

argon law

# ARGON ELEMENTS

THE MAGAZINE OF SUNSHINE COAST'S LEADERS IN LAW

## BUSINESSES

Buying & Selling  
Asset Protection

## LEASING

A guide for tenants and landlords

## PROPERTY LAW

Mitigate risks in future  
The value of quality conveyancing

## LITIGATION

Has someone broken a promise?

## ESTATE PLANNING

The Ins and Outs  
Estate Disputes

## BODY CORPORATE

Management Rights: Smart questions  
to ask

## FUTURE FORWARD

### AI in Business

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 THE COUNSEL YOU KEEP



Commercial &  
Business Law



Litigation &  
Dispute  
Resolution



Wills &  
Estates



Asset  
Protection



Employment  
Law



Property  
Law





**John Gallagher**  
Director  
LLB (UQ), GradCert (Applied Finance)

Dear valued clients and friends,

On behalf of the entire team at Argon Law, I would like to express our sincerest gratitude for your unwavering support and loyalty over the past decade.

We are thrilled to announce that in 2024 we have passed the 11-year milestone, and we could not have achieved this tremendous feat without your trust, encouragement, and endorsement. Your faith in our legal expertise and commitment to providing exceptional client service has been the foundation of our success and growth trajectory over the years.

As we reflect on our journey, we are reminded of the countless individuals and businesses who have placed their legal matters in our capable hands. Each client has brought unique challenges and opportunities, and we are grateful for every chance to make a positive impact. Since our inception, we have placed great value on giving back to the Sunshine Coast community, with a particular focus on the arts and education. We firmly believe that these areas play a crucial role in shaping vibrant and strong communities.

We would also like to extend our heartfelt appreciation to our friends and colleagues who have supported and collaborated with us along the way. Your professionalism, generosity, and kindness have enriched our lives and strengthened our professional network.

As we look to the future, we remain committed to upholding our core values of integrity, innovation, and excellence. We are excited to continue serving our community with the highest standards of legal service and making a meaningful difference in the lives of those we have the privilege to serve.

Once again, we thank you from the bottom of our hearts for your trust, loyalty, and friendship. We look forward to many more years of working together and creating meaningful relationships.

Sincerely,  
**John Gallagher and the team at Argon Law**

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*Every member of our firm is dedicated to your success.*



- Commercial & Business Law
- Litigation & Dispute Resolution
- Wills & Estates
- Asset Protection
- Employment Law
- Property Law

## THE COUNSEL YOU KEEP

### THE COUNSEL YOU KEEP

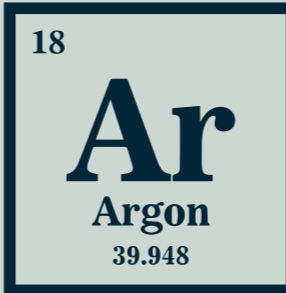
Argon Law is a law firm based in Maroochydore servicing the Sunshine Coast, Noosa, the hinterland and surrounds.

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### WHAT IS ARGON?

The name 'argon' is derived from the Greek word ἀργόν, meaning 'stable', as a reference to the fact that this natural element undergoes almost no chemical reactions. It remains steady under pressure and withstands all types of volatile environments. It

is used to stabilise hazardous chemical and biochemical conditions and is relied upon for productivity in all manner of industry.

Argon's symbol is Ar. Its atomic number is 18. It is known as a 'noble element' and is the third-most abundant element in the Earth's

atmosphere. It is also present in the distant atmospheres of Mars, Mercury, and Titan (the largest moon of Saturn) and is used in laser eye surgery, transplant and cancer surgery, metallurgy, and to preserve wines. It is found in neon lighting tubes to improve efficiency, save time and money, and extend the life of the bulb. You may also find it in your scuba diving tanks to keep you breathing safely underwater.

The complete octet (eight electrons) in its outer atomic shell makes argon stable and resistant to high pressures. Embedded in the construction of the argon electrons are the geometric formations of Phi, Pi, and the Golden Spiral.

We aim to be a noble and stable influence in your world.



# ELEVEN YEARS

## OF ARGON LAW

### 2013

John Gallagher opens Argon Law offices in Primary Court, Maroochydore

### 2017 - TODAY

Major Sponsors of Sunshine Coast National Art Prize

### 2021

John Gallagher receives Lifetime Award for volunteering twelve years at Suncoast Community Legal Service

### 2023

John Gallagher announced as one of Top Sunshine Coast Lawyers - The Courier Mail

### 2024

Sponsors of Australian Wearable Art Festival in the Sustainable Nature category

### 2015 - 2019

Buderim 9 Challenge Sponsors

### 2021

Argon Law relocates to new offices in Southern Drive, Maroochydore

### 2022

Finalist in Australian Law Awards Boutique Law Firm

### 2023

Celebrating 10 years in the Sunshine Coast community

### 2024

Partners with Manufacturing Excellence Forum Sunshine Coast

# ARGON LAW

## THE COUNSEL YOU KEEP

- Individuals
- Businesses
- Other Law Firms
- Real Estate Agents
- Accountants
- Financiers
- Financial Advisors
- Developers
- Government
- Councils

In the dynamic and ever-evolving world of law, finding a legal partner who not only understands the intricacies of the legal landscape but also offers comprehensive support to a diverse clientele can be a game-changer.

At Argon Law, we take immense pride in being the legal cornerstone for a wide range of clients, from businesses and individuals to other Sunshine Coast law firms. Our commitment to excellence and unwavering dedication to our clients have earned us not only their trust but also the respect and referrals of our peers in the legal community.

### THE POWER OF REFERRALS

The legal world is a tight knit community, and at Argon Law we cherish the relationships we've built with other businesses and law firms.

We are deeply grateful for the trust and confidence they place in our services, as evidenced by the referrals we receive regularly.

