

# Macrossan & Amiet Solicitors: news update

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## Things parents need to know about schoolies



Schoolies week is just around the corner and a few thousand 16 and 17 year olds will descend on Airlie Beach from 22 to 28 November to celebrate the end of their school life.

By Kylie Davies

**Parents of school leavers should be aware of the laws relating to the consumption of alcohol by minors and the consequences of your children taking, and being around those who are taking drugs.**

Recent changes to the *Liquor Act* and the *Police Powers and Responsibilities Act*, have created additional responsibilities parents should be aware of. For example, it is now an offence to "irresponsibly" supply liquor to a minor in a private place. If the supply is irresponsible depends on whether the adult is intoxicated, the age of the minor, if the minor is consuming liquor supplied with food, the quantity of liquor supplied and the period over which it was consumed. Police now have the power to enter a private place or search a vehicle if a police officer reasonably suspects that a person has not responsibly supplied liquor to a minor and can seize the opened or unopened liquor containers.

The new laws acknowledge that

minors may consume alcohol in a controlled environment however, it seeks to encourage the responsible supervision of the minor in a private place. It's important to remember this during schoolies week as many parents often provide their children with alcohol to be consumed in their rented units, without any adult supervision.

It's also important to note that in the event of an accident caused by a drink driver, insurance is automatically voided.

You should also be aware and make your children aware, that if they are staying in a unit with others who might be taking drugs and police enter the premises to discover drugs, all occupants can be charged with possession. Possession of a drug does not necessarily mean ownership and there can be a number of people in possession of the same drugs, particularly if the drugs are stored in common areas such as a kitchen cupboard. The

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## Feature



We have reached the third instalment in the four-part series exploring the history of Macrossan & Amiet. Last month we left off at the beginning of the 1970's with four partners in charge of the practice running out of their new premises at 12 Gregory Street – John Carroll (Bill Amiet's nephew), Peter Moore, Michael White and Tony Ghush.

As we now head towards the closing decades of the twentieth century, we see the modern Macrossan & Amiet taking shape.

By Sarah Robertson

# A proud history (part 3)

The Mackay-based Macrossan & Amiet expanded its service in 1975 with regular weekly secondments to the burgeoning Proserpine and Whitsundays district, a service that continues to this day. Throughout the rest of the decade, Macrossan & Amiet continued to grow rapidly as many young practitioners joined the firm.

In 1976, John Carroll's son, Patrick, a St. Patrick's College alumnus, returned home after graduating from university and began as an articled clerk with the firm. After eighteen years as a partner of Macrossan & Amiet, Peter Moore resigned in 1977. That same year a Brisbane solicitor, Gene Paterson found himself serendipitously becoming a member of the Macrossan & Amiet staff. Gene was passing through Mackay visiting old school mates on his way to an overseas holiday. While in town, he was offered a position as a solicitor with the firm. Gene obviously took quite a liking to the Mackay region and our firm as he abandoned his holiday plans and has remained with Macrossan & Amiet ever since. It may have been a return to his smaller town roots that attracted Gene to stay – he is originally from Western Queensland and attended St. Brendan's College at Yeppoon before going to university in Brisbane.

Gene Paterson and Patrick Carroll both went on to become partners in July 1979, Pat joining his father as one of the leaders of the firm. In 1979 John Formosa started as an articled clerk at Macrossan & Amiet. John studied externally with the then Queensland Institute of Technology (now Queensland University of Technology) to obtain his law degree and was admitted as a solicitor in February of 1985.

The 1980's saw Jack Kidd become a partner (1981), Michael White move on to Brisbane (1985) and Damian Carroll (no relation to John and Pat), gained his degree at the Queensland Institute of Technology in Brisbane,

taking his place as an employed solicitor in September 1985. John Formosa and Damian Carroll both became partners in July 1989.

Substantial transformations also occurred in the 1990's. With over 40 years as a partner with Macrossan & Amiet, John Carroll retired in March 1992, but the benefit of his experience was not lost as John was retained as a consultant. More fresh blood was recruited to the team, starting with Darren Sekac joining as a solicitor in July 1992. Darren moved to Mackay from Melbourne where he completed his Bachelor of Laws and Bachelor of Commerce at the University of Melbourne. In 1994 David O'Connell was also enlisted as a solicitor, bringing with him not only his practical experience and legal knowledge but also a Graduate Diploma of Taxation Law and Master of Business Administration. Two years later, Stuart Naylor commenced with Macrossan & Amiet following completion of a Bachelor of Law and Bachelor of Commerce Degree at James Cook University.

