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Our New Home

After three years at Red Hill, Mulcahy Ryan Lawyers has expanded to new offices at 8/62 Macgregor Terrace, Bardon.

Our new premises have allowed us to grow our staff and provide even more comprehensive service to our clients. Macgregor Terrace provides more accessible parking, and further improves the quality of our criminal defence representation. See the sidebar for our updated contact details.

Our Three Year Anniversary

On the 17th of October, we commemorated Mulcahy Ryan Lawyers' three year anniversary, soon after moving to our new premises.

The function also marked eight years since Wendy and Brendan started working together. Cooperating on all legal matters, they are personally committed to providing unsurpassed criminal defence.



Our New Website

Our firm's website has been revamped to reflect our expanded ambitions as a company. Feel free to visit us at:

www.mulcahyryanlawyers.com.au.

Our site provides an overview of important concepts in criminal defence, as well as an in-depth exploration of our services and an introduction to our friendly team.

Christmas Closure

Mulcahy Ryan Lawyers closure over the Christmas holidays	
Closed:	Re-open:
5pm Friday 19 th December 2014	8am Monday 5 th January 2015

For emergency advice, please contact either Wendy or Brendan on their mobiles:

Wendy Mulcahy (Principal):

0402 561 650

Brendan Ryan (Senior Consultant):

0413 120 100

Commitment to Community

Our firm continues to maintain a strong community presence, beyond our dedication to ethical legal practice and the best possible defence for our clients.

Guiding Youth

Over the past two years, we have conducted a series of successful community information evenings, notably at Marist College Ashgrove and Mt St Michael's College. We discuss topics such as your legal rights, drugs, alcohol, texting, and internet usage. These sessions are aimed at informing both parents and youth of relevant law and the dangers of risky behaviour.

If you're interested in these sessions, and wish to organize one for your school, please call us on 3217 5511.

Should you have any concerns regarding real or potential danger to your child, relating to their behaviour or internet usage, we are more than happy to consult with you in our office and provide initial advice without fee.

Helping Hand

Wendy has also continued her work with the Caxton Legal Centre. She is intrinsically involved in the management of Caxton and has been a Board member since 2010. The Caxton Legal Centre provides legal assistance to low income and disadvantaged persons.

New Legislation:

Have a Safe Night Out

For many, the Christmas holidays represent a chance to relax with friends, knock back a few beers, and enjoy Brisbane's nightlife. As with all things though, drink in moderation – or your night might not turn out the way you planned.

The Queensland Government's 'Safe Night Out' legislation came into effect in the latter half of this year, intended to reduce drug and alcohol-related violence in Queensland's bars and clubs. This Act increases police powers and penalties for bad behaviour.

Of particular note are the 'Sober Safe Centres,' the first of which is being trialled in the Brisbane CBD on Friday and Saturday nights. As of October 3rd, police have the power to detain intoxicated individuals for up to 8 hours in this Centre, where a medical professional ensures their health and the detainee pays the bill.



Continued on next page...

This bill starts at \$277.70 and increases by \$133.85 for each return visit. We suggest you moderate your intake or you may find yourself short on beer money.

Revellers can be detained in the Sober Safe Centre without having committed (or being charged with) any offence; this has been criticized by the Australian Council for Civil Liberties.

Safe Night Out encompasses many other amendments to existing legislation. The Queensland Criminal Code has been modified via the creation of a new offence of Unlawful striking causing death, carrying a maximum penalty of life imprisonment.

This legislation is intended to target ‘coward punches’ where murder or manslaughter charges might not be proved. Section 340 has also been amended to increase the maximum penalty for assaults on public officers.

The *Penalties and Sentences Act 1992* is also central to the new Safe Night Out measures. Voluntary intoxication cannot be relied upon to mitigate an offender’s sentence, and the courts’ powers to ban an offender from licensed premises have been extended. Most significantly, sentencing courts are now *required* to impose a community service order (in addition to other penalties) for offences of violence committed in public while the offender was intoxicated.

Numerous other Acts have been amended. For violent offenders, a mandatory condition of bail is now participation in a drug and alcohol assessment and referral programme. Fines associated with offences to public order have been increased, and police may issue on-the-spot bans from licensed premises. Finally, penalties for offences involving anabolic-androgenic steroids are now comparable to those for misuse of methamphetamines and ecstasy.

