

WILLS

AND ESTATE PLANNING

AUSTRALIANS WHO HAVE A WILL < 50%
AUSTRALIANS WHO DIE = OR > 100%

If I died tomorrow, what would I want my legacy to look like?



WHAT CAN HAPPEN IF I DON'T HAVE A WILL?

- *You will have no control over who distributes your assets*
- *Assets will be distributed in accordance with the Administration Act of WA*
- *People you would want to benefit may not*
- *People you never intended to benefit could end up with part of your estate*
- *There may be bitter family disputes*
- *A child with a disability or special needs may miss out*

WILL OBJECTIVES

Most people would like their Will and estate plan to:

- *Pay debts, funeral costs, taxes, other liabilities*
- *Provide for a spouse or partner*
- *Distribute assets according to their wishes*
- *Maximise the size of estate for children*
- *Protect a child or relative with a disability*
- *Ensure a guardian is in place for children (under 18)*
- *Avoid delays, family strife and unnecessary costs*

THINGS TO CONSIDER

- *Executor*
- *Dividing assets between beneficiaries(eg spouse, children, charity) and in what proportions*
- *Appoint guardian (children under 18)*
- *Trusts for minor children or vulnerable beneficiaries*
- *How much superannuation do I have and where will it go*
- *EPA/EPG/AHD's*

ASSETS THAT CAN BE INCLUDED IN A WILL

- *House*
- *Car*
- *Personal effects*
- *Investments*
- *Household items*
- *Collections*
- *Shares in companies*
- *Powers of appointment*
- *Some insurance proceeds*

WHAT A WILL DOES NOT CONTROL.....

- *Superannuation – Binding Death Benefit Nomination*
- *Assets held in joint tenancy*
- *Life Insurance Proceeds*
- *Assets held in a company or*
- *Assets held in a Family Trust*

OPTIONS FOR LEAVING ASSETS

- *Leave nothing – SKI holiday*
- *Leave an outright gift*
- *Leave a gift subject to certain events happening - education*
- *Leave to another sibling (moral obligation)*
- *Leave gift held in trust*



MAINTAINING YOUR WILL

- *If you have one , reviewing your existing Will now!*
- *Conduct regular reviews in the future – at least every 5 years. Ron Maisey*
- *Update as circumstances change – death , divorce, marriage, grandchildren, and if you win the lottery.*
- *Update if the circumstances of your children or other beneficiaries change*

WHAT IS A TRUST AND WHY YOU MAY NEED TO HAVE ONE?

- *A Testamentary Trust is a legal relationship set up by you as testator between the trustee and a beneficiary (usually a son or daughter)*
- *A Trust ensures that assets are available for the benefit of your son or daughter but are also protected from their inability to manage them, or from creditors or former spouses or partners.*
- *Trusts can be simple or complex depending on what is needed.*

TYPES OF TRUSTS

- *Discretionary Trust – usually holds a business or investments and used to split income*
- *Testamentary Trust – set up in your “last will and testament” to protect beneficiaries*
- *Special Disability Trust – very useful trust for beneficiaries with disabilities who need protection or can’t manage assets or investments*

THE ROLE OF TRUSTEE

- *Manages the Trust assets*
- *Ensures your son or daughter benefits according to your wishes*

Duties include:

- *Holding the trust assets*
- *Releasing funds when necessary*
- *Investment and management of assets*
- *Coordinating maintenance/repairs of real estate*
- *Preparing Trust tax returns*
- *Maintaining records of the trust*
- *Disbursing assets when the trust terminates.*

CHOOSING A TRUSTEE

- *The trustee can be named in your Will*
- *If two trustees = good mix of skills*
- *Alternate trustees and successors on death*
- *Trust companies*
- *Consider a trustee who:*
 - *will always be there (an organisation) or:*
 - *is close in age to your son/daughter*
 - *knows them and has a good relationship with them*
 - *Preferably has financial and investment savvy.*

