



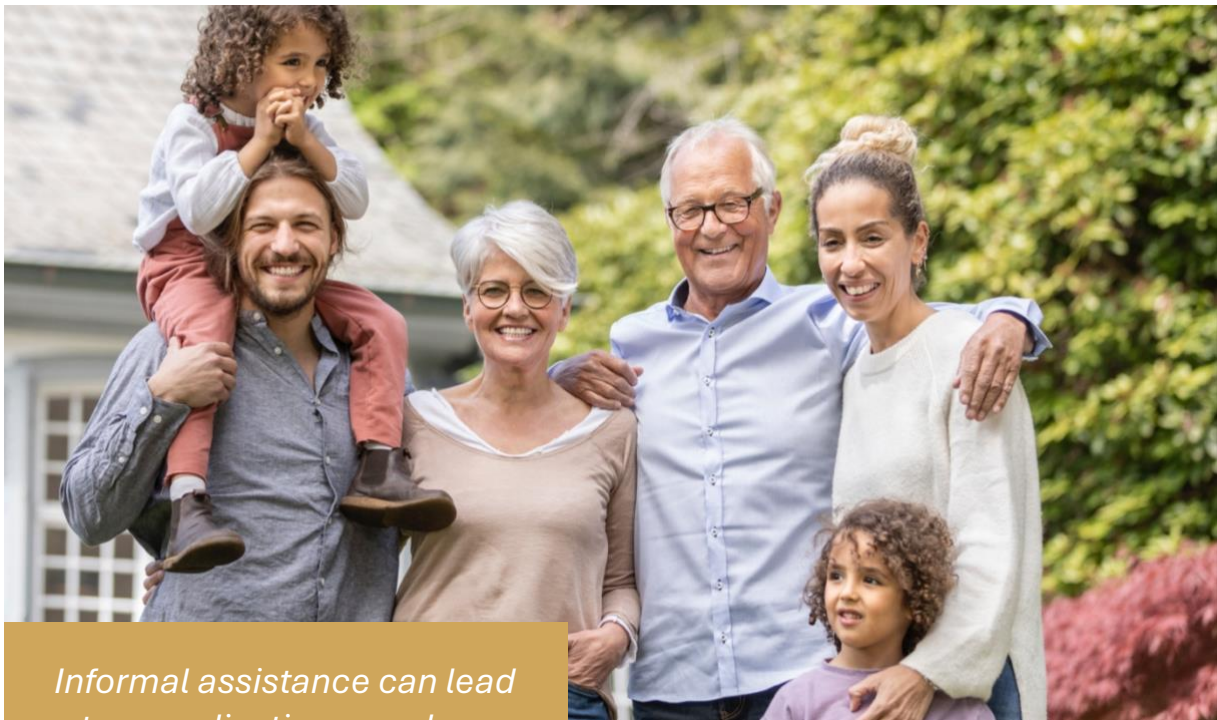
The Bank of Mum and Dad in Australia:

From Loans to Legacies

*Understanding BOMAD Trusts: Secure Financial
Support for the Next Generation*

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Informal assistance can lead to complications, such as family disputes, legal challenges during divorces, or financial losses due to bankruptcy.

1. Introduction to the Bank of Mum and Dad (BOMAD)

In today's challenging economic landscape, where housing affordability has reached unprecedented lows, many young adults in Australia struggle to enter the property market without external help. The "Bank of Mum and Dad" (BOMAD) refers to parents (and sometimes grandparents) providing financial assistance to their children, often in the form of loans or gifts for home deposits, education, or other major life expenses. Recent estimates suggest BOMAD contributes approximately \$3.5 billion annually to the Australian economy, making it one of the nation's top "mortgage lenders."

This trend is not unique to Australia, with similar patterns in the UK and other developed nations, where intergenerational wealth transfer has become a necessity.

The BOMAD concept has shifted from informal arrangements to structured financial strategies, driven by soaring property prices and stagnant wage growth. In cities like

Sydney and Melbourne, the average home deposit exceeds \$100,000, often unattainable for millennials or Gen Z without parental support. Baby boomers, benefiting from decades of property appreciation, frequently step in to bridge this gap. However, informal assistance can lead to complications, such as family disputes, legal challenges during divorces, or financial losses due to bankruptcy.

