**FREE DISTRIBUTION.**

***FARM SUCCESSION,***

***THE FARM FAMILY and THEIR FAMILY FARM.***

***“We are all passionate about the farm and its continued success, but we have really struggled when it has come to developing a successful succession arrangement. I really enjoyed reading your article because it seems as though there are a lot more options available to us where we can be more involved and allow the business to grow.”***

**Geoff Tually.**

**2016.**

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**This FREE Guide has been developed specifically for farm families to;**

* **Assist them in working through Farm Succession and family opportunity issues, and;**
* **Provide a base for questions to ask their Service Providers, particularly accountants, bank managers and solicitors.**

**The Guide covers family, ownership and business aspects, *ALL* of which are involved in developing a successful farm family Succession Plan.**

**Farm Succession continues to be a significant issue for family farming in Australia. Farmers continue to be unhappy with the lack of assistance to assist them with an issue that continues to impede the development of family farming in Australia.**

**This lack of assistance for farm families has resulted in farmer comments like;**

***“In my local community I have seen the vast majority of farmers end up having their business base severely dented by succession issues not to mention family relationships.”***

This Guide is based on what farm families **say they need**, which covers family, ownership and business aspects and how these aspects work together. Farm families have shown a **strong** **preference** for Farm Succession to focus on building on what **parents** have developed over their lifetime. Farm families have also shown a **strong aversion to the farm being used for inheritance purposes, which really is ‘Buying the family farm every Generation’, so that the next farming generation is worse off financially, than their parents. The OFF FARM CHILDREN are the ONLY real winners of an Inheritance focus.**

**What is Farm Succession?**

Farm Succession is the **PROCESS** of continuing on of the **family farm business** from one Generation to the **NEXT** Generation.

The **TRADITIONAL PURPOSE** of Farm Succession was to continue on a preferred ‘way of life’ and for the succeeding individual(s) to build on what the parents had built up over their lifetime. The **financial viability** of the farm family business was an important part of the process. Trusts and Wills **were** methods often involved in the handing on process. Solicitors played an important part in the life of farm families and parents were the client.

However, the **TRADITIONAL PURPOSE** played by the Farm Succession process in maintaining the preferred ‘way of life’ has been under threat for many years by the **Inheritance** **focus, whereby the family farm is seen as a family asset**, which should be divided ‘equally’ or ‘fairly’ between surviving family members, when an owner passes on, has crept in and confused many farm families. **Many farm families do not see why they ‘owe’ their children an inheritance.**

**The Importance of handing on a Viable Family Farm Business**.

To achieve a **successful** Farm Succession plan/programme, **VIABILITY** of the family farm is paramount. It is **NEEDED** in order to **GROW or at the least to maintain,** the family farm business.

Why hand on a less than financially viable family farm business? This is what happens if you leave the family farm business to one or two children and other off farm family members equally.

Unfortunately, you cannot use the same asset, both to continue the family farm business and use the same farm as an inheritance for family members. The Inheritance focus is a legal solution that has been applied to family farming and has created chaos for many farm families.

Many farm families do not want to follow the Inheritance focus, are confused, cannot find anyone or information to assist them and leave the issue of farm succession till they have to do something.

Farm Succession has been seen as a personal and farm family issue/problem by farm service providers and I have heard it said, that if a farm family gets into financial trouble, then someone will buy them out!! That is why Farm Succession has really been **MASKED** as a significant aspect of Australian agriculture.

At Industry and Government level, Farm Succession is recognised as an important area of family farming in Australia. The Rural Industries Research and Development Corporation (RIRDC) has funded a number of research studies into family farming and how farm families have handled Farm Succession. This Guide is the result of RIRDC funding I used to formally assess farm family acceptance of ideas and materials developed for use in workshops on Farm Succession.

Iowa State University in the USA has developed materials to assist farm families with Farm Succession and other aspects of family farming. These materials can be downloaded from the internet with search on Farm Succession at www[.extension.iastate.edu](http://.extension.iastate.edu) and [www.extension.iastate.edu/bfc](http://www.extension.iastate.edu/bfc) where you find a number of videos on the activities of the Beginning Farmer Centre at Iowa. The two main staff are John Baker, a lawyer and specialist in Farm Succession and Dave Baker, (no relation). The Beginning Farmer Centre commenced in 1994. I brought back from my visit to Iowa in 2000 a programme for final year students, who were returning to the family farm on graduation, to work through with their parents how they would be involved in the farm business. This programme was not seen as being worthwhile in Australia. We do not have anything like the Iowa University Young Farmer Centre here in Australia.

**Developing a Successful Farm Succession Plan/Programme.**

Every farm family situation is different and there is NO one best way to handle Farm Succession, which will suit everybody, but many options and the sooner the family starts thinking/discussion on family opportunities, the more options.

**As a FIRST step, ALL** family members (including spouses) should/need to answer the following questions on their **family farm**:

* **Is it viewed as a mainly; FAMILY ASSET OR FAMILY BUSINESS???**
* **Do parents owe their children an inheritance OR an opportunity? An**

**inheritance may or may not be an opportunity.**

* **Why would you break down, for the provision of an inheritance, what you have built up over a lifetime???**
* **Growing the family farm business and encouraging children to build on what parents have developed, a better option?**
* **If the Family Farm is used for an inheritance, what are the children GIVING IN RETURN???**
* **Possible Opportunities, on and/or off farm, for children and parents.**
* **Do PARENTS have to come up with all the IDEAS/ANSWERS??? It is a family farm BUSINESS.**

**These questions are *VITAL*, as *BASIC* for developing YOUR successful Farm Succession plan. Not only are these questions vital for a farm family, but also to prepare for working with farm service providers, who, as many farmers have said, that some service providers see farm family needs as very different to what farm families have told me they need.**

**Reason for determining whether, the family farm is viewed as being Mainly a farm business OR a family asset.**

Ownership has always been an essential component of family farming, but once set up, Ownership seemed to play a background role until some crisis, taxation advantage or involvement of children in some way occurred. Single proprietorship and partnerships were the major ownership structures used. The average value of the family farm seemed to be around $1Million to $2Million. The farm family had expectations that the eldest child would take over the farm and ‘**one day this will all be yours’** was the focus. Ownership seemed to be **supportive** of the farm business and the family farming culture was maintained. Where a larger family farm was involved more children could be involved with the family farm. It was the ‘way of life’ that was the focus of Farm Succession.

Thus the **Traditional** view was that the family farm provided a way of life, that the farm family sought to continue and pass down the generations.

The family farm was a business to be maintained for future generations.

However, every generation grows up in a different Technological Age and thus **CHANGE is inevitable**. **Any change should be PRODUCTIVE**.

Inheritance is based on the family farm being a family ASSET, which could be used to distribute between family members. Inheritance is how to break down, as opposed to maintaining or growing farm family OPPORTUNITIES.

Suggest that the following **should not** be tried. Parents involved the eldest child in the family farm for taxation advantages and arrangement carried on for many years and the son was promised the farm when the parents passed on. However, the father had been advised to leave the farm equally between the children and his wife, but did not tell the child working with the parents. When the father died his Will ‘destroyed’ the son working with his parents. The farm was NOW non-viable and the ONLY way forward was to BUY back the land from his siblings at market price. This is NOT Farm Succession or at least NOT successful Farm Succession. That is why a farm family needs a team of advisors, who understand the particular needs/goals of the farm family to provide needed/requested advice. In this example the legal distribution of the family farm to all children equally, was inappropriate advice for having a successful Farm Succession programme. This was not the only poor advice involved. The family do not now speak, as they once did.

**This Guide favours the Farm Business Focus or BUSINESS GROWTH OPTION or Building** on what Parents have built up. **ASSET RETENTION**, so **ALL** family members can benefit in some way from **opportunities the family farm business could provide**.

**Main aspects of Farm Succession covered by the following Guide.**

1. **The Family Farm Business**.

The family farm business is a complex combination of family, ownership and business.

**Family.** Some aspects that impact the family.

* Whilst every farm family and their family farm are different in some way, they all have similar values and goals;

Need to make a profit/cash flow to support the family’s desired standard of living;

To maintain their way of life;

* Family communication vital, but not easy. Every generation grows up in a different technological age and could well see the business differently. How to combine the very considerable skill and experience of parents with the very considerable energy of the children. Who the children marry may or could change the family communication significantly.
* ‘One day this will all be yours’. How to involve the children and assist them with opportunities from a young age, on or off farm. Various ways of looking at ‘equally’ and ‘fairness’ with Farm Succession. **It is a family and not just a hand me down system**.
* Teach children understanding and respect of ownership. Teach the children business skills, particularly the financial aspects. I was told by a student, who had completed a whole farm business assignment, that having grown up on the family dairy farm, that she knew all the physical side of the farm, but now she also understood the financial side of the farm and now appreciated her father’s comments about being unable to afford needed equipment. Now she understood that what he said was true. Previously, she had thought that her father was just saying this because he did not want to do anything different.
* Develop a family plan. All ideas do not have to come from the parents.
* Focus on **opportunities** for family members and how to assist children and GROWTH of the family farm business.
* Farm Succession Planning can take place any time and be part of the farm business MANAGEMENT programme. Farm Succession does not have to be a special programme and the sooner you start thinking and planning the more options available to the family.
* Do not promise the farm to a son or daughter and then do not keep the promise. Some have done this. Some have resulted in Court Cases. I was involved in assisting (provision of financial/accounting advice and how the legal system worked) a farm family in the Victorian Supreme Court with a Will challenge after the son had spent over 30 years of his life following his father’s promise of the farm and then found after his father died, that the farm had been left equally between the 4 siblings, 3 of whom had OFF farm careers. The suggestion has been made if a promise is made then you should get it in writing. However, I have also been told by the younger generation that ‘if you cannot trust your parents, then who can you trust’?

**Ownership**. Key area and can make or break a business and family. A solicitor involvement could be vital. Some aspects.

* Understand what an ownership structure (Partnerships, Trusts etc) could do for the family business. Fits in with the family plan.
* Do not change an ownership structure, until you understand the impact of the change. Solicitors and accountants provide ADVICE to the farm family. Understand the ADVICE and if not happy get a second/third opinion.
* Develop an ownership Plan. Have an up to date Will. Wills may not be useful when developing a Farm Succession Plan. But necessary when Plan implemented.
* Will family maintenance law affect your proposed Farm Succession plans?

**Business**. Some aspects.

* Understand the Business Profit and loss position, the Balance sheet and Cash flow

statement.

* Develop a Business Plan. Involve the family in developing the Business Plan.

Business Plans are **GUIDES** for management and can be changed, as needed.

1. **Farm Succession Options**. Some options.
2. **Growing the family farm business or building on what parents have built up**. Providing opportunities for children.

* An innovative option where Farm Succession is incorporated into the usual Management Programme of the farm, physical and/or financial. Some families have developed training programmes to involve their children.
* Involved in and learn about Ownership at appropriate age. Supporting of children’s ideas of developing their own business/careers.
* Supporting children’s education aspirations. You can lose your business, but they cannot take your education away.
* Size of farm family business could well effect the option of involving children in ‘home farm’. Thus off farm may be important depending on number of children interested in this option.

1. More **traditional Farm Succession option** of a son/daughter taking over the family farm, especially with an only child position. For Farm Succession to be successful, farm business **needs** to be viable.
2. **NON farm succession option**. Viability of family farm an issue or children not interested in continuing on the family farm. Parents continue farming till wish to retire and then sell farm business. Another Option could be to lease the farm or share farm and continue to live on farm earnings. A Will could then be used to distribute remaining assets to family members.

**Why is it difficult to find a consultant/information provider, who understands ALL 3 areas of family, ownership and business?**

Basically, family, ownership and business are **3 very separate areas** (or Professions), each with their own specialist service/information providers or consultants, who generally will see the family farm from their specialist training perspective and at times may even provide conflicting advice.

This specialisation is the reason why it is **very difficult** to find a consultant with skills and knowledge **needed** to assist farm families with Farm Succession. Farm Succession does not fit under any one developed Profession in Australia, but covered by a number of professions. Farm Succession thus does not have a **‘Professional HOME’** and as a result Farm Succession is a **HUGE UNMET MARKET,** with serious consequences for the family farming sector in Australia.

In 2006 a special Farm Succession Conference, the **‘Many Paths’** Conference, was held in Dubbo, NSW. This Conference was attended by Agricultural, Family, Legal, Government support Services, Business, Bank, Accountants, Academics, Conference Sponsors and some other interested persons.

This was a very significant Conference in that it attracted a very wide ‘audience’ of farm service providers. The Conference concluded with a Statement that a **TEAM** approach was necessary in order to provide assistance to farm families seeking to develop Farm Succession plans. Thus farm families will need to organise ‘their’ team, possibly with the aid of their accountant. **This GUIDE seeks to provide farm family’s with background for developing questions they want answered.**

**Farmer quotes from the research included in this Guide.**

***“I’m looking now, that I think it’s going to be more positive, because before I just thought, Oh, what’s going to happen.”***

***“I have been thinking about this situation for a few years now. It has put meat on the bones for me.”***

***“It has given me a background, something I can work on now.”***

***Now “you can ask the right question.”***

***“All the information was really helpful, useful and of great benefit.”***

***“Sheds light on many important issues that family farms/members need to discuss but often don’t due to lack of knowledge and an attitude that things will work out.”***

**This GUIDE is based on:**

1. The realisation that **OWNERSHIP is a VITAL OR KEY** aspect of **ANY** Farm Family Succession Plan. This realisation was **TRIGGERED** by a Farmer sharing his family tragedy with attendees at a Farm Management Conference at Bendigo, Victoria, Australia, June, 1986. The family had to sell their family farm, because their ownership structure, a Partnership, was not effective in handling the family tragedy. Ownership, and not drought or poor markets, was the problem. My background was Agriculture, Marketing, Business Development, Farm Management, Accounting, Economics, Communication/Human Behaviour and Business Law. We also ran a small herd of beef cattle (Breeders). Whilst I knew about Ownership Structures, I never realised the **IMPACT** they had on family farming!!!

Material was then developed covering Family, Ownership and Business, as the

basis for discussion in Farm Succession workshops. Women were the major

attendees and workshops were around 5 hours. Around 2 to 2.5 hours of these

workshops centred on discussing Ownership (Attendees choice).

1. A significant Research Grant was received from the Rural Industries Research and Development Corporation (RIRDC) in Canberra and the University of Melbourne, in 2000.

i). Research workshops were conducted using the materials, which had been developed from the earlier Farm Succession workshops. The aim was to ascertain farmer comment on the ideas discussed. A set of 6 papers, each with 3 ideas and 4 pages (Printed on A3 paper), had been developed using the outcomes of the earlier workshops and these were used as the base for discussion. Many of the ideas presented, were new to most of the attendees. The 18 ideas were rated at the end of each workshop by the farmers.

ii). A requirement of the Research Grant was the development of a short paper summarising the research, which RIRDC could use in their forth coming Farmers Options publication. My paper, of 13 pages, was developed with the assistance of workshop attendees and contained what the farmers said **HAD to be included**. This paper was **REJECTED** by RIRDC, **as being unsuitable for farmers**.

iii). Following the Paper’s rejection, a Mail Survey (56 farm families) was developed with just over a 50% response rate. A representative Farmer comment,

***“Get this information out on to the kitchen table as quickly as possible,***

***it will help so many people”.***

The **SAME** paper was **thus seen very differently** by RIRDC to the farmers. **Why does the GAP happen and persist???**

This paper was also presented to some 90 farmers at the Annual Wimmera Conservation Farming Field Day at Dimboola in Western Victoria in February 2002. This 1 hour presentation was at 2 pm on a very hot afternoon and 71 farmers completed the 1 page questionnaire, before going to afternoon tea.

This paper, along with the results, is included in Part B of this Guide.

iv).This Guide has been a number of years in the making and has been ‘trialled’ with several farm families. One farmer comment was that this was the first information he had read that included the parents in Farm Succession outcomes.

The following Guide contains a Workbook that allows a farm family to work through **family**, **ownership** and **business** issues commonly experienced by farm families, as they work through **their desired pattern of family involvement**.

**Farm Succession Guide. Part A. Farm Succession information, ideas and**

**Workbook.**

**Part B. Farmer Comments from the research undertaken.**

**Case Studies and thoughts on RISK. Glossary of ownership terms.**

**Questionnaire. For feedback on usefulness of the Guide**.

**Whilst this Guide has been written primarily for farm families, it also provides for service providers servicing family, ownership and business aspects of family farms, to be aware of what farm families see as their needs.**

**This Guide might seem large, but there are two HUGE assets involved,**

**your family and your family farm.**

Today, Farm Succession is more complex and from what farm families say there is a greater need than ever for an **adequate** service to be developed that is focussed on what farm family’s need.

**When children see their parents struggling to make a living from the family farm, it is no wonder that children do not want to return to the family farm and see agriculture as a poor option.**

**This Farm Succession Guide seeks to foster the focus of building on what parents have built up so as to provide a basis of providing OPPORTUNITIES for ALL family members, so children see the family farm as a good career option. Viability and open communication provide the basis for the future of family farming and SUSCESSFULL Farm Succession in Australia.**

***Farm Succession Guide.***

***Providing information, ideas and options for assisting farm families, who are considering/undertaking Farm Succession and/or looking at opportunities for family members.***

**For well over 27 + years working with farm families, the following issues continue to surface on a regular basis**;

1. ***How do you find someone who understands the issues involved in providing Farm***

***Succession advice/assistance and looking at options and opportunities for farm families.***

1. ***Lack of information to assist farm families and options available with Farm Succession/growing the farm family business.***

**These issues may well be the reason that many farm families leave discussion on Farm Succession and family involvement in the business.**

**The information/ideas presented in this GUIDE seek to provide assistance with the above issues.**

***I have never met a family that has not been eager or interested in discussing issues covered and many farm family member comments have been included.***

**Disclaimer:**

Because each farm family and their business is unique, the general information and ideas that follow, will need to be related to the specific situation experienced by the farm family. The information and ideas will therefore vary in usefulness. This information should ***never*** be seen as a substitute for **specific professional advice.**

The PURPOSE of this GUIDE, is to provide farm families, information/ideas, that may assist them with a range of family, ownership and business issues experienced by a significant majority of farm families, including involving their family in their family business, ‘growing’ their farm business, Farm Succession and inheritance.

Farm family issues have long been regarded by service providers as being of a personal nature and for the family to work out. Farm Succession has been one such personal issue and I have frequently been told for over 30 years by farm service providers, that farm families do not like to discuss this issue.

**There are numerous ways to involve/provide opportunities for family members.**

Farm family opportunities can vary from very small to very significant changes in the way the farm family undertake family and business life. Sharing information and asking the family for their ideas often improves family communication and lets the parents know what their children are thinking.

No two family farms and the farm families that operate them are the same. However, in many cases there is a general theme that the children have expectations, that one day, they will take over the farm or its asset value. The farm is generally where they grew up. Inheritance is an issue that most farm family’s experience in some way.

“How do you split up a family farm”, I was asked, “between the five children”. Their mother had died and the children were somewhat anxious about their father’s new relationship. I said why split it up, why not build up five businesses using the home farm as a base. The answer I received, “I had not thought of that”.

*The average Australian family farm is valued around $1 to $2 million and is a huge investment on which to provide farm family members opportunities.*

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**PART A**

**Information to assist farm families with Farm Succession/family opportunities.**

***There are two HUGE assets involved; Your family and your farm business.***

1. **In a perfect world.**

* **Rural Service providers**, would treat farm families as clients and would have the experience/training necessary to provide advice to farm families seeking assistance with Farm Succession, growing the farm business and /or providing opportunities for the farm family.
* **Farm families,** would include Farm Succession/family focus in their farm business practices and avail themselves in training and use of appropriate expertise available.
* **Training institutions,** would provide both generalist and specialist training that includes technical, business and management of resources and family decision impact on their business. Universities would see they have a role of undertaking and effectively communicating research in Farm Succession/growing the farm business and/or providing opportunities for the farm family
* **Governments,** would recognise the significance of Farm Succession on Australian primary production. Also to encourage farm families to look at the whole farm family business. This would include looking to have an attitude of building on what each generation develops. This would provide a wider equity base and greater security for financial loans, which would become more productive.

**But, we do not live in a perfect world.**

**In the Real world.**

Culture provides security and guidelines for society’s behaviour, but it also has shortcomings that impede needed change. Technological change has been rapid, whilst sociological/society change has been slow, like the provision of information and ideas to assist farm families with Farm Succession. At times, there is resistance in accepting what the market is saying, like service providers ignoring what farm families are saying they need and providing only what the service providers perceive is needed or a market opportunity for themselves, as felt by farmers.

* **Rural Service providers.**

Would have the experience/training necessary to provide advice to farm families seeking assistance with Farm Succession, growing the farm business and /or providing opportunities for the family. This requires a generalist perspective at least for some of those offering the type of service needed. Depending on the farm family requirements there may be need for a number of service providers to work together, eg., Accountant, Solicitor, Farm Consultant, Family Consultant.

***“I am a Farmer – I need to be – An Accountant, Lawyer, Agronomist. Etc Etc – Farming is complex and NOT Easy.”***

***“It would be good to have somewhere to take the family to discuss all the options available. Not just the Solicitors and Accountant.”***

Sometimes there is conflict in advice between service providers, such as solicitors suggesting that the farm business be left in a will and divided between family members – **this is Estate Planning and NOT Farm Succession** and will destroy the **OPPORTUNITY** to build on parents life time work. Solicitors could look at the opportunities of working with farm families to assist in satisfying client needs. See Research Results in Part B.

Would treat the farm family as the client, as opposed to treating the person, who pays them as the client.

Would look at the option of building on what the parents have built up over their lifetime, instead of family assets being seen as being used for inheritance purposes.

A Financial Planner wrote an article published in the Australian Farm Journal, September 2002, page 27, that parents should look at building up off farm assets, so that they will be able to give the other children an inheritance, when the family farm is passed on to a son/daughter.

Why did the Financial Planner think that a farm family owes their children an inheritance? The Financial Planner was obviously looking at the farm family as a business opportunity and not a client. **We owe our children an opportunity** and not an asset, as an asset may or may not provide an opportunity. There is nothing wrong with financially assisting children where possible. This is different to feeling that parents owe their children an inheritance.

* **Farm families.**

Growing the family farm business and providing children an opportunity to build on what their parents have built up, in many cases, over a lifetime, seems a viable alternative to the traditional inheritance position followed by many farm families. Many older and younger generation farm family members, who ‘took’ over the family farm from their parents, and bought out brothers/sisters, have said how hard it was to build back the financial position in order to provide a reasonable living.

‘Buying the family farm each generation’, constrains the farm family financially.

Read Part B at point 5. Research Results to view what numerous farmers have stated is needed.

**Communication is the KEY and is not always easy to do!!**

This Guide seeks to assist with family communication. Refer also to Appendix v. This comment from the Mail Survey at point 5b in PART B:

***“Excellent, unfortunately over 4 years ago I left the family farm taking only myself and 2 children, due to in laws that would not discuss our future saying it was none of my business. I could not live with this attitude, so now I am master of my own destiny. My ex-husband has since bought out his parents and has had 3 good years, I wish him well.***

***I can only stress to the older generation, you must trust your young ones and involve them in the decision making or you will lose them. I am happy to discuss with you my experiences, my love of the land and hope for the future that my children will return to that way of life.***

***Get this information out on to the kitchen table as quickly as possible, it will help so many people.”***

**I have never known any farm family who had a GOAL of giving their children an INHERITANCE**. I have known many farm families who did not wish to burden their children with having to buy their siblings out. See the Dimboola Seminar farm family comments point 5c in PART B.

* **Training institutions.**

**Farm Succession is a HUGE UNmet market**, yet a PhD student at the University of Queensland told me that her 2 Supervisors had told her to “keep away from Farm Succession, as it has been done to death”. University research is often undertaken on what the individual lecturers see is of interest to them. Lecturers NEED to publish in order to gain promotions and this is supported by publishing in the respected Journals, which are **mono** discipline in focus. Farm Succession is **multi**-disciplinary in nature. **Multi-disciplinary research is NOT a university NORM.**

***“At Ag College I found that they don’t teach enough Business/Legal side in running a farm.”***

* **Governments.**

**This ‘buying back’ the family farm each generation, does nothing for Australian agriculture and the family member, who ‘buys back’ the family farm. Government rural policy has in the past been directed to increasing productivity of agricultural production. If farm viability is reduced by having to borrow to replace the money used to pay out siblings, then Government endeavours to increase productivity are undermined to some degree on family farms. The only winners with the use of the inheritance option, are the non-farming children.**

Encouragement of training institutions, especially universities, to undertake research associated with Farm Succession and **reward multi-disciplinary research**.

Rural policy might look at how to reduce the ‘GAP’, between what service providers see as farm family needs and what farm family say their needs are.

***“Enormous need for good professional assistance. Farmers do not understand law and don’t mix with people who do.”***

1. **Finding someone who understands the issues involved in providing farm succession advice/assistance/options and opportunities for farm families?**

**OR**

**Why is it difficult to find someone who understands the issues faced by farm families?**

There are probably t**hree** aspects/reasons involved;

* **Service provider specialisation.**

Farming is complex, involving both physical production and financial issues and with family farming, also family and legal issues. **Most farm service providers are specialists** and generally have little/limited knowledge or understanding of how their advice may affect (**or conflict with)** other areas of the family farm business and this requires the farm business operator to integrate information/advice provided by the service providers.

**Range of service providers to the farm family business.**

**Figure 1. Major farm business service providers**.

Consultants

Lawyers

Accountants

Banks

Family

Farm

Business

Dept. of Agriculture

* Extension
* Research

Rural Suppliers

- Chemicals

- Fertilisers

- Farm general

Commodity Traders.

Educational Institutions

- Home study courses

- Short courses

- Internal full time courses

Farm families will therefore work out the team they will need to put together and this Guide is aimed at assisting in farm family’s determining the questions they need to ask the Advisor(s).

* **Farm Succession issues/needs are generally poorly understood by farm service providers**.

A requirement of the funding providers, mentioned above (Rural Industries Research and Development Corporation [RIRDC] and University of Melbourne), was the development of a short paper outlining my research outcomes on farmer evaluation of Farm Succession information/issues. This paper was to be published by RIRDC with several other research summary papers in a Farmers Options Manual for the farming community.

