

## Talking Law Article – September 2009 Water and your Will

With the recent changes to the *Water Act*, commonly known as "unbundling" of water rights, some water entitlements have changed.

Some of those water entitlements are:

- **Separately transferable from land**, subject to certain conditions being met (eg. Water Shares),
- **Linked to land** and therefore transfer with land unless substantial exit fees are paid (eg. Delivery Share),
- **Personal licenses** (Section 51 "take and use" licences, eg Groundwater licences and Spearpoints).

All primary producers and rural residential dwellers with water entitlements need to consider whether their current Will adequately specifies who will receive the benefit of the different types of water entitlements. It cannot be presumed that the beneficiary of land will receive the water entitlements.

This is of particular importance if you hold more than one parcel of land, and intend to divide those parcels between various beneficiaries.

Failure to adequately deal with these matters in your Will can lead to uncertainty about your testamentary intentions, and therefore make challenges to your Will more likely. These are usually costly and delay the distribution of your Estate.

It is highly recommended that you seek legal advice about the water implications of your current Will.

Dawes & Vary is highly skilled in the area of Water Law, and can review your Will for you in the light of these changes.

This article is for general information and is not to be taken as specific legal advice. If you require advice on any matters relating to Water or Wills, please contact Racheal Despotellis at Dawes and Vary Kyabram on 5851 0200, Lesley Hart at Shepparton on 5820 0200, Trish Vigliaturo at Tatura on 5824 0300.

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