

# MACLARENS

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## LAWYERS

# NEWS

*protecting your interests*

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Established in 1945, Maclarens has serviced the legal needs of western Sydney for over 60 years. Maclarens has developed a strong reputation for excellence in legal practice and the firm is widely recognized in this region. The team at Maclarens are Professional, approachable and accessible.



### **BUSINESS NEWS**

#### *National Business Names Registration*

The Council of Australian Governments have agreed to national reform projects that will affect laws currently administered by NSW Department of Fair Trading. Changes will take effect as early as 1 July 2010 through to 1 July 2013.

One of these reforms involve a national business name registration system.

ASIC will, from 3 April 2011, take over responsibility from the NSW Department of Fair Trading for the registration of business names and introduce a national registration service.

Existing registered business names will automatically be transferred to the national system and attain a national registration status.

After April 2011, new businesses must obtain an ABN before they can register a national business name. However, to simplify the process, businesses will be able to use an online service to register national business names.

### ***Need a Solicitor to help you to understand your rights and obligations as a director or shareholder?***

A Company is a separate independent legal entity and is distinct from its directors, shareholders, employees, manager's agents, financiers or other interested parties. What does this mean to you if you are a director or shareholder of a company? While the assets of the company belong to the Company, the shareholders own the Company. The Directors and to some extent, the Shareholders can make decisions affecting the assets of the Company.

Shareholders are not liable for the Company's debts over and above any amount unpaid on shares.

As a director you can be liable for debts (a) incurred by the Company at a time when the company is unable to pay debts as they fall due, (b) to compensate the Company for losses it suffers as a result of your breach of your director's duties, (c) for some civil and criminal penalties.

Furthermore, as a director, you may be asked by banks, financiers or trade suppliers, to provide a personal guarantee before the bank, financier or trade supplier will agree to deal with the Company. If you give the personal guarantee or some other form of security, such as a security over your assets to secure the Company's obligations to pay the loan or debt, and the Company does not pay the loan or debt, the bank, financier or trade supplier is likely to call upon you to pay the loan or debt. The guarantee may be limited or unlimited and could result in substantial exposure.

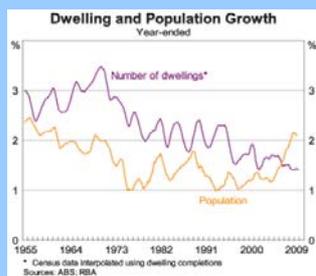
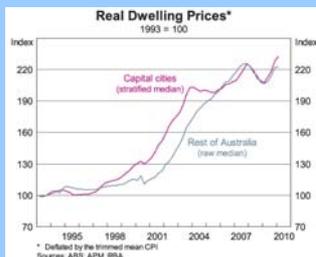
Therefore, you must ensure that you diligently control the financial position of the Company to ensure that it does not incur debts that it cannot pay when they fall due.

***The government announced in May that it would cut the company tax rate for small businesses from 30 per cent to 28 per cent from July 2012.***

## PROPERTY NEWS

### Dwelling Prices & Growth

Luci Ellis, Head of Financial Stability Department at the Reserve Bank of Australia on 18 May 2010 commented on recent developments in the Housing Market. She referred to graph 1 below showing that "property prices have recovered from their slight decline in 2008." She also reports, based on Graph 2 below that population growth has picked up a lot, starting in around 2004 and concludes that "it is now running noticeably faster than growth in the dwelling stock".



*Maclarens understands that you need timely, sound advice and most importantly, you need it at the right price. We investigate your needs, conduct our due diligence and then provide advice to you in a clear and precise manner. Many people make the mistake of equating value with complexity and length. Making something simple is often far more valuable than making it complex*

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## Legal Protection - Copyright laws

Copyright is a type of legal protection for people who express ideas and information in certain forms. Copyright subsists in the expression of an original idea reduced to some material form, not in the idea itself. The most common forms are: writing, visual images, music and moving images. Copyright may also protect the overall appearance of a product that you have designed.

Copyright owners are given a bundle of exclusive economic rights to do certain acts with an original work or other copyright subject-matter. For example, the right to copy, publish, communicate, commercialise and publicly perform the copyright material. That right of reproduction remains with the copyright owner not with the owner of or subsequent owner of the good. Other persons may not make unlawful copies of the copyright material though. This means that the purchaser of a novel does not have the right to photocopy the pages and distribute them to their friends without the copyright owner's permission.

However, copyright does not give the owner an exclusive monopoly in the copyright subject matter. Independent creation of similar or identical subject matter by another does not constitute an infringement of that copyright, if there is no cause or connection between the two works.

Copyright creators also have a number of non-economic rights. These are known as moral rights. Moral rights recognised in Australia are the right of integrity of authorship, the right of attribution of authorship and the right against false attribution of authorship.

If you are an employer and your employees create, make, write or develop products, materials, manuals or other products for you, you should ensure that you understand who owns the copyright which is essential to your business. You must also ensure that you do not infringe the moral rights of the original creator of the material.

If you market your material online and you used a web designer or web consultant to help you create your website, be sure that you understand what rights you have to modify or use your website.

In Australia, copyright protection is automatic without the need for any particular registration and this applies whether or not the © symbol is used. If the © symbol is used however, the author is entitled to worldwide protection. This is important to note for all businesses or persons who have a website which is accessed worldwide.

## CONSTRUCTION LAW NEWS - DEVELOPMENT APPROVALS – MINIMUM 5 YEARS

Last month both houses of the NSW Parliament passed the Environmental Planning and Assessment Amendment (Development Consents) Bill 2010. The Bill does four key things, one of which is to mandate that all DA consents which were still operational on 22 April 2010, will last for a period of 5 years from the date of consent (regardless of the original approved period). It also mandates that all DA consents issued between 22 April 2010 and 1 July 2011 and in the future will be for a minimum of 5 years. The Bill also allows the Government to make a regulation to prescribe what is meant under the Act by 'physical commencement' of a consent.

## OUR SERVICES

### Personal Services

Family Law  
Wills and Estates  
Property  
Conveyancing  
Court Work (Criminal, Traffic, Civil)  
Public Notary

### Business Services

Buying and Selling Businesses  
Commercial and Retail Leasing  
Companies and Trusts  
Commercial Disputes  
Local Govt/Land & Environment  
Intellectual Property

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