My paper of 13 pages, developed with **assistance** of farm families, involved in the series of research workshops, was reviewed (peer review) by RIRDC and found to be unsuitablefor farm families. The paper contained information that **farmers said had to be included.**

Following the non- acceptance of the 13 page paper by RIRDC for publication, a mail survey was undertaken. The 13 page paper and a 3 page questionnaire were forwarded to 56 farm families for their evaluation. Over 50% very positive response rate was achieved. The following quote from one of the 30 respondents sums up the general response to the paper, (the 13 page paper and questionnaire farm family responses are in PART B at point 5.)

***“Get this information out on to the kitchen table as quickly as possible, it will help so many people”.***

.Why is there such a **GAP** between what farm service providers, including research organizations, see as farm family needs and what farm families see as actual needs?

***Unless this GAP is eliminated many farm families will continue buying the family farm each generation.***

* **Understanding the difference between Estate Planning and Farm Succession Planning.**

**Sometimes these 2 very different terms are often seen as the same.**

**Estate planning** is the transfer of ownership of family/individual assets.

**Farm Succession** is the transfer of management and/or controllership of the family farm ***business*** (or a part of) to another member(s) of the family.

**Figure 2. Estate Planning and Farm Succession:**

**(Wealth Distribution vs Wealth Retention)**

The 2 aspects

Inheritance option or Wealth Retention option

wealth distribution. or build on what parents have built up.

or some combination.

**A degree of confusion** also arises as many farm families see the land as their business. Land and business are 2 different assets, which may be owned in 1 ownership structure or separate ownership structures, eg., single proprietorship (or partnership, trust or company) for land, and business in a partnership (or single proprietorship, a trust or company).

With a one child situation, it would not matter if the business and land is in 1 ownership structure, unless you only want to involve the child in the family business. With multiple children families it could matter. See workbook.

Where **the business and the land are in one ownership structure (eg single proprietorship)** and you seek to involve one child by transferring land to them, then Farm Succession and estate planning, in this case, are the same outcomes.

**Another confusion** arises as land has **2 values** that have OWNERSHIP focus of a store of wealth; Ownership thus provides for

**Firstly:** Security for business and collateral for borrowing during business years.

**Secondly**: On death, for passing on to another owner/controller-Estate focus.

**Should ESTATE PLANNING be focussed on WEALTH DISTRIBUTION (of parent’s assets, which may have taken some 40 years or more to create) OR WEALTH DEVELOPMENT (build on what parents have created over some 40 years) or some combination?**

***“Is it a ‘pot of gold’ or is it a means to an income? That is the philosophical question that people have got to answer. It comes up a lot in family situations”.***

**This is an ownership decision for the farm family: What is the farm family goal?**

* Wealth distribution using a Will.
* Wealth distribution during the life of the parents/grandparents, eg., assisting children with tertiary education or building their family home.
* Involving a child(ren) in farm family business during parent’s lifetime (by gift, buying in, to business and/or land). Assisting children to build up their own business and/or land or other investment, using farm family financial and ownership position.

An example with a 3 sibling family. With a property valued at $1.5 million, a 3 way split would provide for each sibling to receive $500,000.

* Do you give each child $500,000, as this is seen as treating each child equally or do you wish to give each child an opportunity? Real case study 1 provides for treating each child “equally” as well as providing for the farm business to be carried on by the succeeding child, without having to go into debt to buy his siblings out.

* Treating children equally **does not mean** that the non-farming children need to be given $500,000 at the **same** time as the child, who succeeds with continuing the farm business. Having the farm business and the land in separate ownership structures allows the succeeding child to take over the business, whilst ownership transfer can be delayed.
* Where a child has been working with his parents for some considerable time and would have assisted in building up the value of the family farm. To proceed with a 3 way equal split of the ownership between 3 children would not be equal. See Real Case Study 3, where one son had been working with his parents for 30 years and yet the father gave each of the 4 children an “equal” share.

The farm family need to decide**: Is it wealth distribution or wealth development or some combination?**

***“A commitment to pay family members off farm at the commencement of a partnership with those on the farm, will mean the remaining members do not have to pay the capital improved value later on. It also means all parties benefit from the parents assets at the same time and all parties must contribute to the welfare of their parents at retirement”.***

1. **WORKBOOK to assist in the development of plans to achieve farm family goals.**

The information covered in this workbook has been discussed with numerous farm family members over a period of more than 27 years. During workshops, seminars and family discussions, over this time, this information, has not only been extremely well received, but the input from farm family members has provided very valuable additions to my original ideas. Whilst the information contained in this workbook has been developed over a number of years, the information has also been formally evaluated by farmer participants, as to usefulness in a study funded by the Rural Industries Research and Development Corporation (RIRDC) and the University of Melbourne.

This Work Book provides information and options that will give farm families an alternative

to the Inheritance option;

***“Sheds light on many important issues that family farms/members need to discuss but often don’t due to lack of knowledge and an attitude that things will work out.***

***In my local community I have seen the vast majority of family farms end up having their business base severely dented by succession issues not to mention family relationships.”***

This Work Book includes the content of the 13 page paper, discussed above, and much more.

**Suggestions for using this Work Book.**

* Farm Families.

This Workbook has been developed specifically for farm families. **The farm family is the client.**

Whilst the Workbook can be used as a standalone (D.I.Y.) exercise for the farm family to work through or continue to refer to, it may be useful to seek assistance of your accountant or farm consultant. **My preference is to work through the issues in a workshop** and then provide support to a farm family over the next 6 months or so as they work through the issues covered in the Workbook.

The information in this Workbook may well provide the basis for questions to ask their farm service providers

These service providers are **specialists** and will ‘see’ the farm family and the farm business from their specialist perspective. Because of this specialist perspective, many farmers have mentioned to me that they feel like a business opportunity to the service provider, rather than the client.

At times farm service provider advice may be in conflict, such as being advised to leave the ownership of the family farm divided between children in a Will. A farm family may find it necessary to get 2nd or 3rd opinions.

There are very few service providers, who understand how farm families in Australia, operate. Family conferences are needed from time to time to work through the issues, like farm succession, thus this Workbook may provide a framework for the family to organise service provider assistance. You need a range of service provider assistance.

* **Farm service providers.**

This workbook provides for the option of growing the farm family business and is thus useful for farm service providers to be ***aware*** of how their advice may or may not affect or even conflict with advice of other service providers.

Ownership has long been a central basis of family farming in Australia, but may also be a major stumbling block for a farm family, as **ownership, results in two value situations for a farm family,** as mentioned above;

For security in producing an income during the life of the owner(s); ***AND***

As a store of value at the time of involving family members, eg., death of owner. Children seek to share the wealth that their parents have built up over their lifetime.

These two value situations often **CONFLICT** in family farming. This Work Book provides ways to look at this position. Farm service providers need to be acutely AWARE of this situation and to develop workable solutions for the farm family. **Wills are generally not the most productive way to handle many farm family business ownership issues.**

The average family farm business in Australia is around $1 to $2 million and a great opportunity for growing the business. How is this to be transferred to the next generation?

**Where to START.**

***There are two huge investments involved, the family and their farm.***

As a basis for looking at the options or opportunities available, I have looked at the ‘farm’ as comprising **three separate areas**, the **family**, **ownership** and the **farm**. I have asked many farm families if separating into these three components is a realistic place to start and in every case, the answer has been ‘Yes’, as;

***“to make you think about the other options available to you”.***

***“Provided good starting point when sometimes you don’t know where to begin”.***

***“Need to be separated so family discussion can focus on 3 separate components/issues”.***

***“That is what caught my attention when we started, the fact that they were different.***

***There are sort of three areas there. There is the capital part, there is the business part, and there is the family part”.***

***“makes you look at issue from a different angle”;***

The reason for looking at each of these three areas, separately, is that each has a different impact on the family and their business.

**Family:** What is involved in looking at opportunities for family members? Family goals and their cash needs, to achieve these goals. **The family life cycle results in an ever-increasing need for cash**, until the children are self-supporting or earning an income.

**Ownership:** Understanding what your ownership structure will and will not do for you. Over 90% of farm businesses are owned as a single proprietor or a partnership. These ownership structures are cheap to set up, but are inflexible for many family situations. Generally, the ownership structure was selected for tax minimization and not family purpose. Ownership may be the major constraint for providing opportunities for the family and ***reason many family farms are ‘lost’.***

**Business:** The farm production and profit cycle is an **annual** event. Profits need to be calculated annually for tax reasons. Decisions are made mainly for tax purposes, *but where do you want your business to be in the future?*

**Figure 3: Segmentation Model: The three major components of the family farm** **can be *summarized* as follows;**

Family Farm Business Farm Family

Farm Business Parents

Land  **Ownership** Children

**Plans**

**Business Plans** **Family Plans**

(Series of 5 year plans) (Series of 5 year plans)

***Productivity increase to Productivity increase to***

***at least maintain business PLUS cover the increasing***

***profitability. family cash needs.***

This model also separates the land from the farm business. This separation has attracted considerable attention as many regard the land as their business.

***“That is what I like about the model, because it does actually separate the land, the actual land, from the business”.***

By separating the land from the farm business and using separate ownership structures creates more options for farm families. Some farm families already use separate ownership structures for the land and the business, although this does not seem a widespread technique.

By looking at each of these major components separately, family members can work through the various aspects and together come up with an accepted overall approach.

**FAMILY.**

**a). Farm family goals.** All families have goals.

This is a very important aspect. Goals change over an individual’s lifetime and where 2 generations are farming together, the objective is to ***combine*** the very considerable skills and experience of parents with the very considerable energy of the younger generation for the ***benefit*** of both generations.

All individuals have goals of some type, but mostly they are not written down for anyone to see. Writing down your goals often allows you to **see** any ***conflict*** between the goals. Often conflict between goals results in nothing being achieved. Many farm families have this problem with Farm Succession. How to hand down the family farm and treat other family members equally or at least fairly with an inheritance. This is the dilemma many farm families face where the parents may wish to hand the farm down, but at the same time know the inheritance position will create a non-viable farm for the son/daughter, who takes over the farm.

How do we resolve the dilemma? ***Firstly*** you need to determine your goals and write them down. Such a set of ***general*** goals may include the following;

* Most parents endeavour to provide their children with better or different opportunities than they experienced;
* To keep their family talking together;
* To provide their children necessary life skills;
* To provide for the farm business to be carried on;
* To allow their children to feel responsible for their own future;
* To provide for an enjoyable retirement.

**Is providing children an inheritance, a goal of parents and is inheritance compatible with the above goals that are often taken for granted?**

***The key ‘word’ in all the above goals, is opportunity, and not, an inheritance. An inheritance MAY or MAY NOT provide children an opportunity.***

However, these are ***parent’s general goals*** and so it is necessary for the younger generation to write down their goals, then specific goals that will achieve your general goals, such as increase in cash produced by the business or using a new technique, can be developed.

***Without goals you cannot plan anything. Prefer to be written down.***

Some ***specific*** parent’s goals to be achieved over the next 5 years may be;

Increase the cash flow each year by $\_\_\_\_\_\_\_\_\_.

Teach children business skills.

Involve children in the farm business.

Review Will.

Diversify farm business enterprises.

Increase Farm Management Deposits/off farm investments.

Attend a Conference at least once per year.

Plan for holiday.

Spend more time with family.

Discuss with family your plans for the future.

Support children in establishing an off farm business/investment.

Have a family conference.

Determine how you will provide for retirement. What is retirement?

Other specific goals not included \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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***Activity:*** All farm family members to **write** down their **general** and **specific** goals or what they would like to achieve over the next 5 and perhaps 10 years, **for all to see**.

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**Then develop your 5 year plan:**

**What needs to be achieved each year, eg., cash flow needed for each year (see fig 4 below); increase off farm investments by 20% over the 5 year period, but on a yearly basis; providing skills training for children.**

Year 1 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Year 2 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Year 3 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Year 4 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Year 5 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

What **CONCERNS** have you with the goals you have written down or your 5 year plan? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Use more space as needed.)

**b). Family cash needs.**

Cash is the survival line and determiner of the ‘standard of living’ for any family.

Whilst cash needs of families differ according to desired standard of living, where children are involved, there will be changing cash needs similar to that shown in Fig 4. These changing family cash needs **MUST** be taken into consideration when developing the farm business plan.

***Using last year’s farm budget, as the basis for this year’s farm activity, when family cash needs are increasing, will put increasing pressure on family relationships.***

**Figure 4: Two (2) generation cash needs cycles.**

**Generation 1** **Generation 2**

Marriage Teenage Marriage Teenage

young family young family

children children

**Family**

**cash** Potential

**needs** Conflict

**$**  Zone

Develop Consolidate Involve

farm business in business

business

**Age (years)** 15 20 30 40 50 60 70

20 25 30 40 50 60

***Activity:*** All family members, who depend on the cash flow from the farm business, to mark on the appropriate life cycle line in relation to their age NOW and in 5 YEARS time.

**Then estimate the cash needed.**

Then write in the estimated family cash needs below. The farm cash surplus for the same period can be added later from the farm business plan.

***The cash produced by the farm family business varies from year to year, but the cash needs of the family grows from year to year up to the teenage plateau. Therefore there is a need to match these 2 positions.***

Matching of cash needs with cash available. Five (5) year planning period.

June June June June June

20\_\_ 20\_\_ 20\_\_ 20\_\_ 20\_\_

Family cash

needed $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_

Farm cash

surplus $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_

Difference

(+ or -) $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_ $\_\_\_\_\_

Where family cash flow needs exceed the cash flow available from farm business activity, a strategy needs to be developed, eg., from off farm income, redefining family cash needs, ie., delaying the purchase of non-essential family items or delaying purchase of farm machinery. Leasing may be an option, instead of outlaying a large amount of cash to purchase machinery. Investing in FMD’s for a time of cash flow need is a viable strategy for the farm family.

**c). Family opportunities.**

**i). Skills training.**

Teaching all children business skills, as well as farming skills expands their opportunities, even if they follow off farm careers. This also gives them a fall-back position, if their off farm careers experience difficulties.

Whilst formal education at school and tertiary institutions provide a good educational base, there is no substitute for ‘hands on’ business experience. Educational institutions, unless they incorporate a significant ‘industry experience’ component in their courses, are unable to provide the necessary ‘hands on’ experience. Working on other farming properties, before coming home to the family farm, certainly widens the **physical** farming experience, but unless there is exposure to the business side of those farming businesses, little or no experience will be gained in business or probably using ownership structures.

Children also need to have an **understanding and an appreciation** of ownerships structures and how they may be used or involved with the family farm business. Ownership is a **key** issue in family farming. It is ownership issues that are the cause of many farm family communication problems.

Another advantage of children having appropriate (for their age) overall understanding and involvement, is that they should be less likely to be involved in family disputes based on lack of knowledge of the farm family business, including ownership.

Today, with our global influences there is a greater need for ownership and business skills than ever before.

***Activity:*** Families needing assistance in setting out what ownership and business skills, they feel, are required to be understood, by younger generation family members, read the sections on ownership and business, below.

**ii). The level or type of opportunities to involve family members in the farm family business**.

The ability to **directly** involve children in the farm family business will depend on the cash available for family needs. Therefore the farm ‘size’ may be an important issue. For those families unable to expand the family farm business to produce the added income needed, then the farm could be used as a base for developing an off farm business, e.g., fencing/harvesting contractor, etc.

The type of involvement of family members; A range of involvement possibilities, depending on the farm family goals.

* Gifting a share of the family farm business (land and business). This is not (generally) a viable proposition, both from a business or legal position. Businesses need to grow and gifting only divides the present business assets. **Once gifted, the recipient can withdraw their legal share from the business at any time,** e.g., where a partner (son or daughter) is killed and spouse wants to leave, or divorce.

To ‘protect’ against such withdrawal situations, insurance and/or recognition of debt should be considered. Recognition of debt could be an estate problem for the son or daughter where there are other siblings. Thus gifting needs to be discussed with your accountant and solicitor and family.

* Children buy into the farm family business (land and business). Setting up a unit trust (or company) allows for children to buy into the family business. Buying provides the following benefits;

Increases the equity capital of the farm family business. All children can buy in, including those with off farm careers;

Children will value their interest in the business and changes the focus ***to*** business and ***away*** from an inheritance focus;

Children develop their own assets;

Reduces potential family conflict due to parent’s inability to divide the family business equitably between their children;

Children learn business and investment skills;

Reduces the impact of family dissension, e.g., divorce, on the business (you get what you put in – market value).

* Separate the land from the business by using separate ownership structures (see ownership strategies below). By separating the land from the business achieves the following family benefits;

Children buy into the farm business only.

Provides a specific business focus for children.

Provides for parents security as land ownership remains with them.

Easier for children to buy a bigger share of the family business, quicker.

Parents providing an appropriate lease of the land to the business, provides security to the business.

Family members wishing to withdraw from the business can sell their units to other family members, e.g., when parents retire.

**Note:** With only buying into the farm business, there may be a difficulty in valuing the farm business, who’s major assets are depreciating assets, eg., machinery. However, with livestock enterprises valuing the business should not be as difficult as with cropping enterprises, where machinery is owned by the business.

***Activity:*** What concerns have you about the option of children buying into the family business?

**iii). Treating the children ‘equally or fairly issue’.**

Where families feel there is a strong need to provide off farm children some form of inheritance, then at the time of involving the child, who will join parents in the farm business, a valuation of parents assets should be taken and this is the basis to be used for determining the amount of inheritance off farm children will/may receive at a later date. *The reason being that the son or daughter, who joins parents in the family business, will be assisting in the build-up of family assets. Whilst most children working on the family farm would be paid a ‘wage’, seldom will this wage be the commercial wage. Worse still is where a spouse has an off farm job and is helping to subsidise their spouse’s farm based wage.*

Or another way of looking at the treating children equally or at least fairly with an inheritance is referring to the following graph.

Figure 5: Equality v’s Fairness. Possible distribution.

**Fairness.** Age of farming son/daughter

30 to 35

years working 50 years May receive 70% ***or more*** of farm assets with option of

with parents. buying remaining %. (Parents may develop off farm

investments, so that succeeding child gets whole farm.)

40 years. May receive 50 – 65%. PLUS an arrangement set in place, which allows farming son/daughter to continue farming, without having to ‘pay out siblings’, till ***much*** later.

10 to 15 30 years. May receive 25 – 35% depends on number of siblings??

years working

With parents

20 years. Leave school and return home to the family farm

to work with parents. Siblings equal.

15 years. All siblings receive same or similar share

**Equality**  All siblings receive same or similar share

**Note:** Another option is to assist off farm children, when they are starting out, with some financial assistance so as to assist them in building up their own assets, eg., a house.

**Some farmer comment.**

Some farm families already focus on their farm’s succession, as opposed to inheritance;

***“Why this obsession with treating all the kids equally? If one or two put their whole life (so far) and the others have been educated (the farm paid for this) and have their own lives and no interest in the farm, why should it be split up to pay them out? Too many farmers have got into serious, inextricable debt over this kind of practice!”***

***“A commitment to pay family members off farm at the commencement of a partnership with those on the farm, will mean the remaining members do not have to pay the capital improved value later on. It also means all parties benefit from the parents assets at the same time and all parties must contribute to the welfare of their parents at retirement”. (Repeated)***

Educational equivalent***.***

**“Instill in children, that a good education and a university degree and opportunity to establish a life for themselves is equally as valuable”, as receiving land”.**

**“You can lose your assets in a divorce, but they cannot take your education away”.**

***Activity:*** What concerns have you with the model set out in Figure 5? Or the issue of treating children equally or fairly with an inheritance?

**d). Wills.**

Family farming has traditionally been based on the ownership of land.

Thus an understanding of how Wills, which are based on the ownership of assets, might be used, is a necessity. This could be vital to the farm family and their farm business.

Wills can be looked at, as protecting the asset base of the family farm or a form of insurance for the farm family. As such, ***the development of a Will, should not be undertaken in isolation from the business and family goals, but related to the changing needs of the farm family.***

**Some specific factors that will affect the content of a Will**

**i). Co-ownership of land. Joint tenancy or tenancy in common**. (See partnerships under the section on ownership).

Where land (real property) is held by ***joint tenancy***, then on the death of one of the partners, their share goes automatically to the other partner(s). Thus you do not have this land to include in a Will (only the last surviving co-owner, but all partners will include their share in their Will as they do not know who will be the last survivor).

With ***tenancy in common*** each partner is able to include their share in their Will.

Whilst holding land in joint tenancy means that security is maintained for a husband and wife situation, should one die then the remaining spouse has now an asset that needs to be covered by a Will. If the remaining spouse should also die and this land is not included in a Will, then the govt provides a formula for its distribution. This govt distribution, may or may not, have been the desire of the owner or provide asset protection for a farm family business. Thus with joint tenancy, both parties should include in their Will how they want their assets to be treated.

**ii). Wills and ownership strategies.**

* Use of Trusts. The issue of Ownership v’s Controllership of assets.

Controllership of assets (business and/or land) is just as important as ownership in achieving family goals. A family trust(s), as owner of farm family assets, allows for controllership of the assets and at the same time protection for the family (provided the trust is designed adequately). Protection for the family members has been *transferred* from the Will to the trust. Where the business and land are transferred to a trust(s) the content of the Will decline and basically only include the personal and non-farm assets or other non-business real property.

* Farm business and land being held by different ownership structures.

This allows for a son/daughter to be part of the ownership of the farm business, whilst providing security for the Parent’s, who continue to own the land used by the business. However, there needs to be security for the business, otherwise why would a son or daughter agree to join the business, which has separate ownership to the land and not have security in the use of the land, possibly by a long term lease with options of renewal or become a part owner in the land at a later stage, e.g., by parents setting up a unit trust allowing the son/daughter to buy in.

The problem lies in the fact that if the farming son/daughter does not have security in the long term use of the land they are in real danger of having to buy out siblings should parents decide to distribute their assets between their children in their Wills.

* Holding assets as tenants in common for a husband and wife, as an alternative to joint tenants.

With this form of ownership, as mentioned above, provides for the co-owner to leave their share of the asset in their Will.

This option allows either spouse to arrange for a testamentary trust to be set up and

provides flexibility in income distribution within the family. However, there is a

downside, as the spouses may not agree in how their share will be distributed. This option, needs to be thoroughly discussed with your accountant and/or solicitor, before deciding to use this form of ownership between spouses.

**iii). Relationship between Wills, ownership structure and business.**

Business and ownership are 2 different issues. You can change your business, without changing ownership and you can change ownership of the business without changing the business. Or you can change both the business and ownership at the ‘same time’.

Any changes to the ownership of the business should be incorporated into the Will. Thus when changes to the ownership of the business, a Will review is ***triggered*** and either a new Will is developed or if a small change, then a codicil may be appropriate. Check this with your solicitor.

**Some final comments:**

* Wills may not be the best vehicle to use to distribute assets, where a family farm business is involved. You cannot hand the family farm on and use the ***SAME assets*** for distribution to children and surviving spouse-**the two purposes are usually** ***not*** ***compatible***. With family farm businesses, wills should generally be used to distribute personal and not business assets.
* That equal and fairness are ***very complex terms***, when used in conjunction with family farm businesses. Should book value or current market values be used for family negotiations for determining buy in or out value? If a Will challenge follows and some years later the issue is resolved and land values have risen in the meantime, what land value is or ought to be taken?
* **A Will may have a greater impact on the family farm business *and* family, than any drought or market downturn**.

**Impact of Inheritance.**

During an individual’s lifetime many new ideas/techniques will have been introduced or incorporated into the farm family business. Inflation is generally the driver for developing the need for using new ideas in the battle to maintain or increase farm profitability. Inheritance has the potential to ***wipe out or neutralise*** the effects of the innovations on the farm business.

**Figure 6:Productivity gains and potential neutralisation by inheritance.**

Productivity **increases** farm

output and possibly in asset value.

Inheritance, eg., buying out siblings –

**reduction** in farm viability.

***Activity:*** Wills should be used to ***protect*** the farm family business and assist in the achievement of family goals. Therefore a Will will change in content over an individual’s life time.

Refer to fig 4 and mark on the appropriate cash flow curve, the time when you feel

there is a need for a Will review and possible changes. What changes do you consider necessary?

**OWNERSHIP. *The KEY area.***

Provides security for the farm family and their farm business and as collateral for borrowing from financial institutions.

**All** businesses operate within an ownership structure. However, there is, ***no one best ownership structure***, to suit all situations and the preferred ownership structure ***must*** provide ***flexibility*** to allow for family members to join or exit the ownership position and to minimise the family tax position.

a). Selecting an appropriate ownership structure.

***The ownership structure or structures selected must have a PURPOSE, ie., what it is required to do. It has LEGAL consequences.***

A basic understanding of ownership structures is vital for;

* Discussing your or family options with an accountant or solicitor.
* Providing children an understanding of the importance of and how the families

present ownership structure works.

* Reducing potential disputes through members not abiding with the legal arrangements

agreed upon (due to not understanding the ownership structure or it was not designed

and implemented correctly.)

The ownership structures basic business framework. Brief coverage.

**i)**. **Single Proprietorship.** All business assets owned by one person.

**Advantage:** cheap and easy to set up.

**Disadvantage:** Ideas, cash may be limited.

**Will:** Vital with a family situation, to be current.

**ii). Partnership**. A simple contract between the parties involved consists of three (3)

parts;

* ***Agreement****:* what members agree the partnership will do and extent of authority to act for each other. The membership and termination conditions (death or withdrawal of a member will terminate the partnership, which for capital gains tax will constitute a change in ownership of the business.)

Agreement ***should be written***, as oral agreements are difficult to remember or

prove.

* ***Consideration****:* what each partner brings to the partnership, eg., cash, skills, machinery, loan of land, etc. The cash value of what you bring to the partnership may be the basis of partnership share, but may be negotiated on skill or loan of land or any other basis, eg. gifting.
* ***Intention to be legally bound to the agreement***. (contracts willingly entered into will be upheld by the courts. Must be legally able to contract, ie. 18 years or necessary for their future).

Figure 7: Partnership frame:

Partner A Each partner can act for each other partnership

partner, as authorised by the contracts

Partner B partnership agreement with outside

individuals/businesses

Partner C (known as 3rd

etc parties)

**A legal contractural arrangement between partners**

**Advantages:** Cheap, introduction of skills, cash, share ideas and management responsibility, involve family.

**Disadvantages:** Possible lack of security for continuity, as a partner may wish to withdraw and other partner(s) may have to buy out a partner(s). May be liable for partnership debts to limit of personal property (thus importance of having a written agreement outlining the limit of authority of partners to bind partnership.)