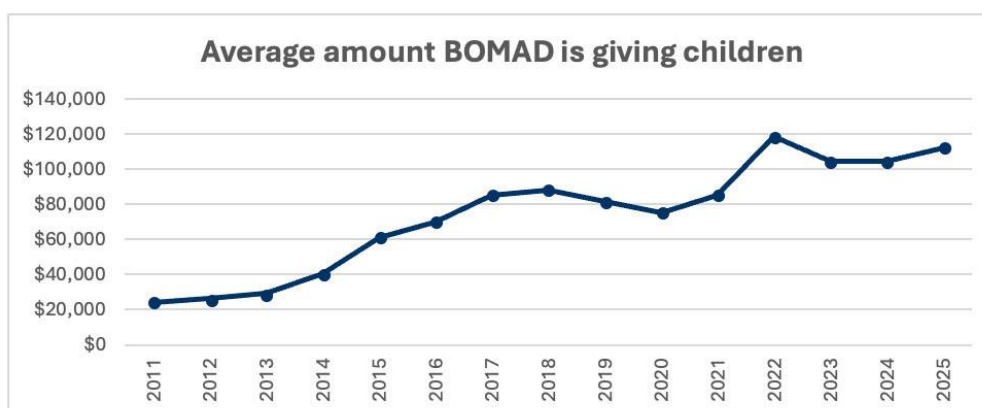
This book explores BOMAD trusts, a specialised legal structure designed to formalise and protect these transactions. In it we examine the mechanics, benefits, and implementation of BOMAD trusts, alongside related structures like BONAP and Succession Trusts.



2. The Rise of BOMAD in Australia

The Bank of Mum and Dad has grown significantly in Australia over the past decade, with around 30% of first-home buyers relying on parental support. BOMAD facilitates thousands of property purchases annually, driven by high property prices, stricter bank lending criteria post-Global Financial Crisis, and a cultural shift toward intergenerational support. It is often ranked as the fifth-largest mortgage lender in Australia, surpassing some traditional financial institutions.

Historically, family financial help was informal; cash gifts or casual loans. However, with median house prices in capital cities doubling over the last 15 years, parents are regularly providing sums over \$90,000 per child, increasing risks if not properly structured. Legal cases show that undocumented loans can be reclassified as gifts in court, leaving parents vulnerable in scenarios like a child's divorce or financial failure. Macquarie Group Services recognises this evolution, offering BOMAD trusts to address these challenges. While BOMAD provides critical support, legal protections are essential to safeguard family wealth.



Economic pressures, such as inflation and interest rate hikes, amplify BOMAD's role. In 2024-2025, with interest rates around 4-5%, young buyers face deposit hurdles. Parents, using home equity or superannuation, fill this gap, but risk their retirement security. Studies indicate that up to 20% of BOMAD transactions lead to disputes or losses without proper structures, underscoring the need for solutions like those from Macquarie Group Services.

3. Challenges Facing Young People

Young Australians are increasingly facing a range of challenges not experienced by their Baby Boomer parents. These challenges can result in serious financial risk to any parents considering helping their kids with a property purchase and come from a variety of sources. Financial challenges such as an increasing cost of living and housing affordability, legal and defamation challenges and divorce are all different from what was experienced by their parents.

3.1. Financial Challenges

Young Australians, particularly millennials and Gen Z, face significant financial barriers that make achieving milestones like homeownership or financial independence difficult, fuelling reliance on BOMAD.

Housing Affordability Crisis

Median house prices in Sydney and Melbourne exceed \$1 million, requiring deposits of \$100,000 or more. With average full-time earnings around \$90,000, saving for a deposit can take over a decade, especially with rent consuming 30-40% of income. The house price-to-income ratio has doubled since the 1990s, making homeownership elusive without parental help.

Stagnant Wage Growth

Real wages have stagnated, with near-zero growth from 2013 to 2023, while living costs have risen sharply. This limits young people's ability to save, increasing dependence on family support.

Student Debt and Education Costs

HECS-HELP debts average \$25,000 per graduate, with repayments reducing disposable income and delaying savings for major goals. Vocational and private education costs add further pressure.

