



**LAWLER  
PARTNERS**

**MAKING YOUR BUSINESS STRONGER**

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# LawlerLink

A QUARTERLY PUBLICATION OUTLINING RELEVANT BUSINESS ISSUES FOR YOU

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AUSTRALIA'S BEST PROFESSIONAL SERVICE FIRMS  
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(\*turnover under \$20 million p.a.)

## LAWLER PARTNERS HUNTER VALLEY WINERY RUNNING FESTIVAL



*Above: Director Simon Rutherford & Hanne Humphreys test out the running terrain.*

Lawler Partners is proud to announce they will be the major sponsor of the inaugural Hunter Valley Winery Running Festival, which will incorporate the Region's only marathon event. The Festival is being organised by Event Director and local running enthusiast Paul Humphreys, and will be held on the 23rd July 2006 with Hunter Valley Gardens being the race headquarters.

The motivation behind the event is not only to satisfy novice and serious runners who are looking for more than a hard slog on the pavement, but also follows the trend of the regional running festivals overseas which are putting the lesser known regions of Europe on the sport enthusiast map.

There will be something for all ability and fitness levels, with the Festival featuring the marathon running race, (including a 2 or 4 person relay marathon), a half

marathon, a 10km run, a 5km run/walk and a Winery Wander Tour for those who want to take it a little easier.

Lawler Partners were immediately attracted to the event which has the potential to highlight the wonderful diversity of the region.

“Our firm is about helping our clients through the operational and strategic issues around the management of their growing businesses. Completing a marathon and running a business are closely aligned - the key to success is not only in the goal setting, it's also about the ongoing commitment and being strong in both mind and body”, commented Managing Director, Terry Lawler.

The marathon will be run on a 2 loop, 21.1km course utilising cycle ways and roads around Broke, Ekerts, Thompson, Debeyers, and McDonalds Road. Mr. Humphreys, who is also the event manager for the Hunters largest triathlon and the Hunter Mountain Duathlon Series has spent many hours on the course design and feels that while the course is not easy, it has a great mix of vineyard experiences and running terrain.

We encourage our clients and colleagues to participate in the Festival and look forward to seeing you there.

For further information contact  
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# THE Changing Landscape of SUPERANNUATION

DAMIEN PASSMORE

Budget night 9 May 2006 certainly included some surprises and the proposed changes to superannuation were amongst the most profound.

There was some expectation among industry professionals that the Federal Government would abolish, or at least reduce, the 15% tax on superannuation contributions. Instead it was the backend of superannuation taxes, the tax on withdrawals, that received the overhaul.

The proposed removal of the Reasonable Benefit Limit (RBL) system, combined with the enticing prospect of no tax on withdrawals for those over age 60, sounded musical as it flowed from the treasurer's lips but what was the cost, and what is in the all important fine print.

*Some of the costs include:*

- A failure to seize an opportunity to increase the incentives for those 30-45 to contribute to superannuation.
- A reduction in the ability to rapidly build a retirement nest egg at the back end of the work cycle (age 50+).
- An apparent lack of consideration of (or possibly just a simple disregard for) the effect of the proposals over the longer term (particularly as a consequence of the aging population).

For those in the 30-45 age bracket little consideration will be given to backend taxes when a superannuation contribution decision is made. It will be the immediate saving (ie. the difference between their marginal tax rate and the superannuation contributions tax rate) that will influence the decision of whether to contribute to superannuation.

Aside from the transitional provisions (allowing contributions of \$100,000 for those over age 50 until 2012) it is proposed that the maximum allowable contribution limit be capped at \$50,000. This will limit the ability of future generations to rapidly accumulate superannuation savings at the backend, once other financial responsibilities such as the mortgage have been cleared.

The other question that must be asked of the Federal Government is what they propose for the future, when a far larger slice of the population are over age 60, and the tax base has diminished accordingly. The more obvious answers appear to be:

1. Reintroduce backend tax on superannuation for those over age 60.
2. Increase the GST rate.
3. Increase the tax rates for future generations (with all of the attendant workforce participation side effects on an already diminished tax base).