Will:

* Joint tenancy, eg., between husband and wife, assets go automatically to

survivor and Will important for surviving partner.

* Tenants in common, include partnership share.

iii). Trusts.

A mechanism set up by a settlor (living person: A settlement Trust) or testator (by Will: A testamentary Trust), for transferring property (real and /or personal) to chosen beneficiaries at some time in the future, via a chosen trustee. The trust deed provides the terms and conditions the settlor or testator sets out for the operation of the trust. *Must have property, deed and at least one beneficiary, for the trust to commence and continue.*

Important components of a Trust.

* **Settlor or Testator:** person who sets up the Trust.
* **Trustee:** Person responsible for carrying out the Trust requirements. Some Trusts have a company to act as the Trustee. This allows continuity and flexibility for a farm family in that members of the family can be made Directors of the Trustee Company and thus gain experience in management.
* **Appointor:** Has the power to appoint or replace the Trustee and must be carefully chosen. Setting up a Company to act as the Trustee generally reduces the significance of this position. Other than a single Director.
* **Guardian:** As the Trustee is the legal owner of the Trust property, this position looks at seeing that the Trustee acts according to the Trust Deed.
* **Trust Deed:** To include all your requirements for creating a Trust. Flexibility very important to allow for future needs as a Trust may last up to 80 years. Need to consider how income and capital gains are to be distributed to beneficiaries. Who are to be the beneficiaries and future beneficiaries?

Trust Deed needs to be set up by a solicitor as there are legal requirements involved, but you determine your family and business content following discussion with solicitor and family.

* **Beneficiaries:** Must have at least 1 beneficiary. Beneficiaries must be specified, but can also allow for beneficiaries to be added in the future, i.e., allow for unborn beneficiaries. Beneficiaries of a primary production Trust have primary producer status. Parents usually make themselves beneficiaries, along with children.

**Figure 8. Trust frame:** Example: A Discretionary Trading Trust.

Guardian Appointor(s)

Settlor Trustee Beneficiary 1

or with discretionary

Testator power

. Income Beneficiary 2

for distribution etc

to beneficiaries

.

Trust Deed and

Property

Two other types of trusts farm families could consider.

* A Unit Trust would have Units instead of Beneficiaries, with the Beneficiaries owning the individual Units. No discretionary power with Unit Trusts as Units give fixed entitlements to trust income and capital, as per the trust deed.
* A Fixed Trust provides for beneficiaries to have fixed entitlements to the income and property of the trust.

A combination or Hybrid Trust may be developed, which is a mix of discretionary and fixed types, i.e., discretionary for income and fixed for capital.

**Advantages:** Trustee retains control of management, beneficiaries can loan back distributed income, privacy of business income information.

**Disadvantages:** Trust deed (Settlement or Testamentary) may not be properly prepared. Trustee may not keep to trust deed (as they are the legal owner of trust property), hence importance of the Guardian position to review Trustee decisions in terms of the Trust Deed. Beneficiaries have no say in management. Trustee may not be a good manager and trust property may be used to pay trust creditors.

Will:

* Settlor has transferred property to trust. (If an only beneficiary dies before the

settlor, then trust terminates and property returns to settlor.)

* Trustee, only holds property, as per trust deed, for beneficiaries.
* Beneficiaries: - with a discretionary trust. Not entitled to property until trustee uses

discretion or provided by trust deed. Loan back funds to trust included in will (as a creditor to the trust).

- with fixed and unit trusts your entitlements included.

**iv). Company.**

A company has same legal position as a person and is formed by incorporation under the Corporations Law and may sue and be sued. The Corporations Law sets out how a company is formed, run and terminated. Shareholders provide equity capital (shares are personal property). Company owns the company assets. Shareholders are the owners of the company through their shares.

Figure 9. Company frame:

Promoter Registration Shareholders

(Incorporation) (Owners of shares

Memorandum -limited liability)

(Constitution)

Articles

(by-laws or replacable rules)

Business conducted

by Board of Directors

**Advantages:** Ease of entry and exit as a shareholder. Shared management as directors. Access to equity capital. Continuity of business.

**Disadvantages:** Directors held responsible for collective decisions. Public access to company financials. Annual cost in meeting Corporation Act financial reporting requirements.

**Will:** Shares owned and need to be included in a Will. If shares are jointly (joint tenancy) owned then ownership transfers automatically to remaining joint owner.

***Activity***: Write down the advantages and disadvantages of each ownership structure in terms of your farm family situation and what is the most and least appealing factor overall to you NOW and for your future goals.

***Set out the PURPOSE to be served by the preferred ownership structure. Write down what your ownership structure NEEDS to do for you.***

b). Ownership Strategy.

Generally, flexibility is an important factor when selecting an ownership structure. However, when first starting out, often when an individual is single, ownership may not be an issue and single ownership may be an appropriate structure.

**Figure 10: Land and farm business in same ownership structure**, eg., single

proprietorship.

Farm Business Single

and Individual

Land Proprietorship

As time goes by and marriage and children follow, business growth may be necessary and ownership may well become a very important issue and an important aspect of family harmony. With two generations farming together, ownership becomes an even more significant issue.

The following model separates the farm business from the land and uses a partnership between husband and wife for the ownership of the farm business. The land remains in single ownership, as this may have been the original position before marriage. Figure 11 is thus a development from the above model following marriage.

Figure 11: Separate ownership structures for farm business and the land.

Husband H and W

Partnership Wife

Children

Farm

Business Husband

Single

Land Ownership Wife

Children

Another stage in the family life cycle is reached when children grow up and one or more of the children return and work on the family farm. How will the son(s)/daughter(s) be involved? Wages may be appropriate, but will not provide an opportunity or sufficient incentive, unless an only child. Even if an only child, they will need to learn business skills and later an **appreciation of how to use ownership structures.**

In multiple sibling families, ownership becomes a significant issue, both for the parents and for the son(s)/daughter(s) farming with the parents. Therefore, thought needs to be given to the ownership strategy, which may be used. Security is an issue for parents as they grow older and opportunity and security for the son(s)/daughter(s), if and when they marry and have children. As mentioned above, using a Will to handle the ownership issue may not be an adequate or suitable technique in multiple sibling families. At some stage, growth will be necessary in some form to provide the needed cash flow for two families farming together.

A number of growth options might be reviewed; Buying more land; Leasing land; Combination of leasing and buying more land; Developing an off farm business, either separate to the farm business or depending on or associated in some way with the farm business, ie., developing a livestock transport business, sowing and harvesting or fencing contract business.

Ownership in some form will be associated with growth options. Figure 12 is a further development of figure 10, where the husband starts out as a single individual, buys land and holds the business and land in one ownership structure. With marriage, children and business growth the following model outlines an ownership position that provides flexibility and security for parents and provides business opportunity for children.

**Figure 12: Multiple family farm businesses.**

Husband Family

Partnership Wife

## Farm

Business No. 1 Children

Farm Family Unit Trust

Business No. 2 or Company

Husband

Land H and W

Block No. 1 Partnership Wife

Land Single Ownership Children

Block No. 2

More complex arrangements can be developed from the model above, which allow for ownership flexibility for farm business growth and retains some asset security by parents. More complex models may be developed provided the ***PURPOSE*** to be served is clearly set out, ie., an ownership plan developed.

Whatever ownership strategy is developed, ***security*** is a basic issue for ***all*** those involved in the family business. Inheritance issues need to be sorted out early so that son(s)/daughter(s) farming with parents know that they have security for their farming career and do not have to buy back the family farm in order to continue their career. Figure 11 ***does not*** provide any security for son(s)/daughter(s) farming with their parents, but parents could assist them to buy land, start an off farm business or develop off farm assets. The parents could also consider transferring the land in their names into a family trust involving only those who are involved with the farming business.

***The ownership strategy developed should satisfy the desired family purpose and should work for the family and NOT CONTROL THE FAMILY.***

***Activity:***

1. What concerns, if any, are there for involving a son/daughter in the ownership structure and how would the strategies set out in Figures 11

and 12 assist with any concerns?

1. What does your ownership strategy needs to provide you and family.

To assist, rate the importance of each of the following on a 1 to 5 basis;

**1 is most important** and **5** is not very important. Then select an ownership structure or combination of ownership structures to suit your needs or

**PURPOSE** to be served.

Provide security for everyone \_\_\_\_\_\_\_ Flexible ownership structure\_ \_\_\_\_\_\_\_

Allow for off farm income Confidentiality of business

provided to the business financial information \_\_\_\_\_\_\_\_

by a family member to be

recognised \_\_\_\_\_\_\_

Allow growth of business Minimise taxation effects

through equity capital, ie., when membership of the

family members to buy in business changes \_\_\_\_\_\_\_\_

to the business. \_\_\_\_\_\_\_\_

Maximise superannuation Keep control of business

Contributions \_\_\_\_\_\_\_\_ with lowering ownership

**s**hare \_\_\_\_\_\_\_\_

Provide children experience Retain primary producer

with ownership \_\_\_\_\_\_\_\_ status. \_\_\_\_\_\_\_\_

##### Minimise legal liability Retain capital gains tax

##### for the other family position on family home \_\_\_\_\_\_\_\_

##### members business activity \_\_\_\_\_\_\_\_

##### Minimise tax paid on Use Farm Management

##### income \_\_\_\_\_\_\_\_ Deposits \_\_\_\_\_\_\_\_

##### Other aspects? Allow members to withdraw from ownership without affecting others?

**Note: *Absolutely vital*** that you understand how the ownership structure and strategy will affect your future family and business plans. ***DO NOT* change** **OR select** an ownership structure(s), until you **fully understand** the ownership structure(s).

##### **BUSINESS.**

**The activity that produces the cash for satisfying farm family or individual cash needs.**

**The average family farm, business and land, is valued around $1 to $2 Million and is a significant financial base for developing numerous opportunities for the family.**

a). Farm family cash needs and farm business cash flow.

Cash flow is the survival ‘line’ of a business, as well as for the family and these two cash needs positions should be integrated. See page 30, **‘Matching of cash needs with cash available’.**

Whilst the ***demand*** for cash by the family is constant or increasing/decreasing according to the family life cycle position (see Figure 4), the ***supply*** of cash from the farm business is anything but uniform and varies from year to year due to climatic and market effects. Added to this situation is the constant increase in input costs due to inflation.

Any ***deficiency*** in the ***supply*** of cash in meeting family cash requirements needs to be taken into consideration in developing business budgets/off farm investments.

b). The changing economic environment in which the farm business operates.

Historically, the family farm has been an important part of the Australian economy. Governments, through rural policies, had developed a range of measures that would assist the farming community in times of need, such as in times of drought and severe market downturns. Research and extension services were very active. The government focus was on production.

This has all changed. Globalisation and competition have been fostered. Economists have said that agriculture should be treated the same as any other sector of the economy and that farming is a business just like any other business. Government focus has changed from production to productivity and profitability.

The industrial end of the market is now driving the use of economic resources and return on investments (ROI) is just one such measure used in industry, which has been applied to agriculture. Some would argue that these measures have little relevance to agriculture;

***“Do we agonise over that (ROI) or do we say, ‘we are in the business of farming, we are getting a net return, we are living, we are bringing our families in’. What is important? Sorry, tell me I am wrong?”***

The problem lies in, not what those involved in agriculture think, but the economy at large and the services they decide to provide.

That is why ‘***working on your business’*** is now promoted, as opposed to ‘***working in your******business’*.** Farm family businesses really need to do both, but keeping the focus on ***“working on your business”,*** is not always easy! That is why the use of planning ideas and check-lists are always useful.

**c).** **Business planning.**

Is now a ***MUST*** in some form, and in some situations is a requirement of lending institutions. The Taxation Department now requires a BUSINESS PLAN, as a basis for determining whether or not you have a commercial operation when you apply for primary producer status or to see if a proposed venture will be allowed to deduct expenses for taxation purposes. A business plan may (or probably will be in the future, if not now) be required if the Taxation Department carries out an audit on the business and particularly, where they feel that the size of the operation is commercially borderline.

Whilst business planning is now a must, there is a mixed reaction from farm families to Business Plans.

In 2000, Monash University surveyed farmer’s use of farm business plans. Of the 748 respondents, 12.4% had developed and were using formal written business plans. Another 15.5% had developed a formal written business plan, as a requirement by their financier. However, following obtaining their required loan, they ceased to use the business plan.

Other comments on use of planning;

***“Budgets for the next 12 months are an informative (usually surprising) exercise. But more than 12 months are a futile exercise in agriculture, except to satisfy a financier”.***

***“Having a business plan that includes your goals and aspirations is essential, as is the need to be achievable”.***

***“You can make the best of plans, but if a drought comes along and stuffs it up, or marriage troubles etc, you should have an emergency plan as well!! There are so many variants in farming which don’t occur in other straight forward businesses. I bet the business plans put forward to banks never work out as they are written on paper***”.

d). Business plans, the farm family and their business.

**Business plans are an *AID* to the farm family. As such, the amount of planning undertaken will depend on the goals of the farm family, unless otherwise required by an outside institution.**

Whilst there is a degree of skepticism about the effectiveness of planning in family farm businesses, due largely to climatic and market effects, a ***cash flow statement and budgets*** are a ***MUST****.* This is needed for relating to the family cash needs position, page 29.

The basic cash flow ***budgets*** should provide cash inflow positions based on;

* The average rainfall and market positions;
* A 20 to 25% below average position; and
* Below the 20 to 25% position, eg., to allow for a drought (Climatic and/or Financial drought) position.

These are three (3) ***minimum positions*** for cash flow budgeting, and each position will have a different developed strategy as to how farm resources might or need to be used. The actual % used will depend on the preference of the family.

Adjustments are made, as needed within each of the above chosen climate and market benchmark positions. You will have thought out management strategies for each of the above benchmark positions.

A cash flow statement or budget can be based on a Calendar ***or***Financial Year basis-whatever is best for you. ***ALL the planning techniques MUST WORK for you.***

i). The extent or how detailed your business planning.

This will depend on the family goals, the advantages and disadvantages as perceived by the family or what an outside organization requires, eg., financial institution or Taxation Department. Business Plans should be as detailed as **you** want or need them to be. Again a Business Plan, like using Ownership Structures, needs to have a ***purpose.***

Advantages of planning include;

* For the continuation of the farm business should anything happen to the principle business operator. The farm business provides the cash needed by the family.
* To break the cycle of the family farm being ‘bought each generation’ or building up the farm business over a life time, only to split it up, so as to distribute the family assets between the children equally. **Why break up your life’s work?**
* When written down. your plans allow you to **‘see’** possible conflicts in your plan and allows others to ‘see’ what you are seeking to achieve or your management plan. Could well aid family communication when the family know what is going on.
* Plans provide the basis for asking questions or seeking advice of service providers, eg., accountants, farm consultants, solicitors, etc.
* Providing for growth of the farm business in line with family and individual goals.
* Provide greater control for borrowed funds.
* Thinking through strategies to ‘handle’ market and climatic fluctuations.
* **Thinking about providing the younger generation an opportunity**, as opposed to an inheritance.

Disadvantages include;

* Time consuming.
* May not feel comfortable with planning. Many farm family operators were not comfortable with computers and some kept their ‘books’ of accounts at the

same time as ‘putting’ their accounts on computer programmes. It takes time to feel comfortable with a new system.

* Who to contact if you experience problems with your planning?
* Developing a business plan is a cost (time and financially, if you engage a consultant). But depends on how complex you need your plan to be.
* Desire to undertake the development of a business plan, may cause friction between 2 generations farming together or between family members generally.
* Service providers may have differing views of what a farm business plan should cover.
* Having the physical farming aspects in a calendar year and the financials in the financial year. Cash flow does, however, ***provide a link.***

ii). Family involvement in developing a business plan.

Most children growing up on the family farm develop a good knowledge of the physical aspects of the farm business. However, most would have little or no understanding of the overall financial position. This lack of understanding of the family business financial position may be a cause of family disharmony, particularly as the younger generation increase in age.

Where two (2) generations are faming together, it is suggested that business plans be developed as a family exercise.

***“ To make this most effective children need to be first presented with a synopsis of entire farm value, debt, ownership, performance, etc”.***

***The focus is to combine the very considerable skills and experience of parents with the very considerable energy and enthusiasm of the younger generation***. Figure 4, page 29 provides for looking at the needs of ***both*** generations, which need to be accommodated by the business plan.

An aspect, which has been mentioned on numerous occasions by the younger generation, is that the family accountant focuses on the parent’s wishes. The suggestion is made that parents request their accountant involve the younger generation

.

**iii).** **What is a business plan and why is it important?**

A business plan is a written document that describes the ***future*** path of a business.

The written plan may vary from very simple to very complex, depending on ***purpose.***

A ***Written*** business plan will;

* Allow you to think about your business, recognize weaknesses and strengths.

* Help you to identify opportunities and threats and develop some options for the future.
* Identify cash-flow needs for the business and relate to family cash needs. This is very important with preparing a business plan for a financial institution. They will want to know what you and family will live on, as this will be important in the financial institutions assessment of the paying off the loan ability.
* Thus assist you in securing funding from banks, financial institutions, and other investors.
* Provide a benchmark to assess your business performance and measure progress towards your business goals.
* Provide the family with an understanding of the business strategy used.

**Note:** ***Farm business cash flow fluctuations due to climate and market variations are a fact of life in farming and these fluctuations need to be considered in developing a business plan, as mentioned above. Only using average rainfall or market prices are of little use.***

A *basic* business plan contains:

* ***Where we are NOW***. Includes;

Family labour available, family cash needs and ages of those involved.

Financial position, including cash flow to be matched to the family cash needs,

Profit and Loss and Balance Sheet.

Machinery.

Each production enterprise.

Land and how used.

Rainfall. Both average and graph of rainfall records.

* ***Goals***. Where do you want **or** need to be in 5 years time for ***each***of the above areas?
* ***Budgets***. For each of the next five years covering ***each***of the areas to match goals

.

* ***Resources and skills needed.*** List resources ***available*** and ***needed*** for each of the areas for each year’s budget. This will show up strong and weak areas.

iv). Planning techniques. Assist in ‘working *on* the business’.

* Use of Mission Statements. *Assists* in providing focus.

These are statements that can be used in the development of business plans, ie., what business are you in and what are the goals you are seeking to achieve, eg, being the leading producer in your market/consistent quality of product. Mission Statements are used to provide better focus, than just saying, ‘I am farming’.

* Use of checklists.

Planning needs to be ***methodical***, and having a format or checklist to follow, makes planning easier. Well developed plans, will provide the basis for a family conference and should be an excellent basis for improving family communication.

However, business plans are only as good as the information used and all components of the farm business need to be included. Concentrating on components you know/like and prefer, is not as good as including ***all facets of the business, eg., Where we are now*** and here you may need the services of someone, who has expertise that complements your skills and knowledge.

***“Makes it easy to work off a checklist rather than starting from scratch”.***

* **Use of benchmarks.**

A number of benchmarks have been developed to assist in the use of resources used by the farm business. Some of these are physical, eg., water use efficiency, DSE, yields /ha, turn off times for livestock, lambing % etc. Others are financial, eg., gross margins comparisons of enterprises, gross margins as a % of total costs, machinery running costs /ha, fuel used, etc. In fact you can develop benchmarks for almost every farm operation and can be put into a checklist form. They all **assist** in looking at where efficiencies in resource use might be made. Also, for comparing with other farm businesses, if desired or thought useful.

The physical and financial benchmarks need to be related and this may be difficult with the physical production generally based on a calendar year and the financials in the financial year.

***“That is the trouble when you are doing your benchmarking figures for your crop. With your financial figures you are right, but your crop input figures are in the other year”.***

However, the cash flow statement may be used as the ***link*** where the cash flow statement/budget are being used on a calendar basis. Goals and benchmarks can also be related in your farm business plan.

Taxation may not be considered as a benchmark, but is a cash flow factor that is linked to ownership and will complement your benchmarks.

* Use of the SWOT technique.

***S***trengths and ***W***eaknesses of the business or component of the business.

***O***pportunities and ***T***hreats.

This is another way of looking at your farm business. A SWOT can be used at any level of the farm business from the physical production techniques used, to finance used and sources of the finance, family involvement, ownership strategies used etc. For best use of this technique it should be used in a methodical way otherwise sections of the business may be left out.

***Communication between family members is another area for a SWOT.***

***Activity:***

**Carry out a SWOT on your** present business situation, eg.,

i) Do you have a written business plan? If so;

ii) Do you review the plan every 1 to 2 years? With family and accountant?

iii) Does your plan relate the physical (calendar year) activity with the financial (usually financial year) activity?

iv) Does the business plan incorporate family cash needs?

v) If the present usage of the farm will not provide the family cash needs in five (5) years’ time, what alternatives are there?

* 1. Does the family have access to the business plan? Understand the

business plan?

* Developing a framework or checklist for a Farm Business Plan.

Setting out the aspects that need to be involved in a farm business plan, allows you to work on the plan over time. In this way the plan will be an ***aid*** to you and allow for changes to be made as you develop your plan.

**Figure 13: A suggested Business Plan framework.**

Using the basic business plan components as set out above.

Where you are Goals Budget positions Skills/resources

NOW next 5 years (Strength/ weaknesses)

1. Family aspects
2. Financial
3. Machinery
4. Enterprise
5. Land use

This frame provides for an ***overview*** of the farm business and in many cases is only setting out in a formal structure what many farm business owners/operators have in their head. By writing your management programme down on paper or onto a computer spread-sheet, you can **SEE** **YOUR PROGRAMME**. A consultant would use a similar framework and complete each frame with your information, then when the consultant has an overview of your situation would probably then make suggestions or discuss with you any areas the consultant may feel is necessary. The amount of detail involved depends on the family needs or outside institutions requirements. In this case the above frame would provide a ***summary*** position.

Workshop participant comments following discussion on the use of this farm business planning frame;

***“ Easy to record how far you are along the planning program”.***

***“Probably most useful in context of teaching family members business skills/principles”.***

***“The planning frame needs to be done jointly, working on it gradually, not just one persons input”.***

***“Simplified greatly as it points to specifics”.***

***“Keep updating planning frame from time to time and don’t be afraid to change***

***plans”.***

**4. Using an Advisor/Consultant.**

Most farm families will have had experience with Advisors or Consultants. Accountants are regularly used for preparing annual taxation returns and some accountants prepare financial reports for their clients. Lawyers are used for preparing Wills, partnership agreements and from time to time, conveyancing for land purchase. Divorce and preparation of trust deeds. When Farm Succession becomes an issue, farm families have sought advice from accountants and lawyers, who seem to recommend the traditional wealth division options, ie., focus on inheritance.

When thinking of involving advisors/consultants you need to consider the **purpose,** so that you can inform them of what **you want** them to do for you. You need to prepare. Do you want to look at a general overview, such as covered in this guide, or do you want specific advice? What advisors/consultants do you need and this will depend on the purpose you have worked out. Keep the family involved. You may need several visits of/or with advisors/consultants.

**Remember 1: That what ever plan you develop is YOUR families plan. If you ask an advisor/consultant to prepare the plan, make sure you understand FULLY the plan and the basis of the plan.**

**Remember 2: That there are 2 huge assets involved – Your family and your farm business.**

**Remember 3: Do you want to focus on WEALTH RETENTION or WEALTH DISTRIBUTION (inheritance focus) or some combination?**

**Remember 4: You may need to get a 2nd or even a 3rd opinion.**

**Remember 5: Your family is the CLIENT.**

**Remember 6: Prepare your family and keep them informed and seek feedback before any family conference/discussion. Use a consensus position.**

**Remember 7: The earlier you start, the more options available.**

**Remember 8: Keep records. Of agreement with Advisors/Consultants. Family conferences. Keep a Diary. Family members to sign the records.**

**Remember 9: Prepare. Prepare. Prepare.**

Below are some situations of which you need to be aware.

**Concerns** of farm family members I found or informed by family members;

* The younger generation not knowing parents intentions or how to approach their parents on their future in the family business. Communication between the generations, a major problem. The younger generation did not want to be seen as ungrateful.
* The family focus is the farm and not their huge investment, until death of the owner.
* The ‘Forty year old Jackeroo’ position was prevalent. A cash deficit position.
* The older and younger generation unaware of each other’s needs and goals.
* There is a dependence on their accountant for choice of ownership structure and hoped their accountant was right.
* Their accountant treated the parents as the client and ignored the younger generation.
* There is a dislike of lawyers, as they only work for individuals of a family and this puts family members against family members.
* The younger generation generally did not understand the ownership position of the family farm.
* Daughters in law were particularly forthcoming on the impact of ownership in farm family dynamics. The ‘dreaded daughter in law’ situation. Daughters in law, in many cases, not involved in family discussion or in the ownership structure. Resentment, particularly, where the daughter in law worked off farm and helped subsidise their husband’s wage from the farm business.
* There is significant interest, particularly by farm wives, of both older and younger generations, in finding out more about ownership structures and how they operate.
* The younger generation more interested in Trusts and Companies as ownership structures to use.

### Driving and restraining forces. (Another way of looking at the family position)

There will be driving and restraining forces in most situations that a family will face and the below summary provides a list to keep in mind with many planning situations, particularly with Farm Succession and looking at opportunities for family members. The Driving forces need to be satisfied generally by understanding and reducing the restraining forces. The below summary is a check list for planning.

**An advisor could be useful for working through the driving and restraining forces family’s experience**. **An advisor provides an ‘outside view’ and a second opinion.**

**Driving Forces** **Restraining Forces**

**(Goals)**

Still need to make a living Culture –

Give children opportunities Don’t know what to do

Wanting to keep family No information

talking together

Service providers specialised

Wanting to be fair to all

children Limited assets (paying out siblings)

Wanting to know parents’ Don’t know what questions to ask

intentions

Don’t know how to plan

To have a happy retirement

Don’t know how to approach parents

Feeling needed

Parents might feel I am ungrateful

What other Driving and Restraining forces you think are involved?

Having worked your way through this guide, farm families would be aware of the options available and that they will need to work out what they want/need to ask advisors and to target who they need to provide assistance.

Draw up your questions you want answered.

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Use more space as needed.