Changes have also been made to the liquor licensing system, especially the *Liquor Act 1992*. Police powers have been expanded to permit undercover surveillance in licensed premises, the prohibition of licensees from promotional campaigns that encourage excessive consumption of alcohol, and increasing the investigative powers of the Commissioner for Liquor and Gaming.

All the above Safe Night Out measures will be implemented in locally managed ‘Safe Night precincts,’ equipped with networked ID scanners. The State Government has secured approximately \$49 million in additional funding over the next four years to support these measures.

For more information, see the Act’s Explanatory Notes at www.legislation.qld.gov.au/Bills/54PDF/2014/SafeNightOutLAB14E.pdf. Image via mypolice.qld.gov.au.



“The Safe Night Out Strategy is about preserving all that is unique and wonderful about Queensland’s nightlife and making sure that everyone can enjoy a safe night out in this great State.”

- Campbell Newman MP
Queensland Premier

Bikies’ Appeal Bounced

Queensland’s VLAD anti-bikie laws, properly the Vicious Lawless Association Disestablishment Act 2013, have caused controversy since their commencement. On November 14th they withstood their first High Court challenge, when Australia’s seven highest judges rejected Stefan Kuczborski’s appeal to declare the Newman government’s laws invalid. The appeal was backed by the United Motorcycle Council, along with donations from numerous other clubs and organizations.

The UMC argued that the laws were unconstitutional, as they allow the government, rather than the courts, to declare organizations ‘criminal’. The High Court unanimously agreed that Mr. Kuczborski lacked legal standing to even mount a challenge, and upheld the anti-association laws of VLAD as constitutional.

Barrister Wayne Baffsky, UMC counsel, maintained that other challenges would be made, and that “...the battle is certainly not over.”

For more information, see <http://www.brisbanetimes.com.au/queensland/bikies-plan-new-vlad-law-challenge-20141120-11qvca.html>. Image via abc.net.au.



Graffiti Cleaned Up

A modification to the *Penalties and Sentences Act 1992* means that graffiti artists will be compelled to repair the damage they cause. Part 5A, Section 110A, now compels courts to make a graffiti removal order for a convicted offender – whether or not the conviction is recorded. This order may be made in addition to any other penalties imposed, and may only be waived if the offender is physically or psychiatrically incapable of complying with the order.

The amended Part 5A amounts to compulsory community service for *all* those convicted, even first-timers, and regardless of other penalties. This includes obligations to a corrective services officer, and compounding penalties if more offences are committed during the service period.

For more information, read the amended Act at <https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PenaltASenA92.pdf>.

New Sentencing Principles

This February, the High Court of Australia's judgment in *Barbaro v The Queen; Zirilli v the Queen* ended the practice of prosecutors submitting an appropriate range of sentences to the courts. The High Court made it clear that such submitted ranges are matters of the prosecutor's opinion only, and should no longer be permitted.

This may introduce uncertainty in the sentencing process, but the full implications of the judgment are not yet clear. Although the Director of Public Prosecutions has directed staff to not provide sentence ranges to the court, as per *Barbaro*, the decision has not yet been interpreted in a Queensland case. Prosecutors may still submit comparable cases, implying that a similar sentence would be appropriate. Mulcahy Ryan Lawyers will continue to work from precedent sentences established by case law, and our significant personal experience in the field, to advise our clients on probable penalties.

For more information, see *Barbaro v The Queen* at http://www.hcourt.gov.au/cases/case_m3-2013, and *Sentencing Uncertainty* in Proctor magazine, June 2014 edition, by Alan Girle and Laura Regan.



DISCLAIMER: This newsletter and any information contained herein is intended for informational purposes only and should not be construed as a substitute for professional legal advice. We recommend that you seek competent legal counsel for direction on any legal matter.

FIFO

This has been a year of expansion for MRL – and not just in our new office. We have acted throughout Queensland, representing clients in Cairns, Normanton, Mackay, Mt Isa, Rockhampton, Gladstone, Gympie, Toowoomba, both the Sunshine and Gold Coasts, Tweed Heads in NSW, as well as our native Brisbane.

We endeavour to support those in need wherever they might need to appear in our courts. We have had to become used to a 'Fly In, Fly Out' lifestyle – and we certainly sympathize with those who experience this year-in, year-out. Nonetheless, Mulcahy Ryan Lawyers remains committed to providing uncompromising criminal defence, wherever our clients might need to be represented.

With that assurance, we wish you safe travel on your holidays, and a Merry Christmas from Wendy and Brendan!