When the above is considered it really does appear that that the Government found itself with the very troublesome triple combination of a very large budget surplus, a strong argument for the abolition of tax on contributions, and a reluctance to forgo that very lucrative source of taxation revenue. Seemingly the only alternative for the Government under such pressures was a radical superannuation change of an alternate form, to divert attention from their failure to remove tax on contributions. We definitely now have that diversionary radical change!

Make no mistake the changes offer some very significant benefits, particularly to those currently over age 50, and we will work closely with our clients to ensure that every opportunity to maximise wealth through superannuation is seized. However it is difficult not to be troubled by what appears, at first glance, to be fairly short sighted policy making.

Damien Passmore leads the Lawler Superannuation team. Damien can be contacted for further information via [dpassmore@lawlerpartners.com.au](mailto:dpassmore@lawlerpartners.com.au) or phone 02 4935 6157

Mike Faulkner, a Lawler client for the past 25 years and previous Chairman of Metalcorp Ltd, provides an insight into his success and his attraction with the Hunter and rural NSW.

Both Mike Faulkner and brother David were born in Newcastle. David went into the metal recycling industry and eventually managed Balcomb Recyclers. It was here that he met Terry Lawler who looked after tax and audit work for Balcombs. Mike took a different path and decided to become a Chartered Accountant. In 1974 he purchased a farming property at Walcha NSW, and it was this rural exposure that generated a business idea that would become one of the largest collectors of scrap metal and distributors of downgrade and reusable steel in the country.

It didn't take long before Mike identified that there was a market in rural areas for second hand steel which had a number of uses, including fencing, shed construction, stock yards and structural ramps. Servicing this market would become his first business, known as MI Steel, which capitalised on the reject steel production from the former Newcastle BHP. Mike found a good customer base amongst the farmers in the Bathurst and Tamworth/Armidale regions.

Balcomb Recyclers came up for sale in 1982 and together Mike & David set about the challenge of finding the one million dollars required to fund the purchase. After a visit to every bank and taking a mortgage over their parents' house, they finally had the funds to finance the deal. Balcomb Recyclers & MI Steel merged together and with their original loan paid off quickly, the brothers embarked on building the combined business, known as Metalcorp from their head office in Hexham NSW.

Metalcorp was built into a significant surplus scrap metal company, employing over 270 people and operating at 56 locations across Australia.

"There is no doubt that hard work and good luck played a part. However, we also found a unique product that was not distributed or marketed. The combination of David being able to source the product and my understanding of the market to sell it in, was instrumental to the success that we had", reflects Mike.



Above: Mike & Sheila Faulkner on their Walcha Property.

# A UNIQUE COMBINATION

As the company prepared to float in the early 1990's they worked closely with Terry Lawler and his team who provided strategic and operational guidance in the areas of systems, procedures, corporate governance, audit and tax advice.

Mike comments "We grew together with Lawler Partners. They have always been able to look after any business issues I have had, both as a small private operation and then as a public company. Even now as an individual."

The business became a public company listed on the ASX in 1993 (Metalcorp Ltd) with Lawler Partners providing Tax and Audit services. The Faulkner brothers were the two major shareholders, with Mike the Chairman and David operating the scrap metal business. In 2000/01 Smorgans were to take over Metalcorp Ltd and the Faulkner's left in an operational and management capacity.

Having the head office in the Hunter made good business sense as Newcastle was the source of the material. Mike however, didn't relocate but kept his base at Walcha. He was a keen pilot and could often be seen flying in from his airstrip on the family property where he would spend 3 - 4 days a week in Newcastle.

About twelve years ago, initiated by an interest in cattle breeding, he leased the picturesque property Carrington Stud and its homestead, which backs onto the Hunter Valley No 1 Mine, near Jerry's Plains, NSW. Mike now sub leases out the property which Lawler Partners have also had a twelve year involvement with.

Today Mike has another business focus - self storage operations in Coffs Harbour, Orange and Tamworth. He still retains a strong connection with Lawler Partners who continue to provide personal and professional advice.