The changeovers continued with another shift in offices from Gregory Street into the building we now occupy on the corner of Gordon and Macalister Streets, Jack Kidd's departure in 1998 and Darren Sekac becoming a partner on 1 July 1998. That year also saw Michele Falconieri, originally from Ingham and fluent in Italian, commence as an articled clerk. While working, Michele completed his Bachelor of Law and Bachelor of Commerce degrees part time externally and became a solicitor in February 2001.

That completes the review of Macrossan & Amiet in the twentieth century. Don't forget to pick up next months' article to catch the final instalment in our historical review, starting at the milestone of the year 2000 and bringing you up to the present-day version of our firm.

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## News



With Christmas fast approaching, many of you may be starting to think of gifts for friends, family and children. There is nothing worse than waking up Christmas morning to watch your kids play with their new toys only to find that they are defective. Sadly, there is not much that can be done, except braving the Boxing Day sales to replace the toys.

By Alison Woodward

## Defective toys

Often when a product is found to be defective, the supplier will recall sold items and provide consumers with either a full refund or a replacement product, once the defect has been remedied. If a product is believed to be defective, consumers should access the Office of Fair Trading website to determine whether the product has been recalled by the supplier. Recalled toys should be returned to the supplier as they pose potential dangers to your children.

Pursuant to Section 17 of the *Sale of Goods Act 1896*, there is an implied condition as to quality and fitness for purpose of goods, but may only apply in limited circumstances. For example, when a buyer makes known to the seller the purpose for which the goods are required and supply of such goods is within the course of the seller's business, then there will be an implied warranty that the product will be fit for the purpose

required by the buyer.

Recently, dangerous toys were removed from show bags on sale at the South Australian Show. The toys removed included a puzzle, plush toy dogs and guns which were either excessively noisy or had laser pointers. The puzzle removed was still available at the Ekka, however, was clearly marketed towards children over the age of 3 years.

The Office of Fair Trading enforces mandatory safety standards for many consumer products such as floatation and projectile toys. Parents are urged to adequately supervise their children when playing with toys and ensure they are used for the intended purpose. To protect yourself and your child, ensure your child is within the recommended age ranges and suitability rating before allowing them to play with the toy.

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## Things parents need to know about schoolies

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courts will then decide who had the particular knowledge of those drugs on the premises.

Sergeant Steve O'Connell, Whitsunday Police Station, said in 2007 there were over 2700 schoolies attending celebrations in Airlie Beach and that there will be a high police presence with additional units from Mackay patrolling this year's celebrations.

Mr Bruce Green of the Whitsunday Regional Council and chairman of

the local schoolies committee, said the aim of the schoolies committee is to change the culture of schoolies from drunken and dangerous behaviour to safe, healthy and enjoyable activities. Parents should advise their children of the repercussions of breaking the law and their expected behaviour towards police and event organisers during schoolies week.

For more information regarding this year's schoolies celebrations, visit <http://schoolies.whitsunday.net.au>

## Feature

Symbiosis is defined to be “the living together of two organisms of different kinds to their respective mutual benefit”. This is a word that aptly describes the friendship of two of my great mates Kin Shim (“Shimmy”) and Daryl Evans (“Dasher”).

By Andrew Telford

# “The Odd Couple” – Dasher & Shimmy

Dasher and Shimmy are somewhat of an “odd couple”. Shimmy (who is the “Oscar” of the pair) is one of the best chefs around and Daryl (who fits into the “Felix” side of things quite well) owns one of the biggest and best private wine cellars in the Whitsundays. Shimmy gleefully notes that it is a good deal for him. He provides what he considers to be a “simple meal” costing next to nothing. In exchange, he readily gulps Dasher’s perfectly matured wine which would otherwise cost a fortune in a restaurant. Dasher’s wine is to Shimmy what cookies are to Cookie Monster. At times the methodology of consumption is not dissimilar either!

