A GUIDE TO SUCCESSION

Sustaining families and farms

Australian Government

Grains Research and Development Corporation

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This collaborative approach across Reseach and Development Corporations enables a wider distribution of the guide. The information and case studies it contains has relevance across many agricultural sectors not just grains.

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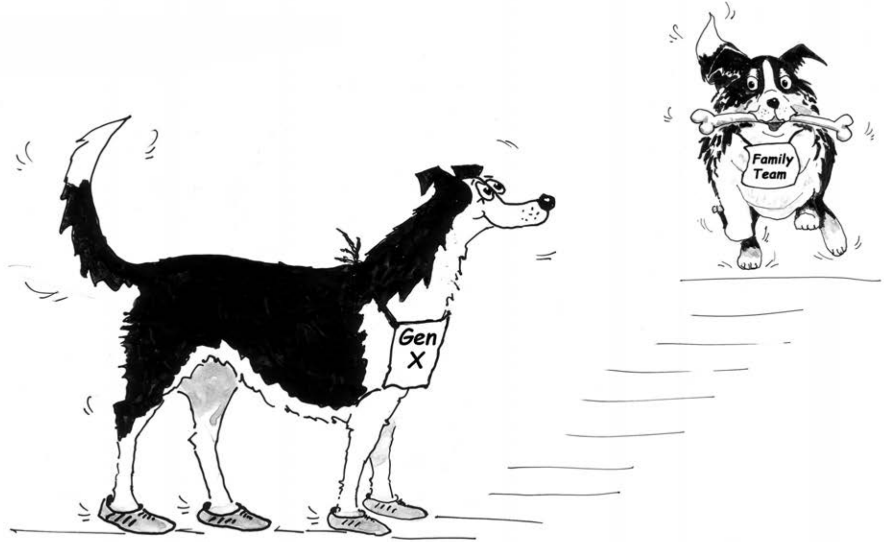
Sustaining Families and Farms



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- experts and professionals for providing Guiding principles
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The authors have had the privileged opportunity to share time with many families as they face the change of succession planning. No one of those families is reflected here, however elements of many have found their way on to these pages. For the generosity of all those families spanning almost 20 years - thank you!

We hope this publication is helpful to many others.

Foreword

Succession planning is often a complex issue for farm businesses. This booklet is a sound, factual guide that will provide an important starting point for many families. The inclusion of various professionals' perspectives provides some wonderful ideas on the succession planning process, with each providing a slightly different take on the subject.

Family situations are unique and the case studies included in this booklet provide interesting examples of real life outcomes and it is motivating to see some of the innovative ideas developed.

The picture of the family unit, in the form of a genogram included with each case study, gives a clear understanding of each family structure. In addition, the breakdown of the business assets and liabilities are vital to understanding the type of operation in question and give solidity to the outcomes. They also enable the reader to have a view of the size and complexity of the final agreement. Inclusion of the reasons leading up to the family meeting for each of the case studies also give the reader the opportunity to better identify with the situation.

The booklet also contains checklists as useful and practical tools for identifying important factors to consider when embarking on a succession planning process. In addition, the information provided on a number of financial planning tools will enable people to ask their adviser about the suitability of each to their particular circumstances.

The key messages in the booklet are: the need to plan; the need for expert assistance; and the importance of keeping the family and business intact.

Developing a succession plan that meets the expectations of all involved is not easy and this booklet is a good starting point for people looking to broach the subject of succession planning.

There are many wonderful ideas contained in this guide and I commend this publication to everyone with a family business.

The Hon Sussan Ley MP
Parliamentary Secretary to the
Minister for Agriculture, Fisheries and Forestry

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Introduction

Read me first

The aims of this publication are to increase understanding, and to stimulate communication about succession planning between family members and also with their advisers.

Although some issues such as death and divorce are uncomfortable for family members to discuss, the reality of their impact on succession is well established and therefore the need to discuss is imperative.

Succession planning is like any other plan: the earlier you start the more options you will have.

So, **start at the front end** - that is, when a new generation is entering the business.

The choice to not plan early will mean succession will be triggered by an event over which you may have no control. This will mean change happens at the **back end** - when someone is leaving the business.

Planning can be done from the **top down**, where the asset owner takes advice from a professional who largely drives the plan. There is no doubt this is the easiest way. As the expectations of society changes there is an increasing push for everyone in the family to be included in the succession planning process. This approach is known as the **bottom up**, where the family jointly decides **what** they wish to achieve in order to ensure the family remain intact socially and financially. Advisers then devise **how** the family can achieve their goals while keeping the business intact.

The maze of implications of capital gains tax, stamp duty, and GST will hinder, or in fact prevent, many options as the costs might well be prohibitive. The necessity to work with experts in each area on specific implications for your business cannot be overemphasised.