Rising Cost of Living

Inflation, at 3-4% in 2024, has driven up costs for rent, food, and utilities, outpacing income growth. Many young people in gig economy jobs struggle with basic expenses.

Tightened Lending Standards

Post-GFC regulations have made mortgages harder to secure, requiring larger deposits and stricter debt-to-income ratios, often excluding young buyers despite parental aid.

New living costs

30 years ago, the following expenses were not a part of a young persons budget. Some of these are now considered essentials. Costs including mobile phone plans, home internet plans, Foxtel subscription, Netflix subscription, etc.

These challenges create a cycle where young people rely on family support, but informal aid risks disputes. BOMAD Trusts from Macquarie Group Services provide a secure framework to protect both generations.

3.2. Social Media Defamation: Increases in Litigation and Case Examples

Social media has driven a surge in defamation litigation in Australia due to the ease of posting and viral content spread. Courts note a growing body of caselaw, with reforms struggling to keep pace.

Federal Court data shows defamation filings peaking at 67 in 2020, dropping to 33 by 2023 after 2021 reforms introduced a serious harm threshold. Social media cases remain significant.

Damages, often in the hundreds of thousands, highlight the need for asset protection via trusts. Notable cases include:

- **Mickle v Farley (2013)**

\$105,000 awarded for defamatory social media posts.

- **Wang v Qin [2021]**

\$150,000 for defamatory posts about an ex-partner.

- **Voller v Nationwide News (2021)**

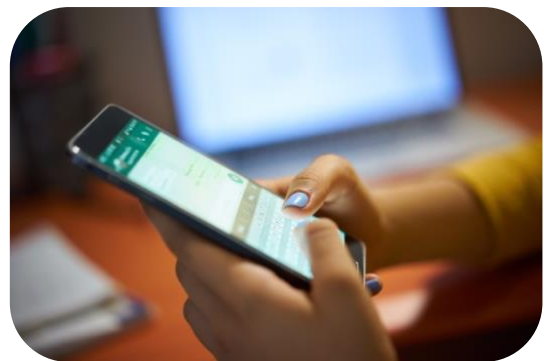
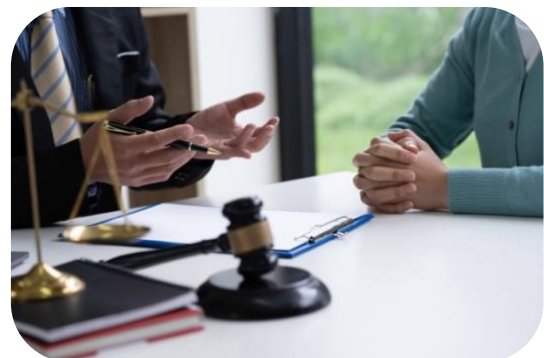
Media liable for third-party Facebook comments.

- **Farah v Saywell (2023)**

\$279,000 for defamatory Facebook group posts.

- **Lehrmann v Network Ten (2024)**

Social media amplified a high-profile defamation case.



These cases underscore the value of trusts in protecting family wealth from litigation risks.

3.3. Marital Issues and Rising Youth Divorce

With mounting financial pressures, substance abuse and growing infidelity, it is no wonder that the rate of divorce is increasing in young Australians.

Where there is a divorce, the average duration of a marriage in young Australians is relatively short.

Average Marriage Duration Among Young Adults in Australia

- Average time to separation: 8–9 years
- Average time to formal divorce: 13.0 years
- Median length of marriage (2022): 12.8 years

Of those that do divorce, 27% cite communication breakdown, 20% cite cheating, 6% cite physical violence and 11% of women and 3% of men cite alcohol/drug abuse.

Whatever the reason, it is important that parents looking to financially assist their children put in safeguards to protect their contribution.

In that regard a BOMAD Trust from Macquarie Group Services allows parents to protect their contribution until they are ready to hand over control to their child. They are therefore protecting their child in the case of divorce.

4. What is a Trust and the Various Roles Within It

A trust is a legal arrangement involving four key elements: the trustee, trust property, beneficiary (or a charitable/non-charitable purpose), and a personal obligation attached to the property.

It allows one party to manage assets for others, offering flexibility in estate planning, asset protection, and tax management. In Australia, trusts are governed by common law and state legislation, with types like discretionary or unit trusts varying by context.