In the spirit of mutual support, we reciprocate by sending referrals to businesses and law firms that have entrusted us with their clients' needs. This reciprocity enhances our partnerships and fosters a sense of community here on the Sunshine Coast. Referring clients to other trusted professionals, we ensure that individuals and businesses receive the best possible legal representation, regardless of their specific requirements.

Every member of our team dedicates themselves to your success

“As a business advisor & accountant, I have no hesitation in referring clients to Argon Law for their knowledgeable & professional approach to legal issues they confront. My clients have always appreciated the referrals.

Both personally & professionally, I have found Argon Law easy to communicate with, espousing a solution focused approach.”



Fellow Lawyer Testimonial

# FUTURE FORWARD

## THE DAWN OF A NEW ERA

AI (Artificial Intelligence), with its ability to analyse vast datasets, make predictions, and automate tasks, has become an indispensable tool for businesses across sectors. From predictive analytics to chatbots and autonomous systems, AI is reshaping the way companies operate.

However, as businesses integrate AI into their operations, it's imperative to navigate the legal intricacies to ensure ethical and compliant use.

### THE LEGAL LANDSCAPE

#### Data Protection and Privacy

One of the foremost concerns surrounding AI implementation is the protection of sensitive data. Ensuring transparent data practices, obtaining explicit user consent, and implementing robust security measures are non-negotiable steps in mitigating legal risks.

#### Intellectual Property

In the realm of AI, intellectual property rights are a pivotal consideration. Companies must navigate the complex web of patents, copyrights, and trade secrets to safeguard their AI innovations.

#### Bias and Discrimination

As AI algorithms learn from historical data, there is a risk of perpetuating biases inherent in that data. Businesses must be vigilant in addressing algorithmic bias to avoid legal challenges related to discrimination. To reduce the risk of bias, using diverse sets of data and reviewing relevant algorithms are critical steps.

#### Regulatory Compliance

Staying abreast of evolving regulations is paramount for businesses harnessing AI. Regulations governing AI use vary globally, and compliance is not a one-size-fits-all endeavour. A comprehensive understanding of regional and industry-specific regulations is essential to avoid legal pitfalls and maintain a trustworthy reputation.

### THE ROAD AHEAD

In navigating the legal implications of AI, businesses can proactively shape the future of responsible and ethical AI adoption. By navigating the legal landscape with diligence and foresight, companies can position themselves as leaders in the industry, earning the trust of clients, and contributing to a future where AI enhances, rather than hinders, the business landscape. The era of AI is upon us, and those who master its legal dimensions will undoubtedly lead the way into a future defined by innovation, ethics, and sustainable success.

#### AI SOFTWARE MAKING WAVES

- ChatGPT
- Midjourney
- Ferrett by Apple
- Co-pilot by Microsoft
- Moonbeam
- Osum

Keep updated with the latest advancements in Artificial Intelligence by visiting Futurepedia.



### UNLOCKING THE POWER OF AI FOR BUSINESS OWNERS

**Effortless Automation:** AI seamlessly automates tasks, streamlining operations by transforming workflows and saving valuable time. There are many AI products now available that will improve overall business efficiency, designed for your specific industry.

**Smart Data Insights:** AI utilises advanced algorithms to extract actionable insights from data, aiding informed decision-making. Identifies trends and patterns within your business data for strategic planning.

**Adaptive Learning:** AI constantly evolves and learns, adapting to your business needs and improving performance over time.

**Innovative Problem-Solving:** AI addresses complex business challenges with innovative solutions, another avenue for brainstorming and idea generation.

Embrace the transformative power of AI to elevate your business operations and gain a strategic advantage in today's dynamic landscape.





# BUSINESSES

## WHAT YOU NEED TO KNOW

### COMMERCIAL & BUSINESS SERVICES

- Buying and Selling a Business
- Shareholder and Partnership Agreements
- Share and Unit Sale Agreements
- Commercial Contracts
- Terms of Trade
- Loans, Mortgages and Guarantees
- Personal Property Securities Act
- Trusts and Corporate Services
- Franchising
- Ownership Structures
- Family or Discretionary Trusts
- General Powers of Attorney
- Family Loans
- Business Succession

If you're a business owner or aspiring entrepreneur, understanding the legal aspects of your business is paramount. The world of business law encompasses a wide range of topics, from buying and selling a business to protecting your assets and establishing vital agreements.

### ASSET PROTECTION

#### Safeguarding What's Yours

One of the most essential aspects of business law is asset protection. The way you structure your ownership can have significant implications on your personal liability and the safeguarding of your assets. Argon Law can help you explore various ownership structures that suit your specific needs.



The most employed legal structures include sole proprietorship, partnership, company, and trust. Each structure comes with its own set of advantages and disadvantages. We can guide you through these intricacies, especially in establishing a trust, enabling you to make well-informed choices about protecting your assets.



### ASSET PROTECTION

Scan the code and let us answer some common questions related to Asset Protection

### BUSINESS RESOURCES



Buy-Sell Agreements



How We can Help Your Business



How to Plan for a Business Succession

### BUYING & SELLING A BUSINESS: THE ART OF A SEAMLESS TRANSITION

Buying or selling a business can be a life-altering event. Argon Law's team of solicitors advises that, whether you are the buyer or the seller, a well-structured agreement is your best ally.

### SELLING A BUSINESS: 6-MONTH CHECKLIST

Selling a business involves much more than handing over the keys. It requires a comprehensive understanding of the valuation, legal documentation, and potential liabilities that could arise post-sale. Our solicitors emphasise the importance of thorough due diligence to protect your interests.

#### 6 Months Before Sale:

- Financial Preparation: Update financial statements. Consider professional business valuation.
- Legal Compliance: Review and update leases, key contracts and permits. Address transferability and other legal compliance issues.