## MIKE'S BUSINESS ADVICE

- Control your information systems that produce vital data.
- Employ people who are better than you.
- Understand that the strength of the business is in the people and don't be afraid to pay them well.
- Cash is king - you can make a profit but if you can't control the profit you will impact your cashflow.

# Happenings

# Lawler Partners



## New Staff Appointments

### Christina Murdoch



Christina Murdoch joins the Lawler Partners Executive Team in the role of Human Resources Manager.

Christina's background is as a Chartered Accountant, and she has worked with the University of Newcastle since 1990. Here Christina held various positions, commencing as a Project Officer (Finance Division) and progressing to the Executive Director, Business Services in 2001.

Her passion is in the area of human and organisational development and she is currently studying psychology with an emphasis on organisations.

Christina says "One of my key early focuses at Lawler Partners will be implementing programs which not only assist staff to develop to their full potential but also to foster the continued development of the firms' service-orientated culture. My personal goal is to really make a positive difference".

### Clayton Hickey



Experienced Auditor Clayton Hickey has returned to Newcastle to commence a career with Lawler Partners as an Audit Manager.

Previously Clayton has worked at Big 4 firm Deloitte Touche Tohmatsu in Sydney where he serviced their middle markets division which offered small to medium private and public clients with assurance and business advice. Clayton also spent time in the transactions area where he worked on capital raisings, advice on mergers and acquisitions and sales.

Clayton originally began his career in the Hunter working with the diverse business services client portfolio of local accounting firms.

Audit Partner Jeff Abela comments "Clayton brings us considerable technical and management expertise. I believe he will play a pivotal role in ensuring the Newcastle audit function continues to offer clients the highest standards of professional integrity, objectivity, independence and technical excellence."

## Strategic Business Management First For Lawler Partners

*Lawler Partners Intermediate Accountant Mitchell Stone, has achieved first in the Nation in the Institute of Chartered Accountants of Australia Module of Strategic Business Management.*

Mitchell was honoured by the firm at a recent function where he was acknowledged by the Directors for his tremendous achievement. He will formally receive his certificate from the Institute of Chartered Accountants of Australia when he attends their Certificate Ceremony held in Sydney in June.

Lawler Partners Managing Director Terry Lawler, praised Mitchell on his achievement stating that "Mitchell had commenced with the firm as part of the Graduate Program and has progressed to be a highly valuable member of our advisory team who provide guidance to clients on operational and strategic issues."

*Mitchell also achieved Merit level (top 5% of the nation) within his Financial Reporting Assurance module and joins eight of the firms existing staff who have attained this high level over the past 5 years.*

According to Mr Lawler, "I have no doubt that our HR strategy of attracting the best and brightest and providing opportunities for our people to progress their careers through specialisation, generous study leave support and ongoing mentoring is directly linked to our clients recognising us in the recent 2006 BRW-St George Client Choice Awards."



*Above: Terry Lawler congratulates Mitchell Stone.*



# Is Your Business @RISK

HOW WELL ARE YOUR BUSINESS SYSTEMS AND DATA PROTECTED?



Business Continuity and Risk Management are increasingly a concern for many business owners and managers. As the level of information we collect in business increases and as devices, systems and networks become ever more complex, there are simply more things that can go wrong. Any loss of systems and/or data can have a serious financial impact.

With Directors obligated to protect data and ensure effective management of the IT environment in business, undertaking a risk assessment and developing a plan that defines the resources, tasks and systems required to manage the risk is crucial.



*The Risk Management Plan should:*

- a) Understand the deficiencies in the current IT environment;
- b) Prioritise the actions for dealing with the areas at risk;
- c) Implement a framework to deal with the risk; and
- d) Implement a technical solution whereby data recovery of vital business systems is assured;

Business owners must ensure the risk management framework is a living document of IT resources, whether internal or external providers. Unfortunately with IT systems, there is no guarantee of reliability, but with a risk management plan in place you will be prepared and have the ability to resume business operations quickly and effectively without financial impact.



