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REGISTRATION
OPTIONS

FACE TO FACE
OR ONLINE

17TH ANNUAL WILLS AND ESTATES CONFERENCE

Can You Act — And Can You Tell Anyone? Capacity and Confidentiality in Succession Planning

Mutual Wills, BFAs and the Limits of Contractual Succession Planning

When the Trust Deed Won't Bend: Varying Trusts and the Power of the Court

When Gifts Fail: Legacies, Drafting Risks and Unintended Outcomes

The Limits of Proprietary Estoppel In Family Succession Disputes

Informal Relationships and Expanding Family Provision Claims

Strategic Use of Probate Caveats in Estate Litigation

Life Estates, Rights of Occupation, and the CGT Main Residence Exemption

Planning, Establishing and Administering Special Disability Trusts

Disclaiming Inheritances Without Triggering Tax, Duty and Family Fallout

Estate Accounts, Beneficiary Demands and the Court's Supervisory Role

Executor Misconduct, Missing Funds and Urgent Court Action

A two-day Conference

Thursday 17 & Friday 18 September 2026

JW Marriott, Gold Coast

Feedback from last year's conference:

- “This conference was the best conference I have been to. The topics were so interesting and so relevant to my day-to-day practice. The speakers were very high level. Thank you very much.”
- “Well organised, sessions were all on time and well monitored and most importantly the content was first class. Well done!”
- “The quality of speakers and depth of delivery was excellent. I loved that the speakers attended for the duration of the conference and were willing and available to chat. It was extremely well organised and run. Thank you for a great few days.”
- “Having attended CPD conferences for the last 20 years, this has got to be one of the best due to the practical and informative advice from the speakers. I will be attending the next annual conference in 2026! Thank you.”



Your Trusted CPD Partner for more than 50 Years

DAY 1: THURSDAY 17 SEPT 2026

MORNING THEME: PLANNING UNDER PRESSURE - CAPACITY, CONTROL AND STRUCTURAL LIMITS

9.00 - 9.15am

Introduction and welcome

9.15 - 10.00am

Session 1: The End of the Testamentary Trust? Succession Planning After the New 30% Trust Tax

Testamentary discretionary trusts are under pressure from two directions at once. The drafting inadequacies of older trust instruments are generating increasing court work as circumstances outrun what those deeds can accommodate. And the Federal Budget's proposed 30% minimum tax, whatever its final form after consultation, has already changed the conversations practitioners must have with clients about structure and drafting. This session examines both:

- The distinction between varying a testamentary trust under an express power and seeking court intervention under s 86A of the Trustee Act 1925 (NSW) and its counterparts, including the scope of the court's power to enlarge trustee powers and extend vesting dates
- The drafting inadequacies in older testamentary trust deeds that most commonly bring practitioners before the court, and the consent requirements for variations affecting those who cannot consent
- CGT and duty consequences of trust variations in the testamentary context
- What the Budget papers actually say about testamentary trusts - grandfathering, the fixed trust carveout, and the income exclusions - and why the Prime Minister's public signals of openness to change create genuine ambiguity about the final shape of the reforms
- Fixed versus discretionary testamentary trusts under the proposed regime: when each structure is now the better choice, and how to draft testamentary trust provisions in wills executed today to preserve flexibility regardless of how the reforms land

Speaker: Greg Russo, AccS(Wills&Estates), Principal Solicitor, Greg Russo Law, Melbourne, Vic.

10.00 - 10.10am Panel Comments and Questions

10.10 - 10.55am

Session 2: Can You Act - And Can You Tell Anyone? Capacity and Confidentiality in Succession Planning

A client's declining capacity and the information a solicitor holds about it can create some of the most difficult professional responsibility dilemmas in wills and estates practice. This session takes a close look at the obligations that arise when a solicitor suspects or knows that a client may lack capacity, including:

- What the duty under Rule 8.1 requires when the solicitor has reason to question whether the instructions are competent
- Why capacity is a legal, not a medical, question and the practitioner's obligation to make their own assessment
- The "red flags" that should prompt a solicitor to pause and investigate capacity issues further
- The duty of confidentiality and how it applies when a solicitor holds information about a client's health or cognitive state that may be material to another person's interests
- The tension between confidentiality and the solicitor's obligation to act in the client's best interests
- Recent disciplinary decisions and practical steps for building capacity-protective habits into every retainer

Speaker: Bryan Mitchell, Principal, Mitchells Solicitors, Accredited Specialist (Succession Law), Brisbane, Qld

