

# Why a Will is NOT Estate Planning

*Presented by* **Tom Meagher**  
Director – Balfour Meagher

# Tom Meagher | Director



**Tom has over 30 years' legal and business experience including:**

- ✓ **working for local and major national Law Firms;**
- ✓ **being the majority owner and executive director of his former mid-tier Law firm;**
- ✓ **being a National Operations Manager for a financial advisory IT platform provider**
- ✓ **being the WA Legal Technology Group Manager for a National Law Firm**
- ✓ **qualified as a Microsoft-certified Project Manager;**
- ✓ **owning and managing an IT Consultancy Business; and**
- ✓ **being a Director and In-House Counsel for a Public Company.**

# Tom Meagher (continued)

Tom is also a regular publisher of articles and is one of Australia's leading presenters of legal seminars to and for various professional bodies, associations and government authorities on a wide range of business law and professional development-training topics including:

WA Department of Commerce	Institute of Public Accountants	CPA Australia
Chartered Accountants Australia & NZ (CAANZ)	Governance Institute of Australia	Mortgage & Finance Association of Australia (MFAA)
Law Society of WA	National Electrical & Communications Assoc (WA)	City Insolvency Discussion Group
Innovation Centre of WA	Australian Hotels Association (WA)	Forum for Directors of Indigenous Organisations (FDIO)
LegalWise CLE	Small Business Development Corporation	Australian Computer Society
The Tax Institute	Australian Institute of Conveyancers (WA)	Institute of Certified Bookkeepers
Western Suburbs Business Association	Business Foundations Inc	WA Business Assist
WA Reckon Partners	WA Indian Docs Inc.	Australian Institute of Business Brokers (AIBB)

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- Estate Planning over our lifetime
- What are our ‘personal’ assets?
- Other assets we ‘control’:
  - Trusts (note: “appointor succession”)
  - Life Insurance
  - Joint Property
- Our ‘wishes’ vs. our Will

- Your Executor (and Trustee?), and a ‘back-up’.
- Your Residuary Estate and what are, or will be, the liabilities of your Estate.
- Jurisdiction(s) of your Will(s).
- Gifts and Life Interests.
- Forgiveness of Loans and Debts owed (and UPEs for Family Trusts).
- Specified Beneficiaries and ‘contingent’ Beneficiaries.

# Children Beneficiaries and Trusts

- Minor children – Guardianship and Residuary Trusts
- Age of Majority
- Testamentary Trusts (and ongoing advice)

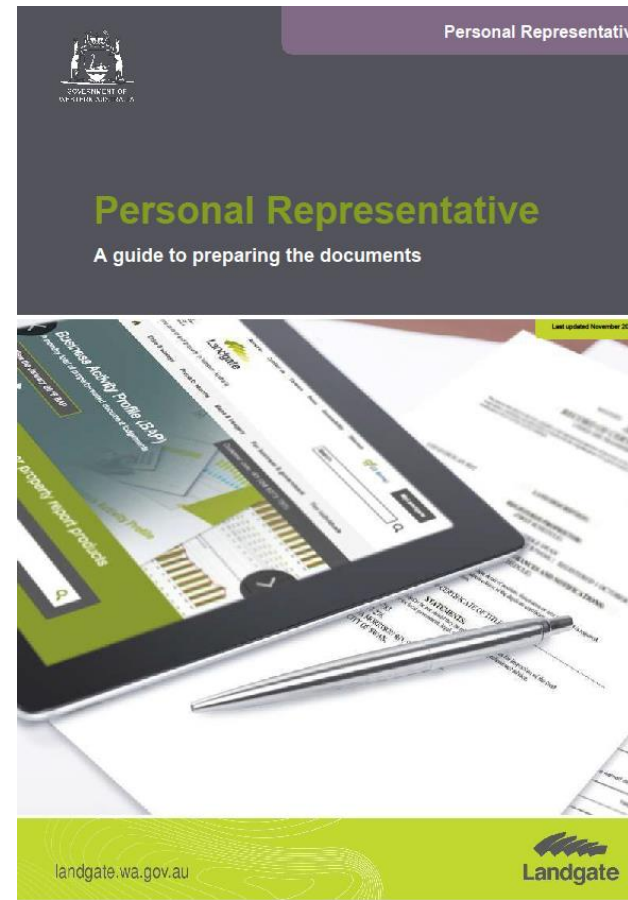
- Your body, and burials and cremation.
- Effect of Marriage and Separation / Divorce.
- Organ donation for medical and scientific research
  - See also Australian Organ Donor Register  
<https://www.servicesaustralia.gov.au/individuals/services/medicare/australian-organ-donor-register>
- Applying for Probate – need original Will, Death Certificate and Application for Probate (with supporting Affidavit).
- Deeds of Family Arrangement.

- Binding Death-benefit Nominations (note: 3 yrs only!) vs. Non-Lapsing Death-benefit Nominations (permanent).
- In pension-phase, what is an ‘auto- reversionary pension’?
- To be paid your Estate or ‘Dependants’ (pursuant to the *Superannuation Industry (Supervision) Regulations 1994 (SISR)* – do you understand the tax consequence of each?



# Transmission and Survivorship

- From the Deceased to ‘Legal Personal Representative’.
- Survivorship applications for Joint tenancy.



- Invalid Wills
- Letters of Administration
- Intestate Estate to be dealt by (hideous!) “set formula” - [s.14 of Administration Act of 1903.](#)



- EPA - Enduring Powers of Attorney
- EPG - Enduring Powers of Guardianship
- AHD – Advance Health Directive (aka “Living Will”)
- noting, since 1 July 2021, Western Australia now also, mercifully, has ‘Voluntary Assisted Dying’/ ‘end-of-life care’ laws

[https://www.healthywa.wa.gov.au/Articles/A\\_E/End-of-life-care](https://www.healthywa.wa.gov.au/Articles/A_E/End-of-life-care)



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