior to an exchange of contract. Allowing early occupation may compromise your interests if you are selling your business.

In a recent matter our client allowed the purchaser into the business prior to exchange without seeking legal advice as to the effect. The landlord had not consented to an assignment of lease or the granting of a new lease to the purchaser, even though there were no legal reasons for the landlord not to do so. Our client was therefore distressed for two reasons:

1. Someone was now running their business and taking the profits; and
2. There was no exchange date and there was no definite settlement date.

As a consequence action had to be taken in the Retail Tenancy Unit to resolve our client's problems.

Luckily, after some negotiation with our help, the lease issue was resolved to the eventual satisfaction of all concerned, even though it was some time after the initial negotiation for the purchase of the business.

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Driving Licence Appeals

The NSW law has changed and it is now harder to stay on the road if you incur too many demerit points.

Loss of licence has become increasingly common due mainly to the 'double demerit point' periods over NSW holidays.

Previously if you lost your licence due to demerit points, you were able to appeal the licence suspension through the Local Court. The Court had the discretion to reinstate your licence if it thought it was appropriate in your particular circumstances.

This has changed and now only P plate drivers (holders of green or red provisional licences) can appeal the suspension.

In the event you are suspended from driving due to incurring too many demerit points, the RTA will notify you in writing. It is still possible to apply for a good behaviour licence and, if this is successful, this allows you 2 points on your licence for a period of 12 months and gets you back on the road.

Please contact us to discuss your driving licence issues or any traffic infringements.

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Planning Holidays?

Before you pack your bags consider whether you need to put someone in charge of your affairs while you are away. Accidents and illness don't just occur while you are at home.

Talk to us about making or updating your Will, Power of Attorney and Enduring Guardianship documents. Go on your holiday knowing that, in the event something does go wrong, you've taken care of things.

Congratulations to Jasmine Hilbrink-Watson of our Narellan office who received a High Commendation in her category of Office/Administration in the Narellan Rotary Club's 2006 Pride of Workmanship Awards

Winter 2006

Smoke Alarms

On 10 March 2006, the NSW Government gazetted new regulations requiring smoke alarms in homes and other places people sleep.

To help save lives, the Environmental Planning and Assessment Amendment (Smoke Alarms) Regulation 2006 will, from 1 May 2006, require owners to install smoke alarms. The regulation outlines what types of buildings will require alarms, the type of alarms required and where they are to be located. Owners will have 6 months to comply.

How the new Regulation applies

No action is needed if a building already has fully functioning smoke alarms or a smoke detection and alarm system installed that complies with a previous or current requirement. Similarly if a person has installed alarms in a private dwelling before the commencement of the new Regulation, if they are working properly and correctly located no action is required.

Obligations for Sellers of Land

The Conveyancing (Sale of Land) Regulation 2005 (NSW) now:

- requires the vendor under a contract for the sale of land to attach to the contract a statement that any building situated on the land concerned complies with the smoke alarm regulations;
- provides that the purchaser may cancel a contract if the smoke alarm statement is not attached to the contract. The purchaser may not cancel the contract simply because the smoke alarm statement attached to the contract is inaccurate; and

- provides that a vendor who attaches an inaccurate statement to a contract for the sale of land is guilty of an offence carrying a maximum penalty of 5 penalty units (currently equivalent to \$550).

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Biggest Morning Tea

The Partners and staff of CALDWELL MARTIN COX are strong supporters of the NSW Cancer Council and again this year participated in **Australia's Biggest Morning Tea** in all offices.

We would like to thank our staff and clients for their support and participation in the fundraising activities and the following local businesses for their very generous donations.

La Bella Vita Italian Ristorante - Camden
4655 1451
Camden Valley Air Conditioning
0414 493 775
Beauty on Argyle
- Camden 4655 5177

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if you would prefer not to receive future newsletters, please tell us.

Our services include:

- wills and estate planning
- family law
- property law and conveyancing
- retail/commercial leases
- business law
- criminal law
- civil litigation
- employment law
- mediation and dispute resolution

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