10.55 - 11.05am Panel Comments and Questions

11.05 - 11.30am Networking Break and Morning Tea

DAY 1: THURSDAY 17 SEPT 2026

11.30am - 12.15pm

Session 3: Locking It In? Mutual Wills, BFAs and the Limits of Contractual Succession Planning

As blended families become the norm rather than the exception, clients are increasingly looking for ways to lock in testamentary outcomes. Mutual wills and binding financial agreements are the two principal contractual tools available, but both carry significant limits that practitioners must understand and communicate clearly. This session will walk through what each instrument can and cannot do, including:

- The critical distinction between mirror wills and mutual wills, and why the latter is far more difficult to establish than commonly assumed
- The elements required to prove a binding mutual wills agreement, and the evidentiary difficulties that frequently undermine such claims
- How equity responds when a survivor departs from the agreed arrangement, including the imposition of constructive trusts and limits on relief
- The practical limits of the mutual wills doctrine, and why it often fails to deliver the certainty clients expect
- How binding financial agreements can be used to influence succession outcomes, and where their effectiveness as an estate planning tool breaks down
- The interaction between BFAs, wills and family provision claims, and the risk that one strategy may undermine another
- The importance of coordinated advice between estate planning and family law practitioners when structuring arrangements for blended families
- Practical strategies for advising clients on whether mutual wills, a BFA, or alternative structures best achieve their objectives

Speaker: Lindsay Ellison SC, Barrister, Wardell Chambers, Sydney, NSW

12.15 - 12.25pm Panel Comments and Questions

12.25 - 1.10pm

Session 4: When Gifts Fail: Legacies, Drafting Risks and Unintended Outcomes

Not all testamentary gifts land where they're meant to. Assets disappear, estates fall short, beneficiaries predecease - and suddenly the wording of the will becomes critical. What appears straightforward at the drafting stage can unravel in administration, exposing practitioners to disputes and unintended outcomes. This session explores how and why legacies fail in practice, and what can be done to reduce that risk. It covers:

- The different types of legacy and how they are treated when gifts fail, adeem or abate
- Ademption in practice, including where the subject matter of a gift has changed, been disposed of, or no longer exists at death
- Abatement and the order in which gifts are reduced, and how poor drafting can shift outcomes between beneficiaries
- Lapse and the consequences of a beneficiary predeceasing the testator, including the operation of anti-lapse provisions
- Common sources of ambiguity in the description of a gift, and how courts approach construction disputes
- The operation and limits of the residuary clause when specific and general gifts fail
- Practical steps for advising clients on how to clearly describe and structure specific gifts

Speaker: Jennifer McMillan, Manager - Practice Support Services, Lawcover, Sydney, NSW

1.10 - 1.20pm Panel Comments and Questions

1.20 - 2.15pm Luncheon

DAY 1: THURSDAY 17 SEPT 2026

AFTERNOON THEME: ESTATE DISPUTES

2.15 - 3.00pm

Session 5: Promises Made and Wills Changed: The Limits of Proprietary Estoppel in Family Succession Disputes

When a parent promises a child that an asset will one day be theirs, and that child spends decades building a life around that promise, equity may intervene, but only if the strict requirements of proprietary estoppel are satisfied. This session analyses the evidentiary and remedial hurdles facing claimants in succession disputes, including:

- The fundamental tension between proprietary estoppel and testamentary freedom, and how courts reconcile competing principles
- Why a testator's right to change their will does not automatically defeat a claim for equitable relief, and the circumstances in which equity will intervene
- The evidentiary significance of representations framed as statements of testamentary intention, and their inherent revocability
- The onus on a claimant to establish reliance, and the types of conduct that will (and will not) satisfy that requirement
- How courts assess detriment, particularly in farming estoppel cases involving long-term contributions and expectation-based decision making
- The interaction between proprietary estoppel relief and competing claims under family provision legislation, including strategic considerations in running both claims
- The remedial challenges where relief may require a claimant to forgo other entitlements, and how courts approach proportionality and minimum equity
- Practical steps for advising clients in succession disputes, including managing expectations and evidentiary preparation

Speaker: Andrew Verspaandonk, Barrister, Victorian Bar, Melbourne, Vic.