#### 5 Months Before Sale:

- Operational Streamlining: Enhance operational efficiency. Identify areas for improvement.
- Relationships: Strengthen customer and employee relationships. Document key relationships and update.

#### 4 Months Before Sale:

- Marketing Strategy: Develop a marketing strategy. Consider a business broker or a mergers and acquisitions advisor.
- Due Diligence Preparation: Compile due diligence package. Address potential buyer concerns.

#### 3 Months Before Sale:

- Contracts Review: Review and update contracts. Ensure transferability.
- Business Presentation: Improve physical appearance. Maintain equipment and facilities.

#### 2 Months Before Sale:

- Professional Advice: Seek legal and tax advice. Communicate sale to key employees.

#### 1 Month Before Sale:

- Final Checks: - Review due diligence materials. Engage legal professionals for safe documentation.



### BUYING A BUSINESS: 6-MONTH CHECKLIST

For buyers, the process of acquiring a business comes with its own set of challenges. The evaluation of assets, liabilities, and contractual obligations is just the beginning. Effective negotiation and the creation of airtight contracts are critical to ensure a smooth transition and protect your investment.

#### 6 Months Before Purchase:

- Financial Assessment: Review the seller's financial statements. Consider engaging a business appraiser for an independent valuation.
- Legal Due Diligence: Scrutinise existing contracts, permits, and legal compliance. Identify any potential legal challenges or liabilities.

#### 5 Months Before Purchase:

- Operational Analysis: Assess the efficiency of current operations. Identify areas for improvement or optimisation.
- Market Research: Conduct market research on the industry and competitors. Evaluate the business's competitive positioning.

#### 4 Months Before Purchase:

- Due Diligence Preparation: Request and review due diligence materials provided by the seller. Anticipate and address potential concerns or questions.
- Financing Strategy: Explore financing options and secure necessary funding. Consult with financial advisors to structure a feasible financial plan.

#### 3 Months Before Purchase:

- Contracts Review: Examine existing contracts with customers, suppliers, and employees. Ensure the transferability and continuity of key contracts.

- Employee Transition Planning: Assess the existing workforce and their roles. Develop a strategy for a smooth transition of employees.

#### 2 Months Before Purchase:

- Legal and Tax Consultation: Consult with legal professionals to review the proposed purchase agreement. Seek advice on tax implications and optimal transaction structures.

- Final Due Diligence: Conduct a final review of all due diligence materials. Address any outstanding questions or concerns.

#### 1 Month Before Purchase:

- Final Negotiations: - Finalise purchase terms and negotiate any remaining points. Ensure clarity on the transition process and post-sale support.



# LEASING

## FOR TENANTS AND LANDLORDS



### LEASING SERVICES

- Retail Shop Leases
- Commercial & Industrial Leases
- Outgoings Advice
- Lease Amendments or Extensions
- Leasing Defaults

### COMMERCIAL LEASE AGREEMENTS

#### What to Include & Best Practices

Commercial leases can vary widely in their terms and complexity, but they generally cover important aspects such as rent, lease duration, responsibilities of both parties, and other provisions specific to the commercial property.

Initiating the lease agreement is the starting point, and it's crucial to meticulously address aspects like lease renewal or extension, lease termination, modifications to the lease, and tenant relocation or restructuring from the outset.

Consulting with a legal professional experienced in commercial real estate is recommended when drafting and negotiating these leases to ensure you are covered in any eventuality.

#### Drafting a Lease Agreement

When drafting a commercial lease in Queensland, it's essential to consider various factors to firstly protect the interests of the landlord, and secondly to protect the tenant, to ensure you can lease your premises easily and secure a good long-term tenant.

Customising the lease to suit the specific needs and type of property is essential. The lease should provide clarity and protection for both parties while adhering to the applicable laws and regulations in Queensland.

Here are some of the main things to consider from both a landlord's and tenant's perspective:

- Lease Term
- Rent and Payment Terms
- Property Description
- Maintenance and Repairs
- Use and Restrictions
- Insurance
- Operating Costs
- Incentives
- Guarantees
- Security Deposit
- Default and Remedies
- Assignment and Subletting
- Compliance with Laws
- Dispute Resolution
- Termination and Exit Procedures
- Renewal and Option to Purchase
- Special Provisions
- Compliance with Retail Shop Leases Act
- Legal Review



### KEY CONSIDERATIONS FOR COMMERCIAL LANDLORDS

Download your free Guide to Leasing:  
For the Commercial Landlord

"The team at Argon Law has helped us with a couple of contracts now. We have found them very professional and great to work with. Thanks guys, keep up the good work!"

### NAVIGATING COMMERCIAL LEASES

#### Insights for Tenants in Queensland

For both seasoned lessees and newcomers, deciphering the complexities of a commercial lease can be a formidable task. Regardless of experience, tenants must pay meticulous attention to details in a lease that may become sources of disputes and potential legal battles.

### KEY CONSIDERATIONS FOR COMMERCIAL TENANTS

#### 1. Know Your Dates:

- Mark essential dates such as handover, commencement, renewal, option periods, and expiry or termination.
- Differentiate between handover and commencement dates to ensure you make the most of any fit-out period and secure a smooth move-in process.
- Pay close attention to renewal and option clauses, reviewing them before signing and diarising relevant dates for timely action.

#### 2. Make Rent Reviews Work for You:

- Understand market review clauses and negotiate the deletion of ratchet clauses that prevent rent from decreasing.
- Resist provisions disregarding incentives when valuing market rent during reviews.

#### 3. Decide Who Pays for What:

- Clearly define which outgoings are the tenant's financial responsibility and secure this agreement in writing.
- Negotiate an agreed cap on outgoings to maintain cost predictability.

