

## Community Bank at Picton

Caldwell Martin Cox is proud to support the opening of a Community Bank® branch of the Bendigo Bank in Picton. Partner Angus Cox has been a part of the Steering Committee for the past 15 months with a number of other local business people and the Committee has worked hard to make the new bank a reality. Angus was recently appointed Chariman of the Board of Directors of the local company which will run the branch. Jillaine Duve, the Senior Associate at our Picton office, has also been appointed to the Board as a Director. There are 9 Directors of the bank and all positions are voluntary.

The Community Bank® initiative is a very exciting concept for the Wollondilly Shire as it promises to bring financial advantages to the District and an increase in banking and financial services competition for local residents. In addition, the Community Bank® model requires a large percentage of local profits to be reinvested into the local community by way of donations to sporting and other community groups and sponsorship of local events.

Although the branch will be officially opening its doors in early 2011, accounts are already being opened and loans are being approved. You can join us in this valuable community enterprise by contacting Angus or Jillaine on 4677 1292 to arrange an appointment with the Bendigo Bank representatives who visit Picton each week. Or call in to our Picton office to collect a Prospectus to buy shares.

### Angus Cox

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## BIBLE OR BAR MITZVAH?

Religion is sometimes an issue causing conflict between separated parents. Arguments may arise as to schooling, church attendances and participation in religious ceremonies.

A case was recently determined by the Federal Magistrates Court in Victoria. The parents had reached an agreement on what some people would regard as the really big and difficult decisions, namely, where the three children were to live. The mother and father agreed the children would live on a week about arrangement between them.

The father, Frank, was raised in the Catholic religion, however, he attended church irregularly. The mother, Suzie, continued to practice the Jewish religion. Frank and Suzie had been married in 1998 by a Jewish celebrant and their son had been circumcised in accordance with the traditional Jewish practice.

Suzie had enrolled the children in a Jewish youth group on Sunday afternoons. Frank objected to the children attending

the youth group as he saw it leading to an entry into a commitment to the Jewish religion.

Frank was not critical of the Jewish religion and did not ask for a Court Order preventing the children from complete participation in the Jewish religion. Suzie wanted to educate the children in the Jewish tradition and particularly wanted them to be able to participate in their Bar Mitzvah or Bat Mitzvah when they reached the relevant age.

Frank's position was that the children should be free to voluntarily choose their own religious preference when they were of sufficient age and maturity. He did not want to impose Catholicism on the children by way of participation in communion or confirmation.

Children's religious instruction is an issue of parental responsibility and the Court is of the view that such an issue is best left for the parents rather than the Court. However, where parents are unwilling or unable to make such joint decisions and Court action is taken, the Court is obliged to make this important decision for the children, having regard to their best interests.

So what was the outcome for the children of Frank and Suzie? The Court made a number of Orders relating to religious matters. It ordered that the children live with their mother during Jewish Passover, Jewish New Year, the Purim Festival and the Chanukah Festival. It also ordered that the children live with their father during the Christmas period and for Easter.

The Federal Magistrate made an Order restraining Suzie from allowing the children to take part in any Bar Mitzvah or Bat Mitzvah without Frank's consent. The Court noted that the Orders made did not stop or prevent Frank from taking the children to Catholic mass or events, nor prevent Suzie from taking the children to the Jewish Synagogue or taking part in Jewish feasts, festivals and celebrations.

Sounds like a compromise of sorts. It is unfortunate for the children that their parents did not come to this decision themselves through discussions and negotiations.

Shared parental responsibility is a very important matter for separated couples and their children. If you would like further information or require legal advice regarding any Family Law matters please contact us. We would be happy to assist you.

### Vicki Andrews

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Caldwell  
Martin  
Cox

Solicitors



## What our clients are saying:

"Angus was so helpful & compassionate. Many thanks for the assistance in a difficult situation and time."

"Leanne kept me informed at each stage of our matter. If it were not for Leanne's persistence, I doubt the matter would have been resolved by this time."

"The staff were at all times very professional and helpful, in particular Marlane."

"The fact that you always kept me informed of the status regarding my sale [was the most positive aspect]. I enjoyed the friendly service from both offices, Picton & Camden."