Succession planning can be done
at the **front end**
or the **back end**
from the
top down
or the
bottom up

When the older generation are hell bent on a **top down** approach and the younger generation are desperate for a bottom up approach the issue provides the opportunity for family conflict before succession planning even begins. This may be an indicator that the two generations will struggle to have a good working communication. The younger generation may need to accept this is how it will be and make a decision to stay in the business and get on with it, or alternately may decide to reassess their decision to continue in the family business.

Families like to hear about what others have done. This booklet is an attempt to cover both the ‘experts’ advice in the Guiding principles section and real family experiences in the Case study section.

We hope you will enjoy it, and find it helpful!

Part one 1

For success in succession

from an agricultural consultant

from an accountant

from a lawyer

from a financial planner

from a facilitator

from a generation consultant

GUIDING PRINCIPLES

GUIDING PRINCIPLES
INTRODUCTION

- Recognise that each farming business solution is different and unique
- Obtain professional legal and accounting advice
- Communicate openly with family members and professionals
- Recognise differences in generational values within the family

The information provided in this section has been contributed by professionals who assist families in the succession process. Enlisting professional advice will ensure the process covers all aspects of the family and business, legally, financially and in relationships. Using advisers also gives an opportunity for an outside view of the succession plan. You will notice that crucial points may be repeated by more than one professional.

Some advisers believe that they can fulfil more than one role.

When choosing a professional understand that different approaches and personalities will suit different families, talk to people you know who have completed the process. This section will help you know the type of information you will need and questions that you need to ask.

GUIDING PRINCIPLES FROM AN AGRICULTURAL CONSULTANT

In a business sense succession planning needs to refer to the orderly transfer of management, responsibility, ownership and control, over time. In a farm business this could mean transferring the ownership of some of the machinery and/or livestock, transferring the management of part of the farm, and eventually transferring ownership.

In order to provide sensible advice and guidance it is necessary for the farm management consultant to understand:

- why this farmer is farming
- why he or she is farming this farm
- why they are farming this farm in this way.

In other words, it is necessary to establish whether or not there are historic constraints which restrict the choices of the farming family in the way they think about the farm as an asset, and whether they see it as a business where they're in control or a business which controls them.

Any succession plan has more chance of working if the people involved start to think about it earlier rather than later, for instance, building some off-farm assets. This is useful from a risk management point of view and can also make succession planning easier.

The most important principles involved in a succession plan are:

- to work out what the exiting generation wants to do - where they'll live and what they'll do in retirement - if succession is an option
- to identify the needs and aspirations of each family member in each generation
- to build, maintain, and if necessary, repair relationships between family members
- to manage expectations amongst family members
- to look at transferring management and control of the farm over time
- to sort out how to transfer ownership of the farm
- what agreement there should be for the incoming generation and what provision to make for the non-farming children.

The people involved need to agree on a pathway to establish the parents' broad direction, understand the desired direction of all family members, collect information, and develop a plan.

A lot of time is spent worrying about legal structures. Many people get confused when they look at the combination of trust, partnership, company, and sole trader which may be used.

Once the size of the task is understood then the structures and the number and nature of entities required is reasonably easy to identify.

No changes should be made to ownership or structure without accounting, taxation and legal advice.

GUIDING PRINCIPLES FROM AN ACCOUNTANT

Succession is a complex and important issue for farm businesses. Succession planning involves the transfer of ownership and control of farming assets to the next generation charged with the responsibility of continuing the business. Each family situation is unique. Legal and accounting advice should be obtained to work through the succession process.

- communication is the key: the family might need to change in this regard
- there is a need for ongoing and flexible plans
- all family members need to be involved
- a knowledge of the current financial position (profit and loss) is needed.

There are four broad options for legal ownership and trading.

Sole trader

Advantages

- simple to set up and operate
- low cost to administer
- only answer to self
- can use primary production averaging system
- eligible for small business retirement exemptions.

Disadvantages

- personally liable for all debts of the business
- 100% of income is taxed in the hand of the sole trader
- business ceases on death.

Partnership
Advantages
- simple to set up and operate (have a partnership agreement)
- relatively low cost to administer
- can split income between partners
- potential to pay partner's salary
- partnership losses can generally be offset against other income
- can use primary production averaging system
- eligible for small business retirement exemptions.

Disadvantages
- partners are personally liable for business debts
- taxable income only split between partners
- partnership ceases on the death of a partner.

Company
Advantages
- can provide potential limited liability protection
- can employ shareholders and a director - potential for salary sacrifice into superannuation
- company structure continues after death of individual (shares dealt with in will)
- company tax rate of 30% (if individual marginal tax rates are higher)
- can allow for division of management and ownership of the entity.