**Farmer (Mainly Workshops) comments for you to think about before a family conference.**

##### **Purpose in using/selecting ownership structure.**

***“Doesn’t it really boil down to the fact that before you start, you need to set out what the aims of the legal structure are, whether it’s a partnership, trust or company. Unless the thing has got some aims, or some goals and some limited time line, there are troubles down the track”.***

***“I think with any of these structures, it got to be so built, so that you can get out before the problems start”.***

Over time the purpose is forgotten***. “a family partnership was just allowed to go on and on to the point -- the thing had about 3 generations in it. It was an absolute disaster - and everybody ended up with nothing”.***

***“Speaking about trusts, - is that they actually can get so large that you ended up with 50 to 60 family members in these trusts – we’ve seen a lot of families lose their land because of trusts – due to family squabbles within the trust and the trust actually becoming too large”.***

**On selecting a child to follow you.**

Promising the farm to a child and then not keeping that promise. See Real Case Study 3, where the farming child gave 30 years of his life for the fathers promise only to find that the farm was divided equally between himself and 3 non farming siblings.

Should this promise be in writing? I have been told that children trust their parents

***“If you cannot trust your parents then who can you trust”.***

##### **How did you work out your legal ownership structure?**

***“They’ve developed over time. A lot of discussion. Outside advice with the accountant, with the bank. Look, I’m very lucky, I’m in a situation that has always been open and all those things were discussed. We look at what is our best future option, and what’s the best way to achieve it – from an ownership point of view and from a taxation planning point of view. We researched a lot of it ourselves, but we asked a lot of questions of our accountants and lawyers and other ones as well that we’ve used. You’ve got to be prepared to ask the dumb questions. You’ve just got to ask the really basic stuff and if they can’t talk in your language, then you find someone who can.”***

##### **Ownership structures – complexity, use and understanding.**

***“It depends how complex you are going to get. Once you get into this area there are a lot of options you can have. The operating business can be a partnership, and you can have two individuals, a trust and a company as partners – and that can give incredible flexibility. Because a partnership doesn’t have to be allocated on equal proportions, partners can agree at any time as to how the business is split up. So, as you said, it is a technique over time of how to bring family members in and that sort of thing, and it’s beneficial. So once you’ve got the basic structures, you can put them together in combinations without infringing on any flexibility.”***

***“What happens if the appointer passes on?”***

***“When is the right time to set up a trust – how are you supposed to know when you’re setting it up?”***

***“Down the track in twenty years’ time, are these trusts able to be disbanded?”***

***“If you’re just doing it for a tax situation, you may be better off, in the long run, it might be cheaper if you just pay the extra tax”.***

##### **Relationship between the Generations. Succession Concerns**.

***“I guess on the other end of the scale, there is a lot of young people leaving family farms, because they’ve got no ownership, or you know, no direct planning, and I mean I see it a lot with work (real estate) and you know that’s the other thing you sort of forget about as you said, when they’re 50 (years old) and have no cheque book”.***

**Older generation ‘hanging in’, as have no plans for retirement.**

***“You do find, that the older generation are ‘hanging in’ more and more and more, simply because they have never ever had this opportunity like we are having today, and they haven’t planned for their retirement. So they are having to hang in there. --- I think that’s why we are saying, that you can’t really say, that as young (people), we are thinking of ways to take it (the farm) over. We have actually probably got a bit more insight into things than what they have, and we want to do a bit more forward planning – so the same doesn’t happen to us.”***

***“What concerns me, like that -------- from -------- and I was horrified. He was suggesting, that the parents retire and go on the pension, and I’ve witnessed that. --- An accountant in ----- and she said, ‘Yes, and we’re sorting out a lot of those problems now’. Because every time the parents and they are say, in their 60s and 70s, and at that stage of their lives, some want to go on a coach trip, and the son is saying, ‘Oh no, I’m not giving you any money’. You know, the crop has got to go in, and this has got to happen, and (we’ve got to) pay for the header.”***

***“People do not want to talk” about succession.***

***Parents “do not know what to do” as “it is all for the next generation***”.

**Family relationships/conferences.**

***Meetings v’s process. “To me meetings is a bad word – it’s a process”. Family agreement for meeting and use of facilitator. “I was just pondering on the question you asked a minute ago, about having family conferences and bringing an advisor or consultant in, and one member saying, ‘I’m not having a counsellor’. Then I think the other parties have really got to respect that, and open a way up - and balance the potential outcomes of the conference, with a counsellor and without. If they go ahead with the domineering person’s wishes and don’t have a counsellor, then they’ve got to be prepared to try and have their questions, maybe beforehand or --- and maybe you put some conditions on the meeting by saying, ‘We’ll go along with the condition of not having a counsellor, but we’ve got to agree to go and get professional advice to answer the questions afterwards’.”***

***“‘hanging in there’ and holding everything up – a lack of knowledge about options.”*** ***Balance and judgment of how to introduce children’s involvement in the farm business. A family conference may introduce the options in a neutral way and let members know that they are all important and it is up to them as well as the parents. “I think by getting them to put input into it, you get a better idea of, you know, what they think”.***

***Do parents owe children an inheritance? “They don’t, but I think if they told the truth, they would like it very much though. It would be expected”.***

***“Our son, who is 32, talks of trusts to his dad and dad doesn’t want to know about them because it’s not dad’s idea”.***

***“What are the options of parents, who say they don’t want a pension? What are you going to offer them down the track? Are they going to sell their units in the trust, or will they sell their land? They don’t want a pension because it is not enough. --- What if the kids have got no money to buy their parents units because there has been a drought that year, or something else? --- There’s got to be some sort of planning for the parents, who are set up in this way (a unit trust), and are just expecting this money to be there when they decide to retire – and it’s not there, for whatever reason. You’re still expecting your children to buy in (to the unit trust), and you’re still expecting them to have the money to do that, or borrow the money to do that.”***

***“I think you’ve got to practice your retirement. I practice every day. No, no, seriously! I mean, I’m the same, we worked weekends, we worked for years and years and years, because it was habit and because we convinced ourselves we had to – and some of the things we did made us. But since shedding some of our business activities, I’ve deliberately said, ‘No, life’s too short – I’m going to actually go and play a bit’.”***

***“I don’t actually want to retire, actually I just want to slow down. I’m quite happy to stay on the farm, still do a bit here and there and whatever, but still have a bit of time to go and do what I want to go and do too. But I don’t actually want to retire.”***

##### **Wills. You can only include in a Will what you own or a right to an asset ownership, e.g., with Joint Ownership.**

***“One child smarter than the rest and know what to do and they do the others out”.***

**Update Wills every 5 years. *“Rather than putting 5 years in there, should not it be at any major event in the family. Otherwise may have a most unfair Will if changes are not catered for in Will”.***

##### **Treating children equally.**

**Concern about equity of daughters verses son***.* ***“What if son sells out 10 years later and keeps the lot – that is not really fair. No lawyer would set up Will”,* to handle son selling out later on.**

***“I do not want the land split up – on the other hand I do not think I should have to go without either – fairness thing”.***

***“Instill in children, that a good education and a university degree and opportunity to establish a life for themselves is equally as valuable”, as receiving land. “You can lose your assets in a divorce, but they cannot take your education away”.***

***“The philosophical problem that people of my generation have got now. How do you leave a viable farm to one child, who comes home at the age of 30, having done all of the other things and may come home well educated, well qualified in another profession. How do we leave it to them and not give an equal share to the other person, who has never been there either and has got no intention of coming back to it? -- That is happening in ever increasing numbers”.***

**What are the children’s individual rights when left a share of a family farm business?*****(*Real case study 11*) “So what happens, if one of those sisters decides, well I do not want this. I want my money now. – The brother then turns around and goes and borrows to pay the sister out. Or is the place sold just to keep one person happy? – I think there is a real issue there with the brother going and borrowing large amounts to buy two sisters out”.* If the intention of the deceased was for the children to have the money instead of the business, then the Will should have been set up that way. This is the opportunity V’s the ‘pot of gold’ position with which parents have to contend.**

#### Farm Service Providers. Are specialists.

***“--using professional advisors, get a second opinion”.***

***“You have got to be the driver – ask questions”* (but we do not know what questions to ask?)**

***“Read widely and talk about options”.***

***“The real challenge – is finding one, who has got a broad knowledge”***

***Male service providers not taking females seriously. “Two guys didn’t want to talk to me at all. One fellow said to me, ‘Well, what are you going to do with it?’ I said, ‘I’m going to farm it.’ And he said, ‘In your herb garden?’ And I said, ‘No, on 100 hectares.’ I was so angry.”***

#### 

#### Suggestions.

**Hold family workshop *“and each family, you know, at the end of each paper, sort of got together and filled in the paper together, so you could talk about it”.***

***“Should be compulsory for both generations to come and their spouses”.***

**Family host a workshop** “***and I asked all my neighbours around us they would come --- if you ask personally, people will make every effort to come”. “Something like that could be a late afternoon one and just serve something like sandwiches or soup or something light”.***

***“I think if you want men you basically want to start at about 3 or 4 o’clock”.***

***“What you are up against is a very traditional barrier, which you have got to break down”.***

***“You got to get across the basic premise which is, you need a 5 year plan, you need a 1 year plan and where do you really want to get to, what is your ultimate goal”.***

***“I think the idea of these short, basically A3 bits of paper is a good idea. It is a marketing technique. It is putting information simply and putting out what it is and then they want to know more about it and access where they should go”.***

***“The trouble with this topic is it has traditionally been viewed very dry and dull -- but in terms of these issues, there is a lot of basic stuff here that needs to go out”.***

***“Getting your knowledge base up to a level, where you can get best out of your advisor or by doing all the basic stuff in a group situation. One on one educational situation is not cost effective”.***

***“Need champions – a company or whatever to say ‘this is worthwhile information, you are not going to waste your time”.***

#### Concerns.

***“What the governments is trying to get us to do (is) get larger and larger farms”.***

***“We are on our own, that is the problem”.***

***“My son hasn’t got time to come to anything like this. He’s so busy”.***

***“Social structure is just disappearing for the young ones. – want to go out, well they’ve got a hundred km drive”.***

***“How do we get a recommendation for an accountant, who is actually working with this”.* The farm family business.**

## Family Conferences: Do not hold a FORMAL family conference until you have fully prepared for the Conference as there is TOO much at stake. The FORMAL family Conference should be where the family agrees on a plan for progressing. There may have to be some give and take, but there has to be an acceptable and viable decision.

## Depending on when you start planning on when you decide to look at what you want to do or family request discussion on their future will roughly determine the formality to be followed. Once the decision has been made to involve the family, informal discussions can start and then a formal conference can be established to determine how the family wish to proceed. There are a number of ways to proceed, but ALL family members should be involved. An advisor/consultant could be engaged to lead the conference as a neutral person, if this is what the family suggest.

**Hopefully PART A will have assisted you and your family.**

## This guide has been written to provide for a range of uses. Select what you want. Probably an option is to read the Guide and then think of what PURPOSE you might focus upon. This is a huge area and this Guide may be considered large, but when considered in terms of your family, I do not think this Guide is too big. I am happy to assist you anywhere at any time.

**Issues NOT included in this Guide.**

**1). Taxation.** Taxation is an important issue with any Farm Succession Plan and the CURRENT Taxation situation needs to be discussed with an Accountant. Taxation seems to change regularly in some way and thus has not been discussed in this Guide.

**2). Farm Succession and Bank loans.**

**Borrowing should be for growing the family farm business (Productive loans) as opposed to buying back assets from siblings due to Inheritance distribution (NON-productive loans).**

**Finally**, always have your Farm Succession Plan checked by a Solicitor as well as your Accountant. However, it is your plan and hopefully this Guide has provided the base for questions to ask your Solicitor and Accountant. Your family needs to drive your plan.

**Finally.**

Hi Geoff,

I spoke to you Saturday morning about your fantastic article and how it related to our story. I have just emailed Xavier at Weekly Times with a brief summary of what happened and how important it is for other’s to read this information.

I told Neil (husband) that I contacted you, and that you would listen to what he has to say – well I hope you’re prepared, because he’s writing a Mini-series on it – I think it is good for him to go back over it – I will send it on to you once it is finished – you might be able to use it as a reference to try to get some awareness.

So stay tuned.

Regards

Helen

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## PART B.

## Supporting information

## The following information has been included, as the material, whilst considered important, serves mainly as reference or support for PART A.

**5. Research Results.**

**The Rural Industries Research and Development Corporation (RIRDC) and the University of Melbourne funded. This funding was used to formally evaluate material developed for use with 5 hour workshops on farm succession. A number of workshops had been delivered, but had never been any formal evaluation. In academia, formal research is required.**

**There are 3 parts.**

**a). The initial formal RIRDC research workshops.**

These workshops covered some 5 hours and involved a detailed discussion of a set of 6 papers, which had been developed over several years. The content of each paper is set out below in the summary of the **RANKING** of the information/ideas. Paper 4 on ownership attracted the major interest and took the most time. Paper 2 is provided as an example, Appendix i).

At the end of discussion on each paper participants were asked to evaluate the usefulness of the material discussed (the evaluations of each paper are not included and are similar to the Dimboola Seminar and Mail Survey results that are included below). At end of each workshop discussion, participants were asked to **RANK the usefulness** of 10 of the 18 ideas in the set of 6 papers. The **Ranking** of the ideas/information follows.

Ranking. (rank 1 is the most important). Male Female.

Paper 1

1. The relationship of the family farm to the farm family 1 1

2. Clarifying farm family goals 2 3

3. Determining farm family cash needs 4 5

Paper 2.

1. Providing opportunity to teach family members business skills 3 1

2. Types of opportunities to involve family members in business 6 5

3. Using the expertise of farm service providers 14 12

Paper 3.

1. Relationship of family cash needs to use of Wills 11 13

2. Specific factors that will affect the content of Wills 16 18

3. Relationship between Wills, ownership and business plans 5 7

Paper 4.

1. Selecting an appropriate ownership structure 6 4

2. Changing from one ownership structure to another 14 16

3. Effective use of family trusts 9 13

Paper 5.

1. Risk and the farm business 17 10

2. Risk and using specialist farm service providers 18 15

3. Risk and farm family plans, ownership and business plans 12 8

Paper 6.

1. Family plan format 9 11

2. Ownership plan format 8 8

3. Business plan format 13 17

The first 6 ratings are regarded as driving aspects in any farm family situation, as these ratings were very similar for both males and females and being selected in the rating scale (participants were asked to rate 10 of the 18 aspects/ideas). Thus when designing workshop packages and stand alone material, these six aspects must be included. Ratings 7 to 18 showed variation between males and females, both in ratings and being selected in their rating scales. Ratings 7 to 18 could be regarded as follower aspects that develop on the ‘driving’ aspects. The majority of the real case studies are the result of little or no attention by the farm families to the ‘drivers’. To pursue the ‘growth’ option and to achieve farm business integrity from generation to generation, these 6 ‘drivers’, need to be incorporated into any farm family plan.

**Farmer comment on the use of the 4 page format used for the set of 6 papers.**

***“I think the idea of these short, basically A3 bits of paper is a good idea. It is a marketing technique. It is putting information simply and putting out what it is and then they want to know more about it and access where they should go”.***

Relationship of ratings 1 to 10 in relation to the Segmentation model, which was rating no 1.

Rating 1. Segmentation model.

Farm Business Ownership Parents

Land Children

Rating 2. Family goals.

Rating 3. Teach children business

skills.

Rating 4. Selecting an ownership

structure.

Rating 5. Two (2) generation

cash needs cycle.

Rating 6. Opportunities to involve

family members.

Rating 7. Relationship between;

Business Ownership Wills.

Rating 8. Ownership plan content.

Rating 9. Risk and

Business plans Ownership plans Family plans.

Rating 10. Family plan content.

#### Participant satisfaction with workshop.

***“You have made us aware of things we did not know before”.***

***“I really appreciate it. I loved it. It’s not very often I do with these sort of***

***things, but I really did”.***

***“This is the type of thing they should be coming to, to learn what to do to keep the kids, because it is well known fact, that farms and small country towns are just diminishing because the kids are just going”.***

***“We have not had anything like this”.***

***“I’m looking now, that I think it’s going to be more positive, because before I just thought, ‘Oh, what’s going to happen’”.***

#### . One point that stood out or captivated you from the workshop.

***“Unit trust”.***

***“I have been thinking about this situation for a few years now. It has put meat on the bones for me”.***

***“Any plan is better than no plan at all. –It has given me a background, something I can work on now”.***

***“Confirmed ideas”.***

***“Legal aspects of ownership.”***

***Now, “you can ask the right question”.***

This research is considered significant for 2 reasons:

* Participants were requested to evaluate ideas/materials in a research setting as opposed to asking participants how they did or would handle Farm Succession. Most of the ideas/materials covered in the set of 6 papers, was considered to be **new** to them. Workshops were of 5 hours duration, from 9.30 am to 3 pm, with time for lunch.
* As a funding requirement, a short paper ‘summarising’ the research outcomes, was required for publication along with papers of a small number of other researchers for a forth coming Farmers Options publication to be produced by RIRDC. My paper of 13 pages (See below under b) Mail Survey) was developed with the aid of the workshop participants, who told me what information/ideas had to be included. This 13 page paper was submitted to RIRDC, who Peer reviewed the paper and found the paper to be unsuitable for farmers!!

Following receipt of the paper ‘being unsuitable for farmers’, a Mail Survey was developed. The 13 page paper and a 3 page Questionnaire was forwarded to 56 randomly selected farm families, with a request for them to review and complete the 3 page Questionnaire. Thirty completed Questionnaires were received, which is over a 50% response rate. This response rate is considered very high for a paper considered to be not useful for farm families. A report on the results of the Mail Survey was forwarded to RIRDC. No reply was ever received. **Why does this GAP occur??**

**b). Mail Survey.**

Following the non- acceptance by RIRDC for publication, of the 13 page paper, that included information that farmers at the Research Workshops, said had to be included, a mail questionnaire was forwarded to 56 farm families for their evaluation. Over 50% very positive response rate was achieved.

***“Get this information out on to the kitchen table as quickly as possible, it will help so many people”,*** *was one such comment on the paper.*

*The question needs to be asked,* ***‘why is there a GAP’****, between farm service providers and farm families, as to what is considered useful information to assist farm families in the areas covered in this paper?*

**Why does this gap occur?**

**The RIRDC Farmers Options Manual paper.**

**Developed with assistance of farmers at the research workshops.**

**TECHNIQUES FOR THE GROWTH OF THE FAMILY FARM BUSINESS**

**(The title of the research).**

***“What options are available for a farm family? Handing over the farm and taking a pension does not interest me and yet this is what is suggested to me at meetings on succession planning. There is nothing in this suggestion for parents. I need answers to how I can be fair to or treat my children equally. I know of many farm families who feel the same way as I do”.* AND**

***“What questions should I ask as there is no information that I know of to assist me?”***

**These are just two comments made by numerous farm families. Yet, there are a number of options farm families are already using or reviewing, but are not widely known.**

Farm family opportunities can vary from very small to very significant changes in the way the farm family undertake family and business life. Sharing information and asking the family for their ideas often improves family communication and lets the parents know what their children are thinking.

No two family farms and the farm families that operate them are the same. However, in many cases there is a general theme that the children have expectations, that one day, they will take over the farm or its asset value. The farm is generally where they grew up. Inheritance is an issue that most farm family’s experience.

“How do you split up a family farm”, I was asked, “between the five children”. Their mother had died and the children were somewhat anxious about their father’s new relationship. I said why split it up, why not build up five businesses using the home farm as a base. The answer I received, “I had not thought of that”.

*The average Australian family farm is valued around $1 to $2 million and is a huge investment on which to provide farm family members opportunities.*

Options were discussed with numerous farm family members, either individually or at workshops and on the great majority of occasions the alternatives to the traditional inheritance focus were considered to open up opportunities they had not previously considered or not been aware.

Growing the family farm business and providing children an opportunity to build on what their parents had built up, in many cases, over a lifetime, seems a viable alternative to the traditional inheritance position followed by many farm families. Many older and younger generation farm family members, who ‘took’ over the family farm from their parents, and bought out brothers/sisters, have said how hard it was to build back the financial position in order to provide a reasonable living.

‘Buying the family farm each generation’, constrains the farm family financially.

**PART I. What are key issues in reviewing the farm family situation or opportunities?**

**Firstly, where to start?**

The farm and the farm family are generally seen as one, ‘it’s our farm’.

As a basis for looking at the options or opportunities available, I have looked at the ‘farm’ as comprising three separate areas, the family, ownership and the farm. I have asked many farm families if separating into these three components is a realistic place to start and in every case, the answer has been ‘Yes’, as “makes you look at issue from a different angle” and “to make you think about the other options available to you”.

The reason for looking at these three areas separately, is that each has a different impact on the family and their business.

**Family:** What is involved in looking at opportunities for family members? Family goals and the cash needs, to achieve these goals. **The family life cycle results in an ever increasing need for cash**, until the children are self-supporting or earning an income.

**Ownership:** Understanding what your ownership structure will and will not do for you. Some 92% of farm businesses are owned as a single proprietor or a partnership. These ownership structures are cheap to set up, but are inflexible for many family situations. Generally, the ownership structure was selected for tax minimization and not family purpose. Ownership may be the major constraint for providing opportunities for the family and **reason many family farms are lost.**

**Business:** The farm production and profit cycle is an **annual** event. Profits need to be calculated annually for tax reasons. Decisions are made mainly for tax purposes, but where do you want your business to be in the future?

These three separate components of the family farm can be summarized as follows,

Family Farm Business Farm Family

Farm Business Parents

Land Ownership Children

Plans

Business Plans Family Plans

(Series of 5 year plans) (Series of 5 year plans)

Productivity increase to Productivity increase to

maintain business **PLUS** cover the increasing

profitability. Family cash needs.

**The next step, is to look at each of these three components.**

**1. FAMILY FOCUS.**

**Key Issue: Setting family goals.**

Most farm, or non-farm, families, endeavour to provide their children better opportunities, like not having to buy back the farm from their siblings, than the parents experienced. Also parents seek to keep the family talking together. Additional goals are

\* To provide children necessary life skills and involvement in the family business, if possible.

\* Allow the children to feel responsible for their own future.

\* To provide for the business to be carried on.

\* To provide for an enjoyable retirement.

Added to this short list of general goals is the goal of treating all children equally and it is this goal that concerns many parents. “I cannot afford to buy all children a farm and I do not know what to do” is a very common comment.

These are parent’s goals, I am told by members of the younger generation. Younger family members are concerned that their parents go without and would like to be involved. The major concern they have is that they wish to be recognized and not just treated as a recipient or taken for granted that they will take over the family farm. Their greatest fear is that they do not want to be seen as being ungrateful for what their parents have done for them.

**Take home message:** All farm family members to write down their goals or what they would like to achieve over the next 5 to 10 years for all to see. Parents should feel **proud** of their achievements, as well as the children’s achievements. Parents do not have to provide all the ideas.

**Key Issue: Farm family cash needs over time.**

Cash needs of the family change each year and may be shown in the following diagram.

..

**Generation 1** **Generation 2**

Marriage Teenage Marriage Teenage

young family young family

children children

**Family cash** Potential

**needs** Conflict

**$** Zone

Develop Consolidate Involve

farm business in business

business

15 20 30 40 50 60 70

20 25 30 40 50 60

**Age – years**

There is a potential conflict zone that must be recognised by both the older and younger generation. It is the generation of cash that will allow a successful handing down of a family farm and not only assets. Assets are the concern of parents in how to be fair to (or treat equally) their children. The farm business needs to grow to provide for the increase in cash needed.

Cash conflict between generations can create the ‘forty year old jackeroo’ position. The daughter was employed on wages and the farm business did not grow adequately to cover the increase in cash needed for the younger generations growing family. Daughter and her husband were told that if they wanted to grow the business then they were to borrow, but the parents were not going to go into debt. Daughter felt trapped and her two sisters, said she was lucky, as she was to inherit the farm. Low wages during the non-ownership period may not be enough to keep a son/daughter home on the farm. Both generations must be aware of the potential cash situation 5, 10, 15 years ahead.

Cash was a concern of the younger generation in the following two situations.

\* An 80 year old sought suggestions on his Will. His concerns were, a). Provide for his wife, b). Transfer his shares in the farm family company, and c). How to be fair to his married daughters. He intended that in return to receiving his shares in the company, the son would pay the sisters their share of inheritance. The son was not happy to do this at present as he was building up his farm business. I suggested that he, the father, have a family conference to determine what the family needs were and to set up a system within the family so that cash could be provided as needed, as opposed to a windfall receipt of cash.

\* Son who had inherited the family farm had signed a deed of agreement to pay out sisters at a later date. Mother had already provided daughters a considerable amount of financial support.

A younger generation perspective after working an exercise using the above cash needs diagram. “You can see how important it is for a farm family to prepare for peak cash needs, especially as the family grows” (female), and “I found the idea of the changing cash needs of a family interesting. Having a reasonable cash need plan will help succeed in gaining finance to expand” (male).

**Take home message:** Cash is important for achievement of family goals, including growth of the business. Cash needs are **basic** to developing family, ownership and business plans.

**Key Issue: Teaching children business skills.**

We are all taught by employees at school. Off farm opportunities to learn business skills are **limited.** Consultants do or can assist in this role. Accountants tend to be focused on tax issues. Therefore the family needs to provide this training. Many families realize that “Children need to be prepared”, and “We have a training program for our children”.

**Take home message:** Business skills are vital for growing the family business.

**Key Issue: Wills.**

These work in with family cash needs, ownership structure and business. Content of a Will will vary, both with the ownership structure used and the age of the Will maker. Should be updated every 5 years (or maximum 10 years) or sooner if necessary.

The specific factors of Joint Tenancy and Tenants in Common were seen as very important and many workshop participants did not know or understand the significance for a Will. Tenants in common allows a partner to leave what they own to a chosen beneficiary in the Will. Joint tenants is suitable for a husband and wife situation. The relationship between Wills, ownership and business, is seen as very important, “Reminds us of the importance of facing the Will issue”.

**Take home message.** The Will is for your family and their assets, protection. An out of date Will **can UNDO** everything you have worked for in your lifetime.

**2. OWNERSHIP FOCUS. Change in ownership triggers Capital Gains Tax.**

The ownership of land and other farm assets is the basis of family farming in Australia and involves a **huge** investment of $1 to $1.5 million, on average. The ownership structure selected must provide security for both this asset and the family, yet be sufficiently flexible to achieve family goals.

**Key Issue**: **Understanding your ownership**

There is, no one best ownership structure, to suit all situations and the preferred ownership structure must provide flexibility to allow for family members to join or exit the ownership position; and to minimise the capital gains tax position, which is based on ownership of assets, except trading stock, e.g., cattle and now, plant and equipment.