When you meet Daryl he will most likely be dressed in sneakers, stubbies, t-shirt and a cap. This has been standard attire for as long as I have known him. Such a down to earth appearance belies his background. Daryl was born in Melbourne and was educated at the prestigious Scotch College. His Dad made sure that Daryl applied for membership of the Melbourne Cricket Club on the day he was born. He later completed a degree in economics and accounting at Monash University. Daryl’s father ran a grocery store and was one of the first in Australia to introduce the concept of the “supermarket” as we know it today. This store was reported to have the second biggest turnover on a pro-rata basis by reference to area of any store of its type in Australia. Daryl remembers that his Dad closed the grocery store for three months and upgraded it to fit into the supermarket concept to

incorporate items such as fruits and vegetables which were, at the time, only sold in the now outdated fruit and veggie shops. Daryl had to get out of bed early each day to help his Dad buy the fruit and vegetables and also helped out counting the money and working behind the counter. Daryl recalls his Dad as being an entrepreneurial type and was very successful in his business. In addition to the supermarket his Dad also developed a home delivery service which started with a warehouse and 3 trucks and which also became a very valuable component of the family business. Dasher also recalls that his Dad purchased his first shares and Daryl vividly remembers the joy of receiving his first dividend and his passion for the stock market continues to this day. Although I am sure that this passion has somewhat abated in recent times! Whilst on the topic of his father Daryl recalls that it was not until he heard a eulogy at this father’s funeral in the mid 1990’s that he discovered his father was also an SP Bookie. Daryl makes mention of this with a boyish smirk and the tone of being somewhat proud of the man his father was.

Daryl’s mother encouraged he and his brother, Roger, to go skiing at Mt Buffalo in Victoria. The first ski trip took place when Daryl was 4 years of age and continued every year during the September school holidays. This led to Daryl and his brother Roger having a great passion for skiing. Roger was good enough to make the Olympic

training squad. Daryl continues to have a love of skiing and tries to have at least one ski trip a year. His favourite place to go skiing is Austria. Daryl is a great sports lover and played tennis, cricket, Aussie Rules and was the Scotch College diving champion. Daryl considers that his childhood belonged to a very different era from today. Children were instilled with a strong work ethic and were taught the value of a dollar. Very much different to the “spoiled brats” of today with their insatiable appetite for toys, cartoons and food that is not good for them. By comparison, Daryl is grateful for what he has, is frugal with his money, eats healthy food in moderation and has worked hard for what he has. When you consider that his predominant activity these days, apart from skiing, is golf, he is now perhaps enjoying a somewhat more relaxing form of “work”. Although that doesn’t stop him from taking it very seriously. Another great influence from Daryl’s childhood is the belief that one of the most important things in life is a good education and the view that if we all lived with more self discipline we wouldn’t have the problems that we have such as depression, poor health, obesity, no cash and heaps of debt.

After Daryl finished his studies at Monash University he started work for the stock broking firm Bain & Co for 4 years during which time he was transferred to Sydney. It was whilst Daryl was in Sydney that he felt stifled working as a stockbroker. He opened the city’s first true steakhouse and wine bar near Luna Park. He fondly remembers that in his restaurant

in the early 1970’s you could buy a dozen oysters for a dollar. By coincidence Shimmy, unknown to Daryl at the time, used to frequent the restaurant. He also owned a house on the harbour near his restaurant which cost him the princely sum of \$35,000.00. One could only guess at what the house might be worth today! Daryl never looked back and spent the rest of his working life in the hospitality industry.

Daryl stayed in Sydney for a couple of years and then went back to Melbourne. It was at this time that Cider Tavern Legislation was introduced so he opened the Weathercock Wine Bar. This became Melbourne’s first Cider Tavern and which became the largest outlet for cider in Australia. Whilst Dasher was opening up Victoria’s first cider tavern his brother Roger was establishing Australia’s first theatre restaurant known as “The Last Laugh – Theatre Restaurant and Zoo”. As an aside I thought it might be interesting to mention that this

venue nurtured many of Australia’s comedy acts. A show that ran for 5 months at the venue called “Waiter there’s a Circus in my Soup” led to the formation of “Circus Oz”. Other acts included Los Trios Ringbarkus, Wendy Harmer and Richard Stubbs. Roger Evans and his business partner, John Pinder, were also instrumental in founding the Melbourne Comedy Festival. After selling the Weathercock in 1978 Daryl bought the Carlton Inn Hotel which is Victoria’s third oldest hotel situated next to Melbourne University. Daryl extensively renovated the hotel which became popular with staff from the university and local professionals.