#### 4. Lease Registration Benefits:

- In Queensland, leases of three years or more should be registered, providing statutory protection for tenants.
- Understand state-specific regulations; in Queensland, unregistered lessees of more than three years are not protected by legislation.

#### 5. Tricky Areas to Navigate:

- Factor in costs for security deposits and bank guarantees into your business budget.
- Ensure 'make good' obligations are well-defined to prevent disputes at the end of the lease.

Navigating commercial leases demands meticulous attention to detail and proactive negotiation. Seeking legal counsel ensures tenants are well-equipped to protect their interests and navigate potential disputes effectively.

# EMPLOYMENT

## RESTRAINT OF TRADE ISSUES

### CASE STUDY:

#### Employment Dispute - Restraint of Trade

Alex, a software developer, left Company A triggering concerns due to a restraint of trade clause in the employment contract.

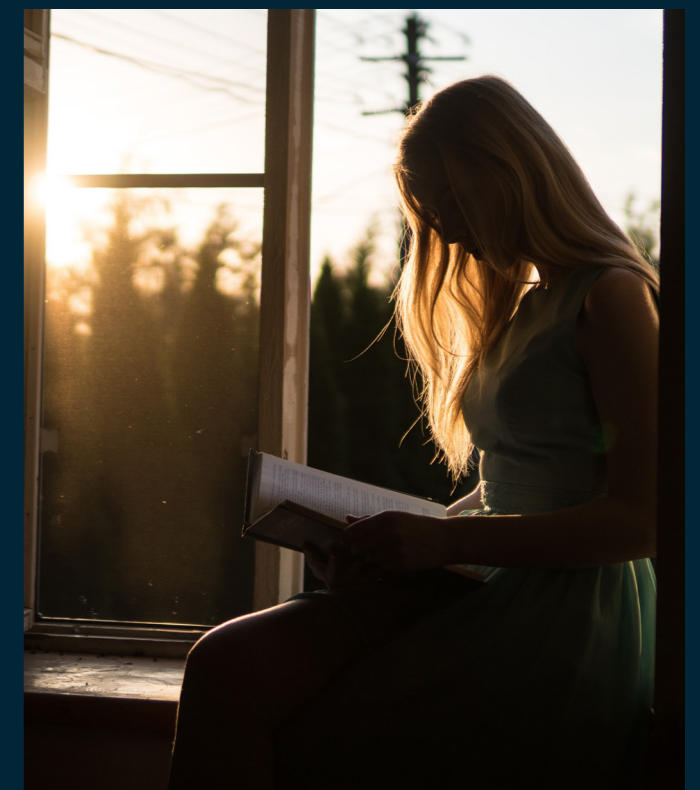
The contract included a 12-month restraint preventing Alex from engaging in similar employment within a 50-kilometre radius and soliciting client's of Company A post-termination.

Company A threatened to initiate legal action, arguing the clause protected its business interests. With Argon Law's support, Alex contested, claiming it was unreasonably broad, hindering career opportunities.

The employer eventually withdrew the demands.

#### Key Takeaways:

1. Drafting Considerations: Restraint clauses must be reasonable in duration, scope, and restrictions.
2. Case-Specific Analysis: Courts consider unique circumstances when evaluating enforceability.
3. Legal Advice: Both employers and employees should seek legal counsel for a fair and legally sound resolution in restraint of trade disputes.





# DISPUTE RESOLUTION & LITIGATION

HAS SOMEONE BROKEN A PROMISE, IMPLIED OR OTHERWISE?

“When it comes to legal advice, these guys are thorough, and their experience proves invaluable during some negotiations. Highly recommend them!”

## DISPUTE RESOLUTION AND LITIGATION SERVICES

- Litigation & Dispute Resolution
- Estate Disputes
- Constructive Trust Disputes
- Business Disputes
- Complex Commercial Litigation
- Corporate and Regulatory Litigation
- Resumptions & Acquisitions
- Boundary and Encroachment Disputes
- Debt Recovery
- Leasing Disputes
- Caveat Disputes
- Appointment of Statutory Trustees for Sale
- Mediation and Alternative Dispute Resolution

## TRUST LITIGATION

### What is a Trust?

A trust is a legal relationship where a trustee holds assets for the benefit of beneficiaries. Trustees have a fiduciary duty to act in accordance with the terms of a trust and in the best interests of the beneficiaries. If they breach this duty, this can give rise to trust litigation.

### Common Trust Disputes

There is a wide spectrum of trust disputes which can lead to litigation. In cases where the existence of a trust is not in dispute, disagreements may arise in relation to the interpretation or operation of clauses in the trust deed or if a beneficiary of the trust believes that the trustee is in a position of conflict or is neglecting their fiduciary duty. It is also common for trust litigation to involve the creation of a constructive trust in respect of an asset as a remedy for fraud or misrepresentation.

### Remedies

Depending on the facts of the dispute, there are a variety of different remedies available to parties that are successful in trust litigation, including equitable compensation for financial losses, orders to transfer mishandled trust assets, damages for breaches benefitting trustees, and the creation of remedial constructive trusts to compensate parties that have been taken advantage of by another. Talk to our team to find out more.

## THE ROLE OF STATUTORY TRUSTEES IN PROPERTY DISPUTES

Disputes among co-owners often arise, leading to challenges in decision-making and property management. In such situations, the court has the power to appoint a Statutory Trustee to take control and oversee the sale of the disputed property.

### The Need for a Statutory Trustee

Co-ownership of real property can become complex when disagreements surface regarding the property.

Common scenarios involve disputes over whether to sell the property or challenges in securing sufficient funds to buy out a co-owner's interest.

To facilitate the sale and ensure an equitable distribution of proceeds, a Statutory Trustee may be appointed by the Court.



## THE ROLE OF STATUTORY TRUSTEES IN PROPERTY DISPUTES

Read the complete article.