CREATING OR SETTLING A TRUST

Discretionary

- *Can be set up anytime*

Testamentary

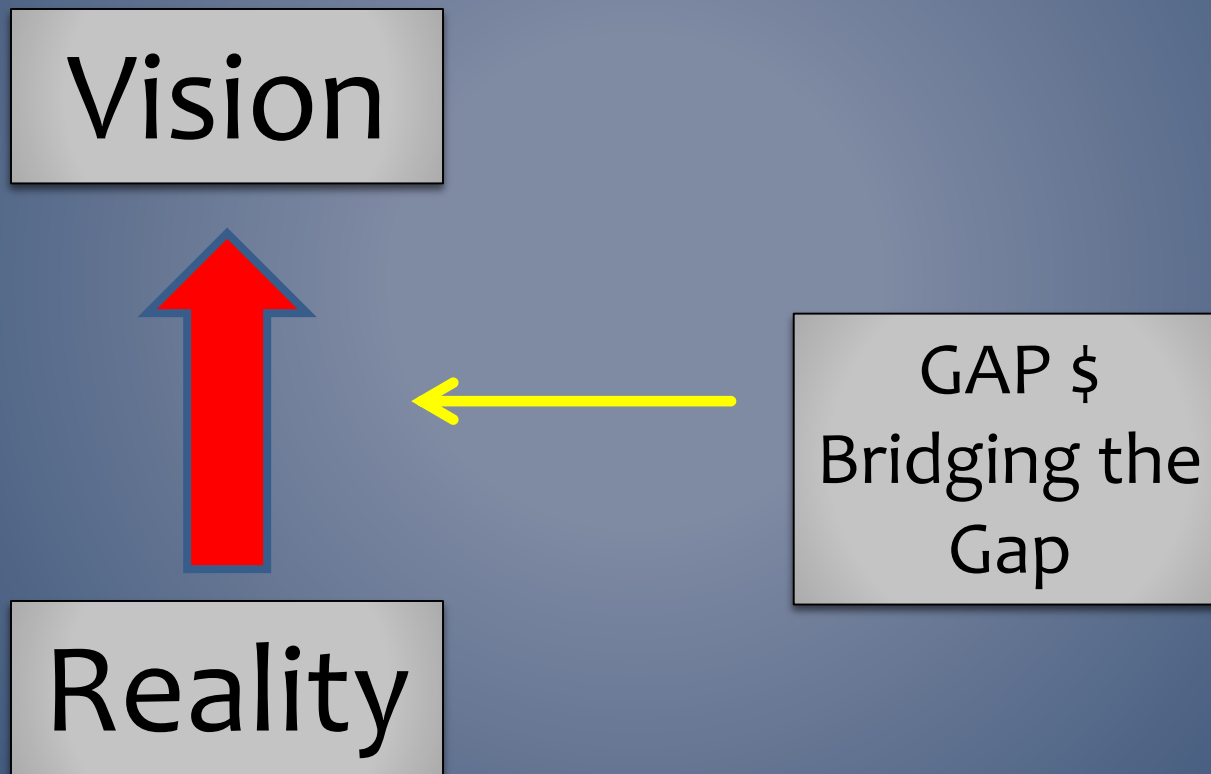
- *Set up in your Will*

Special Disability Trust

- *Can be set up now or in your Will*
- *Requires a specific trust document*
- *Generally used for larger estates*
- *Has special eligibility and reporting criteria*

IN SUMMARY

REALISTICALLY REVIEW YOUR ESTATE



ESSENTIAL TO REVIEW YOUR SITUATION REGULARLY

- *What assets and liabilities do I have?*
- *Where are they currently going if I die ?*
- *What proportion of my estate will each of my beneficiaries inherit?*
- *Are those proportions still appropriate/sufficient?*
- *Do I need to consult a lawyer, accountant or financial planner?*
- *Have I made a BINDING DEATH BENEFIT NOMINATION and lodged it with my superannuation trustee?*
- *Do I have valid EPA, EPG and AHD in place?*

THANK YOU ALL

QUESTIONS AND ANSWERS