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

Session 6: Not Quite a Partner: Informal Relationships and Expanding Family Provision Claims

Family provision claims are no longer confined to spouses, de facto partners and children. As relationship structures evolve, so too does the pool of potential claimants, including those whose status may not be immediately obvious. This session examines the expanding boundaries of eligibility, and how practitioners can identify and manage these risks in practice. It covers:

- The distinction between a de facto relationship and a close personal relationship as separate eligibility categories
- Why a claimant who cannot establish de facto status may still succeed under the close personal relationship limb, or vice versa
- The cohabitation requirement for a close personal relationship and why frequent visits without shared residence may not suffice
- The cumulative requirement of both domestic support and personal care, and the wide range of conduct that courts have treated as satisfying it
- The fee-or-reward exclusion and the paid carer problem
- The additional "factors warranting" threshold that claimants in certain categories must clear before a court will even consider the adequacy of provision
- How the same facts can simultaneously fall within and outside multiple eligibility categories
- Practical steps for advising testators on identifying all people who may have a viable claim against their estate

Speaker: Christian Teese, Partner, Rigby Cooke Lawyers, Melbourne, Vic.

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

DAY 1: THURSDAY 17 SEPT 2026

4.25 - 5.10pm

Session 7: Stopping the Grant: Strategic Use of Probate Caveats in Estate Litigation

A probate caveat can halt an estate in its tracks, buying critical time to investigate, negotiate or prepare a challenge. But used incorrectly, it can expose your client (and you) to serious costs consequences. This session provides a practical guide to using caveats strategically and avoiding the traps that catch practitioners out. It covers:

- The purpose of a probate caveat and the circumstances in which it can be used to obtain a strategic advantage
- Who has standing to file a caveat, and the threshold interest required to support it
- The formal requirements for a valid caveat, and common defects that render caveats vulnerable to removal
- The process for challenging and removing a caveat, and how courts assess whether a caveator has a sufficient interest
- The risks of filing a caveat without proper grounds, including adverse costs consequences
- How caveats interact with family provision claims, and why the two proceedings must be carefully managed in parallel
- Tactical considerations in deciding when to file, maintain or withdraw a caveat
- Practical steps for advising clients on drafting caveats that will withstand challenge and avoid unnecessary costs exposure

Speaker: to be advised

5.10 - 5.20pm Panel Comments and Questions

DAY 2: FRIDAY 18 SEPT 2026

MORNING THEME: DRAFTING FOR COMPLEX OUTCOMES

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 8: Providing For Tomorrow: Planning, Establishing and Administering Special Disability Trusts

For families supporting a person with a severe disability, the question of who will provide for that person when the parents are gone is among the most pressing in succession planning. In this session, participants will work through the key requirements and practical challenges practitioners need to know, including:

- The eligibility criteria required to be met by a principal beneficiary, and common issues that arise in satisfying those requirements
- The role of the model trust deed published by the Department of Social Services, and the consequences of deviation or non-compliance
- The scope and limits of the assets test exemption, and how it impacts broader estate planning strategies
- The strict restrictions on trust expenditure, and how they affect the practical use of trust funds for the beneficiary
- The trustee's ongoing compliance obligations, including annual audit requirements and restrictions on related-party transactions
- The practical limitations of SDTs, including rigidity, compliance burden and constraints on investment and distributions
- The interaction between SDTs, NDIS arrangements and social security entitlements, and the importance of coordinated advice
- The risk that lifetime transfers to an SDT may be treated as notional estate in a subsequent family provision claim
- Comparing SDTs with alternative structures, and when another approach may better achieve the family's objectives
- Structuring the estate plan to provide for a vulnerable beneficiary without disadvantaging other beneficiaries
- Practical steps for advising families on whether an SDT is appropriate and how to implement it effectively

Speaker: Kimberley Martin, Director, WMM Law, Hobart, Tas

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 9: Keep it in the Family: Life Estates, Rights of Occupation, and the CGT Main Residence Exemption

The family home is often the most significant asset in a deceased estate and the CGT main residence exemption is often assumed to protect it. However, draft determination TD 2026/D1 has unsettled that assumption. This session analyses the CGT consequences of these arrangements and what needs to change in drafting practice now, including:

- The two pathways to the main residence exemption after death under s 118-195(1) of the Income Tax Assessment Act 1997
- The distinction between a life estate and a right of occupation as separate legal instruments
- The ATO's position under TD 2026/D1, and the underlying assumptions driving its approach to post-death occupancy arrangements
- The four arrangements the draft determination identifies as insufficient
- Why the determination may elevate drafting form over substance and risks exposing families to unexpected CGT consequences based solely on how a right to occupy was expressed
- Why existing wills that rely on trustee discretion to accommodate a surviving occupant may need urgent review
- Practical steps for identifying at-risk arrangements and engaging with ongoing uncertainty while the determination is finalised