One of Daryl’s childhood friends, Gary Wilson, invested in and opened a number of hot bread shops in Mackay. He asked Daryl to come up to go boating in the region. Daryl took up the offer wanting to have a break from working in the hospitality industry without a break for 15 years. After sailing a boat from Mackay to the



Shimmy, Andrew and Dasher at one of their many dinner gatherings.

## “The Odd Couple” – Dasher & Shimmy

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Whitsundays Daryl fell in love with the area. On a subsequent trip with another mate of many years, Peter Vial, they invested buying 90 acres of land at Cannonvale. The entrance to Daryl’s subdivision, Whitsunday Views Estate, is along Tropic Road next to the “Reece” hardware store. This runs on to Country Road. Pete Vial, in fact is the founder of the Country Road clothing label. Hence the name of the main road within the subdivision! Peter sold the business to South African interests a couple of years ago. Over the years Daryl has sold more blocks of residential land than any other developer in the Whitsunday region.

Shimmy is Chinese and was born in Malaysia and raised in Singapore. As a youngster he learned kung fu and one of his brothers is a Shaolin monk (remember grasshopper?). Kin studied radio electronics and then travelled the world in the merchant navy which entailed, at one stage, monthly stopovers in Sydney. Although hoping for a girlfriend with a car to drive him around when he visited, he had to make do with a 50cc motor scooter. The let down in relation to the car was more than compensated by the fact that the girl riding the scooter was his wife to be, Karina.

Shimmy grew up with 2 brothers and 3 sisters who are now spread across the globe. One brother, Lok, lives locally. After meeting Karina and leaving the merchant navy Shimmy worked for the radio station 2LT in Lithgow which was part of the Macquarie broadcasting network. He then worked back in

Sydney for Honeywell and another computer company. It was around this time that he started to have annual holidays at Airlie Beach. Shimmy decided to have a “sea change” before the term was even invented moving to the Whitsundays in 1977. Kin and Karina purchased a property in the main street of Airlie Beach which, at that time, was a fish and chip shop. After running the fish and chip shop for 12 months it was converted to a Chinese restaurant known as “Coconut Palms”. Part of a new building that was constructed on the site later became “Trick’s Nite Club”. His new best mate Dasher suggested that it would be a good idea to convert the restaurant to a night club. At this stage, which was in about 1986, there was no real night club in Airlie Beach. Shimmy and Dasher owned “Trick’s” until selling the business in 1999.

Shimmy continued to operate his second restaurant the “Wok Inn” for a couple of years after the conversion of Coconut Palms to a night club. Airlie Beach has never enjoyed two such great restaurants as existed in those early days when both Shimmy and his great mate Romeo provided so many local people with great memories and numerous and sizeable “headaches”.

Romeo suggested to Shimmy that he shift to Hamilton Island which he did for 4 years when he operated the Verandah Bar and Mariners Inn. The next venture was Airlie Beach’s first real coffee shop, “Club Café”, in partnership with his mate and ex-policeman Shane Svenson. Unfortunately, the “Club

Café” concept was a bit ahead of its time and perhaps there was not a sufficient population base to give it the support it needed. This business, somewhat by necessity, metamorphosised into “Paddy’s Shenanigans” which is now the local Irish bar. Shimmy may well be the only Chinaman in the world to own an Irish bar. He now lists his main occupation as being the “quality taster”. He has advised that this job is progressing well and is not one from which he expects to retire any time soon. Whilst Shimmy was running his restaurants, etc that he was also “working” as a commercial fisherman from the Whitsundays right through to Cape York. Shimmy says that he loved the experiences of travelling up and down the coast which has given him many great memories. Shimmy and Karina also share Daryl’s great belief in education. Their son Craig is a town planner who works for the Queensland Travel Corporation in Brisbane and daughter Linda is a pathologist in Melbourne.

The icing on the cake, quite literally, when asked to Shimmy’s for dinner is that Karina Shim makes the fabulous dessert which follows Shimmy’s beautifully cooked meal and Daryl’s magnificently aged wine. After a number of years of being conditioned to the excellence of such evenings, my reaction to an invitation to Shimmy’s for dinner is no different from the excited salivating response of Pavlov’s dog to the ring of a bell. Cheers to this “odd couple” and the fun they have brought into the lives of so many of their customers and friends.