**Caldwell Martin Cox congratulates Barbara Sleeman on her retirement after 30 years with the firm. We thank her for her years of service and wish her well.**

## Changes to Business Name Legislation

An article in our Autumn 2008 newsletter referred to the differences between business name registration and trademark registration and recommended that any business owner with potential business Australia-wide should consider registering their business name as a trademark. This has now become even more important as the Commonwealth government is currently in negotiation with the various state and territory governments with a view to introducing a national business name registration system to commence as early as April 2011.

At the moment business names are registered in each state or territory separately but, under the proposed legislation, this will be done nationally. The Australian Securities and Investments Commission will take over responsibility for registration of business names, as they currently do in relation to company details. It is proposed that, if there are businesses with similar names in different states, they will be differentiated by the abbreviation of the relevant state being inserted after the names. For example, Fred's Building in New South Wales will become Fred's Building (NSW) while Fred's Building in Queensland will become Fred's Building (Qld). As a result, Fred's Building (NSW) will be able to trade in Queensland using that name, which could cause some difficulty to their competitors in Queensland. One possible solution to this would be that Fred's building in either state registers the name as a registered trademark.

Our firm has experience in advising businesses in this important area of intellectual property and if you have any questions please contact Chris Paul or Geoff Lloyd at our Camden Office.

### Geoff Lloyd

Senior Associate/Accredited Specialist Advocacy  
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## Habitual Offender Declarations

If you have received a notice from the RTA advising that you have been declared an Habitual Offender, you may have a right to appeal that declaration.

An Habitual Offender Declaration is made against a person who has received 3 or more convictions for 'relevant offences' within the space of 5 years. This can include convictions for offences such as Drive Whilst Disqualified/Suspended/Cancelled or any of the drink driving offences. The Declaration has a significant impact on your driver's

licence as it imposes an additional 5 year disqualification period on top of the disqualification period imposed by the Court for the original offence.

An application may be made to the Court to set aside (quash) the Declaration. If that application is successful, the Declaration is removed from your driving record and you will not need to serve the extra five year period off the road. An Habitual Offender Declaration will clearly have a significant impact on your ability to retain employment.

The law on Habitual Offender Declarations is complex, just like most road transport legislation. We have successfully represented people facing lengthy disqualification periods by having those periods set aside.

For further assistance, please contact one of our experienced Criminal Law Solicitors. We will let you know whether you have grounds to appeal the Declaration and, if so, will draft the Application to lodge at Court and will represent you at the Hearing.

### Chanda Poch

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## CMC welcomes Louise Kyle to the Camden Office

As Caldwell Martin Cox has experienced an unprecedented increase in the level of conveyancing work in the Camden and Narellan areas in recent months, we are pleased to announce that we've employed another



Licensed Conveyancer, Louise Kyle, to join the Camden Property team. The team is headed by Chris Paul, Partner in charge of the Camden office and a Law Society Accredited Specialist in Property Law.

Louise joins the firm after having gained a decade of experience in residential conveyancing. She took some time off during her career to travel the world, but obtained her Advanced Diploma in Conveyancing in New South Wales in 2007. Louise is originally from Camden and is enjoying being able to work locally again. She looks forward to helping you with buying and selling property.

Spring 2010

## Informal Formality

After centuries of strict formality in the law surrounding the making of Wills, it has been relaxed recently so as to allow a document to be admitted as a valid Will despite the fact that some of the formalities have not been complied with. It must, however, still be a "document" that expresses "testamentary intentions".

A "document" can be anything on which there is writing, including any symbols or figures capable of being interpreted. In addition, the definition of document includes anything on which sounds or images can be reproduced. So, writings on a wall, an audio tape and a document stored on a computer have all be held by Courts to be a "document" for the purposes of creating a valid Will.

"Testamentary intentions" means that the document must clearly state what is to happen to a person's assets after their death. Generally, words like "I leave..." or "I give..." joined with other words to indicate the intention of the gift taking place after death, will be regarded as a "testamentary intention".

It is important to note that a letter containing instructions to a Solicitor to prepare a Will is not an informal Will.