Speaker: Mimi Su, Principal Lawyer, Macpherson Kelley, Sydney, NSW

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2: FRIDAY 18 SEPT 2026

11.15am - 12.00pm

Session 10: I Don't Want It: Disclaiming Inheritances Without Triggering Tax, Duty and Family Fallout

A beneficiary cannot be compelled to accept a gift, but the decision to disclaim one carries consequences that are frequently misunderstood by beneficiaries and sometimes by the practitioners advising them. What appears to be a simple refusal can have unintended tax, duty and succession implications, particularly where timing, conduct or family dynamics complicate the position. This session works through the legal requirements and practical risks of disclaimers, including:

- How a disclaimer may be made and why the form matters less than the communication
- The presumption of assent to a gift, and why passive behaviour alone will not constitute a disclaimer
- The irrevocability of a disclaimer once the executor or other beneficiaries have acted in reliance on it
- The risks of residuary disclaimers, and how outcomes may differ from client expectations
- The importance of protecting the personal representative through a deed and appropriate releases
- When to seek judicial advice to manage uncertainty or competing interests
- The interaction between disclaimers and social security entitlements, including risks for Centrelink recipients
- The tax and transfer duty consequences of a disclaimer, including when a disclaimer may be treated as a disposition

Speaker: to be advised

12.00 - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

AFTERNOON THEME: EXECUTORS UNDER PRESSURE

1.10 - 1.55pm

Session 11: Show Your Working: Estate Accounts, Beneficiary Demands and the Court's Supervisory Role

An executor's duty to account to beneficiaries is fundamental. However, the form that accounting should take, and the circumstances in which a court will require it, are less well understood than they should be. In practice, poor record-keeping, informal administration and escalating beneficiary demands can quickly expose an executor to risk. This session sets out what good estate accounts look like, when the formal process should be invoked, and the protection it can provide, including:

- The scope of the executor's ongoing duty to keep records and account to beneficiaries throughout the administration of the estate
- The distinction between informal reporting and the formal passing of accounts, and when informal disclosure is no longer enough
- The circumstances in which an executor should proactively seek to have accounts passed
- How a beneficiary can compel the passing of accounts
- The court's power to order an executor to file and pass accounts
- The registrar's role in reviewing accounts, the power to disallow disbursements, and what happens when a beneficiary objects
- The protection that a passed account provides for an executor and limitations on subsequent challenges
- Practical steps for practitioners advising executors on record-keeping standards, when to pass accounts voluntarily, and how to manage a beneficiary demand for an account in a high-conflict estate

Speaker: Paige Edwards, Partner, HopgoodGanim Lawyers, Brisbane, Qld

1.55 - 2.05pm Panel Comments and Questions

DAY 2: FRIDAY 18 SEPT 2026

2.05 - 2.50pm

Session 12: When the Executor Goes Rogue: Misconduct, Missing Funds and Urgent Court Action

Estate administration can unravel quickly when a personal representative stops communicating, stops accounting, and starts spending. This session maps out the warning signs, the court's powers, and the steps practitioners must take when administration of an estate breaks down, including:

- The fiduciary duties owed by a personal representative to beneficiaries
- Why those duties are not diminished by the administrator's belief that they are entitled to the funds they hold
- The warning signs that should prompt a solicitor to act
- The court's power to freeze an administrator's accounts on an urgent basis, and the evidentiary threshold a beneficiary must meet to obtain that relief
- When a court may authorise an interim distribution to beneficiaries before administration is complete
- The joinder of third parties who received misappropriated estate funds
- The circumstances in which recipients may be required to account or make restitution
- The implications of capping solicitor fees in a settlement order
- Practical steps for solicitors acting for beneficiaries when they suspect misconduct

Speaker: Carolyn Sparke KC, Barrister, Svenson Barristers, Melbourne, Vic

2.50 - 3.00pm Panel Comments and Questions

3.00pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunches are included for face to face attendees.

Conference Papers

TEN does not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

CPD

Lawyers: 11 CPD units/points (substantive law)

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

The Conference Venue

Reservation link: [Book your group rate for 17th Annual Wills & Estates Conference Sep26](#)

The JW Marriott is offering a special group rate of \$365 per night for delegates attending the conference. This rate is available for Wednesday 16 & Thursday 17 September 2026

- Full payment is due 1 day after booking
- The credit card used at the time of booking will be charged in full
- Booking will be non-refundable and no cancellations permitted

This offer is subject to availability and the cut-off date is 17.8.26.

If you require any assistance please contact the in-house Reservation Team at the hotel directly via email:

reservations.goldcoast@jwmarriot.com

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

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 - e. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
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General – all conferences

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