

# Black & Blanco

A simple guide to

## **ESTATE PLANNING**

*Liability limited by a scheme approved under Professional Standards Legislation*

# An Estate Plan is more than just having a Will

**Estate planning** involves making choices and putting a framework in place so your assets can be dealt with and decisions made on your behalf in the event that you cannot make decisions for yourself because either you have lost capacity or have passed away.

Estate Planning is more than just preparing a Will, it involves a holistic review and consideration of your personal circumstances.



## Considerations



Every Estate Plan is different and involves a consideration of many factors.

- Some assets such as **superannuation** and anything you own **jointly** with another person, such as money in joint bank accounts or perhaps your home, may fall outside the class of assets which can be distributed under your Will.
- Is your Will open to **challenge**? If so, can additional measures be put in place to protect your wishes?
- What is your **family** situation? Are you single, married, divorced or in a de-facto relationship? Wills generally become void on marriage but not on divorce.
- Do you have minor **children**, children to different relationships, adopted children or step-children?
- Do you have any **tax** or **trust structuring** in place?
- Is a **Simple Will** or **Testamentary Trust Will** most appropriate in your circumstances? A Testamentary Trust Will, may provide beneficiaries with tax advantages as well as asset protection in circumstances where a beneficiary is at risk due to their age, having a disability, is at financial risk (for example due to possible bankruptcy or working in a high risk profession) or in a volatile personal relationship.
- Are you running a **business**? Do you have a separate business succession plan? What happens to the assets of a business on your death is dependent on how the business is structured and you may not be able to pass the business assets under your Will.
- Do you have any **insurances** in place and if so, have you correctly appointed the beneficiaries of such a policy?



# The documentation



There are **three** main documents which are typically discussed as part of an Estate Plan.

## WILL

A **Will** distributes your assets once you pass away.

### Key considerations:

- Identification of assets
- Appointment of executor
- Specific gifts
- Funeral planning
- Guardianship of minor children
- Marital status
- Potential challenge
- Testamentary trust

### Time for a new Will?

- Newly married or separated
- Change in circumstances

### No Will?

If you pass away with no Will your assets will be distributed in accordance with law and the process may be time consuming and expensive

## POWER OF ATTORNEY

A **Power of Attorney** allows you to grant someone (the "attorney") the ability to make legal and financial decisions on your behalf while you are alive.

A **Power of Attorney** can be prepared to suit your individual circumstances and may:

- Limit the ability of the attorney to act in certain circumstances
- Include specific instructions
- Only become effective on the occurrence of a certain event

### When will a Power of Attorney cease to operate?

- On your death
- On the death of the attorney
- When formally terminated
- On the occurrence of an event detailed in the document

## ENDURING GUARDIANSHIP

An **Enduring Guardianship** allows you to grant someone (the "guardian") the ability to make health and lifestyle decisions for you in the event that you are unable to make such decisions for yourself.

### An appointed guardian may make decisions such as:

- Where you live
- What type of healthcare services you will receive
- Which doctor will treat you

### When will an Enduring Guardianship cease to operate?

- On your death
- On your death of the guardian
- When formally terminated

## Costs and next steps



### Costs

The cost associated with having an Estate Plan prepared will vary depending on various factors including:

- the number of documents you need prepared
- the nature of the advice required
- the complexity of your requests and circumstances
- the urgency of the matter

We will provide you with our indicative price list when you contact us and a quote setting out the fees will be sent to you following the initial consultation.

### Next steps

At **Black & Blanco**, we take the time to understand your personal circumstances and wishes and make the estate planning process easy by coming to you, outside of office hours if necessary and providing fixed fee quoting.

Ready to discuss your choices and proactively make plans and decisions so that you are in control of your future? Contact us to organise an obligation free 20 minute telephone consultation.



#### Aly Morgan Greig

Founder and Principal Solicitor  
Black & Blanco