

# TayLAW

SOLICITORS

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The information in this newsletter is merely a guide and is not a full explanation of the law. This firm cannot take responsibility for any action readers take based on this information. When making decisions that could affect your legal rights, please contact us for professional advice.

## TAYLAW SOLICITORS

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Our thoughts are with all of those who have lost loved ones, homes or livelihoods as a result of the recent floods in Queensland, New South Wales and Victoria and Cyclone Yasi in Northern Queensland. We have been attempting to contact clients directly to determine if they require our assistance at this most difficult time.

If there is anything that we can do to assist please do not hesitate to contact either of our offices.

In 2011 and beyond we will be keeping you informed of recent developments at our offices and in matters which might affect you directly. This is the first of a quarterly newsletter which we hope you find informative.

## Points of View from the Staff

### New Staff at TayLAW

#### Brooke Ward – ParaLegal.

Brooke started her legal career in 2006 working in the Criminal Registry of the Supreme and District Courts in Brisbane. Since then she has worked as a Clerk of the Court in the Maroochydore Magistrates Court, and as a paralegal in a law firm specialising in commercial litigation.

Brooke has been studying a Bachelor of Laws and Bachelor of Business since 2009, and hopes to graduate by 2013. She volunteers at the Suncoast Community Legal Service and is an active surf lifesaver at Marcoola SLSC.

Since joining TayLaw Solicitors in July 2010, Brooke has become the firms Family Law paralegal and Beth's personal assistant. She also assists Jessi in conveyancing matters when needed.

#### Sam Pigg – Junior Receptionist

Sam has joined the team upon graduating High School and plans to study Law in 2011. Sam is our pleasant receptionist and can be contacted for all appointments and general contact with the firm.

#### My experience at TayLAW Solicitors

##### School Based Trainee

"I started working at Taylaw early in July. I emailed Scott and immediately I received a phone call back. My school and I met with Scott and I was signed up as a School Based Trainee. I started work and didn't realise all the different things that Solicitors do. It is definitely not like what you see on TV. I have worked on many different cases, I have helped with Conveyancing, Family Law, Criminal Law, Debt Recovery and some administration work. When I arrive of a Thursday there is always something for me to do, anything from research and attending meetings. I love working here and I enjoy all the work I am given and all the staff are willing to answer my questions. Every Thursday I can't wait to get to work. The most enjoyable thing about working at TayLAW is seeing my work is being able to assist Solicitors practically."

Zac Cleal, Aged 15— Grace Lutheran College.

#### What's inside...

- Changes to pool fencing laws
- Where there's a will there's a way
- Neighbourhood Disputes Resolution Bill 2010
- Social Networking: To 'Tweet' or not to 'Tweet'
- Proposed changes to the Body Corporate and Community Management Act 1997
- Voluntary administration: What about the employee?

## New pool fencing laws effective December 2010

New laws for pool safety, including spas, came into effect in December 2010 for Queensland pool owners in the aim of reducing incidents of drowning and serious immersion injuries among young children in swimming pools.

Pool owners are currently required to ensure a pool is enclosed with compliant fencing regardless of when the pool was built, with changes to the *Building Act* now requiring owners of a premises with a pool to obtain safety and compliance certificates from their local council or privately certified pool inspector.

The new laws will require pool owners to undertake compulsory pool inspections



and obtain safety certificates, with new fines of up to \$16,500.00 for instances of non-compliance.

The laws will also provide provision for the compliance of pool fencing for indoor pools, hotel, motel and caravan park pools, as well as requiring fencing for portable pools deeper than 300mm.

Through the compliance and certificate program the government will work to establish the State's first swimming pool register with greater powers of entry for local government organisations to undertake compliance inspections.

A spokesman for Stirling Hinchliffe, Minister for Planning and Infrastructure said pools would be inspected by councils and privately certified pool inspectors, with inspections costing the resident approximately \$90.

Since Queensland first introduced pool safety laws in 1991, the number of child drownings in the state has halved. The new legislation aims to reduce this number even further.

If you are buying a property with a pool, ensure the seller has a valid compliance certificate. Noncompliant pools can cost much more than the price of an inspection when not deemed up-to-standard.

An owner must provide a prospective buyer or tenant with a copy of the pool safety certificate.

Bodies Corporate must ensure that they have a valid compliance certificate in their records that is updated on an annual basis.

## Where there's a will, there's a way

In Queensland there are certain laws allowing people to apply for a share in an estate. Increasingly, bequests are being challenged in the Courts by family members, dependents and other parties who have not been provided for in a Will.

*"Where there is a Will there is a relative, where there isn't a Will there is chaos."* (Anonymous)

There are certain things that you should consider to ensure you have a Will in place, and ensure that it can be regarded as valid. This article explores a few of the issues you should consider to ensure that your wishes can be accommodated.