## RESOURCES

The Litigation Process (Part 1)



The Litigation Process: Part 1

The Litigation Process (Part 2)



The Litigation Process: Part 2

## CASE STUDY

### The Rogue Executor and the Constructive Trust

Consider a situation involving two siblings, Sarah and David, who inherit a family home from their deceased mother. The parent's will clearly states that the siblings should share the property equally and enjoy joint ownership. Sarah is the executor of the deceased estate.

Sarah convinces David to sign a document that transfers a more substantial share of the property to Sarah. Sarah assures David that it is a formality for administrative purposes and doesn't affect their equal ownership.

Later, David discovers the unequal distribution and realises he was misled by Sarah. Feeling betrayed, David decides to take legal action to rectify the situation.

In this case, the court may impose a remedial constructive trust. The court may find that Sarah's actions constitute a breach of trust and may use the remedial constructive trust as a means to rectify the unjust distribution of the inherited family home, ensuring that David receives his rightful share as intended by the parent's will.

## ESTATE DISPUTES

### Have you been left out of a Will?

In many estate dispute cases, negotiations can lead to amicable resolutions, sparing you the time and expense of court action. Our dedicated team excels in early dispute resolution, where sensible settlements are frequently achieved, allowing you to move forward with your life while protecting your rights and interests.

However, Estate Disputes can escalate through to court action. In instances where court proceedings are initiated, our skilled litigation and dispute resolution solicitors will be with you every step of the way and ensure timely action within the relevant time limits.

If you have questions or concerns about an estate dispute and would like a case review, please scan the code below for your complimentary 15 minute introductory call with one of our solicitors.



## ESTATE DISPUTES

Book a 15-minute free introductory call



# PROPERTY LAW

## ELEVATING YOUR REAL ESTATE TRANSACTIONS

### PROPERTY LAW SERVICES

- Commercial Conveyancing
- Residential Conveyancing
- Rural Purchases and Sales
- Resumption of Land
- Purchases by Self-Managed Super Funds
- Development – Community Title
- Development – Land Subdivision
- Easements
- Caveats
- Taxation of Property
- Retirement Villages

### THE VALUE OF QUALITY CONVEYANCING

Investing in quality conveyancing is an investment in the success and security of your real estate transactions. There is a huge difference between a cheap service and a quality conveyancer.

At Argon Law, we prioritise a thorough approach that spares no effort, demonstrating our dedication to delivering unparalleled service.

#### 1. Expertise Matters

Conveyancing involves myriad legal intricacies, from property searches to contract drafting. Our professional conveyancing team ensure that your transaction is handled with the precision and diligence it deserves. Our thorough understanding of the legal landscape surrounding both residential and commercial real estate gives you a strategic advantage.

#### 2. Risk Mitigation

Real estate transactions inherently carry risks, and overlooking details can have significant consequences. Our meticulous approach to conveyancing is geared towards identifying and mitigating potential risks, safeguarding your interests throughout the process.

### CASE STUDY

#### The Hidden Easement

In a residential property transaction handled by an inexperienced conveyancer, a critical easement was overlooked during the due diligence process. The buyers, unaware of this hidden encumbrance, later discovered that a portion of the property was designated for utility access. The oversight led to a protracted legal dispute, costing the buyers both time and money.

Argon Law's meticulous conveyancing process includes a comprehensive examination of property records, preventing such oversights and safeguarding our clients from hidden complications.



### SELLER DISCLOSURE STATEMENT CHANGES

Read the complete article here.



### 3. Tailored Solutions

No two real estate transactions are identical. Recognising this, our conveyancing services are tailored to meet the unique needs of each client. Whether you are engaging in a residential purchase or a complex commercial sale, our team crafts bespoke solutions that align with your objectives, ensuring a seamless and efficient process.

### CASE STUDY

#### Inadequate Due Diligence

A developer engaged a subpar conveyancer for a large-scale commercial development. Inadequate due diligence resulted in the discovery of environmental issues, zoning conflicts, and unresolved disputes with local authorities only after construction had commenced.

Argon Law's specialised team is well-versed in handling complex commercial developments, conducting rigorous due diligence to identify and address potential challenges before they escalate.



### 4. Comprehensive Support

Beyond the transactional aspects, our commitment to comprehensive support sets us apart. From the initial consultation to the finalisation of the deal, we are with you every step of the way. Our team is readily available to address your concerns, answer queries, and provide the guidance you need, fostering a client-centric experience that goes beyond the basics.

At Argon Law, our dedication to excellence, coupled with a client-focused approach, positions us as the ideal partner for all kinds of real estate projects and investments.

Choosing us means choosing a team that not only understands the intricacies of the law but also prioritises your peace of mind throughout the process.

**“I definitely wouldn't hesitate to recommend Argon Law.**

**I dealt with Shaun regarding my property settlement, and he made the whole process run smoothly and kept me informed with every step along the way.**

**It was a real pleasure having Shaun and the team at Argon Law handle my matter.”**

### SELLER DISCLOSURE STATEMENT UPDATED CHANGES COMING THROUGH MID-LATE 2024. BE PREPARED.

In recent developments, changes to the Property Law Act in Queensland are set to significantly alter the current “buyer beware” approach in property sales.

The new legislation, which is unlikely to come into effect before mid-2024 or later, aims to enhance buyer protection by introducing a comprehensive seller disclosure statement

requirement for all registered freehold lots, including lots in a body corporate and commercial properties. There will also be significant changes regarding easements and the statutory rights of use. This article explores the proposed changes, highlights potential implications, and emphasises the importance of legal compliance to avoid unfavourable outcomes.