For further information on how Lawler Partners can assist your business deal with such risks please contact Director Steve Meyn via [smeyn@lawlerpartners.com.au](mailto:smeyn@lawlerpartners.com.au) or phone 0425 266 121

# Executive Share

## PLANS Part 2

### LOOK OUT FOR THE 'SOFT' ISSUES!

Bill Hovey is the CEO of the linchpin group australia - a multidisciplinary management consultancy based in Sydney.

In the second of a two-part article, Bill discusses some of the 'soft' issues which can create concern within a business when an ESP is introduced. This article outlines the potential for problems arising from the distribution of the shares and highlights the danger of a change in dynamics of the Executive Team.

#### DISTRIBUTION OF SHARES UNDER THE ESP

Careful and considered planning is needed to deal with a number of issues here:

ISSUE/PERCEPTION	TACTICAL SOLUTION
<p>1 Criteria</p> <ul style="list-style-type: none"> <li>• Tenure</li> <li>• Seniority</li> <li>• Role</li> <li>• Performance</li> </ul>	<p>Provide the Executive Participants with the opportunity to contribute to the overall design of the ESP.</p> <p>Reinforce the strategic importance of the ESP and achieve 'buy-in'.</p>
<p>2 The psychology of the 'award' - for some, the 'award' and the 'criteria' might be seen as a</p> <ul style="list-style-type: none"> <li>• Challenge to their ego</li> <li>• A questioning of their effort</li> </ul> <p><i>(For the owner, a critical question is: "does it make a difference to their performance?")</i></p>	<p>Ensure Individual alignment to strategic and operational outcomes through personal plans (so that it does make a difference to their performance)</p>

#### CHANGED DYNAMICS

The next 'danger zone' for the business is a possible change in the dynamics of the Executive Team. This issue is behaviour-driven. Resolution is dependent on a flexible and compassionate approach on the part of the majority shareholders/business owners.

ISSUE/PERCEPTION	TACTICAL SOLUTION
<p>1 The attitudes and behaviours of the executive who becomes 'owner' can shift negatively because 'now' he/she is subject to a stronger influence on his/her future financial well-being.</p>	<p>There may be a need for modification of behaviour by all parties to the ESP. The (majority) owner may need to modify his/her behaviour to more listening and the executive participant may need to temper his/her approach - ownership through an ESP does not entitle an executive participant to behave as the 'big doggie' in the group.</p>
<p>2 Peer relationships within an executive team sometimes change where previously 'enabling' peers will become 'barrier' rivals.</p>	<p>An executive retreat represents one opportunity to reaffirm the aggregate benefits to the team of participation in the ESP and the importance of working together if the ESP is to succeed through the achievement of agreed business outcomes. The executive retreat can facilitate both Strategic Renewal and Strategic Planning, it will also serve as an opportunity for the owner to discern/deal with any troublesome behavioural issues which may have arisen.</p>
<p>3 An extreme expression of negative executive behaviour arising from an ESP is a subtle shift in culture from 'shared accountability' and collegiality to one where blame shifting - and ultra-competition - reflects the relationships amongst executive members.</p>	<p>Set team-based expectations regarding future behaviour. These may be wrapped up in an 'Executive Code of Behaviour' which is built by the team and signed-off by each individual.</p>

For further information contact Bill Hovey via [bill.hovey@linchpingroupaustralia.com](mailto:bill.hovey@linchpingroupaustralia.com) or phone 1300 131 167

# THE Transmission **of** Business

## IMPACT OF WORKCHOICES WHEN PURCHASING A BUSINESS

Purchasing a business as a going concern has implications for the employees currently working for that business, and for the employee relations environment the new purchaser may hope to establish.

This article looks at the impact of existing agreements and awards on transferring employees, and options purchasers can consider when taking over a business.

### TRANSMISSION OF INDUSTRIAL INSTRUMENTS

Where an employer sells a business and employees transfer employment to the purchaser, a transmission of business occurs.

Industrial instruments such as awards, collective workplace agreements and individual workplace agreements (AWAs) which cover employees and their original employer will transfer to bind the new employer.

These instruments last for a maximum of 12 months (the transmission period) and apply only to transferring employees (i.e. not new employees or existing employees of the new employer). Those transferring employees must be doing the same work as could be covered by the industrial instrument. They cease being transferring employees if they change the nature of their work.