Trusts serve purposes like distributing income or capital per a will, enabling tax concessions, or restructuring assets to avoid duties.

Discretionary trusts, central to BOMAD, BONAP, and Succession Trusts from Macquarie Group Services, allow trustees discretion over distributions, ideal for family wealth management.

Key roles within a trust include:



Settlor

Establishes the trust by providing initial assets and creating the trust deed, with no ongoing control to avoid tax issues. In Succession Trusts, settlors work with professionals to transfer assets.



Trustee

Legally owns and manages trust property, with fiduciary duties to act impartially and prudently. In BOMAD Trusts, parents are initial trustees, with control passing to the child later. In Succession Trusts, the creator often serves as trustee initially.



Appointor

Controls the trust by appointing or removing trustees. In BOMAD Trusts, parents start as appointors, with the role transferring to the child.



Beneficiary

Equitable owners benefiting from trust income or capital. In BOMAD Trusts, parents are principal beneficiaries initially, with children included; bloodline protection can limit benefits to descendants.



Protector or Voter

Featured in some trusts, like Succession Trusts, requiring group approval for changes to prevent unilateral decisions.



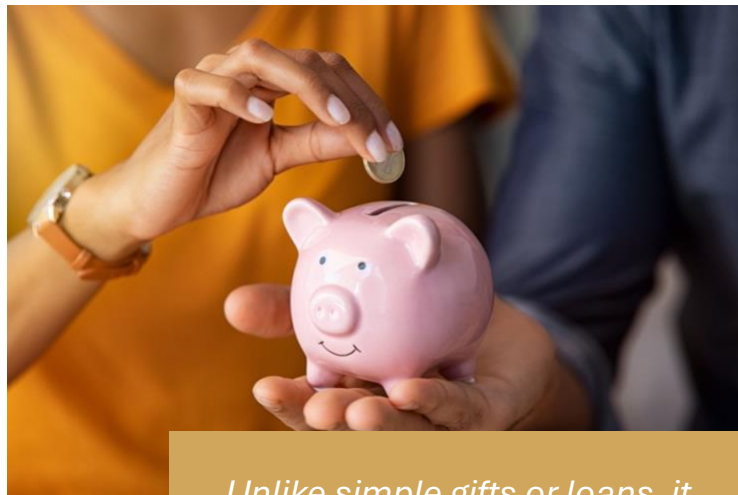
Succession Trusts include spouses or grandchildren, with optional bloodline restrictions.

These roles, governed by the trust deed, ensure transparent and secure operation, laying the foundation for specialised trusts discussed later.

5. What is a BOMAD Trust?

A BOMAD Trust is a specialised discretionary trust designed to secure parental financial assistance to children. It can be thought of as a "secure piggy bank" that aids one child (e.g., with a home deposit) while ensuring fairness for siblings.

It combines elements of family trusts and loan agreements. Parents establish the trust, gift money into it, and the trust lends to the child on customisable terms, keeping funds separate from the parents' estate to reduce risks from claims under laws like the Family Provisions Act.



Unlike simple gifts or loans, it creates a legal entity to hold and lend funds, offering robust protection.

Key features include:

Control Mechanisms

Parents are initial trustees, appointors, and principal beneficiaries, retaining full control.

Variations

Lockdown (control locks after one parent's death) or Non-Lockdown (surviving parent retains flexibility).

Bloodline Protection

Limits benefits to direct descendants, excluding spouses or in-laws.

Flexibility

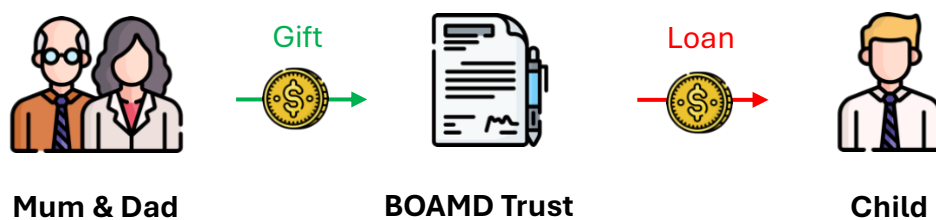
Options for interest-free loans, repayment schedules, or gifts.