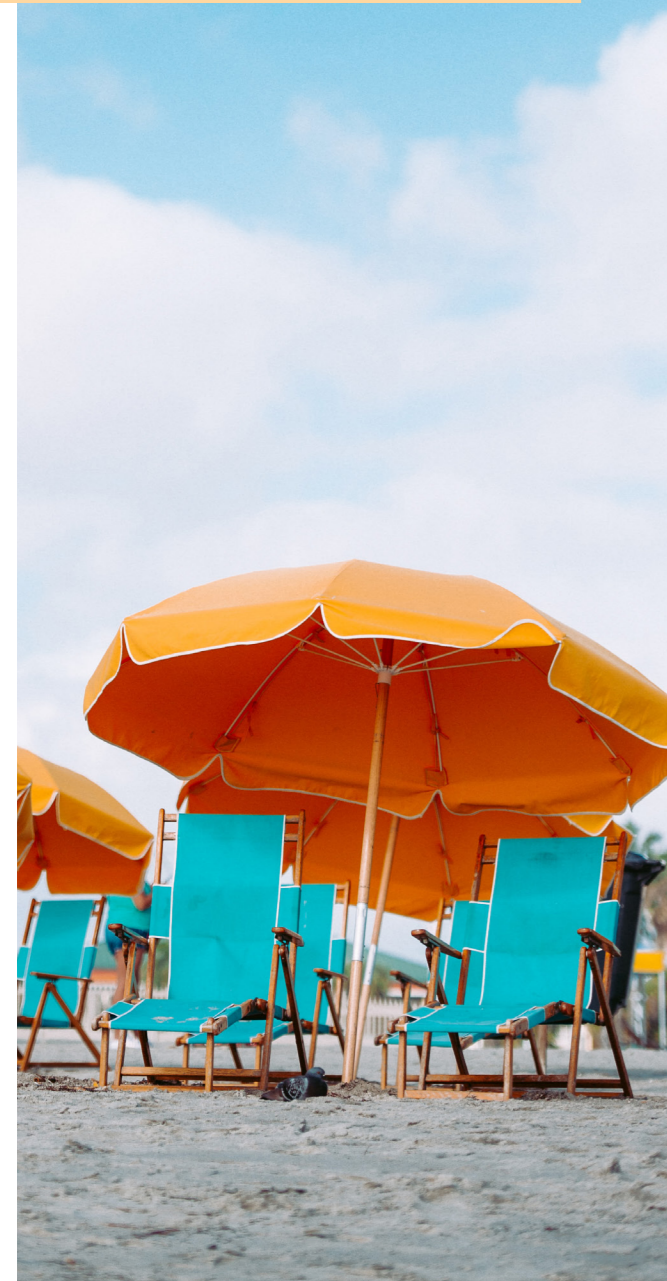


# BODY CORPORATE

## SMART QUESTIONS TO ASK BEFORE YOU BUY MANAGEMENT RIGHTS

### BODY CORPORATE SERVICES

- Body Corporate Committees
- Management Rights
- Body Corporate Disputes
- Development – Community Title



Before you decide to purchase management rights, it is important that you seek legal advice in relation to the documentation. You are buying the rights contained in contracts with the body corporate. These contracts are not standard and differ between each complex.

Some smart questions to ask before you purchase management rights are:

### 1. WHAT STRUCTURE SHOULD I USE TO PURCHASE THE MANAGEMENT RIGHTS?

Choosing the right structure when purchasing management rights is important. The right structure can have a significant impact on the amount of transfer duty you pay and any future capital gains tax. There are various entities to consider – a company, a company acting as trustee, or one or two individuals involved.

There are normally two contracts when purchasing management rights – one to deal with the purchase of the real estate (the manager's lot) and the other to deal with the purchase of the business. Our clients often use separate entities for each of those two contracts. The entity purchasing the manager's lot is purchasing a residential lot and so it will have special arrangements for both transfer duty and capital gains tax if structured correctly. Seek our legal advice before you sign any documentation to ensure that you structure your purchase in the best possible way.

### 2. HOW MUCH WILL I BE PAID BY THE BODY CORPORATE?

You should be aware of how much the caretaker's fees are and whether it is increased each year. The body corporate will pay you a fixed remuneration for your caretaking services. It is important that you ensure the documentation reflects the fee increasing each year, at least linked to the consumer price index.

You need to understand your responsibilities associated with caretaking and ensure that you can meet those requirements. The caretaking functions are usually set out in the caretaking agreement.

Some agreements may be general while others will set out the specific daily, weekly, monthly duties. Some functions must be carried out personally (or by contractors you arrange), while others must be undertaken by outside contractors paid for by the body corporate and the work supervised by you.

### 3. HOW MANY OWNERS ARE IN THE LETTING POOL?

The letting pool is the number of lot owners who use your letting services. Payment for the letting service is made by owners who choose to use your service.

The more owners using the letting services, the more income is received by the manage.

Remember, you are not otherwise paid by the body corporate for providing the letting service.

You need to understand how many units are in the pool, how many units are owner-occupied and how many are with outside letting agents. You must have a separate agreement with each owner setting out the charges for collecting the rent and looking after the unit, using the prescribed form.

### 4. WHAT ARE THE COSTS INVOLVED?

There are two main cost components in purchasing management rights – the cost of the real estate and associated office, and the actual management rights business. As well as these costs, you will also have transfer duty on the management rights business, legal costs, accounting costs (including costs associated with conducting due diligence on the figures provided by the seller) and the costs of obtaining the resident letting licence.

### 5. WHERE IS THE OFFICE LOCATED?

When purchasing management rights, traditionally you purchase a unit in the development. You need to understand whether the office/ reception area for the business is located within the unit, or if there is a separate area on common property. If the office is on common property, you need to ensure that you have authority to use this area (usually by way of an exclusive use by-law). The location of the office and your right to use that area is important, particularly when it comes to renewing or ending your agreement.