To provide flexibility, some farm families have divided the land from the farm business, i.e., the land is held as a single proprietorship, partnership, trust or company, whilst the farm business is owned separately in another ownership structure, e.g., a partnership. In other situations both the land and the farm business were owned as a partnership. Some participants at workshops were not aware that the land could be divided and held in separate ownership structures. In most cases the family had either inherited the ownership structure as a trust or the accountant or solicitor had suggested the ownership structure to use and the family members had little understanding of the effects of the ownership structure on the family or their business.

Ownership structure not properly set up can destroy what you have set up. Two examples.

\* The Lee Steere Family Law case, 1985. Family farm had been handed down and son was Trustee. A divorce took place and the Family Court said, as the son was really the sole controller of the property, then he was really the ‘owner’, and as such, the family farm could be ‘divided’ for a divorce settlement. The **Appointor** position has since become an important component of the trust structure, as the **Appointor can appoint or dismiss the Trustee.**

\* Example provided by a lawyer. Father set up a son as Trustee of the family farm and the daughter as the Appointor. Later the daughter replaced her brother as Trustee and took over the family farm.

Example where the accountant set up the ownership structure and younger generation family member not understanding the reason. “We have recently changed from a proprietary company as the operating structure for the business, to a partnership. We had some unwieldy loans to family members”. (Were you better off?) “Oh I am not thrilled in some ways, but in other ways I can see advantages. But our accountant reckoned it was the way to go”.

An important court case, Harvey v’s Harvey, that involved two brothers setting up a partnership. One brother owned the land to be used by the partnership and the other brother and his three sons worked the farm taking minimum wages in order to build up the farm value. When the partnership terminated it was determined by the Court that the land had only been rented to the partnership and thus did not become partnership property and the brother and his three sons had worked to build up the asset for the other brother/uncle.

**Take home message: Absolutely vital** that you understand how the ownership structure will affect your future family and business plans. **DO NOT change** **OR select** an ownership structure, until you **fully understand** the ownership structure.

**Key Issue: Application or use of ownership structure.**

**Growing the family farm using** a unit trust as an appropriate structure (a company has similar outcomes). To allow the younger generation to buy into the family farm business, as opposed to, or as an alternative to gifting an ownership share. A partnership is unable to do this as simply as a company or unit trust. Buying in provides for an increase in funds for the business and provides a very different focus to that of inheritance. This ownership structure also provides an equitable position for any family member wishing to leave the family business, e.g., a divorce situation.

The ownership of a Unit (or Share) allows another Trust to be set up for distributing income earned by the original unit(s) and can be tax effective. Unit trusts have not been affected by the recent (2000/2001) taxation changes.

Where land is owned by the parents, the land can be kept in the parent’s name, to avoid triggering Capital Gains Tax, and the Unit Trust set up for the business in which the children buy in. Many farm families are not aware that the land can be separated from the ownership of the business or how Trusts operate.

\* Separation of the land from the business. “I was reluctant to see how this could work as it was against all that I have seen and brought up to understand”. We “were opened to the idea of a unit trust for the business when (eldest son) will be old enough to be included. This would ensure the ongoing safety and viability of the business and allow (another son), in later years to become involved without the disruptions of a new partnership whenever a change is required. Any further land can be placed in an individual’s name or in a trust to minimise capital gains tax, if applicable. This is yet to be looked at in any depth, but it is foremost in our mind”.

\* “Planning for the next generation under this mindset, (setting up a Unit Trust and for allowing children to buy Units) starts when the children are very young. It is a quantum leap from the traditional method of estate planning. In addition from shifting the focus of attention from assets and onto the family member’s needs and aspirations, the ideas raised in this area could enable a business to grow faster and larger”.

\* What was new to you about trusts, “everything”, “how they are used”. What did you like about trusts, “Flexibility”, “Very involved, but worth learning about” and “considerably increased my knowledge of trusts and their use”. Most participants at workshops wanted to understand more about the ownership structures available to them, particularly Trusts.

**Take home message:** Maybe cheaper to borrow to buy Units in a family business, than to borrow to buy out brothers/sisters their ‘inheritance share’. The option of allowing children to buy in, maybe an alternative, to trying to be fair with an inheritance.

**PART II of this chapter has information and formats to assist in reviewing the effectiveness or usefulness of the ownership structures and to assist in working through options for involving family members.**

**3. BUSINESS FOCUS.**

All businesses need to grow and need to take into consideration the family cash needs situation. Monash University published in 2000 the results of a survey into farm family use of formal written business plans.12.4% of the 748 farm families that responded to the survey were using formal written business plans, whilst another 14.5% had formal written business plans, but were not using the plans. The plans had been developed for the banks, as a requirement for providing a loan. Plans are useful and are more useful if written down for all to see.

**Key Issue:** Business Plans, formal or informal, assist you in achieving goals and need to be user friendly**.**

A business plan is not about looking at the taxation position. It relates to the $1 to $1.5 million asset and its future, “I think that is a good idea to emphasise the fact that their business is worth that much”. Business plans need to be relevant.

\* Business plan basics. Farm owner rang to say his business plan was not doing too well this year. The basis of his planning was using average figures. I suggested that he needed to develop average, and at least a 15 to 20% below average position, as the average seldom occurs.

\* Farm Management Deposits. These were designed to assist farm businesses manage their annual cash flow situation. “I’ve heard of them, but never used them” and “My accountant has never told me about them”. Not available to companies. Around 11% of farm family businesses use them. “I use them for when I want to buy machinery”. “Any spare cash I put back into farm improvements”.

\* **New farm business plan programme available. “**I have purchased a computer programme ‘FarmStrategy’ to produce my business plans”.

**Take home message.** Write your ideas down on paper and this will help reduce family frustration in not knowing what is going on. Planning provides a framework for determining **what questions to ask farm service providers and for the continuation of the business should anything happen to the farm business operator.**

A basic business plan contains:

\*. Where we are NOW.

Family labour available and family cash needs.

Financial position, including cash flow to be matched to the family cash needs.

Machinery.

Each production enterprise.

Land and how used.

\*. Goals. Where do you want to be in 5 years’ time for each of the above five areas? Must match with the cash needs of the family

\*. Budgets. For each of the next five years covering each of the five areas.

\*. Resources and skills needed. List resources available and needed for each of the five areas for each year’s budget. This will show up strong and weak areas of the five year plan.

Business plans take considerable time and effort to produce. Remember it could be time and effort well spent, for after all you are planning to use a $1 to $1.5 million, on average, for your families benefit.

Growing the family farm business will provide more options for the family and the earlier you start planning the wider the options available, including assisting the children to start a business or other investment of their own, if the home farm is not big enough to involve the children.

**PART II. Information and Formats that may assist you.**

**1. DEVELOPMENT OR REVIEW PLANS. All 3 areas need to be completed.**

**A. Family reasons.**

What needs to be covered or considered, i.e. involvement of son/daughter in the **management** of the family business or providing for senior school education, Wills, off farm investment, etc?

i

ii

iii

iv

v

(use more space as needed)

**B. Ownership reasons**

What needs to be considered, i.e., involvement of son/daughter in the **ownership** of the family business, setting up of a separate company for another business, e.g. grain trading, changing ownership legal structure, superannuation trust, partnership with brother/sister/parents, syndicate, keep land separate to business, etc.

i

ii

iii

iv

v

**Then RATE important factors to be involved on the NEXT page.**

1. **Business reasons**

What needs to covered or discussed, i.e. business **growth** to provide for involvement of a son/daughter, tax position, annual review, applying for a loan, family conference, etc.

i

ii

iii

iv

v

**2.**  **CHECK LIST OF WHAT YOUR OWNERSHIP STRUCTURE NEEDS TO PROVIDE YOU,** i.e., issues that may need to be considered when reviewing the usefulness or adequacy of your present **ownership** structure; or if you are looking to change or set up an ownership structure for your business or anticipated business.

Rate the importance of the following to be achieved by the legal ownership structure.

**Very important Not**

**important**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  | 1 | 2 | 3 | 4 | 5 |
| 1. | Security for parents |  |  |  |  |  |
| 2. | Allow growth in business through equity capital |  |  |  |  |  |
| 3. | Allow for off farm income provided to business to be recognised |  |  |  |  |  |
| 4. | Flexible legal structure |  |  |  |  |  |
| 5. | Confidentiality of business financial position |  |  |  |  |  |
| 6. | Minimise capital gains effects when membership of business changes |  |  |  |  |  |
| 7. | Provide children experience in ownership |  |  |  |  |  |
| 8. | Superannuation contributions maximised |  |  |  |  |  |
| 9. | Control of business with lowering ownership share |  |  |  |  |  |
| 10. | Averaging of farm business income |  |  |  |  |  |
| 11. | Primary producer status |  |  |  |  |  |
| 12. | Minimise tax paid on income |  |  |  |  |  |
| 13. | Retain capital gain tax position on family home |  |  |  |  |  |
| 14. | Minimise legal liability for other members activity |  |  |  |  |  |
| 15. |  |  |  |  |  |  |
| 16. |  |  |  |  |  |  |
| 17. |  |  |  |  |  |  |

**Then proceed to the NEXT page.3.** **OWNERSHIP STRUCTURES**: Comparison of advantages and disadvantages (summary).  **Advantages Disadvantages**

A. Single i) complete control i) cash may be

proprietorship: of decision making limiting factor

and assets ii) ideas may be limiting

ii) easy to set up iii) liability extends to

all assets

B. Partnership: i) cheap to set up i) lack of security of

ii) may introduce equity capital continuity

iii) should introduce ii) liable for debts of

ideas and synergy partnership to limit

iv) share management of personal assets

responsibility iii) dilutes control

of management decisions

and assets.

C. Trust: i) trustee retains i) cost of establishment

control of management ii) trustee sole manager

and assets (legal owner) of trust property and

ii) if trust deed drawn may not be an effective

up effectively then manager/business person

trustee can conduct iii) tax rate may be higher, if income

business similar to any not distributed, then

other business legal structure taxed to trustee

iii) beneficiaries may iv) trust deed may not

loan back distributed be adequately drawn up

income to trust v) trustee may not

iv) privacy of business strictly keep to the

information trust deed requirements

v) flexibility of desired vi) if single individual

arrangement as trustee may have

vi) fixed term or as per trust problems of continuity

deed of trustee

vii) beneficiaries may be required to pay for debt incurred

by trustee.

viii) beneficiaries not legal owners of

trust property until vesting date.

D. Companies: i) access to equity i) cost of setting up

capital ii) annual cost of

ii) limited liability preparing accounts.

of shareholders iii) public access

i.e. limited to paid up to company information

value of shares (where required to submit

iii) continuity of business financial information)

iv) shared management - iv) loss of total control over management board of directors and ideas. and use of assets

v) ease of entry and v) directors may be held liable for

exit as shareholder company debt.

**NOTE**: The above points could also serve as the base for questions to ask your accountant, consultant or solicitor, e.g., how does the loan back by beneficiaries to the trust, work and are there any problems with using this with a family trust?

**4. REVIEWING OR SELECTING THE MOST APPROPRIATE STRUCTURE.**

To assist review or selection, where unsure of which legal ownership structure would be the most useful/effective, complete the following**. Highlight or mark the important factors you want your ownership structure to do for you.**

**Single Proprietorship**

**Advantages or what you like. Disadvantages or what you do not like.**

i.

ii.

iii

iv.

v.

vi

vii.

**Partnership**

**Advantages Disadvantages**

i.

ii.

iii

iv.

v.

vi

vii.

**Trust (see next page)**

**Advantages Disadvantages**

i.

ii.

iii

iv.

v.

vi

vii.

**Company**

**Advantages Disadvantages**

i.

ii.

iii

iv.

v.

vi

vii.

Which legal ownership structure **best fits** your business and family situation and **why**?

1. **TRUSTS.**

**Types of Trusts.**

There are **three** main types for business ownership purposes;

**1. Discretionary Trusts.**

The trustee has discretion in how income and capital gains of the trust are distributed between the beneficiaries. Trustee flexibility is the key advantage. Were very popular for varying income given to individual beneficiaries so as to reduce income tax. Disadvantage for beneficiaries is that they have no claim on trust income till the trustee exercises their discretion in the distribution of trust income.

**2. Fixed Trusts**.

Beneficiaries have a fixed entitlement in the distribution of trust income and capital gains.

**3. Unit Trusts**.

A variation of the Fixed Trust, where each UNIT has a fixed entitlement to the income and capital gain of the trust. Advantage over the fixed trust is that the unit holder OWNS the unit and may, according to the trust deed, be able to increase their ownership by purchasing more UNITS.

**4. Hybrid Trusts**.

A mix of discretionary and fixed types, i.e., discretionary for income and fixed for capital gain.

**Formation of Trusts.**

There are **two** ways of setting up a Trust

**1. Settlement Trust**.

Trust created by a SETTLOR (living person). This is the most general type of trust. Sometimes a trust may be created by a person, declaring that they are holding their property, now, on behalf of named beneficiaries.

**2. Testamentary Trusts.**

Trust created by a will and comes into being on the death of the individual. This is an alternative to leaving children a defined property share now.

**Important Components of a Trust.**

**1. Settlor or Testator:** person who sets up the Trust.

**2. Trustee:** Person responsible for carrying out the Trust requirements. Some Trusts have a company to act as the Trustee. This allows continuity and flexibility for a farm family in that members of the family can be made Directors of the Trustee Company and thus gain experience in management.

**3. Appointor:** Has the power to appoint or replace the Trustee and must be carefully chosen.

**4. Guardian:** As the Trustee is the legal owner of the Trust property, this position looks at seeing that the Trustee acts according to the Trust Deed.

**5. Trust Deed:** To include all your requirements for creating a Trust. Flexibility very important to allow for future needs as a Trust may last up to 80 years. Need to consider how income and capital gains are to be distributed to beneficiaries. Who are to be the beneficiaries and future beneficiaries?

Trust Deed needs to be set up by a solicitor as there are legal requirements involved, but you determine your family and business content following discussion with solicitor and family.

**6. Beneficiaries:** Must have at least 1 beneficiary. Beneficiaries must be specified, but can also allow for beneficiaries to be added in the future, i.e., allow for unborn beneficiaries. Beneficiaries of a primary production Trust have primary producer status. Parents usually make themselves beneficiaries, along with children.

**Trusts and Growth of farm business.**

For a business to grow there **must** be access to cash. Two potential situations;

**1. Loan back situations**, where the beneficiary lends back to the trust income received and becomes an internal creditor of the Trust.

**2. Unit Trusts allow for family members to buy UNITS**. This allows for both increase in ownership by children, and provide increase of cash for the business. Income from the Trust may be used to buy UNITS, similar to a Dividend reinvestment scheme. Parents may sell UNITS to obtain cash for retirement. The Unit Trust may involve only the farm business or it may include the land as well. Changing ownership of assets will trigger capital gains tax situations.

**Trust Structure.**

An example of a typical trust structure using a company, as the Trustee. In this case with discretionary powers. An individual could have been used as Trustee.

Guardian Appointor(s)

Settlor Trustee company Beneficiary 1

or with discretionary

Testator power

. Income Beneficiary 2

for distribution etc

to beneficiaries

.

Trust Deed and

Property

A Unit Trust would have Units instead of Beneficiaries, with the Beneficiaries owning the individual Units. No discretionary power with Unit Trusts as Units give fixed entitlements to trust income and capital, as per the trust deed.

**Mail Survey Questionnaire and results.**

2002

TECHNIQUES FOR THE GROWTH OF THE FAMILY FARM BUSINESS. Paper Assessment

1. **The Title. Please circle or underline your choice for ALL questions.**

Needs Changing 1 2 3 4 5 6 7 Good title for paper.

**ACTUAL 1 2 5 1 2 8 9 = 28 Mean 5.17857**

If title needs changing have you a suggested title? **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

(SEE BELOW)

1. **Your overall assessment of the USEFULNESS of this paper.**

Nothing new or useful 1 2 3 4 5 6 7 Extremely useful and

provided new ideas.

# **ACTUAL** **2 1 5 10 12 = 30 Mean 5.96666**

What was the **Most Useful** or significant idea or part of the paper? (SEE BELOW)

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **Overall READIBILITY of the paper.**

Hard to understand 1 2 3 4 5 6 7 Easily understood.

# **ACTUAL** **1 2 4 8 9 6 = 30 Mean 5.33333**

Any needed changes? \_\_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PART 1. KEY ISSUES.**

1. **Setting out as 3 separate areas, family, ownership and farm business.**

Not necessary to separate 1 2 3 4 5 6 7 An extremely important

FIRST STEP.

# **ACTUAL 2 2 8 18 = 30 Mean 6.4**

Do you think setting out into these 3 separate areas would assist family discussion?

\_\_\_\_\_\_\_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **FAMILY FOCUS. 4 Key issues.**

**Is there a need to look at?**

i. Family Goals. Not important 1 2 3 4 5 6 7 Agree with take home

message.

**ACTUAL 2 11 17 = 30 Mean 6.5**

ii. Cash Needs Not important 1 2 3 4 5 6 7 Agree with take home

message.

**ACTUAL 2 11 17 = 30 Mean 6.5**

iii. Business Skills Not important 1 2 3 4 5 6 7 Agree with take home

message.

**ACTUAL 3 11 16 = 30 Mean 6.4333**

iv. Wills Not important 1 2 3 4 5 6 7 Agree with take home

message.

# **ACTUAL 2 6 22 = 30 Mean 6.66666**

What changes need to be made to any or all these 4 key areas**, including** the take home messages?

\_\_\_\_(SEE BELOW**)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**6. OWNERSHIP FOCUS. 2 Key issues.**

1. Understanding your ownership

Not important 1 2 3 4 5 6 7 Agree with take home message.

**ACTUAL 1 7 22 = 30 Mean 6.7**

1. Application or use of ownership structure.

Not important 1 2 3 4 5 6 7 Agree with take home message.

**ACTUAL 1 3 7 19 = 30 Mean 6.46666**

What changes do you suggest for this section, **including** the take home messages? (SEE BELOW) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**7. BUSINESS FOCUS. 1 Key issue**

Business plans assist you in achieving goals.

Not important 1 2 3 4 5 6 7 Agree with take home

message.

**ACTUAL 1 2 4 8 15 = 30 Mean 6.13333**

What changes do you suggest for this section**, including** the take home message?

\_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Take home messages: are they a good way to summarise each Key Issue?**

Not really 1 2 3 4 5 6 7 Extremely good way to

summarise.

**ACTUAL 1 3 6 19 = 29 Mean 6.44828**

**PART 2. INFORMATION AND FORMATS.**

**9. Development or Review Plans.**

Not important 1 2 3 4 5 6 7 Extremely useful.

# **ACTUAL 1 2 5 9 13 = 30 Mean 5.96666**

1. **Checklist of what your ownership structure needs to provide you.**

Not important 1 2 3 4 5 6 7 Extremely useful.

# **ACTUAL 4 9 17 = 30 Mean 6.43333**

1. **Ownership Structure comparison of advantages and disadvantages.**

Not important 1 2 3 4 5 6 7 Extremely useful.

**ACTUAL 3 6 21 = 30 Mean 6.6**

**12. Reviewing or selecting the most appropriate structure.**

Not important 1 2 3 4 5 6 7 Extremely useful.

**ACTUAL 1 1 11 17 = 30 Mean 6.46666**

1. **Trust information.**

Not important 1 2 3 4 5 6 7 Extremely useful.

# **ACTUAL 2 7 21 = 30 Mean 6.63333**

Comment on any or all of the components of **PART 2**. Any needed changes?

\_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Overall Paper.**

1. **What do you specifically want more information on, that this paper or a set of papers like this paper, should have included?**

**\_\_\_\_\_\_\_(**SEE BELOW**)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **Any section, too long, too short or any section that could be omitted\_(**SEE BELOW**)\_**
2. **Paper length.**

Too long 1 2 3 4 5 6 7 Could be a little longer.

**ACTUAL 1 14 7 5 2 = 29 Mean 4.58621**

1. **Should this information be provided to farm families and if so what would be the most effective method?** \_\_\_\_(SEE BELOW**)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**
2. **Any final comment on this paper?** (SEE BELOW)
3. **Opportunity to build on or an inheritance?**

Prefer to give children 1 2 3 4 5 6 7 Build on what parents have

an inheritance developed.

**ACTUAL 1 4 3 6 8 = 22 Mean 5.72737**

Allowing children to buy into the farm business in order to help build up the family farm business, a good idea or not? \_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Please circle or underline as appropriate for person completing or if a family consensus.**

**<30 years; 30-40; 40-50; 50-60; 60> Male Female**

**ACTUAL 3 6 8 9 4 18 12**

**Family consensus.** 1 agreed

H & W

1 (50 – 60)

1 (40 – 50)

**COMMENTS: Paper Assessment Numbers (as assessments received) for reply comments.**

**Quest 1. Title. If title needs changing have you a suggested title?**

1. Needs to mention the intergenerational aspect, that it is techniques to grow the family farm from one generation to the next.

3. Does Your Family Farm have a Future?

4. Add words that include the ‘handing on’ of the farm.

7. Survival.

8. Techniques for sustaining the family farm as a business (?).

1. Add – Succession planning.

15. Don’t know – but title doesn’t indicate the implications for retirement & estate planning. So maybe wouldn’t read if thinking about this.

16. I probably shouldn’t criticise because I can’t think of a better one! \_It is a bit dry, that’s all.

21. Family Farm Business, growing & succession options.

23. No. Sounds good.

24. The title ‘Techniques for the growth of the Family Farm Business’ first read appropriate for the paper. However, since assessing the paper and understanding the overall main theme and take home messages and discussions with a few other people, the title is not as appropriate. Discussion with one person, without having read the paper, spoke mainly on farm production and did not consider ownership structure and succession. The current title can take on different meanings to different people at first glance. **Suggested title:** ‘Succession Techniques in growing the Family Farm Business’.

27. Growing the Family Farm Business.

**Quest 2. What was the Most Useful or significant idea or part of the paper?**

1. Communication – that the family needs to discuss goals as a family. Communication is everything AND the sentence “buying the family farm each generation constrains the farm financially”.

3. The realisation of the various ownership options.

5. Ownership (unable to read two other words on fax).

6. Part II – where you provide Format for developing plans especially in 3 – clear detail of ownership structures are provided > 4 review panel

7. Three separate areas outlined.

8. “Take home messages” are a useful summary.

10. Developing different way of thinking on farm succession

11. The comparisons of business structures and examples of such legal cases

12. Explanation of different trusts.

13. The dissemination and breakdown of the key issues and emphasis on thinking and planning

14. Opening up options – not always thought of by families.

16. Explained different scenarios and had new ideas rather than the ‘parent on the pension’ idea. Also explained the legal setup of family trusts and other structures – I had no idea there were different ways to set up a trust!

17. Cash needs over time. Family goals

18. All of it useful.

19. Bringing to mind a very important, but not often thought about subject.

21. Page 10 + 11 very useful. Explanation of the different types of trusts is also useful.

22. Family focus – without actions there is no change, planning, communication.

24. Ownership structures. **Ownership structure** is not considered on a regular basis for farming families. Yes at the applicable time in their lives, but once in place, earning business cash takes priority and continues to be the main factor until some future event takes hold causing changes to be made.

25. To identify by example potential pitfalls to be avoided.

26. The checklist on what the ownership structure needs to provide.

**Quest 3. Any needed changes?**

1. No, is very well written and illustrations work well.

2. No.

3. Understood paper, but still bewildered.

5. Seemed disjointed – perhaps I needed more background / wasn’t involved in workshops – need to have key issues/take home messages highlighted differently. Perhaps have take home messages in ‘Italics’. Have to search them to find them

6. Especially in connecting Part II

10. Too long, hard to concentrate on at times.

11. Reads very well

12. Needs a clearer format / headings.

13. Intense reading and may need to be broken up more to enable reader to fully focus on points made.

14. I had to read twice – to be really clear.

15. Seemed to jump around a little bit.

16. The paper has, in my opinion, the right proportion of reading and then graphs\_or charts to reinforce the idea. But nobody has been silly enough to go overboard with infortechnology in this production!

18. Could enlarge general introduction to assist background and understanding of subject.

21. Easily understood, but at times difficult to read. The English and clarity could be improved.

28. Relatively easy – would individuals with limited education comprehend the family trust section?

**Quest 4. Do you think setting out into these 3 separate areas would assist family discussion?**

1. Yes, helps to separate them but need to highlight how they are inter-related.
2. Yes.

3. Depends on family attitude.

5. Yes.

6. Very important.

7. Definitely.

8. Yes.

9. Yes

10. I think it does.

11. Yes, gets a start on the correct mind set.

12. Yes.

13. Definitely – all complex issues benefit from being broken down.

14. Definitely.

15. Yes

16. Certainly as you look at each one by itself.

17. Definitely.

18. Provided good starting point when sometimes you don’t know where to begin.

21. Yes.

22. The issues need breaking down, such as your 3 areas to allow understanding.

23. Yes. I think it would.

24. Yes.

26. Probably help to generate a more understandable outcome.

28. Needs to be separate so family discussion can focus on 3 separate components/issues.

**Quest 5. FAMILY FOCUS. 4 Key issues.**

What changes need to be made to any or all these 4 key areas, including the take home messages?

1. Children need to become familiar with farm business skills at a young age and need to feel that they have input into how the business operates.

3. Attitude of children not assessed. The worst thing that can happen is that the kids get a sniff of the money, yet are not committed to the lifestyle or the industry.

6. I can only comment as an individual assessing this paper. Really requires a whole family to assess to gain real feedback in a live setting.

8. Setting goals: I do not understand ‘Parents should feel proud’ etc. - Done individually is an excellent way of getting expectations into the open. ‘Business skills training’ is a difficult area. This training is certainly vital, but needs to be done by all concerned \_ some are not interested and therefore may be disadvantaged – Problems at later date/situation.

9. The “business Skills” issue is somewhat unclear and many may not be pertinent/appropriate.

10. Good communication within the family and following through are the most important keys to make it work.

11. None that I can see, reads very well.

12. Areas are often vague and confusing. Needs to be simplified, use headings, make it clearer.

13. All good with precise relevant take home messages.

14. Business skills – What options are available for children to learn?

16. Be careful when talking of the parents wanting ‘better’ opportunities for their children. I think ‘different’ would be more appropriate. Don’t want the children spoiled! The kids have to learn to cope with changes, not have it handed on a platter.

18. All key areas. Logical and appropriate way to begin.

21. A commitment to pay family members off farm at the commencement of a partnership with those on the farm, will mean the remaining members do not have to pay the capital improved value later on. It also means all parties benefit from the parents assets at the same time and all parties must contribute to the welfare of their parents at retirement.

