

THINGS TO CONSIDER WHEN SEPARATING FROM YOUR SPOUSE

This information has been prepared by our estate planning solicitors to provide an overview of how separation from your spouse may affect your estate plan.

We always recommend clients going through a family law separation should as soon as practicable update their estate plan or put one in place if they do not have one. Some of the reasons why this is important are outlined below.

UPDATING YOUR WILL

Separation from your spouse does not revoke your current will. If your current Will appoints your ex-spouse as an executor or beneficiary, this will still apply in the event of your death, meaning they can benefit from your estate. To overcome this, we strongly recommend updating your Will to remove your ex-spouse.

If you do not have a Will in place, your estate may fall into the hands of your ex-spouse in the event of your death. To reduce the chances of this occurring we strongly recommend executing a Will leaving your estate to your nominated beneficiaries (e.g. children, relatives, friends).



GUARDIAN OF CHILDREN

While you may be in the process of determining with your ex-spouse who your children will live with, under your Will you can appoint a person to act alongside your ex-spouse in caring for your minor children in the event of your death.

This can provide ease of mind for you knowing that in the event of your death the decision making for your minor children will involve both your appointed guardian and your ex-spouse.

INCAPACITY

If you are separated, but not formally divorced, your ex-spouse may be able to make medical and financial decisions on your behalf in the event of your loss of mental capacity e.g. through an accident or illness.

To overcome this, you can nominate someone you trust to make these decisions on your behalf - often people will nominate a close relative or friend.

This nomination ensures your ex-spouse does not have any power to make these decisions on your behalf.



SUPERANNUATION

If you have super, you may have nominated someone to receive your super upon your death. Often this person may still be your ex-spouse.

It is important to check your latest super statement to see if your ex-spouse is nominated and if so, update this nomination. If this is not updated, your super may be paid out to your ex-spouse in the event of your death.

We can assist you with this process and advise you on who can nominate as a beneficiary (noting some family relatives cannot be nominated).

If you would like to discuss your circumstances please do not hesitate to contact our office

02 9523 5535
info@southernwaters.com.au