### 6. HOW LONG DO THE CARETAKING AND LETTING AGREEMENTS HAVE TO RUN?

It is important to understand how much time is left to run on the management rights agreement. Management rights agreements have a definite beginning and end date. The maximum term of management rights agreements will depend upon the relevant regulation module that applies to the community titles scheme.

Under the standard module the maximum term, including all options to renew, is a period of 10 years. Under the accommodation module the maximum term of management rights agreements is 25 years.

Upon the expiration of the management rights agreements, you have no right to insist that the body corporate enter into new management rights agreements with you and the body corporate is not legally obliged to renew the management rights agreements with you. Understanding the time left to run on the current agreement and having a reasonable period of certainty is obviously important.



### BODY CORPORATE LAW: MAIN CHANGES COMMENCING SOON

- New method for the termination of community title schemes – requires agreement of 75% of lot owners (not 100% as previous);
- Provisions about sunset dates in off the plan contracts are being amended to limit developers' ability to terminate pursuant to these sunset clauses;
- Smoking restrictions – bodies corporate can establish by-laws to restrict smoking;
- The support of pet ownership in community title schemes;
- Towing of vehicles parked on common property will be possible, without authority.



Scan to find out more details of the changes to Body Corporate and Community Management Legislation.

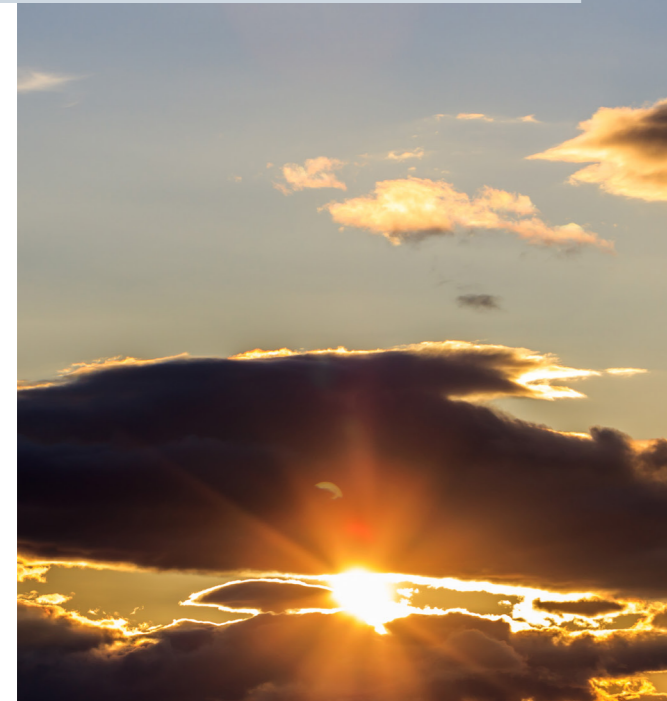


# WILLS AND ESTATES

## PLANNING, ADMINISTRATION & DISPUTES

### WILLS AND ESTATES SERVICES

- Wills
- Testamentary Trusts
- Enduring Powers of Attorney
- Advance Health Directives
- Estate Planning
- Estate Administration
- Estate Disputes
- Superannuation Death Benefits
- Safe Custody Storage of Documents



Are you a former client of FTM Law (incorporating Fox Mildwaters Solicitors)?

Read more regarding your safe custody documents including Wills and EPAs.

### ESTATE PLANNING

#### 1. UNDERSTAND THE BASICS

Before delving into the specifics, familiarise yourself with the foundational concepts of estate planning:

- **Assets:** Identify all your assets, including real estate, investments, bank accounts, personal belongings, and valuable possessions.
- **Beneficiaries:** Determine who you want to inherit your assets. This could include family members, friends or charitable organisations.
- **Guardianship:** If you have minor children, decide who will become their guardian if you and your spouse pass away.

#### 2. CONSIDER RISKS

Who can challenge your will and have they been adequately provided for? Such risks may influence how you structure your estate plan.

#### 3. CRAFT A WILL

A Will is a legal document that outlines how your assets will be distributed after your death. Consider these key aspects:

- **Executor:** Appoint one or more executors, the person/s responsible for carrying out your wishes as stated in your Will. This should be someone trustworthy and capable.
- **Asset Distribution:** Clearly specify how you want your assets to be distributed among beneficiaries. You can leave specific items, a percentage of your estate, or fixed sums of money.
- **Guardianship:** If you have minor children, name a guardian to take care of them in the event of your passing.

#### 4. CONSIDER TESTAMENTARY TRUSTS

Trusts are legal arrangements that allow you to transfer assets to a trustee who will manage and distribute them to beneficiaries according to your instructions. Trusts offer benefits such as:

- **Control:** You can define specific conditions under which the assets will be distributed.
- **Tax Efficiency:** Trusts can help to minimise income taxes of beneficiaries and provide for more tax-efficient wealth transfers.
- **Asset Protection:** Trusts can protect assets from beneficiaries who can't be trusted with direct control of assets.

#### 5. CONSIDER SUPERANNUATION

Superannuation does not automatically form part of a deceased estate. This includes industry superannuation funds and Self-Managed Super Funds (SMSFs). We help to ensure you have Binding Death Nominations in place, where appropriate, as part of your estate plan.

#### 6. ENDURING POWER OF ATTORNEY

Grant a trusted person the power to make financial and personal / health decisions on your behalf if you become incapacitated.

#### 7. PLAN FOR BUSINESS SUCCESSION

If you own a business, ensure its seamless transition by considering:

- **Succession Plan:** Decide who will take over the business after your retirement or passing. This could be a family member, partner, or another designated individual.
- **Buy-Sell Agreements:** Implement shareholder agreements that govern the sale of your business interest to co-owners, ensuring a smooth transition and fair value.