22. Cash needs. I do not believe enough is understood. Example Graph. Farms seem not to budget on this. More short term cash requirements. Business Skills – promote education.

1. More emphasis is needed on **communication** between family members. The less communication there is between family members the more unstable the family farm business may become.

You quote ‘parents seek to keep the family talking together’. Not necessarily so. From my experience as some parents grow older, they tend to favour their children/grandchildren in the direction they see to who will continue their farm business. Result: Unease between children may result in conflict.

‘Parents goals of treating their children equally” – Some parents may give their children no choice of their future except the farm, especially at school leaving age. Some parents do take some of their children for granted, especially the sons. I have seen this in two generations. Some parents still want to continue holding the reins.

It is very hard to set goals. It’s like looking into a crystal ball.

26. None.

27. Plan wills and discuss with family members.

28. Provide more family situations in reference to business skills and wills. Also the need for families to recognise skills and knowledge developed off farm as critical/valuable for the succession process.

**Quest 6. OWNERSHIP FOCUS. 2 Key issues.**

**What changes do you suggest for this section, including the take home messages?**

1. The take home messages are fine, very well written and very important.

3. I think that the ‘silver spoon’ scenario creates huge problems for everyone. -

Gain from pain is far better than gain from gifting**.**

6. Take home message (ticked) but I feel it requires 1 – 1 or group setting / environment i.e., Workshop to explain concept further or to provide opportunity to discuss concerns / questions.

7. Provide diagrams illustrating possible structures.

8. Professional guidance from accountant/solicitor is also essential. This part is a good guide to get one thinking of the possible ownership structures available.

10. Simplification of the non-farming trust holders role, how children not directly involved in the farm business can be part of the business.

11. Perhaps more highlights of the differences between the various structures and their drawbacks and positives.

12. Issues are not clear. Need to explain how and when to set up ownership structures.

13. Ownership types is complex area and needs to be as simple as possible. Use of examples, as in paper, enhances readers understanding.

14. Take home message (ownership structure) talked about unit trusts. More information about unit trusts needed in this section.

16. Why this obsession with treating all the kids equally? If one or two put their whole life (so far) and the others have been educated (the farm paid for this)\_and have their own lives and no interest in the farm, why should it be split up to pay them out? Too many farmers have got into serious, inextricable debt over this kind of practice!

17. Not sure on this one. I like the idea of a trust (perpetuity especially) but what if the government changes the tax rules. How do you value the units? Who has control?

21. Statistics show that divorce is the biggest threat to farm ownership, so need to stress the importance of covering this situation.

22. More education required for ownership structure & costs associated, families not well informed.

1. I have to question can a farm really afford to include all the children in the farm business under a unit trust structure? Where is the cash source coming from for the younger generation? Good working and communication relationships would have to exist together with beneficiaries keeping their money in the business. There is always the possibility with non-farm beneficiaries causing a problem.

Are the older family members passing the responsibility of ownership structure decisions over to their accountant/solicitor? In the end the farmer is responsible for the decisions that are made.

26. None until I get a better handle on our set up.

28. This seems to be a major stumbling block for my family’s situation. I think there needs to be a major focus on ownership structures and why it is critical for them to be right.

**Quest 7. BUSINESS FOCUS. 1 Key issue**

**What changes do you suggest for this section, including the take home message?**

3. Fluctuations in farming fortunes can cause any business plan to fail. Failure or sense of failure is devastating.

6. Again I believe requires Workshop or 1 – 1 discussion time to expand / explore concept.

8. Budgets for the next 12 months are an informative (usually surprising) exercise. But more than 12 months are a futile exercise in agriculture, except to satisfy a financier.

10. Too wordy plans are a good idea, but often miss the target by a long way.

11. More examples of highlighting how important it is to make business plans.

12. Don’t assume knowledge of key terms, explain them. Number – business plan options. More emphasis needed.

13. Having a business plan that includes your goals and aspirations is essential as is the need to be achievable.

14. Where can we learn more about Business Plans - ? Appendix at end of paper to discuss options for further education.

16. You can make the best of plans, but if a drought comes along and stuffs it up, or marriage troubles etc, you should have an emergency plan as well!!\_There so many variants in farming which don’t occur in other straight forward businesses. I bet the business plans put forward to banks never work out as they are written on paper.

19. Include as many options as possible to stimulate thought and debate.

1. What I see is happening, is that there is a major push for farm families to treat their family farm as a business if wanting to succeed, not just a house to rear children and make a living off the land. Farmers are in an age of changing attitudes on how they should manage their farm work and assets. Helping towards these changes is how we are recognising the mistakes of the previous generation, particularly the way they included their children in farm decisions and activities and more so in the outcome of wills. For example, as I understand, trusts set up in previous years are now awaiting ‘time bomb’. Why is this so? Is it incompetent accountants and solicitors or are the farmers to blame for their lack of understanding and responsibility towards running their farm and looking after family members. Or is it that farmers are hitting a fast changing world.

The take home message with regards to involving farm service providers/consultants with the continuation of the farm business – I question using such people. Farmers should know their business. Turning to a farm consultant needs careful consideration. Normally a farm consultant is not locally orientated and they do not have the knowledge of the area to be qualified to give advice to the farmer. Any farmer that may need help really needs the choice of turning to those highly rated farmers in the local area who are prepared to be a mentor. Another problem with this is that farmers are reluctant to confide in anyone else about their business.

25. Business plans must be flexible – circumstances change.

26. None.

28. Some focus on older farmers and bad habits of not writing things down, i.e., Business Plans, Work Plans are all in their heads. This cannot work if another family member has returned.

**Quest 8. Take home messages: are they a good way to summarise each Key Issue?**

**(No formal provision was made for comments on this question)**

1. Children need to become familiar with farm business skills at a young age and need to feel that they have input into how the business operates.

12. Good summary statement but rationale not always clear.

13. Necessary to re-state main point of each section to stick in readers mind.

**PART 2. INFORMATION AND FORMATS.**

**(Questions 9 – 13 did not formally provide for comments)**

**Quest 9. Development or Review Plans.**

1. It would help to have an independent 3rd party to help the family go through these steps.

1. Change to ‘Checklist for family discussion and decision’.

**Quest 10. Checklist of what your ownership structure needs to provide you.**

1. Very good!

**Quest 11. Ownership Structure comparison of advantages and disadvantages.**

1. Great summary!

**Quest 12. Reviewing or selecting the most appropriate structure.**

1. Repetitive, could just use a highlighter.

**Quest 13. Trust information.**

14. Maybe needed earlier in paper.

22. Many Trusts available, important to understand which type of trust you require & have.

**Comment on any or all of the components of PART 2. Any needed changes?**

3. I think it’s OK.

5. Need to outline what Part II should be used for – how this will feed into

6. For “Written” information, format – very good.

8. How about a few other options, maybe not so pleasant, but realistic? Face insurmountable problems and sell up – agree who will take over the farm and but out others – how much and when/ when will parents retire? / is the enterprise viable?

9. The issue of trusts is somewhat confusing to many people – changes to Tax (constantly) doesn’t help!

10. Situations change regularly so an upgrade of plans are a good thing and should be done regularly.

11. I think all of these parts are extremely important.

12. Highlights need to think seriously about structure and communicate with family.

16. This could be used in a discussion group to compare how different systems do and don’t work. Also to emphasise that your accountant/legal person is only advising, and if you are not happy, then get a second opinion, or have it explained properly so you know what you are getting into. You are paying good money to help keep everyone happy, not to get such a complicated structure that you all argue and still nobody knows where they stand. Trusts and companies have been known to go under because the beneficiaries paid themselves too much and didn’t understand it well enough to realise this.

18. This has helped me to understand Trusts more than I did – information re companies would be useful too.

19. Does seem very comprehensive. (50-60 male)

20. Perhaps a more detailed breakdown of how you arrived at the advantages and disadvantages of ownership structures.

21. Check list should include – 15 Security for all parties. 16 Allow growth in business and assets to be shared by all parties. 17 Must plan for any party to be able to pull out without being disadvantaged.

23. More discussion on the downside of having too much asset when retiring, i.e., having to pay large bond if retirement village required. Ideas needed on how to get around that situation.

24. Apply some possible scenarios to the chosen ownership structure. Get families to apply some anticipated reality to deal with the possible consequences. Ask them does this ownership structure meet their future requirements for their situation.

28. Could provide more examples or scenarios for A, B and C, like the checklist. Like ownership structure comparisons. Are there more options?

**Overall Paper.**

18. All the information was really helpful, useful and of great benefit.

**Quest 14. What do you specifically want more information on, that this paper or a set of papers like this paper, should have included?**

1. I think this paper is a good start.

3. There should be provision to put a monetary value on education, travel opportunities given etc for non-farming family members. – Kids that are not interested, but have their hand out all of the time are the worry.

4. Expanding all areas or where to get this info.

6. Requires all family members to read – difficult. Therefore, I believe it is an excellent tool for use in a workshop setting.

7. How best to approach the topic within the family.

8. Options for financing other enterprises or purchase (lease) of land to enable family members to remain in agriculture.

10. More examples and case studies.

11. Perhaps more examples of ownership structures and their resultant legal cases.

12. A time line recommended for changes in ownership. Clear process of profit sharing / wages to farmers.

13. Could have more information on ‘Business focus’ and the importance of planning. Many people don’t know how to organise their thoughts in relation to priorities, goals etc.

14. Appendix – further education – Business plans – Trusts - ? Off farm investment for succession plans.

17. More scenarios + real life examples of how families have structured their Wills given a certain set of circumstances.

18. Information on dealing with difficult situations, difficult people, legal issues, legal rights, etc.

19. Information is most extensive. Perhaps more ideas on where to get greater knowledge for own situation from independent parties without a huge price to pay.

20. As above

21. Should include funding alternatives for succession, including insurance, superannuation, saving, borrowing etc.

22. Approximate costs of set up fees for trusts.

23. What do you do if you don’t have kids, but would like to keep the farm in family name? Majority of nieces and nephews not interested in farming.

25. The paper provides a good basis to commence negotiations with the appropriate consultant/accountant/lawyer.

26. Wills are an area that could have expanded on.

28. Communication is a very crucial part of the process. Information or guides would be useful in getting the discussion lines open. More information on ownership issues.

**Quest 15. Any section, too long, too short or any section that could be omitted?**

1. No.

3. Is the family business what the kids want?

8. Part II, I, a b and c changed.

10. A summary at the end maybe a good idea.

11. No, all are relevant.

12. Part I is too rambling and not “to the point”.

15. Seemed OK

18. All very good.

20. No, would like more information

21. OK

22. No.

23. All sections relevant.

26. No change.

27. OK.

**Quest 16. Paper length. (No formal provision provided for comments for this question)**

1. Just right, don’t want it to be too long or the important facts would be missed.

**Quest 17. Should this information be provided to farm families and if so what would be the most effective method?**

1. As part of existing extension programme. It would help to have a facilitator to deliver it.

2. Post.

3. Yes – Entertaining presentation should be designed with message such as “Essential Information”.

4. Through workshops – gives better understanding.

5. Feel that readability needs to be increased – it was pretty full on – perhaps too lengthy for landholders – most I’ve dealt with don’t want more than a couple of pages.

6. Work Shops.

7. The more farming families that read this document the better. Hold forums in the paddock if you have too.

8. Advertise as available in rural press – will not be read by any one not interested in these issues.

9. Offer public seminars/workshops.

10. Workshops. People only listen if they want to hear.

11. Email, conferences if families are willing, in workshops.

12. Newsletters / articles and seminars.

13. Yes, valuable reference. Not sure what would be the most effective method.

14. Most definitely – distributed by Accountants/Solicitors.

15. Should be provided or be available. Don’t know best method – probably need a variety – papers, industry newsletters, training providers, etc.

16. Your newspaper columns, Geoff are a good starting point. VFF, Topcrop or other discussion groups. Regional Connectivity Centres (those new Internet Cafes appearing in most of our small towns). Unfortunately, like making a will, some people only become bothered with this type of thing AFTER the horse has bolted!

17. Seminars.

18. Seminars, circulation as booklets through rural help organizations such as Bush Connections, Rural Financial Services, Centrelink.

19. Should be available to families, maybe organizations like VFF or accountants and

solicitors.

20. Yes, the internet is possibly the best place.

21. Yes. Through professional people involved in farm business, i.e., accountants, consultants, banks, etc

22. Seminars (may use FarmBiz). People need to talk about issues.

23. Written format rather than verbal. Written format can be referred to at a later date if necessary.

24. Information on request.

25. Forums/workshops. Through farmer networks. (Sponsorship could be attractive to banks etc).

26. Yes. An organization like the VFF has a large membership with a newsletter posted to all members.

28. A funded initiative. Farmers like not having to pay for information/advice. Workshops and one to one sessions for families.

**Quest 18. Any final comment on this paper?**

1. I thought it was very good and a much needed paper. Farming families often neglect this area of business and family planning and can cause a lot of conflict that can do damage to families for years if communication is not open to begin with.

3. Best attempt I’ve seen. The assumption that the family farm is handed down has annoyed me for a long time. This paper at least looks at the options of parents enjoying their lifetime work. I think the emphasis should be placed on children’s vocational desires, rather than what parents want for them.

4. Very good gives a good insight into the problems of handing on the “family farm”.

5. Good ideas on ownership and trusts. – I haven’t been involved in the background to this paper and found it a bit confusing.

6. Congratulations! – My husband and I completed a FarmSmart program. But we need to give this issue more thought – Discussion – Action. Paper is very concise aims at issues we “choose” not to face up to.

1. Excellent, unfortunately over 4 years ago I left the family farm taking only myself and 2 children, due to in laws that would not discuss our future saying it was none of my business. I could not live with this attitude, so now I am master of my own destiny. My ex-husband has since bought out his parents and has had 3 good years, I wish him well.

I can only stress to the older generation, you must trust your young ones and involve them in the decision making or you will lose them. I am happy to discuss with you my experiences, my love of the land and hope for the future that my children will return to that way of life.

Get this information out on to the kitchen table as quickly as possible, it will help so many people.

9. A useful attempt to open up discussion on an issue often overlooked and not developed. Generally good.

10. Presents good ideas. Illustrates the answers to farm succession are many and varied depending on the individuals.

11. I think everything within the paper is extremely relevant. It is a very complex area that takes much information to get a grasp on. So I believe this paper has to be this size to grapple with the issues.

12. The issues involved a very important to farmers as businesses and must be addressed early.

13. Sheds light on many important issues that family farms/members need to discuss but often don’t due to lack of knowledge and an attitude that things will work out.

In my local community I have seen the vast majority of family farms end up having their business base severely dented by succession issues not to mention family relationships.

The distribution of a paper such as this can only begin to provide education for our traditional farming families and their business and lives, but is a great place to start.

14. Well done – a great idea.

15. Informative, thought provoking – makes me want to seek other information.

16. It explores many new and exciting ideas rather than the old pension off the oldies idea. I can see you have put a lot of work into it, and hope farm families can make use of it. This knowledge will also give some bargaining power at the farmers end when expert lawyers/accountants start telling them what they should do. Thanks for asking me to be involved.

18. The whole paper was very helpful and informative. Would like to see similar paper regarding dissolving complicated and difficult situations. While all situations have their own difficulties, some situations provide more than their fair share of difficulties because of difficult people to work with and complicated ownership/business structures. Information regarding these extra difficult situations – methods of dealing with and outcomes (good and bad) – would be most useful.

19. Most interesting to read. It should stimulate any reader as most farming families probably put off discussion on this subject.

20. Overall good, but it asks more questions. (50-60 male)

21. Anything that encourages planning is well worth the effort (40-50 male + female)

22. Family size (No. of children) has decreased, many families are all girls. This may be the next issue, as we all become more educated (due to time)

23. Good idea.

24. Paper leans to unit trusts – may not always be the appropriate structure to take.

25. Explains many alternatives, which should help families make decisions.

26. Certainly posed some interesting suggestions and thoughts. An area that I often think about but never getting around to doing anything. People or organizations that can assist in this area need to be more readily accessible.

27. At my age family farm planning has been completed, by discussion, consultation with professionals, understanding each other’s goals, co-operation between family members and confidence in each other.

28. It has been very helpful to me being the farmer’s son. I just wish that my parents were more open minded and progressive.

**Quest 19. Opportunity to build on or an inheritance?**

**Allowing children to buy into the farm business in order to help build up the family farm business, a good idea or not?**

1. Yes if all family members are happy with this it is a good idea. I strongly agree with “buying the family farm each generation constrains the farm financially”.
2. Yes.

3. Yes – the old silver spoon is no good.

5. Where do they get the capital to buy into the business?

6. In answer to giving children an inheritance rating “I require to give this concept more thought”.

8. Excellent idea to show which members are serious about taking on the responsibilities involved. Unfortunately, those individuals are probably the ones currently working full time on the family farm for no remuneration and therefore are not in the financial position for this. (Did not rate the ‘Prefer to give children an inheritance’ component of quest.)

9. Depends on family size – intentions of those not farming.

10. Good idea from a parent’s point of view. Spouses of children needs and wants can vary and may not fit into the big picture.

1. Good idea if multiple siblings. However if expansion opportunities exist for all siblings then that must be explored.

12. Yes – if the farm is viable and can support families – need to increase productivity each year.

13. Yes – greater long term self-esteem, satisfaction for all members.

14. Yes – but I do wonder how? Cash flow.

15. Good if business is in a good enough position to stand it.

17. Yes, but some concern as raised in 6 ii.

1. If financially and properly set up.

19. Children should be encouraged to contribute to farm for feeling of ownership.

20. As some members are not interested in staying on the farm, to be fair, the interested party should buy out the others.

21. Children should be allowed to participate and contribute to growing the farm as early as possible.

22. Yes.

23. Yes.

24. No, not necessarily so. Each farm operates differently within ownership structures. This statement may force you into a different structure.

25. Yes - equity is important provided the children wish to continue the business.

26. Depends on each family’s ability to work together.

28. I think it is a good idea and will ensure older generation Retirement will also strengthen the Australian farming industry.

**Covering Letter, for mail survey.**

**Dear Farm Family,**

I am seeking your support in evaluating information that may assist *all* members of the family farm business to explore opportunities for the future.

Attached is a paper, ‘Techniques for the Growth of the Family Farm Business’, developed from discussions of four workshops comprising 39 farm family members and a 3 page set of questions for assessing the paper.

The workshop participants discussed, evaluated and ranked a number of ideas that expanded the more traditional options available for farm families, in particular, how the younger generation, might be involved with the family farm business in different ways for the benefit of both generations.

The paper was developed in two parts:

* Part 1 - covered the highest ranked ideas by the participants; and
* Part 2 - covered information that participants said, *must* be included in the paper.

As there is so little information available to assist farm families in this area, your assessment and comments are extremely valuable.

I would very much appreciate you returning the 3 page paper assessment to me before the 19th August, by FAX or in the enclosed envelope.

Should you wish to discuss any of the issues in the paper, or would like other information, such as, the set of 6 papers (4 pages each paper) used as the basis of the workshop discussions, please contact me on 03 5833 9283 (work), 03 5828 6540 (home), 0407 437 526 or [gtually@unimelb.edu.au](mailto:gtually@unimelb.edu.au)

Thank you for your assistance,

Geoff Tually.

24/7/2002.

## c). Dimboola Seminar.

## Covered the same information as used for the Mail Survey. This 1 hour seminar was presented at 2pm on a very hot February afternoon and 71 participants completed a 1 page, 3 question questionnaire, before breaking for afternoon tea.

## The Wimmera Conservation Farming Group was an annual field day and my paper was the only one that was not relating to farm conservation methods.

## QUESTIONNAIRE EVALUATION OF PRESENTATION.

## MALE 63 FEMALE 8

**TECHNIQUES FOR THE GROWTH OF THE FAMILY FARM BUSINESS**

**(The title of the research paper).**

**DIMBOOLA 7th February, 2002.**

1. **Your overall assessment of the presentation. (please circle your choice)**

Nothing new 1 2 3 4 5 6 7 Provided NEW useful

ideas.

**ACTUAL 2 4 4 5 18 18 14 = 65 Mean 5.2.**

What was the **most significant or key idea** you thought useful from this presentation:

\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**2. Information to assist farm families. (please circle your choice**)

The key finding of my research with farm families was that there is a lack of information available to farm families to assist them with looking at opportunities for farm family members.

Have you had any difficulties in obtaining information or support with;

**Family opportunities;**

I have all the info I need 1 2 3 4 5 6 7 Would like to

obtain more ideas.

**ACTUAL 2 2 7 6 15 16 20 = 68 Mean**

**5.32353.**

**Ownership;**

# I have all the info I need 1 2 3 4 5 6 7 Would like to

# know more

# on ownership arrangements or options.

# **ACTUAL 3 1 7 10 7 18 21 = 67 Mean**

# **5.31343.**

# **Business;**

# I have all the info I need 1 2 3 4 5 6 7 Would like

# more

# information

# on

# developing

# business plans.

**ACTUAL 1 7 6 6 11 20 16 = 67 Mean**

**5.13433.**

Comment\_\_\_\_\_\_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**3. Opportunity to build on or an inheritance. (please circle your choice)**

Is building on what parents have developed a reasonable alternative to trying to treat children equally or fairly with an inheritance?

Prefer to give children 1 2 3 4 5 6 7 Build on

An inheritance what parents have

developed

**ACTUAL 1 - 2 9 13 21 19 = 65 Mean**

**5.64616.**

Allowing children to buy into the farm business in order to help build up the farm business, a good idea or not?\_\_\_\_\_\_\_\_\_(SEE BELOW)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# **THANK YOU**.

**Q1. What was the most significant or key idea you thought useful from this presentation.**

**Respondents No. FEMALES ARE HIGHLIGHTED.**

1. Ownership structures.
2. Separating land from the business that uses the land.
3. Knowing your family business. Collating expert opinion + giving opportunity to your family + not leaving a mess for the next generation to come.
4. Unit trusts. Three different sections to family farm.
5. Need more good rural counsellors to aid family communication.
6. Ensuring family and business are not intermingled.
7. Working the farm as a business.
8. –
9. How to keep farm in family without being unfair to child operating farm.
10. Trustee Co.
11. **3 sections – Farm and ownership and business**.
12. The three components of the family farm.
13. Three separate components of a family farm.
14. The 3 separate components of the family farm.
15. **Business as separate from ownership.**
16. Trust Structure.
17. Made me think more the trust, wills, overall picture.
18. Children contributing their energy to your experience.
19. –
20. Different ideas on succession of the family farm and perception of inheritance.
21. **That children enter farm through business now not takes through inheritance. That Land, Business and Family are separate, but must interact.**
22. We have already separated land and business, but appreciated information on trusts.
23. It’s a business.
24. Family – Farm/Land – Farm Business.
25. To provide each child with a means of making a living.
26. To start thinking about family issues now.
27. Unit Trust.
28. Unit Trusts.
29. Ways of ownership.
30. -
31. –
32. Farm as a business not necessarily an inheritance for cash.
33. Separating the land from the business.
34. –
35. Communication big factor.
36. **Open Mindedness**.
37. **If you are farming – why? What do you really want out of it? (not from a farm, but will marry into one).**
38. Having children buy into the family business rather than inheriting it.
39. –
40. The idea of the farm as a business.
41. You can split the land from the business.
42. Partnership complications.
43. –
44. Unit Trust.
45. Putting other ideas into place when I retire.
46. Operating ownership of land separate from business.
47. Don’t retire.
48. Who is the farm handed on to?
49. The shift in focus of family farm from inheritance to business opportunity.
50. –
51. The need for farmers to develop proper business approaches to their farms and families.
52. –
53. Emphasising the importance of the division between Family/Land/Business.
54. Getting children to make an offer to parents.
55. –
56. Talking with each other to work things out.
57. Use of unit trust.
58. Communication.
59. **Raising issues for older farmers about kids coming back onto farm – communication.**
60. –
61. Separating ownership of land from business.
62. That a family farm is not just 1 setup, it is 3. 1 Family 2 Farm 3 Business.
63. Splitting Farm and Business.
64. Separate land, ownership and Family.
65. **Key – Communication between family members.**
66. Holding the land in a Company Trust.
67. To talk to family and let them know the possibility of survival as a future for them.
68. –
69. –
70. **Farm and Business were separate concepts.**
71. -

**Q2 Comment. Information to assist farm families.**

1. Many services (advisers) more interested in needs of provider than needs of receiver.
2. –
3. –
4. Douglas McCarthur says “There is no security in this life, only opportunity”. Give your kids choice and opportunity and teach them to earn their way.
5. –
6. I think these services are available but we need more input from accountants, banks, business lessons at college.
7. Our property is an “ESTATE”, wish to ensure the mess doesn’t occur again.
8. –
9. Handing on the business and ultimately the farm without being penalised by governments.
10. We have our succession plans in place, but all further information is considered.-
11. **I am a Farmer – I need to be – An Accountant, Lawyer, Agronomist. Etc Etc – Farming is complex and NOT Easy.**
12. -
13. I need more info to go ask for help pertaining to my situation.
14. –
15. **–**
16. –
17. Need a lot of help/the parents on the trust of part of the land.
18. Vital to maintain good relationship with kids – take their feelings seriously.
19. Very important area in agriculture to educate us on.
20. Recent uni graduate in Ag – got enough info on business and family opportunities, but lacking a little on the legal implications of trusts etc. (ownership).
21. **Geoff’s articles very useful. Much more info about now and farm/ family / ownership / inheritance talked about more openly now than last generation.**
22. –
23. Limited people available. It is a specific and important area. It is delicate – needs careful handling.
24. Can’t keep up with ever change law.
25. –
26. –
27. Don’t understand the question.
28. –
29. –
30. Enormous need for **good** professional assistance. Farmers do not understand law and don’t mix with people who do.
31. –
32. –
33. –
34. –
35. –
36. **Communication on all levels.**
37. **I’m not from a farming or business family. I will be married into a farming family. My husband doesn’t want to take on the farm. I don’t think that inheritance means more than family togetherness.**
38. Haven’t looked into the issue at this stage, will be an issue for me in the next 10 years, as my parents are 84+ with a little land and many children.
39. The more info the better.
40. I haven’t had much of a look yet, but nothing has been obvious either.
41. –
42. –
43. –
44. –
45. –
46. Succession is usually left until it is too late.
47. –
48. –
49. I believe we have a good plan in place. But it is good now to see this information coming to the fore. This is the true meaning of “Sustainable Agriculture”.
50. –
51. –
52. –
53. Agree that development of business skill is paramount.
54. –
55. –
56. –
57. N/A not involved in family business/farm.
58. –
59. **–**
60. –
61. –
62. At Ag College I found that they don’t teach enough Business/Legal side in running a farm.
63. –
64. –
65. **Good to hear the ideas again – refreshing ideas of Farm$mart.**
66. It would be good to have somewhere to take the family to discuss all the options available. Not just the Solicitors and Accountant.
67. We need to make it more possible to take over running and ownership of the large value asset by those who want to take it over and are able to successfully do the work and prosper.
68. –
69. –
70. **My husband died – left farm to me. All family of 4 do not intend becoming farmers.**
71. -.