BOMAD Trusts are vital not just for high-net-worth families, but all families providing significant support.

BOMAD Trusts transform informal family aid into a legally sound strategy, mitigating risks of unchecked lending.

6. How BOMAD Trusts Work

Understanding BOMAD Trust mechanics is key to effective use. The process involves four steps:



Step 1: Establishment

Parents create the trust with a professionally drafted deed outlining beneficiaries, powers, and rules.



Step 2: Funding the Trust

Parents gift funds via a Deed of Gift, establishing the trust as a protected asset.



Step 3: Lending to the Child

The trust lends money to the child through a Deed of Loan, which can be interest-free and enforceable without fixed repayments.



Step 4: Transition of Control

Control passes to the child upon parents' resignation or death, ensuring seamless inheritance.

This structure protects against external threats, by treating the loan as a debt in divorce proceedings and safeguarding funds from creditors. BOMAD Trusts ensure transparency and longevity in family financial planning. Existing loans can also be incorporated retroactively.



7. Key Benefits of BOMAD Trusts

BOMAD Trusts offer multifaceted benefits:

- **Asset Protection:** Shields funds from divorce, bankruptcy, or creditor claims.
- **Inheritance Fairness:** Excludes gifted amounts from the estate, preventing sibling disputes.
- **Parental Control:** Maintains oversight until handover.
- **Family Harmony:** Clarifies terms to reduce conflicts.
- **Flexibility and Simplicity:** “Set and forget” with no ongoing costs for non-income-generating trusts.
- **Peace of Mind:** Provides legal certainty through documentation.

These trusts mitigate risks of undocumented BOMAD support, protecting parental retirement security.



8. Blended Families and a BOMAD Trust

A BOMAD Trust is the perfect vehicle for blended families looking to quarantine entitlements to a specific child or children without involving all the children of a blended family.

If a specific child is to receive a loan, gift or early inheritance then the use of a BOMAD Trust will ensure that the amount is quarantined to that child and does not remain in the funds to be distributed amongst other siblings. The use of a loan agreement between the parents and a child in a blended family is not appropriate as the remaining siblings may seek repayment of the loan.

In terms of estate planning for a blended family the use of a Succession Trust or Will with Succession Trusts incorporated into the Will might be more appropriate. More information is provided below in relation to Succession Trusts and their features.

The succession planning for a blended family requires careful consideration of the rights and entitlements to be allocated between the various children, especially where the allocations are not equal between the blended children.

9. Setting Up a BOMAD Trust: A Step-by-Step Guide

Setting up a BOMAD Trust is straightforward with professional guidance. Macquarie Group Services offers a \$3,300 (incl. GST) package, including the Trust Deed, Deed of Loan, and Deed of Gift.

- ✔ **Step 1: Assess Needs.** Decide on loan vs. gift, amount, and variations like Lockdown.
- ✔ **Step 2: Engage Professionals.** Contact us to create the Trust documents.
- ✔ **Step 3: Execute Documents.** Sign deeds and fund the trust.
- ✔ **Step 4: Manage Ongoing.** Minimal maintenance for interest-free trusts.

Costs are one-off, with no tax returns if no income. Stamp duty may be payable depending on each state.

10. Legal Considerations and Risks

BOMAD Trusts provide robust protection, but legal nuances must be addressed. Undocumented loans risk being deemed gifts, exposing them to claims. Key considerations include:

- **Tax Implications:** Potential CGT on asset transfers, minimised in trusts.
- **Family Law:** Trusts protect against divorce settlements.
- **Estate Planning:** Avoids challenges under succession laws.
- **Risks of Non-Use:** Informal BOMAD can lead to disputes or losses.

All Trusts from Macquarie Group Services fully comply with Australian trust laws.



BOMAD Trusts have been created by experts in Tax and Trust law to ensure full compliance

11. Case Examples of Parents Lending or Gifting to Children

The increasing reliance on BOMAD has led to both successful and problematic cases, highlighting the need for structured solutions like BOMAD Trusts. Below are just a few examples illustrating the outcomes of parental lending or gifting:

Case 1: Maddock & Anor [No 2] [2011]

In this case, the husband's father advanced \$240,000 to assist with purchasing land and constructing a house. The father later sought repayment during the divorce. However, the court ruled that the absence of a clear repayment mechanism or formal agreement meant the funds were not a repayable loan but rather a non-repayable contribution benefiting the husband.