#### 8. ADVANCE HEALTH DIRECTIVES

An Advance Health Directive outlines your medical preferences and appoints a healthcare proxy to make medical decisions when you cannot.

#### 9. CONSIDER TAX IMPLICATIONS

Understand the way taxes may affect your beneficiaries. Consult with financial and legal advisors to minimise tax liabilities.

#### 10. FUNERAL AND BURIAL WISHES

Clearly communicate your wishes regarding funeral arrangements, burial and cremation.

#### 11. PROFESSIONAL GUIDANCE

Estate planning is complex, involving legal, financial, and emotional considerations.

Consult experienced professionals, such as solicitors, financial advisors, and accountants, to ensure your plan aligns with your goals and is legally sound.

Argon Law's estate planning professionals will collaborate with the other professionals in your life to ensure all areas of advice are integrated.

#### 12. REVIEW AND UPDATE REGULARLY

It is important to regularly reviews to your estate plan.



### GUIDE TO WILLS & ESTATES PLANNING

Download your free guide



### ESTATE DISPUTES

Estate disputes commonly arise when individuals assert that they have been treated unfairly in a will or under the rules applicable when there is no will. These conflicts may also stem from questions regarding the proper execution of a will, its interpretation, the will maker's understanding of the document they signed, and even suspicions of undue influence.

If you have questions or concerns about an estate dispute and would like a case review, please click on the button below for your complimentary 15-minute introductory call with one of our solicitors.

We will then contact you for an initial discussion, to help us understand the nature of your case and offer a clear plan to move forward.



Scan the code to book a 15-minute free introductory call

“Michelle Wilson and Deanne Cherry were clear, concise, effective and absolutely fabulous at being my advocate, answering all my questions and reassuring my nerves during the process.

I 100% recommend using Argon Law if you want a supportive and knowledgeable team.”

### ESTATE ADMINISTRATION

The process once someone has passed

As well as assisting clients to obtain grants of probate and administration of deceased estates, our solicitors at Argon Law can assist executors in the process of managing estates, including getting control of and selling off estate assets, arranging for the preparation of tax returns, dealing with claims against the estate and arranging for payment of distributions to beneficiaries.

We can guide you through this difficult time.



### WILLS & ESTATES

Find out more about how we can help



# SUPPORTING OUR COMMUNITY

ARGON LAW ARE PROUD TO SUPPORT THE SUNSHINE COAST



FOLLOW ARGON LAW ON SOCIAL MEDIA



Sunshine Coast National Art Prize 2023

## ARGON LAW SUPPORTS LOCAL

At Argon Law, we take immense pride in supporting our local community. Nestled in the heart of the vibrant Sunshine Coast, we understand the importance of local businesses and values that define our region.

## NURTURING CREATIVITY FOR A VIBRANT COMMUNITY

The Sunshine Coast National Art Prize exhibition is the highlight of Argon Law's year. Works from 40 leading Australian artists, showcasing the very latest contemporary art the nation has to offer are available to view at the Caloundra Regional Gallery between August and October each year.

The artworks offer a diverse portrayal of subjects in a range of styles, from traditional oils and acrylics to new media and digital compositions, that together, confront, celebrate, enlighten and engage.

Argon Law director John Gallagher said, "2024 will be our 6th year as Major Sponsor, alongside the Sunshine Coast Council, of the Sunshine Coast National Art Prize. We see it as a great privilege to be involved with this wonderful event and to support and promote the visual arts in this region."

"Sunshine Coast National Art Prize is always the highlight of our year at Argon Law. It has always been an Argon Law guiding principle to give back to the community and what better way to do that than to sponsor the major prize."

"We recognise the importance of the arts in a healthy and successful society and economy. The arts as an industry is, by itself, an important part of our economy, but the creativity which the arts inspire is an essential part of our survival and success in all other facets of our economy. We are incredibly lucky to be living in this community and to have thriving and passionate arts and business communities."



Sunshine Coast National Art Prize 2023

## SUPPORTING THOSE WHO NEED IT

Several members of the Argon Law team have dedicated many years' service to the Suncoast Community Legal Service, with Director John Gallagher receiving a Lifetime award for giving 12 years of service as a volunteer at the association.

We also ensure to regularly donate to charities and partake in events that are close to our hearts helping those who need it most throughout the year.



Sunshine Coast Marathon



Australian Wearable Arts Festival

## SUPPORTING SUNSHINE COAST LOCAL BUSINESS

Our commitment to the community goes beyond legal matters; we genuinely enjoy supporting our clients and friends in their own entrepreneurial and personal endeavours. We believe that when local businesses thrive, the entire community prospers.

We also cherish the opportunity to work with fellow Sunshine Coast locals who share the same values of integrity, community, and growth. As leading authorities on Commercial, Property Law and Wills & Estates, Argon Law regularly get referrals from happy clients, businesses and lawyers on the Sunshine Coast for more technical matters.

Our dedication to our clients and our community is at the core of everything we do, and we look forward to continuing our journey of supporting and serving the Sunshine Coast.



Dry July Cancer Council

## SUPPORTING FUTURE LAWYERS

Argon Law's Litigation and Dispute Resolution Solicitor Natasha Blank regularly assists future lawyers as a guest lecturer for Law students at University of the Sunshine Coast.

Having attended the same theatre, Natasha says it is an incredibly surreal experience to be lecturing where she has also been a student.



Natasha Blank Presenting at USC





-   
 Commercial & Business Law
-   
 Litigation & Dispute Resolution
-   
 Wills & Estates
-   
 Asset Protection
-   
 Employment Law
-   
 Property Law

Argon Law is a law firm based in Maroochydore servicing the Sunshine Coast, Noosa, the hinterland and surrounds.

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 **THE COUNSEL YOU KEEP**

