



## **NEWSLETTER**

### **Autumn 2016**



#### **LEGAL UPDATE**

##### **Cooling Off**

A recent Supreme Court decision has made the controversial decision that a purchaser cannot exercise its statutory right to cool off by sending written notice to the vendor's real estate agent. The court decided that the term 'agent' as used in section 31 of the *Sale of Land Act* (the section which gives a purchaser the right to cool off) did not extend to the 'real estate agent'. This has overturned a long standing convention in the profession, and has wide-ranging ramifications for purchasers wishing to cool off.

Local Lawyers believes the decision is wrong as a matter of both policy and law, and the decision will likely be appealed and hopefully overturned. However, for the time being purchasers must exercise great caution when purporting to cool off, and based on the decision must actually provide the written notice to the vendor directly (as opposed to the selling agent or vendor's lawyer).

##### **Lease Repairs**

The Building Act makes landlords responsible for the performance of and/or payment for Essential Safety Measures. Additionally, section 52 of the *Retail Leases Act* makes landlords responsible for maintaining the premises in the same state as at the beginning of the lease. These are onerous burdens on landlords and must be taken into account when calculating any expected rental return from a property.

##### **Powers of Attorney – New Forms**

The new forms of Power of Attorney have been in force for some months now. Local Lawyers was quick to take up the new forms, and are pleased to see that they have been well received by our clients.

## Foreign Vendor Withholding Tax

The Australian Tax Office is concerned with foreign resident vendors not paying Capital Gains Tax. From 1 July 2016 all vendors of properties sold for over \$2 million will be presumed to be foreign vendors and liable for 10% withholding unless they obtain a clearance certificate from the ATO establishing that they are not foreign residents. It is a crazy thing to presume that all vendors of properties are foreign residents and to require all vendors of properties over \$2 million to obtain a clearance certificate, however that will be the situation after 1 July 2016. We will obtain these certificates on behalf of vendors and the important consideration will be to link the name of the registered proprietor of the land with a taxpayer. It will be necessary for us to obtain personal details from you, in particular your Tax File Number if you are prepared to entrust us with it. This will allow us to match up the name on the title to the taxpayer and thereby obtain an online clearance certificate to minimize the inconvenience to our clients.

## Williamstown Office

Our office of 56 Ferguson Street, Williamstown will be attended full time from 1 May 2016. Appointments can be made to see any of our five solicitors at the Williamstown office and we invite you to call in to make an appointment.

## New Email Address

We have changed our general enquiries email address to [reception@locallawyers.com.au](mailto:reception@locallawyers.com.au).

## New Website

We have changed our website to [www.locallawyers.com.au](http://www.locallawyers.com.au).

## Wills, Powers of Attorney & Testamentary Trusts

Document	Cost for one person	Cost for a couple
Will	\$250	\$400
1 Power of Attorney	\$200	\$300
2 Powers of Attorneys	\$300	\$400
Will and 1 Power of Attorney	\$400	\$500
Will and 2 Powers of Attorney	\$500	\$600

*\*The 2 Powers of Attorney referred to are Medical and Personal, Financial & Legal.*

Appointments can be made to see Russell Cocks on Mondays and Fridays or Geoff King on Wednesdays and appointments are also available one Saturday each month.

Wills for couples in second marriages are more expensive as these relationships require more complex documents. Clients with special needs may be advised to have a Testamentary Trust Will prepared. The cost is \$800 for a single and \$1,200 for a couple.