Case 2: Liakos v Zervos & Anor [2011]

A father provided his son with \$587,000 in advances over time to support property purchases. Although a formal loan agreement was executed later, the court deemed it unenforceable due to the lack of prior communication about repayment terms, absence of any repayments, and no efforts to enforce the agreement. This favoured the wife's position in the property settlement.

Case 3: Pelly & Nolan [2011]

The father loaned his son \$320,000 for property acquisitions, with evidence of demands for repayment and partial payments made. The court recognized this as a legitimate debt and deducted the amount from the matrimonial asset pool, as the likelihood of full repayment was demonstrated through consistent actions.

Case 4: Damiani & Damiani [2012]

The wife's parents advanced funds classified as a debt, but the court assessed the low probability of them ever demanding repayment, given family dynamics and lack of enforcement history. Consequently, the advance was not treated as a deductible liability and was excluded from reducing the asset pool.

Case 5: Pellegrino & Pellegrino [1997]

This precedent examines the lender's (typically a parent's) underlying intention when providing funds—whether to benefit only their child or both spouses in the marriage. The court scrutinized evidence of intent to determine if the advance was a targeted gift to one party (potentially excluding it from shared assets) or a general contribution.

These cases highlight the risks of informal BOMAD arrangements and the protective role of structured trusts, such as BOMAD Trusts, in ensuring clarity and security.

12. People's Concerns in Relation to Their Estate Planning

Estate planning evokes significant concerns due to its complexity and emotional weight.

Family Disputes: Arguments among heirs, especially children, over asset distribution can lead to costly legal battles during probate. Vague wills exacerbate delays and tensions.



Asset Protection: Fears that inheritances could be lost to creditors, lawsuits, bankruptcy, or divorce claims are common, as wills alone may not shield assets.

Inheritance Fairness: Blended families or remarriages raise concerns about assets reaching direct descendants, with risks of unequal treatment causing disputes.

Evolving Laws: Frequent changes in trust laws can render deeds outdated, leading to tax issues or misclassification (e.g., foreign trusts). In NSW, fixed trusts may fail land tax criteria due to specific clauses.

Succession Trusts address these by setting clear rules, separating assets, and allowing customised fairness. BOMAD and BONAP Trusts mitigate risks in intergenerational transfers.

13. Related Structures: BONAP Trusts and Alternatives

BONAP Trusts extend BOMAD principles to grandparents, with parental oversight. Grandparents gift funds to the trust, which lends to the grandchild. Costing \$3,300 (incl. GST), they include bloodline protection and flexible loans.

Benefits include protection from grandchild risks and family harmony. Alternatives like simple loans or standard trusts lack BONAP's specificity.

