

## What now?

Contact us to make an appointment. At your initial appointment we will discuss your current circumstances and needs. We can ensure the proper legal preparation of all your estate planning documents. Once these documents have been signed we provide you with an ongoing service. We will hold them in Safe Custody at no charge to you. (Banks normally charge you for this).

## About Caldwell Martin Cox

Caldwell Martin Cox was established in the early 1950's and has offices at Narellan, Camden, Picton and Tahmoor.

Our specialist lawyers advise clients on Wills and estates, family law, the purchase and sale of property, criminal and traffic law, litigation and dispute resolution, commercial law and business law.

All of our lawyers practise in Wills and estates and we operate from all four offices and serve clients across a broad region.

Partner Angus Cox is an Accredited Specialist in Wills and Estates.

**For further information and assistance, please call our solicitors on any of the numbers listed below.**

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**What are the 3  
'Must Have'  
Documents  
For Every Adult Australian?**



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Solicitors

- 28 Hill Street, CAMDEN NSW 2570  
Tel 02 4655 3077 Fax 02 4655 3227
- 20 Menangle Street West, PICTON NSW 2571  
Tel 02 4677 1292 Fax 02 4677 1442
- 129 Remembrance Drive, TAHMOOR NSW 2573  
Tel 02 4681 9203 Fax 02 4683 1156
- Suite 3, Level 1, 320 Camden Valley Way, NARELLAN NSW 2567  
Tel 02 4647 8348 Fax 02 4646 1595

Email: [help@cmcox.com.au](mailto:help@cmcox.com.au)

Website: [www.cmcox.com.au](http://www.cmcox.com.au)

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This publication has been prepared for the purpose of quick information dissemination to Caldwell Martin Cox clients. Its contents should not be used as a basis for advice or formulating decisions.



## ***What are the 3 'Must Have' Documents For Every Adult Australian?***

### **1. Will – (Where there's a Will there's a way to provide for your loved ones and avoid a family dispute!)**

Every Australian over the age of 18 years who is concerned about what would happen to their affairs and possessions if they were to die would well be advised to make a Will.

#### **What is a Will?**

A Will is a legal document that details how your property, your money and investments (including shares, insurance policies, jewellery, etc.) and other assets are to be distributed when you die. It **only** comes into effect upon death.

If you already have a Will you may need to review it if you get married or divorced; if your spouse or a family member mentioned in your Will dies; if your Executor dies or becomes infirm; if your financial situation changes (you inherit money or win big on Lotto) or if your wishes change.

### **2. Power of Attorney – (Keep control of your assets when you can't look after yourself!)**

**Putting someone else in charge of your financial affairs needs careful consideration. Becoming incapacitated without a Power of Attorney can cause a lot of heartbreak. What should you do?**

If you were unable to handle your own financial affairs you would want someone you knew and trusted to be in charge of them. For a planned event such as absence on an overseas trip you can prepare in advance. If, without warning you are debilitated by disease or accident and you can no longer look after your own affairs what would happen?

When you die your Will takes effect but if you are still alive your spouse may not be able to have access to funds or be able to make the decision to sell a property if needed.

#### **What is a Power of Attorney (P.O.A.)?**

It is a document given by one person to another (or others) to act on behalf of that person in financial matters. The powers can be general or for specified purposes. A POA can also be for a defined time or until a certain event has occurred, such as if you are going overseas and you appoint an attorney to handle the sale of a property. An Enduring POA is one which can continue even after you may lose capacity.

An attorney has the same powers as you have over your property and assets and could conceivably sell your property from under you so it is important that the POA covers exactly what you intend it to do and that your attorney is someone you can trust.

Spouses should give each other POA in case one is struck seriously ill or incapacitated. Parents could also give one to an adult child, children or trusted family member.

Knowing you have an attorney who will deal with your financial affairs when you are absent or infirmed can give you and your spouse security and peace of mind.

### **3. Enduring Guardianship – (Allow a loved one to protect you when you can't.)**

#### **Why appoint an enduring guardian?**

We all prefer to decide for ourselves where we live, who we see, which doctor we go to, what medical treatment we will receive and what services we will have. Unfortunately this is not always possible. Every day people are involved in accidents or become sick. Sometimes this can lead to them being unable to make decisions for themselves.

People have long been able to plan ahead and appoint a person under an Enduring Power of Attorney to make decisions about their money and property should they later lose the capacity to do this for themselves. Now there is a similar way to appoint someone with legal authority to make personal or lifestyle decisions on your behalf.

#### **What is an enduring guardian?**

An enduring guardian is someone you choose to make personal or lifestyle decisions on your behalf when you are not capable of doing this for yourself. You choose which decisions you want your enduring guardian to make. These are called "functions". You can give your guardian directions on how you want them to carry out the functions. They do not have the power to deal with financial matters.

#### **What sort of decisions can an enduring guardian make?**

You can give your enduring guardian as many or as few functions as you like. You may also give the guardian directions about how to exercise the decision making functions you give them. For example, you can direct your guardian to consult with someone else on each function whenever possible.

#### **What sort of decisions is an enduring guardian unable to make?**

An enduring guardian cannot make a will for you, vote on your behalf, consent to marriage, manage your finances or override any of your objections to medical treatment. If decisions are made by your enduring guardian to which you strongly object, the matter can be put before the Guardianship Tribunal for resolution.