The most important rule to remember is to make and update your Will when you:

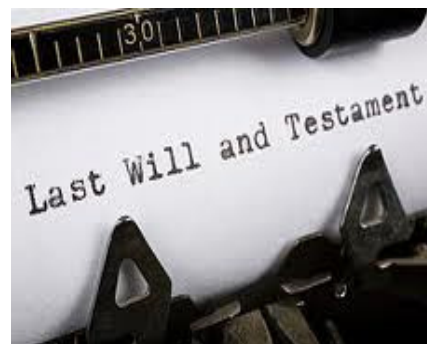
- get married or divorced
- have children
- buy or sell real estate
- encounter a change to your personal circumstances

When writing your Will it is important to get legal advice to ensure the best succession planning for your particular circumstances.

You may wish to exclude a partner, child or dependent without realising there may be significant legal or cost implications on your estate.

Essentially, there is no point in writing a Will if it won't be deemed valid!

Having a Will, and having it prepared by a Solicitor will ensure that your wishes will be adequately provided for, and will minimise the risk of a challenge to your estate.



## Neighbourhood Disputes Bill 2010

In October, a man from Morayfield, north of Brisbane, was charged with the assault of his neighbour, telling police '...he wouldn't trim the hedges.'

In Queensland, issues relating to trees and fences are the most common form of neighbourhood dispute – there is currently no statutory law in Queensland that provides for disputes relating to nuisance trees, and laws relating to fencing date back to 1953.

As our population grows we find that we are living in closer spaces than ever before, prompting the Queensland Government to release a draft consultation paper on how neighbourhood disputes can be resolved. The consultation materials provide for clearer guidance in the instance of a dispute

through better definitions for trees and retaining walls, confirmation of the ownership of a tree and the appointment of the Queensland Civil and Administrative Tribunal to assist in the resolution of neighbourhood disputes.

These changes are not yet law and are still being considered.

### What does this mean for you?

- As a tree owner ('tree keeper') you are responsible for the cutting and removing of overhanging branches, ensuring a tree does not cause damage or injury to a person or a person's property.

- Ownership of a fence on a property boundary is shared between neighbours.
- Before cutting down a tree it is best to contact your local government
- An edging hedge is recognised as a fence



## To 'Tweet' or not to 'Tweet'

*Should a teacher 'friend' a student on Facebook? Your boss adds you as a friend: confirm or ignore?*

Social-networking has indeed become part of "everyday life" with new uses and applications continuing to emerge.

This article takes a glance at the emerging issue of social-networking in the legal space.

The use of social networking continues to grow with Facebook and MySpace boasting more than 350 million members between them. But the list of issues governing appropriate use of social networking and freedom of speech is growing too.

Historically, legal papers were served in person or via the post, and jurors kept their deliberations in strict confidence, but in 2010 things are a little different. The following are recent examples in which the world of social networking has played a part in the legal process:

- **October 2010** – Australian police undertake a national first when they serve court papers to a cyber-bully via social networking site, Facebook. Having previously tried to serve the papers in-person, via post and over the phone, police seek the Court's permission to serve the papers via the social networking platform. A written and video copy of the order was sent to the man's inbox where he accepts the order and vows to delete his profile page.

- **October 2010** – A mother in a custody dispute discusses "...ripping her husband off for another \$20,000" The judge grants custody of the children to their father then orders the mother to pay \$15,000 of his approximate \$35,000 legal bill.
- **October 2010** – A British schoolboy is charged after killing a cat and later discussing the incident on his Facebook page.
- **October 2010** – A Brisbane man charged with murder may appeal to have his case permanently stayed after prejudicial information is published on the internet.
- **March 2009** – A juror in Florida, US, admits to the judge that he conducted internet research into the case. On questioning other jurors it became evident that eight others also researched the case. The judge declared a mistrial.
- **February 2009** – A juror in Arkansas, US posts eight "tweets" on Twitter during court proceedings. The defence counsel seeks a motion for a mistrial when one discovered tweet reads, "I

justgave away TWELVE MILLION DOLLARS of someone else's money."

- **2008** – A juror takes a picture of a murder weapon and posts it to his social networking page. The photo of a 15-inch double edged, saw-tooth knife sees the juror charged with contempt of court.
- **2006** – The New Hampshire Supreme Court, US hears a motion to overturn a murder conviction based on pre-trial comments by a juror on his blog. The juror wrote, "...now I get to listen to all the local riff-raff try to convince me of their innocence."

### Tips For Social Networking Use:

- Remember: You put it out there – forever!
- Getting divorced? Stay off Facebook!
- Be aware of privacy tools available to you, and how to use them.
- Know who is in your friend network, and who you are adding.
- Don't drink and type – everyone in your network can see it!
- Always be vigilant about the information you post online.

"Liability limited by a scheme approved under Professional Standards Legislation"