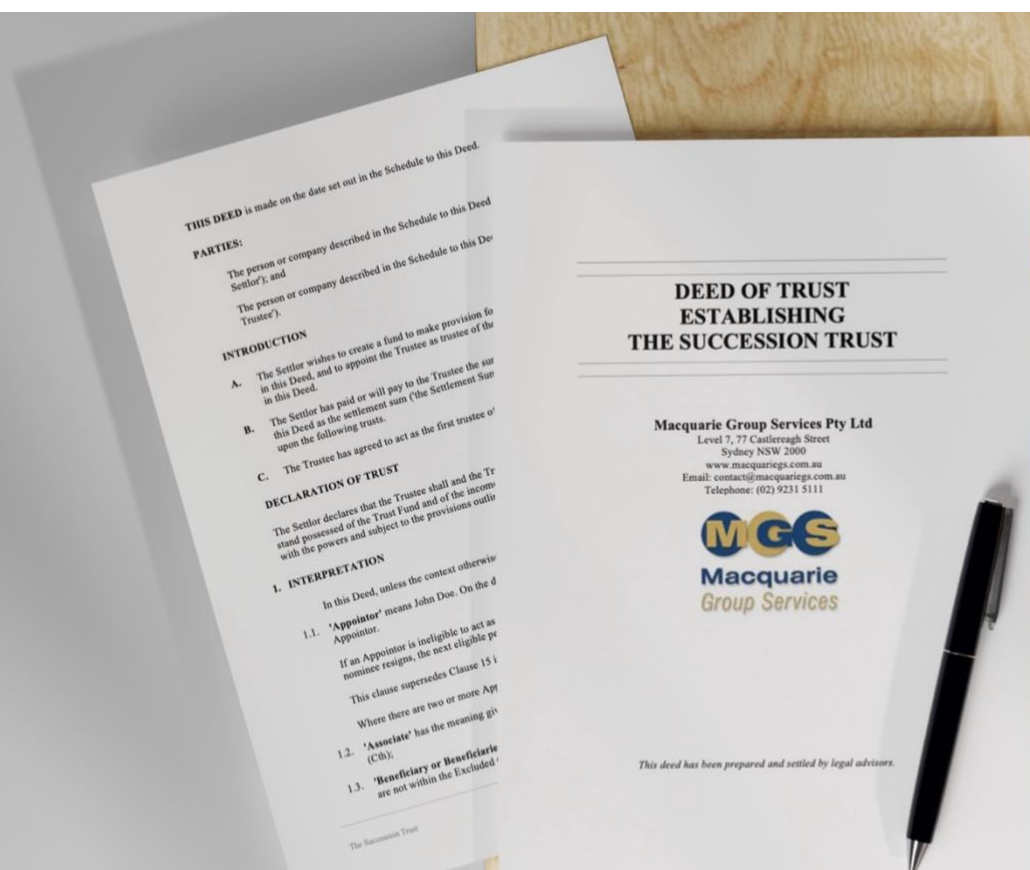
14. What are Succession Trusts?

Succession Trusts hold family assets for distribution to children or grandchildren per predefined rules, functioning like a will but with greater control.



They are discretionary trusts with clauses activating on events like death, preventing disputes. Features include bloodline options, customised vetoes, and flexible divisions.

They were traditionally a tool for high-wealth families to structure the succession of assets between generations, however Macquarie Group Services has now made these available to every person looking to better plan the transfer a wealth to the next generation.



15. How Succession Trusts Work

Succession Trusts involve:

Step 1: Establishment

Macquarie Group Services draft a deed with distribution rules.



Step 2: Funding the Trust

Assets are transferred to the Trust.



Step 3: Management


You act as trustee



Step 4: Succession

Control passes to spouse or children upon death.

They activate during the creator's lifetime, with minimal tax implications.

A close-up photograph of a hand dropping a coin into a pink piggy bank. The background is blurred, showing green foliage.

Succession Trusts offer peace of mind that assets will be protected and managed appropriately

16. Key Benefits of Succession Trusts

Benefits include lifetime operation, asset protection, dispute prevention, flexibility, probate avoidance, and claim shielding. They are ideal for complex estates.

17. Differences Between Succession Trusts, BOMAD Trusts, and BONAP Trusts

Aspect	BOMAD Trusts	BONAP Trusts	Succession Trusts
Purpose	Parental aid to one child, ensuring fairness.	Grandparental aid with parental oversight.	Broad estate planning for multiple beneficiaries.
Parties	Parents, child.	Grandparents, parents, grandchild.	Creator, spouse, children, grandchildren.
Timing	Immediate; control transfers later.	Immediate or future; control to parents then grandchild.	Lifetime, distributions often post-death.
Features	Loan/gift, bloodline, Lockdown/Non-Lockdown.	Similar to BOMAD with parental layer.	Bloodline, vetoes, capital restrictions.
Protections	Against divorce/bankruptcy; sibling fairness.	Against grandchild risks; family harmony.	Against claims/probate.
Cost	\$3,300* (incl. GST).	\$3,300* (incl. GST).	\$3,300* (incl. GST).
Best For	One-off parental support.	Grandparental gifts.	Comprehensive succession.

*Does not include duty (NSW: \$750, VIC: \$200, NT: \$20, All other states: Nil)

18. Conclusion: Building Family Wealth Securely

BOMAD, BONAP, and Succession Trusts from Macquarie Group Services address financial challenges, estate planning concerns, and litigation risks, ensuring secure legacies.