## News



The Australian Competition and Consumer Commission (ACCC) is currently focusing on what is commonly referred to as ‘bait advertising’. This is a generic term used to describe a range of ‘techniques’ designed to attract buyers. Black’s Law Dictionary defines bait advertising as “a sales practice whereby a merchant advertises a low priced product to lure customers into the store, only to induce them to buy a higher price product.”

By Tanya Whalley

## Bait advertising in the real estate industry

Such techniques utilised within the real estate industry include under-quoting, over-quoting and price ranging. An example of under-quoting is when advertising states a ‘property would suit \$250,000 plus buyers’, when the reserve is \$500,000 or ‘will go for around \$300,000’ when the vendor has stated that he will not sell for under \$400,000.

Over-quoting occurs when an agent provides a seller with an estimated value by exaggerating its realistic sale price. An agent may over-quote a price for several reasons including lack of experience, in order to secure a listing and retain a listing he/she may already have but are afraid to lose. Over-quoting leaves a client with unrealistic expectation of what the property will sell for and this leads to disappointment when offers are made for amounts much less than what the agent indicated.

Price ranging occurs when a real estate agent advertises a property within a price band. For example, a buyer reading advertisements stating ‘100 lots from \$50,000’ would reasonably assume that there are a range of lots for different amounts (some of which would be for around \$50,000). If there was in fact only one lot for

\$50,000 with the next lowest at say \$100,000, then the statement would be misleading and deceptive and would be in breach of the *Trade Practices Act*.

When selling a property you should always ask to confirm and approve advertising and marketing material and you should always specify the price which you are willing to sell. You should also understand the risks and obligations of the laws that relate to misleading practices, never say anything that you know not to be true, avoid making predictions about future property trends (unless you have realistic grounds to support those predictions) and always obtain legal advice if you are unsure of the ramifications of your marketing program.

It is also important to be aware of consumer protection laws such as the *Trade Practices Act*, *Fair Trading Act* and the *Property Agents & Motor Dealers Act*.

If you have been on the ‘receiving’ end of these types of practices you might have grounds to complain to the Office of Fair Trading and/or the ACCC and you should visit their websites at [www.fairtrading.qld.gov.au](http://www.fairtrading.qld.gov.au) or [www.accc.gov.au](http://www.accc.gov.au)

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## Last word



John Formosa

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# Proserpine Mill looks to the future

Macrossan & Amiet congratulates the Proserpine Sugar Mill on its initiative to adopt and promote Best Practice Management Strategies in the cane growing sector.

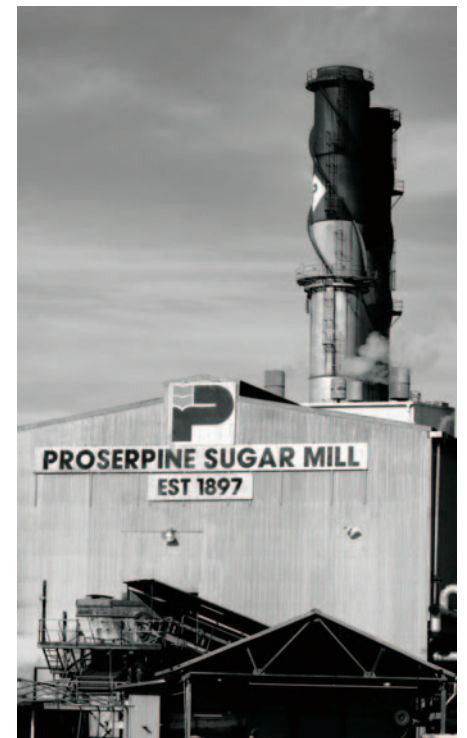
The Great Barrier Reef Marine Park Authority recently publicly acknowledged the efforts of the Proserpine Sugar Mill in adopting best practice methods of management in the industry. The Proserpine Mill has recently implemented land and water management, nutrient management and herbicide and pesticide management plans, and these plans have been supported as part of an ongoing incentive plan for its cane growers.

The Mill rewards growers who successfully complete and implement any of the modules in a season by paying an additional payment of five cents per tonne of cane supplied per module. In 2006, the first year of the incentive program, the Mill paid out \$160,500 to 264 farms.

The Mill recognises the benefit to the environment in monitoring run-off and chemical use and the basis of

the system is to be rolled out across the county. Macrossan & Amiet is proud to continue our long and successful relationship with the Mill and congratulate the Mill on its environmentally sustainable practices.

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