Of course, there is no substitute to having a properly created Will, signed and witnessed by independent witnesses, to be absolutely certain that your wishes will be carried out. It will save considerable cost and heartache to the ones you leave behind if you leave a clear, well structured, valid Will. The law has evolved in this area because of expensive and lengthy Court battles which can tear families apart.

Contact any of our 3 offices to meet with a Solicitor for advice on your estate planning needs.

### Angus Cox

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## NSW Introduces a Relationships Register

1 July 2010 saw the introduction in NSW of a Relationships Register for the very first time. The Register is designed to provide for the legal recognition of people in a relationship as a couple, regardless of whether they are in a heterosexual or a same-sex relationship.

An Application to be included in the Register is made to the Registry of Births, Deaths and Marriages and a fee is payable. The Application needs to be signed by both parties and there are certain restrictions placed on the registration of the relationship. For example, people who are married either to each other or to another person cannot be registered. Similarly, people who are already in another registered relationship cannot be registered.

Once an application is made, there is a 28 day cooling off period in which either person can withdraw the application. Once that period expires, the relationship is registered and the parties receive a certificate which recognises that. The registration of a relationship will allow the couple to access various entitlements, services and records under NSW law. In addition, certain service providers may choose to accept registration of a relationship as proof of the legitimacy of that relationship.

If the relationship breaks down, either or both parties can apply to revoke the registration of the relationship. Once again, a fee is payable and this time there is a 90 day cooling off period. The government believes that this longer cooling off period will ensure that people do not make a decision to end their relationship lightly. Either person can apply to revoke the relationship but, in order to do so, they must provide proof that they have served notice on the other person, similar to traditional Divorce proceedings.

If you would like to find out more about registering your defacto relationship, please contact any member of our experienced Family Law team. We'd be happy to help.

### Jillaine Duve

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## TAHMOOR OFFICE CLOSES

After 30 years, we have decided to close our office at Tahmoor. All staff, safe custody records and files that were held at Tahmoor have been transferred to our Picton office.

Renovations at our Picton office have created additional space and we feel that we can offer a more complete legal service to our clients at this office where there are more Solicitors offering a greater range of legal expertise.

Parking and access generally is also improved at our Menangle Street West location. There is a ramp at the rear for wheelchair access, as well as customer parking.

We look forward to seeing all our Tahmoor clients at our new Picton office.

### Angus Cox

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### Please help us keep our records up-to-date

If your address or contact details have changed, or if you would prefer to receive our newsletters via email, please let us know by telephoning or emailing help@cmcox.com.au.

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## Who's where and what do they do?

Area of Law	Camden	Narellan	Picton
Conveyancing	Chris Paul Louise Kyle Vicki Andrews	Bill McGookin	Leanne Anderson
Estate Planning	Chris Paul Vicki Andrews	Bill McGookin Chanda Poch	Angus Cox Jillaine Duve Kristy Faida
Family Law	Vicki Andrews	Bill McGookin	Jillaine Duve
Commercial Leases	Chris Paul Vicki Andrews		Angus Cox Belinda Dunkley Leanne Anderson
Leases, Sale and Purchase of Businesses	Chris Paul Vicki Andrews		Angus Cox Belinda Dunkley Leanne Anderson
Court Matters	Geoff Lloyd Chanda Poch		Jillaine Duve
Criminal Law	Geoff Lloyd Chanda Poch		Jillaine Duve
Debt Recovery	Geoff Lloyd Chanda Poch		Jillaine Duve
Bankruptcy/Insolvency	Geoff Lloyd		
Unfair Dismissal/ Employment Law	Geoff Lloyd		
Family Provisions (challenging wills)	Angus Cox Kristy Faida		
Personal Injury	Geoff Lloyd		
Workers Compensation	Geoff Lloyd		
Medical Negligence	Geoff Lloyd		

### 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

## Electronic Newsletters

If you would like to receive our newsletter by email, please either:

- send an email message to [help@cmcox.com.au](mailto:help@cmcox.com.au) with the words "Newsletter" in the subject line and provide your name and details in the message, or
- subscribe via the "Reading Room" on our website [www.cmcox.com.au](http://www.cmcox.com.au)



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