Q3, Allowing children to buy into the farm business in order to help build up the farm business, a good idea or not?

1. Yes it is.
2. Yes. (why not some of both?).
3. Yes.
4. Good idea.
5. Yes if the protocols are right.
6. The only way/ so they respect the effort in obtaining.
7. Good idea.
8. We need options!!
9. To a point. Personalities etc need to be considered, whether all are involved in daily operations etc.
10. Yes a good idea.
11. **Depends on the Individual!**
12. Can be, if it is their ambition.
13. 3 children off farm, would like to develop off farm income.
14. It’s a very good idea.
15. **Good, but what then have I worked for.**
16. Yes.
17. Yes. I think so.
18. Yes if they want.
19. Yes.
20. Maybe. Needs to be some sort of way to give siblings that return to the farm something apart from the farm. If one child returns and 3 don’t and it is all equal, this is not really fair. Buying into operation/business may help here. Current set up is any siblings that do not return to the farm are paid out with a house when they finally settle. The sibling who returns to the farm eventually gets sole ownership of the farm when the parents eventually die. This seems to be the inheritance option and maybe is not the best idea. Should be a major part of uni degrees. Roseworthy needs to follow the Dookie program as it sounds very good (this program is a workshop where parents are invited to work through with their graduating child how the child will be involved when return home to family farm). Talking is definitely the key to it all.
21. **Yes. Gives them a sense of ownership**.
22. Yes– what I did to enter partnership.
23. Yes– a good idea – you must earn, learn and experience what you get. Nothing should be free.
24. Yes, over a long period of time.
25. Yes. If you work for something, you value it more!
26. Yes, and buy in not necessarily with money.
27. Yes.
28. Problems here to, if kids don’t wish to buy etc.
29. Yes.
30. Good idea, but children must know their value and have ability to sell it.
31. Yes: unless you have enough capital or super to retire on.
32. Not so much buy in, but let them have input and give them guidance and encouragement until the interested child or children are in a position to run the business.
33. Yes.
34. –
35. Yes.
36. **Yes. Depending on circumstances. Excellent info**.
37. **Yes good idea. Also gives them ownership. As long as there are no issues with how the business is run**.
38. Yes, a good idea, however I believe this issue will be a contention for ever. As children tend to be leaving the farm and getting for what they believe is a better life in the cities.
39. Depends on attitude of children.
40. Definitely, it gives children a presence of owning something.
41. Yes.
42. Good idea.
43. Yes.
44. Yes.
45. Yes.
46. It needs to cost them something, work input or money to appreciate it.
47. Yes.
48. Yes – it supports the continual growth of the farm.
49. Yes.
50. Yes.
51. Yes.
52. Depends on the payment terms.
53. Yes.
54. Yes.
55. Yes, provided it doesn’t require a huge cash component.
56. Yes.
57. Very good. Helps in recognising responsibility of venture and genuine will to survive.
58. Yes.
59. **Yes – depends on children’s interests.**
60. The business yes, but not the ownership of the land, as it is my/our superannuation fund.
61. Yes.
62. Buying in is good, however it may still create conflict.
63. –
64. Good.
65. **This sounds quite a good idea.**
66. Yes, but how do they get the assets to borrow against to get the money. Taking out insurance to pay out children helped us in our transfer of ownership.
67. Yes, an essential part of why parents build the farm up, otherwise why do it. Secondly, it is with pride that I give my farm to someone, who not only appreciates it, but will continue to make my farm even better than when I gave it.
68. –
69. –
70. **Not for me.**
71. -
72. **Rural Law on line--Farm Succession Forum.**

**August to October, 2005**.

In January 2005 the Victorian Law Foundation introduced Rural Law online ([www.rurallaw.org.au](http://www.rurallaw.org.au)), which has proved very popular in providing “rural and regional Victorians with *access* to comprehensive, plain language legal information.” Later that year the Foundation held its ‘first National *Feature Issues Forum* and this was on Farm Succession Planning’.

**Why a Forum on Farm Succession?**

Following consultation with “key individuals and organisations in primary industry, the Foundation decided on a Forum on Farm Succession for the following reasons;

* “The ‘traditional’ methods of inheritance no longer being viable to manage the intergenerational transfer of the family farm.
* The economy of scale required to generate sufficient income from most forms of farming, the tighter margins and higher land values, make buying out siblings difficult.
* The lack of a co-ordinated approach to the issue by government and relevant professions however appeared to be lacking and the prerequisite for successful succession, being a planned process evolving over a number of years is in too many cases, the exception rather than the rule.”

**Forum Components.**

* Information Resource Package.

A 25 page resource document was developed from my first draft, this followed on from the completion of my RIRDC research. This first draft was further edited by a lawyer and an academic. An introductory overview document provided a summary of the Forum.

* Promotion of the Forum.

The Forum was very widely promoted in the press, radio and directly to many farm service providers and the ABC ‘Country Hour’ programme.

* Interactive Forum.

Sixteen moderators from all over Australia, were involved (8 were lawyers). Interested individuals could post a comment or ask a question. Initially the Forum was to run for 1 month, but was extended to 3months by popular request. The Forum could not be extended due to lack of funds.

There were 100 postings, 50 by individuals and 50 by moderators responding to the ‘posts’, made during the 3months.

**Forum Observations.**

“—most importantly the Forum postings highlighted the emotional trauma, financial loss and the often irrevocable damage sustained to family relationships, which can occur where planned succession is not an integral part of managing the farming business.

Even on the basis of the anecdotal information which these forum postings provide, it may be argued that potential and actual litigation between family members, dysfunctional family businesses, and lack of purposeful planning and open communications will result in a significant and direct loss not only to individual farming families, but also to Australian primary industry as a whole”

Posting a comment on the Forum can be stressful. The family member involved in Real Case Study 3, discussed with me the extent of what she might post on the Forum. Not everybody feels confident to post on a public Forum, family issues. Fortunately she decided to set out the issues for others to see and read and was considered brave by other readers. In workshops I have found that participants are generally happy to share family issues, depending on numbers involved in the workshop, but this is different to posting on a wider public Forum. I have found that farm family members are interested in reading other farm family member comments and that is why I have included many farm family comments in this Guide.

Whilst there were only an estimated 6000 visitors to the Forum during the 3 month period, this is somewhat less than 10% of Australian family farms involved in thinking about an extremely significant issue to Australian agriculture, not to mention the stress and trauma experienced by many farm families.

**APPENDIX**

**Appendix i). Paper 2 as example of material participants discussed and rated.**

Paper 2

(of a series of 6 papers)

**Putting The Family Back Into The Family Farm**

**Geoff Tually**

**Senior Lecturer**

**Institute of Land and Food Resources,**

**The University of Melbourne**

**1997**

Every family farm business has the opportunity to provide business experience for farm family members and most farm family businesses will need to grow, if broad family goals (Paper 1) are to be achieved.

This paper looks at the following three (3) aspects:

1. Exploiting the opportunity to teach farm family members business skills;
2. The level or type of opportunities to involve family members in the farm family business;
3. Using the expertise of farm service providers.

**1. Exploiting the opportunity to teach farm family members business skills**

Children are taught at school and tertiary institutions by employees, who specialise in an interest area. There is little or no opportunity to gain knowledge and experience in how businesses operate and students leave with an employee focus.

Families, who own or run a business have the opportunity to teach all their children, both their business operation and necessary business operating skills.

Providing a farm family business focus, as opposed to only a farm focus, should widen opportunities for the children. I asked an external student of mine why he sought to split up the family farm with his 4 brothers and sisters and why not use the farm to start five (5) businesses. The reply “I had not thought of that”. You should build on what you have and not divide it up.

Two (2) advantages.

i) Children having business skills will always have a fall-back position, if off farm careers experience difficulties.

ii) Children having appropriate (for their age) overall understanding and involvement, should be less likely to be involved in family disputes based on lack of knowledge of the farm family business.

To gain the greatest potential for farm family business growth, children need to learn business operating skills and be involved (as appropriate) in the business in their 20’s.

**2. The level or type of opportunities to involve family members in the farm family business.**

i) The effect of size of the farm family business. The ability to directly involve children in the farm family business will depend on the cash available for family needs.

⚫ $30,000 is considered necessary to satisfy the cash needs of one family (figure 2, paper 1). This amount needs to be increased to allow for inflation, private school education and larger number of children (recently the parents of a farm family of six (6) children, estimated their peak cash needs to be closer to $50,000/year).

⚫ $50,000 to involve one child (after completing school) full time in the farm family business. When the child marries this amount would increase. This amount would increase where there were a number of children in the family, etc.

For those families unable to expand the family farm business to produce the added income needed, then the farm could be used as a base for developing an off farm business, e.g., fencing/harvesting contractor, etc.

ii) The type of involvement of family members. There is a range of involvement possibilities, depending on the farm family goals.

a) Gifting a share of the farm family business. This is not (generally) a viable proposition, both from a business or legal position. Businesses need to grow and gifting only divides the present business. Once gifted, the recipient can withdraw their legal share from the business at any time, e.g., where a partner (son or daughter) is killed and spouse wants to leave, or divorce. Apart from the effects on other family members (inequitable involvement), the farm may have to be sold.

b) Children buy into the farm family business (land and business) setting up a unit trust (or company) allows for children to buy into the family business. Buying provides the following benefits.

⚫ increases the equity capital of the farm family business. All children can buy in, including those with off farm careers;

⚫ children will value their interest in the business and changes the focus to business and away from an inheritance focus;

⚫ children develop their own assets;

⚫ reduces potential family conflict due to parent’s inability to divide the family business equitably between their children;

⚫ children learn business and investment skills;

⚫ reduces the impact of family dissension, e.g., divorce, on the business (you get what you put in).

c) Separate the land from the business. The farm business uses the land. By separating the land from the business achieves the following family benefits.

⚫ provides a specific business focus for children;

⚫ provides for parents security as land ownership remains with them;

⚫ easier for children to buy a bigger share of the family business, quicker;

⚫ parents providing an appropriate lease of the land to the business, provides security to the business;

⚫ family members wishing to withdraw from the business can sell their units to other family members, e.g., when parents retire.

Through using the above suggestions, (or similar) broad family goals should be easier to achieve.

**3. Using the expertise of farm service providers to assist with ON farm planning (Business Plan area)**

Farm Managers are generalists. They look at how all ON farm resources need to be combined to achieve farm family goals overtime.

Service providers are specialists. Tertiary education trains specialists, who on graduation are employed in their specialist field, i.e., as agronomists, livestock advisors, accountants, lawyers, finance advisors, livestock agents, etc. Each tends to focus on their area of specialisation and their advice is given in that context.

With any business you need to look at ALL the aspects of the business. Concentrating on specific parts of the business will not compensate for little (in some cases, no) attention to other parts of the business. Imbalances can occur where an overall perspective is not followed e.g.,

⚫ using contour banks to reduce water run off may reduce quantity of water to fill dams.

⚫ spending large quantities of cash towards the end of the financial year to reduce tax liability, could well effect the whole business and is not generally cash use effective.

The following planning frame may assist with

⚫ looking at the relationship of the components of the farm business and placing into context, advice sought from specialist service (farm and business) providers;

⚫ developing a plan of how to involve family members in the farm business;

⚫ developing a business plan;

⚫ basis for a family conference/regular discussion.

**Planning Frame**

Present Goals Pattern of Inputs/skills

pattern of next management needed

management five (5) years required to (A)

(P.M.) (G) achieve desired

goals (O.M.)

Personal,

family P.M. G O.M. A

position/perspective 1 1 1 1

Age-now

and next 20 30 40 50 60 70 e.g. 45 years 50 years

five years

(circle and/ Financial position/perspective

or write in) (cash flow, balance sheet, P/L) 2 2 2 2

Machinery/Equipment 3 3 3 3

(Inventory, age and use)

Livestock

(Inventory and program) 4 4 4 4

Cropping, Pastures 5 5 5 5

(Inventory and program)

Land

soil type inventory and 6 6 6 6

utilisation

Rainfall patterns and trends 7 7 7 7

**Using the planning frame**

The planning frame uses seven (7) very separate areas of an ON farm business. Not all areas will be involved with every farm, e.g., with cropping only farms, the livestock areas will be deleted, etc. All areas interact and by working through the planning frame weak areas are highlighted and needed advice and/or skills sought.

Example (broad overview only, far more detail would be needed, e.g., a separate page for each entry).

|  |  |  |  |
| --- | --- | --- | --- |
| **Present Pattern of Management (P.M.)** | |  | **Goals (G.)** |
| **PM.1** | Present cash needs of family $50,000  (Eldest parent 45 years) | **G.1** | Cash needs 10% higher (present value)  (Eldest child will be 25 years and working in the family business). Teach children about the business and allow them to buy into the business. |
| **PM.2** | Manual financial and physical records.  Actual profit, cash balance, assets, liabilities, equity | **G.2** | Computerise financial and physical records. Increase profitability 10% each year. |
| **PM.3** | Machinery inventories kept for tax purposes. Value of machinery (market and depreciated value) | **G.3** | Develop machinery records and computerise. Replace seeder and tractor. All machinery in good working order. |
| **PM.4** | Livestock inventory kept for tax purposes. Sold by auction.  13 month calving cycle.  Weight gain not measured | **G.4** | Develop 12 month calving program and increase calving 5%. Increase weight gain of steers/heifers for sale to .6kg/day. Monitor carcass quality. |
| **PM.5** | 5 year cropping rotation with pastures. 10% lucerne for hay. Sub and rye grass. | **G.5** | Increase use of legumes/canola by 20%  Introduce oats 10% of cropping program. Introduce snail medic to improved pasture. |
| **PM.6** | Range of soil types use district benchmarks for sowing rates and fertiliser. Fence lines are original. | **G.6** | Develop soil map and relate through monitoring yields (G.P.S. system) to fertiliser and soil moisture. Increase productivity 10% on heavier soils. |
| **PM.7** | Record rainfall. | **G.7** | Include rainfall trends in yearly budgets, ie., incorporate trends into financial and physical budgets. |
|  |  |  |  |
| **Operational management (O.M.)** | | **Skills/resources/advice needed (A.)** | |
| **OM.1** | Develop 5 year family budget for cash needs. Develop a family ownership structure plan for providing opportunity for all children. | **A.1** | Undertake a modern estate planning course and then seek advice of consultant with expertise in this area. |
| **OM.2** | Develop strategy for computerising records. Develop yearly budgets to achieve the goal of 10% profitability each year use a 25% below average rainfall as 2nd budget position. Graph cashflow. | **A.2** | Undertake a hands on computer course and a financial package e.g. Quicken. All applicable family members to undertake a grain marketing course e.g. futures and forward selling. |
|  |  |  |  |
| **OM.3** | Develop a set of machinery records and maintenance schedule and enter into computer. Check all machinery according to determined maintenance standards in first year. Plan for purchase of seeder and tractor. | **A.3** | Encourage son/daughter to do a welding and machinery maintenance course. |
| **OM.4** | Check calving records and develop plan to pregnancy test of all breeding cows.  Develop breeding plan chart and relate to business cash flow for marketing program. | **A.4** | Go on farm tours (both domestic and overseas) to look at other management systems. Visit agents/butchers and abattoir to find out exactly what they want and how your stock are graded. |
| **OM.5** | Develop crop planting program for 5 years. Use GPS and GIS to improve fertiliser usage. | **A.5** | Visit crop trials within region and interstate. |
| **OM.6** | Develop a whole farm physical plan. Develop a plan to realign fences where necessary. Develop a plan for soil and foliar testing (monitoring of nutrient use). | **A.6** | Undertake a whole farm planning course or seek assistance of a whole farm consultant. |
| **OM.7** | Graph annual rainfall to determine rainfall trends. | **A.7** | Study information each month in the Australian Farm Journal on the S.O.I. (Southern Oscillation Index) and how it may affect your rainfall trend. |

The set of 6 papers was developed especially for use with workshops on Farm Succession. An extensive Study Guide had been developed for use with an externally offered Subject in Farm Succession. The Study Guide was too large for use in workshops, thus the set of 6 papers provided a concise structured ‘set’ of ideas and information.

## Appendix ii). Some thoughts on managing RISK.

RISK in some form is faced by **ALL** businesses.

Risk management is the term often used for developing strategies to protect some aspect of the farm family and their farm business.

**a). Basic aspects of risk management-involves both short term and long term aspects.**

**i). *Short term - annual* *activity***, ie., this year’s cropping and livestock program, e.g.;

* Develop/use a spraying program to control pests and diseases to protect crops.
* Develop/use drenching program for sheep and cattle.
* Crop and livestock insurance.
* Forward selling crops and livestock.
* Increasing hay reserves against possibility of drought or drier periods.
* Key man insurance.

**ii). *Long term***. Developing five (5) year plans to achieve farm family goals, e.g.,

* Develop family plan to achieve family goals, e.g., for education, both formal education (school and tertiary) and involving in farm family business.
* Develop an ownership plan to involve children and provide for building up the business;
* Develop a business plan to provide for growth for involving children.

**NOTE:** Concentrating on the present, the annual picture, with little or no focus

on the longer term is to ***INCREASE RISK***of ***NOT*** achieving farm family

goals. The ANNUAL focus program may reduce this year’s business risks.

**BUT you could LOSE the BUSINESS, if the longer term risk situations are not programmed, i.e., give attention to both short *and* long term aspects for *OVERAL* risk management.**

#### b). Family Plans and Risk.

* Write your family goals and ideas down and discuss.
* Match cash generated by the farm family business to the cash needed by the family. If the eldest child is 10 years of age now, in five (5) years’ time will be fifteen (15) years of age and cash needs will **considerably** increase, see figure 4. Page 25. Part A.
* Talk with family and involve in all planning (as applicable to age) to reduce potential conflict as may occur, especially through poor or lack of communication.
* Have an up to date Will, which family members understand.
* Plan for growth and family opportunities (and ***NOT*** how to provide children an inheritance).
* Teach children both ownership and business operating skills and to **appreciate** ownership structures and how they may operate and what they can do.

#### c). Ownership Plans and Risk.

* Gifting. **Increases** risk by spreading income and assets between more owners.
* Risk increases by not recognising off farm income put into the farm business, i.e., by sons/daughters in law. Increases tension between the generations.
* Design/develop an appropriate ownership structure to reduce impact of divorce, etc.
* Have a ***written***partnership agreement.
* Look at option of having separate ownership structures for the farm business, off farm business and the land. Must have a ***reason/purpose*** for this option.
* Do not change your ownership structure until you understand fully the reason for change and understand fully how the new ownership should operate.

**d). Business Plans and Risk.**

* Annual planning ***with budgets based on LAST ye***ar, INCREASES RISK. Rather, you need to determine where you need/want to be in five (5) years’ time and work backwards to where you are today. Then you develop the 5 year plan.
* Must plan to increase business profitability each year (depends on your cash needs position).
* Incorrectly using borrowed funds INCREASES RISK.

A twenty (20) year loan is upwards of 50% of your productive lifetime. Loans should be designed in terms of your goals. A 20 year loan is covered by 4 x 5 year plans;

* Generally borrow for a longer period than you need when buying land and then pay off as soon as possible. Reduces risk of having to renegotiate a loan;
* Plan to repay loan on farm equipment, before equipment reaches end of effective life.

Equipment should pay for itself (compare ownership with leasing or renting);

* First generation would generally have a different loan position to a second generation farm business operator (2nd generation generally has greater asset backing, if you do not have to pay siblings out).

**Finally**, Farm families (not just parents) need to ask themselves the following;

* Why split up a life-times work and distribute between family members, if the parents prefer the family farm business to continue and grow?
* Why do you **THINK** you owe your children an inheritance?
* Why do parents have to come up with all the suggestions/ideas of what to do with the family farm?
* Why would you think of transferring a $1 to $1.5 million family farm to a son/daughter and take a pension? Security is an important issue?
* Why create a situation whereby the son/daughter, who receives the family farm, pays out their brothers/sisters their ‘share of inheritance’? This creates a ***loss*** situation for the son/daughter, who receives the farm, unless they then sell the family farm, and a win for the other brothers/sisters.
* Why develop plans for building a house on the farm or retirement house worth $100,000 plus, and do little or in some cases no planning for an asset worth 10 to 15 times the value of the house?
* Do you want to provide opportunities for family members **OR** provide an inheritance?

**Appendix iii). Case Studies.**

Case studies were a requirement of the RIRDC funding and were part of the extensive Research Report submitted to RIRDC.

Case studies are often useful for looking at a range of farm family situations that may be useful or to ‘look’ outside your position for ideas/options or increase awareness of potential problem situations.

**a). Developed case Study.**

**This may be useful for farm families and farm service providers alike.**

This case study is not based on any known farm family. Any resemblance to any particular farm family is purely incidental. But this example is based on experience in working with farm families.

Suggest that you look at this example, as if you had been asked to provide advice to this family.

There are two (2) themes common involved in this case study:

* The issues need to be looked at ***NOW.***
* Involves, family, ownership and business issues.

These issues are **very complex**, as they involve several generations, who have different cultural perspectives. Each generation grows up in a different cultural and technological era and will see the issues differently.

## Case Study.

Charlie (32) and Bridget (28) with two children, Colin (6) and Bridie (4).

Charlie and Bridget live in a small village near Charlie’s parent’s farm. Charlie farms with his father, and Bridget teaches Business Studies and Economics at a high school in a regional centre. Charlie attended Agricultural College and has a Diploma of Agriculture. Charlie and Bridget inherited their house from Bridget’s grandmother.

Charlie has been paid a small, but regular salary from the farm since finishing college at the age of 20, and expects to inherit the property on his father’s retirement. Charlie has two brothers, one is a financial analyst (30) living in Sydney, and the other is a successful shearing contractor (27) in the district. Charlie is the eldest and the only child who is married.

Charlie’s father is 58 and very active. His mother is 55 and went back to work as a midwife at the local hospital when the boys went away to high school. She primarily used her income for school fees and groceries. Supplementing the farm income substantially. She is still working at the hospital, as well as a volunteer for a local committee.

The family owns 685 hectares of broad acre farmland. The property is debt free and owned in partnership by Charlie’s parents.

**Points to consider:**

Bridget is subsidising Charlie’s salary.

Charlie is presently buying his inheritance, as we must value his full contribution less what he is paid in wages. Plus Bridget’s salary.

In six years their son Colin will be 12 and need more cash, while Charlie’s father will be 64.

How will the extra cash be provided?

What labour is really required to run the farm?

In six years’ time, Charlie’s father will not be interested in going into debt.

How will Charlie’s father finance his retirement?

**Now** is the time to set the scene for the next generation, but what are the options? Suggest what the family might do – set out the options: family. ownership and business.

In eight years Charlie will have two children in their teens (Colin will be 14 and Bridie 12).

The following format may be useful in assisting to analyse this case problem.

**Family**  Now 5 yrs 10 yrs **Ownership** **Business.**

Grandparents Grandfather 58 63 68 Partnership 685 Ha

Grandmother 55 60 65

Parents Charlie 32 37 42 Nil

Brigit 28 33 38 Nil

Children Colin 6 11 16

Bridie 4 9 14

Siblings Financial Analysis 30 35 40

Shearing Contractor 27 33 37

**Comments:** Charlie has been farming with his parents for 12 years and paid a small wage. Bridget has been subsidising Charlie’s salary. Both have assisted in building value to the grandparent’s assets, which are debt free.

Other comments:

**b). Real Case Studies/examples.**

The following **real** cases illustrate a range of family farm situations. Several were positive in outcome or presently being developed. Other case situations outline areas that should be avoided. Some are simple solutions, others are complex and some involve litigation and/or poor professional advice/input. The case studies also give an idea or ‘measure’ of the

dimensions of need/demand for information and assistance in the ownership area.

### Case Study 1. Successful farm family arrangement.

Son, at 18 years of age, returned home to farm with his father and continued to do so until his father died when he was 22 years of age.

At the time of father’s death, ownership of land was as follows;

1 block held in a private company. Two Directors, mother and father, with 1 share each.

2 blocks in fathers name.

2 blocks in mothers and fathers name as joint tenants.

Land farmed totalled over 3000 acres.

Will, provided for the son to have use of all land and was to take over fathers share in family company. Mother was given a life interest over the 2 blocks of land in father’s name. These two blocks to go to son, with the son signing an agreement to pay his two younger sisters a defined share, as per the Will, when their mother dies. As the sisters’ university education, was paid for by the farm, this was taken into consideration in determining the sister’s inheritance entitlement. The 2 blocks held by the father and mother as joint tenants went automatically to the mother. Son leased these 2 blocks from mother.

Farm business reorganisation. By 2000 the son owned all the family land, which was in his name only. His wife was not interested in being co-owner, as she said this land was his family’s land. They have since purchased another substantial block, which is co-owned.

The reorganisation was achieved by son being cut out of his mother’s Will, which will be shared equally by the 2 sisters. Mother signed away her life interest in the 2 blocks of land. These 2 blocks of land are now leased to his mother for $1 and leased back to the son for $12,000 annually. The son also pays his mother’s rates, electricity, tax and car. Mother signed over her company share to son’s wife. Mother transferred the remaining 2 blocks to son.

The future. Son and wife are looking at starting off farm businesses and employing a manager to run the farm. They have 3 sons all under 10 years of age and keen on farming at the present time. No long term plans to include the children in the farm business are in place at this stage, although the son and his wife have discussed options with their accountant, rural counsellor, solicitor and others.

### Case Study 2. Parents both died intestate. Successful family outcome.

Three sons inherited equal shares by operation of the State Intestate Law. One son was farming with parents and the other two educated at university. University education was paid for by the family farm, but farm was not large enough to provide a living for all three sons.

Solution: The two university trained sons decided, as they had been educated from the earnings from the farm and the other son had served an apprenticeship with his father and had actually assisted in his brother’s education, that he would be given the shares of the farm of the other two brothers. The two brothers decided to transfer their shares before any romantic involvement.

