

2008 WRAP UP

In time, 2008 will be remembered as more than the year of the GFC (global financial crisis). We will remember the festivity of the Olympics and World Youth Day, the tragedy of the earthquake in China, the apology to the Stolen Generations, the farewell to St George Bank and to Work Choices, the remarkable victory of Obama and the introduction of new legislation and vocabulary to deal with the increasing seriousness of climate change.

The tighter economic climate has meant that individuals and especially small businesses need to review their contractual arrangements carefully, receive advice on how to safely repudiate contracts, consider the efficacy of clauses claiming damages, correctly assess damages and ensure that damages, if incurred, are mitigated. Economic constraints and reduced margins for profit mean that prompt debt recovery processes are vital to maintain cash flow.

Over its long history Biddulph & Salenger has successfully adapted its services to suit the requirements of clients in both depressed and sanguine economic climates.

Sound, timely, reliable advice remains a sensible investment at any time.

The partners, **Maryanne Ofner** and **Amanda Blackman** thank you for all your continuing support and for your referrals.

2008 saw the addition of another solicitor to the letterhead with the appointment of **Edyta Zurawski** as an associate of the firm. Edyta works closely with accredited family law specialist, **Maryanne Ofner**, providing personalised, efficient service for our many loyal clients. **Amanda Blackman**, aided by paralegal **Julie Koerner**, efficiently looks after all our property matters. **Warwick Dunn**, senior lawyer, continues to provide wise advice to clients and to look after the administration of estates.

The professional staff are assisted by **Matthew Paull** and **Madeleine Livesey**, who ensure the smooth and courteous implementation of all office administration and bookkeeping functions.

NOTARISED DOCUMENTS

With the growing incidence of identity fraud, overseas documents are increasingly requiring more stringent signature measures and certificates to prove authenticity. These services are provided by a notary public, a solicitor who has additional training, responsibilities and a collection of quaint seals, ribbons and tape. **Amanda Blackman** will offer this service if required.

CHANGES IN THE LAW

Wills and Estates

Persons left out of a Will, or beneficiaries who believe that they have not been adequately provided for, can make a claim under the *Family Provision Act* which will be updated and amended later this year.

However, it is not necessary to go to court to get a share (or a greater share) of a person's estate. Matters can be finalised between the lawyers acting for the claimant and the estate once the executor of the Will receives proper legal advice that the claimant is likely to succeed if the matter goes to court.

The parties can negotiate an agreed variation to the terms of the Will by way of a written deed which is a legally enforceable document. Under the terms of the deed the party receiving the benefit of additional estate funds indemnifies the executor against any future claims that the claimant may bring to the court claiming a greater provision from the estate.

Creation of Testamentary Trusts

Many clients can benefit from the creation of a testamentary trust in their Will. Testamentary trusts come into existence upon the death of the testator. Some examples of the benefits of a testamentary trust are: -

- Asset Protection – by placing the asset in a trust helps protect it from creditors claims against an adult beneficiary or provide protection if a beneficiary is liable to go bankrupt.
- Protection of an inheritance in a family law dispute.
- Tax reduction – by providing a mechanism to distribute the income of the trust to a range of people in order to obtain the best outcome for tax purposes.

Please contact us if any of the above issues are of concern to you.

Property Law

The First Home Owners Grant has been increased from \$7,000 to \$14,000 for established homes and to \$21,000 for those who intend to build a new home. This is known as the First Home Owner Boost Scheme. At this time the boost scheme is only available until 30 June 2009 so now is the time for those of our clients who have yet to purchase their first home to consider doing so.

To be eligible for the First Home Owners Boost Scheme you must satisfy the following requirements: -

- The purchaser must be at least 18 years of age and not a company. The property cannot be held subject to a trust.
- At least one applicant must be an Australian citizen or permanent resident.
- At least one applicant must reside in the home as his/her principal place of residence for a continuous period of at least 6 months commencing within 12 months of completion of the purchase.
- Neither the applicant nor his/her spouse has previously received a First Home Owner Grant in any state or territory.
- Neither the applicant nor his/her spouse has previously owned or had an interest in residential property anywhere in Australia prior to 1 July 2000.
- Neither the applicant nor his/her spouse has occupied for a continuous period of at least 6 months, a residential property in which he/she acquired a relevant interest on or after 1 July, 2000.

There are other criteria for the building of new homes or purchases of property 'off the plan' and **Amanda Blackman** can advise of these and all property issues on an individual basis



Developments in Family Law

For any person whose relationship has broken down there are a myriad of financial, family and personal issues to consider and resolve which can be overwhelmingly confusing in the context of emotional hurt, anger and distress.

Recently, major amendments have been made to the *Family Law Act* bringing de facto couples within its orbit on property matters. Additionally, the Act has been amended so that partners of women who conceive children using artificial procedures are now regarded as parents.

An important report was released by the Attorney General recommending that the perplexing two court system currently dealing with family matters (Family Court and Federal Magistrates Court) be merged.

The expansion of Family Relationship Centres and the new accreditation system for family dispute resolution practitioners has taken some of the disputation surrounding parenting matters out of the courts. It is also giving more people the opportunity to pursue their rights inexpensively where they may have felt precluded in the past. The under resourced courts are the domain of last resort.

The NSW parliament has reduced the amount of red tape in the adoption process for step parents, relatives or those who wish to adopt a child from overseas. The time that an applicant needs to have had a pre-existing relationship with the child prior to adoption has been reduced to 2 years.

New police procedures have been introduced in NSW to provide better protection for victims of domestic violence. The police now have clear instructions to arrest and charge offenders of domestic violence thereby removing the onus on the victim to press charges. Every person and child has the right to a safe environment.

A consultation utilising our skills and experience, results in the relief of a burden shared with professionals who can constructively guide you through the maze. We utilise counselling, negotiation, mediation, collaboration and where necessary, litigation. Our ultimate objective is to help you build invigorated, healthy family relationships and to start a positive new life chapter with your rightful share of assets. **Maryanne Ofner** is trained in collaborative practice.

NEED HELP WITH A LEGAL PROBLEM?

Do call us if you have a query. There is no charge for quick phone advice and if we can't help we may be able to identify someone who can.

DISCLAIMER

This newsletter is for the benefit of clients. The information is of a general nature only. You should not act solely on the basis of material contained in this newsletter.