### PROBLEMS CAUSED BY TRANSMITTING INSTRUMENTS

Continuing existing agreements can complicate the purchaser's business operations, particularly where the purchaser wants to merge two workforces and already has workplace agreements in place which cover their existing employees.

One option to avoid this is to create a new workplace agreement to cover transferring employees, and make it a condition of employment that these terms and conditions apply to their employment. This workplace agreement could be in the same terms as an agreement covering existing employees, or could set the terms and conditions the new employer wants

in their new business. A new workplace agreement could be:

- A greenfield union agreement, made with the relevant union before any employees transfer;
- A greenfield employer agreement made by the employer alone, before any employees transfer;
- An Australian Workplace Agreement made with each individual transferring employee.

Alternatively a new workplace agreement, either collective or individual, can be negotiated with all transferring employees after the transfer of employment.

### RECOGNITION OF PRIOR SERVICE & ENTITLEMENTS

Apart from the transmission of industrial instruments, there is often confusion over calculation of service-related entitlements such as parental and other leave.

The new employer must provide parental leave under the Australian Fair Pay and Conditions Standard, including recognising prior service with the old employer.

In relation to all other entitlements, the new employer must agree in writing to accept liability for some or all these entitlements, and to recognise prior service with the old employer when calculating these entitlements. Only with written agreement of the new employer does the old employer's liability cease. It is important to be very clear in finalising the contract for the purchase of the business that these issues are addressed. *Employees also must be advised of the terms and conditions of their employment with the new employer, including the industrial instrument which will apply.*

**If you are considering purchasing an existing business, it is important to conduct a thorough due diligence review of the business.**

Contact Director Kylee Dare on 02 4935 6104 for a checklist which addresses all the employee relations issues which may arise with the transmission of an operating business.

# Tax Calendar

## June 2006

- 3 Final due date for lodgement of all tax agent client Income Tax Returns not previously due for lodgement.
- 21 Due date for lodgement and payment of May 2006 monthly BAS and IAS.
- 30 End of the 2006 Financial Year.

## July 2006

- 14 Last day to issue 2006 PAYG Payment Summaries to employees
- 21 Due date for lodgement and payment of June 2006 monthly BAS and IAS.
- 21 Due date for lodgement and payment of 2006 year NSW Payroll Tax Annual Reconciliation

## August 2006

- 14 Last day to forward to the ATO original 2006 PAYG summaries issued to employees.
- 21 Due date for lodgement and payment of July 2006 monthly BAS and IAS.
- 28 Due date for lodgement and payment of June 2006 quarterly BAS and IAS
- 28 Last day for payment of June quarter employee superannuation contributions to avoid liability for the Superannuation Guarantee Surcharge.

## NEW Beach Wheelchairs LAUNCHED ON THE CENTRAL COAST

On the 5th May 2006, six new beach wheelchairs for the Gosford area's surf lifesaving clubs were launched by the Honourable John Della Bosca, Minister for Disability Services. The beach wheelchairs



*Pictured from left is Terry Lawler, the Honourable John Della Bosca, and 13-year-old surf lifesaver Kayla Hannell who lobbied to have the new wheelchairs made available.*

were jointly purchased by Life Without Barriers, N.S.W. Government and Gosford City Council at a cost of \$20,700.

Life Without Barriers provides services for people with a disability and young people in crisis in a number of Australian states, and first introduced the innovatively designed beach wheelchairs with large rubber wheels to the Central Coast in 2004.

Life Without Barriers Chairman, Terry Lawler, thanked the Minister for his support stating that this initiative was an excellent example of state, local and non government organisations and the community working together.

"We all know how important our beautiful beaches are to the Australian culture and to leisure activities for families and the community. Now more people with physical disabilities, stroke victims and amputees will be able to improve their quality of life by enjoying greater access."

The surf lifesaving clubs receiving the new chairs are Wamberal, North Avoca, MacMasters, Killcare, Copacabana and Ocean Beach.

## CONTACTS

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