### Case Study 3. Deceased Estate. Administration phase. Inadequate/poor professional advice provided.

Son (married) was in partnership with both parents in equal shares. However, father held the financial reins and son was owed a significant amount of money by parents. This in effect increased significantly the son’s share of the partnership. Father died. Will was complex in that land owned outright by father was distributed between the two sons, one of whom was farming. Partnership also owned land. Partnership agreement was a standard format.

Will stated that father left his one third of the partnership equally between his wife, farming son and non-farming son.

Problem 1. Due to the significant debt owed by the partnership to the farming son, this in effect put the Will and partnership agreement at odds. Family only wanted to follow the Will and regarded the partnership debt to the son, as a paper debt.

Problem 2. Balance Sheet of partnership up to date of father’s death, showed land and son’s debt. There was no opening Balance Sheet for the new partnership and the closing Balance Sheet for the year following father’s death showed no opening balance and the closing balance had omitted to include the land and son’s debt.

Problem 3. Land owned by father was all used by the partnership, including the land owned by the partnership. The partnership did not pay the father for the use of his land and following Harvey v’s Harvey (1971), this land could/might be regarded as being partnership land, i.e., father might be deemed as holding land in his name in trust for the partnership.

Farming son challenged his father’s Will. Two Supreme Court mediations followed. Son lost and had to buy back what his father had promised him and he spent 30 years for a worthless promise. In reality, the farming son spent 30 years helping to build up his sibling’s inheritance. Do not promise a son/daughter an asset, unless it is recorded or contracted. Do not accept a parent’s promise that the farm will be yours, unless it is in writing! How do you ask your parent’s to put a promise in writing?

### Case Study 4. Seeking the most appropriate ownership structure for a family situation.

Inappropriate professional advice provided family.

Parents have two sons in their twenties. Recently parents purchased a second farm and will leave the sons a farm each. Communication between family members is excellent.

Problem 1. What type of ownership structure will provide suitable flexibility and allow each farm to be owned separately at a later date. Parents looked at a family trust arrangement and approached their accountant for advice.

Problem 2. Accountant suggested to parents that should they decide on a trust, that the accountant should become the trustee of the trust. Accountant should not be made the trustee in **THIS** situation, as the children are mature and very capable of managing the farms and understanding the ownership structure and should not be treated as an employee by an outside non-owner operating as trustee.

### Case Study 5. Seeking ideas.

Parents had set up their eldest son as part of the family farm business. Their second son later returned home and wanted to know what the parents were going to do for him. Parents sought ideas as to what they could do.

Suggested solution provided parents. That the parents seek their 2nd son’s suggestions as to what he could do. Why have all the suggestions to come from the parents?

### Case Study 6. How to treat their children equally?

Parents encouraged their children to choose careers other than returning to the family farm. Their only son later decided to return home to the family farm. There were two daughters. Parents were seeking a solution that would allow the son to later take over the farm and at the same time not disadvantage their daughters, if the son decided some years later to sell the farm and keep the money.

Solution. During a research workshop, discussion centred on separating the land from the farm business and each having a separate ownership structure. Suddenly the father said, “you have just solved my problem. I thought that the land was my business”. This farmer also wanted to know if you set up a unit trust or company, how quickly to transfer the units or shares to the children, because if you transferred too many too quickly, where is your income going to come from for retirement.

### Case Study 7. Change from a company to a partnership on advice from accountant.

Family company was used as the trading business. The company had made some family loans, which were now causing problems within the family and their accountant was worried and following a family settlement, a partnership was set up. One of the sons was asked his thoughts on the change.

“Oh, I’m not, I’m not thrilled in some ways, but in other ways I can see there are advantages. But our accountant reckoned it was the way to go. It was our accountant and solicitor’s idea … I don’t have the expertise to judge either way (which ownershipstructure is more beneficial), but it really doesn’t affect the way we operate at all. That company is one of the partners in …”

Regarding the workings of a partnership.

“But I mean, surely they (Harvey v’s Harvey) are the exception. I mean, assuming that most people treat each other with respect, you know. It’s just transparent, you know, that there are rules about your drawings. I mean obviously it’s not ‘open slather’. Aren’t they the majority of cases? … But the point I’m making is, most families don’t end up in the courtroom. I mean, most family farms, okay they have their problems, but assuming it’s a successfully run business, those guidelines are set out. Obviously one partner can’t draw whatever he wants whenever he wants, to the point where he is jeopardising, you know … If in an ideal situation, they discuss it, it’s worked out. And obviously it’s all recorded on the books, so if one partner draws more than the other, his equity is less.”

### Case Study 8. Need smaller value units.

Four family members received a quarter share of a farm business. Over a number of years the business continued to grow and the three active farming members wished to buy out the 4th and non-farming member. The 4th member refused, saying that it was not in their best interest to sell, as they would have a significant capital gains tax problem.

Solution. To provide both opportunities and flexibility to family members then assets need to be divided into smaller value units. This allows other family members ease of buying and selling and thus provide different CGT planning options.

### Case Study 9. Trustee ignoring fiduciary duty and beneficiary rights.

Several properties were left by testamentary trust for a son and daughter. The trustee was a trusted friend. Mother contested the Will trustee positon and applied to the court to be co-trustee, which was granted. A number of years’ later mother remarried. The original trustee sought to be relieved of their trustee duty by the court and this was granted. One property was sold by the remaining trustee and another property bought with the proceeds obtained. Instead of this replacement property becoming part of the trust properties, the new property was entered in other names. This happened with other trust property till finally when the beneficiaries were able to claim what had been left them, there was very little left of what was originally left for them.

### Case Study 10. The forty year old jackeroo.

Eldest of three daughters was home working the family farm business with her parents. She was married with a young family and the farm business was not big enough to provide sufficient cash for three generations. She approached her parents to borrow to enlarge the farm business, but her parents were not interested, as the farm was debt free. The parents owned the farm and were not interested in including the daughter in the ownership, but instead said that the daughter would inherit the farm instead. Unable to borrow, in her forties, with no other skills than family farming, she felt trapped, especially as her husband worked on the farm as well. Could they leave and risk losing what she had worked so hard for, especially as her two other sisters said she was very lucky, as she was to inherit the farm. If she left, her aging parents would probably sell the farm when no longer able to work it and the farm was not big enough to employ someone and provide enough for retirement. Handing the farm over and taking a pension would have been an option, but the parents would have to wait 5 years.

**Case Study 11. Brother planned to buy out his two sister’s inheritance share.**

Multimillion-dollar property was left to three children. The only son, who was working the property, was planning to buy out his two sisters and go into significant debt in order to do so.

Suggested solution. That the brother and sisters think of growing the business as opposed to the sisters getting a windfall and the son going into debt with the possibility that the viability of the farm business be stressed to breaking point.

Suggestion made that an agreement be formalised so that they reviewed their collective goals at specific time periods and provided a mechanism that a partner could leave without unduly affecting the farm business viability. The siblings thought this an excellent way to go and that no one else had suggested this option to them.

**Case Study 12. Developing appropriate ownership structures. Research Workshop participant comment.**

“They’ve developed over time. A lot of discussion. Outside advice - with the accountant, with the bank. Look, I’m very lucky, I’m in a situation that has always been very open, and all of those things have been discussed. We look at what is our best future option, and what’s the best way to achieve it – from an ownership point of view and from a taxation planning point of view. … We researched a lot of it ourselves, but we asked a lot of questions of our accountants and lawyers – and other ones as well that we’ve used. … You’ve got to be prepared to ask the dumb questions. You’ve just got to ask the really basic stuff … and if they can’t talk in your language, then you find someone who can”.

“It depends how complex you are going to get. Once you get into this area there are a lot of options you can have. The operating business can be a partnership, and you can have two individuals, a trust and a company as partners – and that can give incredible flexibility. Because a partnership doesn’t have to be allocated on equal proportions, partners can agree at any time as to how the business is split up. So, as you said, it is a technique over time of how to bring family members in and that sort of thing, and it’s beneficial … so once you’ve got the basic structures you can put them together in combinations without infringing on any flexibility”.

“I think it is something important that if you are using professional advisors that you get second opinions. You go to someone else and say, *“This is what I’ve been told”*, and get another independent look at it. Because often they look at it from a different perspective, they can pick up things, which the other person hasn’t”.

“The next comment about using service providers. The real challenge with that is finding one who has got a broad knowledge of how their specialist knowledge affects the whole farm business. … You made instances before of where lawyers have set things up very nicely and they are technically very correct, but they are totally inappropriate for the system they are operating in”.

### Case Study 13. Son encouraged to return home to the family farm business.

Son in late 20’s, married with a young family, was offered a share of the family farm business, if he would consider returning home to help his father (in his mid-fifties) with the farm business. Son left well paid career employment and returned to the family farm. Father discussed options with their accountant, who suggested that it would be unwise to change the ownership structure at this stage in the father’s life. The father then told the son that he would pay him a wage and the hours he was expected to work in the farm business. The son would then be left the farm, however, there was another brother.

Son discussed the issues with his parents, who would not go against the advice of the recently retired accountant.

Solution. Son decided not to accept parents offer and started looking for suitable off farm employment. Always have a contract situation tied up before leaving employment to return to a family business. Accountants treat the parents as the clients.

### Case Study 14. Family trust beneficiaries becoming creditors of their own trust – loan back situation.

Family diversified into another livestock enterprise that suffered a severe market downturn that resulted in a significant debt being incurred. The accountant determined that the best course of action to reduce the debt was to distribute the profit to the beneficiaries on paper and then pay the family members involved an amount to cover living expenses and the remainder used to pay off the debt. This occurred on a yearly basis. The difference between the paper distribution and the living expenses paid each family member involved was credited to them, making them a creditor of their own trust. However, this arrangement had not been explained to the family members involved and the tight family payment was causing severe tension between the family members.

### Case Study 15. Family farm company shares.

Father was leaving his shares in the family farm company to the only son, in his forties, who was working the property, on the proviso that the son would pay his two sisters a third share each, of the fathers shares, in cash. The son was unhappy about this payment of cash in one lump sum. As the daughters did not really need the cash, but would have had to look for a suitable investment for their windfall.

Suggested solution. That the father ask the daughters to look at when and how much cash they would need, so that the son would be able to provide the cash over a period, so that the viability of the farm business would not be put under stress, purely to provide inheritance money. That the family should look at how they could all assist each other to achieve a win win situation.

### Case Study 16. Daughter in law applies pressure on parents in law to transfer ownership of land.

Two sons were farming with their parents. Whilst the sons were unmarried the parents only provided money to them when they went out and then they received sufficient money for what they needed. The sons were never denied money if they made a request. This system worked until the eldest son married, when the parents commenced paying him a wage. The second son continued as before. Grand children arrived and the daughter in law pressured the husband’s parents to transfer land to the value that her husband should have received in wages before he married. No land was transferred, as requested and the daughter in law refused access to their grandchildren. The parent’s, in their late seventies, did not know what to do or if they could be forced to transfer land, but felt that not being able to see their grandchildren as unfair. The two sons will inherit an extensive property and up to being married the eldest son had not requested that he be paid a wage.

### Case Study 17. Family farm was in two titles and to be split between two brothers.

One half of the land was owned by a family trust, the other half owned by the father as sole owner. The elder brother wanted the half that was owned by the family trust. Father was happy to hand over and younger son wanted his elder brother, who had an off farm business, to lease his half in order to retain a viable farm. Elder brother did not want to lease to younger brother. Younger brother wanted to look at what options he had. Until the trust was wound up or trustee(s) agreed to use of trust owned land, the elder brother could not make a decision on the use of the land he wished to inherit. However, the younger son thought that he was a trustee, but was not and did not know the legal position.

**Case Study 18. Mature Age Off Campus Student**.

A mature age student, a dairy farmer, requested advice as to whether she should study my subject in Farm Succession. The lady and her husband had just employed a manager to run their dairy farm to give them a break. They were now looking at options for their farm. They had 3 children, each university graduates and all of whom did not want to return to the farm. Should they sell the farm? I suggested that they keep the farm and keep a manager. The farm was capital gains tax free and should appreciate and what would they do with the money anyway. Selling the farm and investing the money in the bank or shares would mean that someone else would be responsible for earning a return on their money.

**Appendix iv). Farm Succession and Communication.**

**Communication between farm family members is vital in order to achieve family goals. Because every family member will or could or may see any situation differently there is need for open and effective communication.**

**Some Issues involved:**

* The next generation grows up in a different Technological age and thus have different views of what Farm Succession may mean.
* What is the major focus of the family farm: Is the family farm a business that the family wishes to grow and provide an opportunity base for family members such as provide a base for developing other businesses, farm or non farm? Or is the family farm a family asset to be distributed to family members as an inheritance? (Inheritance is NOT farm Succession).
* What legal family maintenance issues (if any) need to be considered?
* There are Driving and Restraining Forces at work in the family. If the family farm is promised to a son/daughter, then this should be written down. The same with a Partnership agreement, which should be written and all Partners to have a copy. If a Partnership is formed, then what each Partner brings to the Partnership should be written down, along with the agreed rules, if not part of the Partnership agreement.

**Farm Family member concerns – Driving and Restraining Forces.**

* **Communication is not easy.**
* Many farm families do not know what to do. They do not want to hand over their farm to a son or daughter and take a pension. They do not know what questions to ask.
* The younger generation not knowing parents intentions **or how to approach their** **parents** on their future in the family business. Communication between the generations, a major problem. The younger generation did not want to be seen as ungrateful.
* The family focus is the farm and not their huge investment, until death of the owner.
* The older and younger generation unaware of each other’s needs and goals.
* There is a dependence on their accountant for choice of ownership structure and hoped their accountant was right.
* Their accountant treated the parents as the client and ignored the younger generation.
* The younger generation generally did not understand the ownership position of the family farm.
* Daughters in law were particularly forthcoming on the impact of ownership in farm family dynamics. The ‘dreaded daughter in law’ situation. Daughters in law, in many cases, not involved in family discussion or in the ownership structure. Resentment, particularly, where the daughter in law worked off farm and helped subsidise their husband’s wage from the farm business.
* Younger generation, in many cases, not interested in returning home due to seeing their parents struggle, whilst having a significant farm asset.

**PROBLEM PROFILE**

**A technique for assisting in achieving a consensus outcome or at least finding out what family members think/goals.**

**Problem:**  **Example**: How do the family members OR farm service providers see Farm Succession?

**Consultant(s). Client, eg., Farm family.**

**Parents. Children.**

# A. Problem

**Recognition** **Easy** |----|----|----|----|----|----| **Difficult** **Easy** |----|----|----|----|----|----| **Difficult**

# B. Problem

**Urgency /**  **Crisis /** |----|----|----|----|----|----| **Chronic** **Crisis /**  |----|----|----|----|----|----| **Chronic**

**Seriousness** **Acuteness** **Acutenes**s

# C. Solution Simple |----|----|----|----|----|----| Complex Simple |----|----|----|----|----|----| Complex

**Complexity**

**Note**: The idea of the model is to assist the parties in looking at how the other person sees the problem, urgency and solution and thus doesnot just see the problem from one particular view. A consultant needs to find out how the client sees the problem being discussed and does not move on until the client has a very similar understanding. It is **useless assuming a problem is easy to understand and then providing suggested solutions without checking how the client sees the problem**.

Who is the Client? The farm family or just the person responsible for paying the Consultant? Why do parents have to come up with all the answers. Farm Ssuccession is not just about handing DOWN to the next generation, but can be for the benefit of ALL family members, including parents.

**Suggestion for using the model.**

* Consultant or parent to seek how family members/client ‘sees’ the problem and **compare** to how they see the problem. The GAP between the two positions needs to be ‘closed’. Mark the two perceptions.
* When the GAP has been ‘closed’ or there is a ‘common’ understanding of the Problem, then look to the Urgency of the problem. The greater the perceived Urgency, the greater the interest in looking at the solutions.
* Solutions. Just knowing about the solution or potential solution(s) may not result in any activity, thus being involved is more likely to result in activity. Therefore working through issues as a family group is more likely to result in use of a technique, such as the use of Farm Succession in the desired form.

A workshop is a good technique for working through this communication Model. All this model does is to provide a structure, just like a Balance Sheet, beef breeding or cropping programme, to assist with family communication specifically.

**Example.**

**Parents. Children.**

# **A. Problem**

**Recognition** **Easy** |----|----|----|----|----|----| **Difficult**

Gap or different perception

# **B. Problem**

**Urgency /**  **Crisis /** |----|----|----|----|----|----| **Chronic**

**Seriousness**  **Acuteness**

**C. Solution Simple |----|----|----|----|----|----| Complex**

**Appendix v). Glossary of ownership terms.**

**Appointor:** The person who has responsibility for the appointing of the trustee and

replacement trustee.

**Articles of association**

**or replaceable rules:** The internal rules for operating the company.

**Attorney:** A person appointed by another person to act for them or in place of them.

Either have power of attorney or enduring power of attorney.

**Codicil:** An instrument used by a person to modify the presently valid Will in some small way, i.e., alter a part, add to or strike out or explain a section of the Will. Used in place of creating another entire Will when only a small change is required. Care must be taken not to make the present Will invalid.

**Company: A**n association of persons whose joint purpose is to undertake trade or other

business activity. Incorporated under the Corporations Law. A company is an artificial person.

**Constructive** A trust situation is created where a person is said to hold property on

**Trust:** behalf of another person, e.g., where a mortgagee sells property (mortgagee

sale) to satisfy the mortgage requirements and any excess money from the sale

is held on trust for the mortgagor (person who borrowed the money to purchase the property). Also covers situations where a vendor sells property, the purchaser is said to hold on trust until all payments are made to the vendor.

**Deed:** A written document signed by the parties involved, setting out in full the

agreement, e.g., partnership agreement or what the creator wishes to include,

e.g., trust deed.

**Estate**  Involves the planning for the transfer of property (personal and/or real)

**Planning:** to another individual, generally family member. Transfer may be by gift, sale

or partly gift and partly by sale. Transfer may take place during the life of

the individuals (inter vivos) or by Will.

**Executor:** The person who executes the Will, i.e., carries into effect the wishes of the

testator and proves the Will.

**Fiduciary:** The relationship of a person to another or others, where the former is bound to

exercise rights and powers of good faith for the benefit of the others, i.e., a

trustee, has a fiduciary duty to the beneficiaries.

**Guardian:** The person, who is responsible for seeing that the trustee observes the

requirements of the trust deed and does not act outside the deed.

**Inter vivos:** Between living persons.

**Joint and** Each partner is liable (severally) and all (partners) liable jointly. A

**Several:** creditor may sue one or more severely, or **all** jointly.

(several liability means you can sue each partner separately).

**Joint** Partners are jointly liable and need to be sued at the one time. If you only

**Liability:** sue one partner and this partner is unable to satisfy you, then you cannot then

sue the other(s).

**Joint** Ownership of land by several persons in common - undivided shares.

**Tenancy:** Individuals are unable to Will their share of ownership, which on death of a

partner will vest in remaining partners. Only the last surviving member may dispose by Will.

**Joint** Two or more parties agreeing to undertake jointly a particular business

**Venture:** activity. Each party maintains their own identity and make their own business

decisions and are not required to notify the other party if they wish to withdraw and replace themselves with another party. Each party keep their own accounts, which remain separate. Usually a manager acceptable to both parties is employed to manage the joint venture. The parties must not be seen to be a partnership situation.

**Jointly:** Undivided shares.

**Life tenant:** A beneficiary who is entitled to income and or use of property, e.g., house for

their life time. A technique used to prevent a second amount of death duties

being levied on the spouse after the death of the property owner, i.e., husband

owned farm as single proprietor and on death left the farm to his wife for her

lifetime and on her death, the person named in the Will of the husband would

take possession. The beneficiary named in the Will to receive the property,

could not sell the property, while the life tenancy was in operation.

**Memorandum of** Sets out the companies identity, its name, authorised capital, type of

**association or** company and the subscribers to start the company. Now known as the

**company** constitution of the company.

**constitution:**

**Partnership:** The contractual relationship (written or oral) that exists between

**(business)** persons,

- carrying on business,

- in common,

- with a view to profit.

Partnerships are not a separate legal entity, but a legal arrangement.

**Power of** The formal instrument created by one person (donor) outlining the

**Attorney:** powers another person is to have when acting in place of the donor of the

powers.

**Presently** Under trust law, a beneficiary must be presently entitled to receive

**Entitled:** income, before they can demand the trustee provide payment.

With fixed trusts, the income of the trust once determined by the trustee, or

according to the trust deed, is to be paid to those beneficiaries as per their

entitlement, set out in the trust deed - they have a fixed entitlement. When the

income is available for distribution, they become presently entitled.

With discretionary trusts, the beneficiary is not presently entitled until the

trustee exercises the discretion. Only when the trustee exercises the discretion

is the beneficiary presently entitled and can demand payment from the trustee.

**Settlor:** The person who sets up the trust. Settlement trust.

**Succession** Planning for a successor to take over the **control** and possibly

**Planning:** ownership or part ownership of the business. Where the land is owned

separately to the farm business, succession usually only involves the farm

business. However, because the land is an integral resource for the farm

business, thought should be given to how the farm business may have

continued access, over time, to the use of the land.

**Tenants in**  Ownership of land in common by several persons (i.e. undivided share

**Common:** as with joint tenancy). On death of one individual then their share may pass by Will, (unlike joint tenancy) and **does not** pass automatically to other co-owners.

**Testator:** Person who makes the Will.

**Testamentory T**rust: set up by a Will.

**Trust:** The fiduciary relationship that exists between the trustee (who holds and administers property on behalf of) and a beneficiary. Beneficiary has the right to have their property interest maintained. Property to vest in the beneficiaries as per trust deed. The trust deed sets out clearly the intention of the settlor or testator. This trust deed is then administered by the trustee(s).

* **Discretionary Trust** - where the trustee has power to determine, which beneficiary will receive portion of Trust business profit and how much.
* **Service Trust (Phillips Trust)** - A trust set up to provide service duties to mainly professional businesses, e.g., partnership of accountants. The service trust would perform administrative duties and own assets. This device separates the assets from the partners and protects against negligence possibilities.

- **Fixed Trust** - A fixed entitlement to trust proceeds.

- **Unit Trust** - Trust capital is divided into defined amounts. Same as shares in a company.

**Trustee:** The person(s) or trustee company, who is entrusted to carry out the terms of the trust and to preserve the trust property for the beneficiaries. Trustee has a

fiduciary duty. Trustee is liable for loss of trust property, if acting

outside, the power provided in the trust. If conducting business, then must act

as a prudent business person would act. Trustee is the legal owner of the trust

property, and, if also a beneficiary, will be an equitable owner as well.

**Vest or** To give legal effect or provide legal rights. When a trust terminates and

**Vesting:** property is transferred to beneficiaries.

**Will:** A creation in writing (instrument) of the Testator declaring/providing for the

distribution of his/her property (real and/or personal). Revocable in

whole or part before death. Signed by Testator and two independent persons as

witness. Persons, who are to gain under the Will, not to sign as a witness. If

marry, then need to create another Will.

Glossary based on “Osborn’s CONCISE LAW DICTIONARY”.

**About the Author.**

My interest in Farm Succession and the opportunities the family farm might offer the farm family, commenced in June 1986. I was attending a Farm Management Conference in Bendigo, Victoria. The Conference was looking at how to retain the family farm and one of the speakers explained how his family had to sell their family farm, because the ownership structure, a partnership, was not robust enough to withstand a family crisis.

Ownership was the problem. This triggered a radical relook of how I viewed the family farm. Ownership had previously never been considered, except for collateral for borrowing finance. Ownership was never considered as part of the farm production cycle.

In July 1987, I took up the new position of Senior Lecturer in Agribusiness, at Longerenong Agricultural College, near Horsham, Victoria. (Longerenong was part of the Victorian College of Agriculture and Horticulture, which Amalgamated with the University of Melbourne). Longerenong was making significant changes to their courses, and this provided me the opportunity of developing my thoughts on farm succession and off campus workshops were introduced covering farm succession. Mainly farm wives attended and whilst family and farm business were discussed, it was ownership that was the major focus and discussion sought by workshop participants. Upwards of half the 5 hour workshops were taken up with ownership discussion.

These early workshops provided the basis of the model I have used ever since and the basis of this Guide, ie., **Family**, **Ownership** and **Business**, as separate issues. Each of which, need to be looked at separately, and then combined. This Separation or Segmentation Model has always been seen by farm family members, whether in seminars, workshops and mail surveys, as the place to start any discussion on Farm Succession or looking at family opportunities.

I am a generalist and lectured in Farm Management, Marketing, Investment and Finance, Business Law, Rural Policy, Organisational Management, Economics, Accounting, Communication and Human Behaviour, Agricultural Extension (Rural Sociology and Extension Methods), Taxation (A Reg Tax Agent till 2016), Business, Finance and Business Development.

In 1998 I started writing a monthly column (Half page and mainly on Farm Succession issues) for the Wimmera Farmer Newspaper. This ‘column’ went for 5 years (60 issues) and attracted many many farmer comments and face to face discussions. This column was the reason a farm family contacted me for assistance, which included 4 years assisting them with a Will challenge in the Victorian Supreme Court. This forms real Case Study 3, included in Part B of this Guide.

Requested to write articles for The Weekly Times Rural newspaper, Beef Shorthorn Breed Society, Australian Farm Journal (14 article series), Kondinin Group (6 articles). Presented articles at 6 International Agribusiness/Agricultural Economics Conferences.

In 2005, the Victorian Law Foundation developed a Farm Succession Forum as part of their Rural Law online law series. I was asked to produce the first draft of information for the Forum. This Forum, initially for 1 month, was extended to 3 months by popular request. Lack of finance prevented the Forum being extended for a longer period. In this 3 months period, 32,497 visits and 146,402 page views were recorded.

I was Chairman of the Bright Community Bendigo Bank for 4 years during the developmental years. Now after 9 years we have a $90 + million business, which presently injects some $130,000 into the local Community each year. I remain a Director.

In 1977 commenced breeding beef cattle at Gatton, Queensland and sold the property in 2004. In 2007 started breeding alpacas and Compost Worms at Bright, Victoria. This enterprise continues.

**One of my most powerful experiences was when a mother and son sought assistance with their issue of sharing the family farm. They had been left half shares by the husband/father and the son sought a greater share and was pressuring his mother for a greater share. After some 2 hours of discussion, the son stood up and said, “you have just saved a family”.**