Providing assistance to your children to enter the housing market or for other reasons is an opportunity for parents to establish a legacy structure that they can use to protect their assets for generations to come.

19. Frequently Asked Questions

Why should I choose the BOMAD Trust Package?

Our \$3,300 package (Trust Deed, Loan Agreement, Deed of Gift) ensures your money is protected and our documents have been designed to work together seamlessly.

Is a BOMAD Trust hard to set up?

Not at all! You just pick the option that suits your needs and situation best. We've made it as easy as possible to get started and our package provides everything you need.

Can I include a loan I already gave my child?

Yes, we can move existing loans into the trust, so you can protect those funds and receive all the other benefits of a BOMAD Trust

How does bloodline protection work?

It ensures only your direct family descendants, not your child's spouse, can benefit, protecting the money from divorce or claims.

What happens after we pass away?

Control of the Trust passes to your child or the surviving parent, based on your chosen setup, keeping the trust on track.

I want to gift the money to my child, why is there a Deed of Loan?

By structuring the gift as a loan, it creates documentation which protects the funds from claims in the event of divorce, bankruptcy and other events. It can be set up with no interest and no specific repayments. When the child controls the trust after you pass away or give them control, they can forgive the loan, essentially making it a gift as you intend.

Are BOMAD Trusts only for the very wealthy?

Not at all! Any parents that want to help their children with the purchase of a property, be it in a big or small way, should strongly consider a BOMAD Trust in order to structure this help in a way that protects their inheritance and their legacy for the next generation.

Will the CGT exemption be affected?

No. If the property is owned by the child and their partner and occupied as their principal place of residence then any capital gain can be disregarded should the property be sold.

Will the Land Tax exemption be affected?

No. If the property is owned by the child and their partner and occupied as their principal place of residence then the land tax exemption will apply.

What happens if my child gets divorced?

If your child was to divorce, the loan made from the BOMAD Trust needs to be repaid before any division of assets.

Who should be settlor?

The settlor cannot be a beneficiary. It is normally a professional or family friend.

Who should be the initial trustee?

The initial trustee(s) should be the parent or parents.

Who should be the initial appointor?

The initial appointor(s) should be the parent or parents.

What if my child passes away before they take control of the Trust?

You will be in control and can amend the trust. If the parents pass away after the child then the child's children take control. If the child didn't have children then the option is whether the child's spouse takes control or the child's siblings.

Does there have to be a loan?

No. The BOMAD Trust can invest the funds it receives in any asset.

Will the assets I gift to the BOMAD Trust be recoverable?

As the parent is in control of the BOMAD Trust initially they can distribute the capital to themselves. Once the child takes control this would no longer be possible.

If I forgive the debt will there be tax consequences?

No. As the debt is not a commercial debt there will be no consequences if it is forgiven.

Can my child use the BOMAD Trust for other investments?

Yes. Once the child has taken control of the trust, either on the death of the parents or beforehand, the child can make any investments in the BOMAD Trust.

What happens if my spouse remarries after I pass away?

If one parent dies control of the trust depends on whether "Lockdown" or "Non-Lockdown" is selected. If the "Lockdown" option is selected control passes to the child on the death of either parent. If "Non-Lockdown" is selected control passes to the remaining parent.

Does a BOMAD Trust work with a blended family?

Yes. This is where it works best as it isolates the assets to each child and removes them from the estate, which is where inheritance disputes would otherwise arise.

Can my child collapse the BOMAD Trust?

Yes. After the child takes control it is up to them as to the future and composition of the BOMAD Trust.

How does a BONAP Trust differ from a BOMAD Trust?

A BONAP Trust is established by grandparents for their grandchildren, with an option to include parents. Control of the trust transitions from grandparents to parents and then to the grandchild who received the loan. In contrast, the BOMAD Trust has a more direct progression, simply from parents to the child.

What happens if I don't include parents in a BONAP Trust?

If there are no parents included in a BONAP Trust, on the passing of the grandparents, the grandchild who received the loan from the trust becomes the Principal Beneficiary and Appointor, controlling the trust.

Ready to get started on establishing a BOMAD Trust for your kids' future?

If you have any questions about BOMAD, BONAP, Succession or any other Trusts, feel free to get in touch.



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