Disadvantages
- more expensive and complex to establish, administer and wind up
- corporations law and ASIC need to be adhered to
- capital gains tax (CGT) small business retirement exemptions difficult to access
- capital gains discounts not available for sale of company assets
- losses must be carried forward
- shareholders and directors need to be careful when considering spending the company's money (Division 7A in Tax Act).

Family trusts

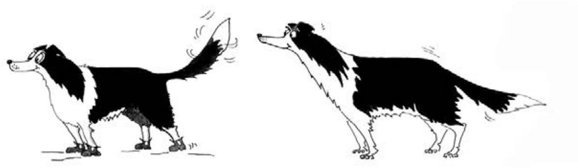
Advantages

- split income at the discretion of the trustee
- can distribute income to corporate beneficiary and use 30% company tax rate
- potential for limited liability if using a corporate trustee
- can employ family members - potential for salary sacrifice into superannuation
- potential asset protection against divorce
- beneficiaries can use primary production averaging
- can access CGT small business retirement exemptions
- family trust continues despite the death of individuals.

Disadvantages

- more costly and complex to establish and administer
- must refer to trust deed
- losses must be carried forward.

As the business becomes larger and more profitable there are often significant legal, asset protection, and taxation advantages to be gained by changing from sole trader and partnership entities to trusts and companies. However, as previously noted, companies have very limited access to capital gains tax relief, which must be taken into consideration. A more advanced business will usually hold different classes of assets in different legal entities so that land ownership and business operation are separate. Each business needs to obtain professional advice to cater for their individual requirements.



Small business retirement exemptions

Small business people can now access attractive capital gains tax concessions when selling assets like farm land. The small business retirement exemptions are an important component to consider that can reduce the taxation burden when selling land or transferring land to the next generation.

Four small business concessions apply. These are:

1. 15 year exemption (in relation to CGT)
2. 50% active asset reduction (in relation to CGT)
3. retirement concession
4. rollover relief.

Succession planning is an ongoing process which will, ideally, include input from your advisers and all family members. Aim to get the process started in order to ensure that your ultimate plans for passing the business to the next generation are smoothly met.

GUIDING PRINCIPLES FROM A LAWYER ACTING IN THE INTERESTS OF THE ASSET HOLDER

Create a plan

Ask family members for their views on how the plan should look. Ask this question but give no guidance as to your own thinking.

Write down all the essentials to the plan from your point of view: time table, phasing in and out, banking rearrangements, housing, income split etc.

Take the plan as far as you can by the vigorous exercise of common sense.

Start planning five years before any changes are likely to occur; review the planning at least every three years.

Take advice

First, consult your accountant for his general views.

Next, consult a solicitor who is well known to you or one who is well recommended to you. The checklist for this meeting should include:

- What is the correct structure for each asset? For example, at present a family discretionary trust is the ideal building block to hold farming land. Testamentary trusts and self-managed superannuation funds may also be appropriate recipients of assets.
- What is the best process for transferring your assets to the correct structures? Avoiding capital gains tax and stamp duty will be crucial. If these cannot be avoided then transfers by will is more likely).

- Check that your planning will not contravene the Inheritance Family Provision Act. This legislation gives remedies to dependent children and sometimes to other children where insufficient provision is made for them by will.
- Ensure that your will is up to date and that you have an Enduring Power of Attorney and/or Enduring Power of Guardianship.

Control

Control over assets or structures will need to pass the others at the time that is most beneficial to all and at a cost that is affordable. Your solicitor will be able to tell you which means of asset transfer or control transfer can be achieved for the least cost.

Communication within the family

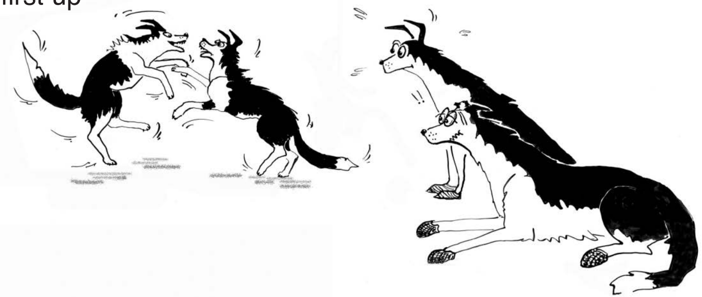
Some advisers recommend full and open communication at a series of family meetings. It is wise to have a communications consultant advising you or present at such meetings. Full family meetings can sometimes create problems. A preferable option might be for the parents to take the matter as far as they can and then for the parents to deal with each relevant child one by one. The purpose of the meeting with each child is to find out what they think is the best overall proposal for the parents to consider. The intention of this meeting is not for the parents to tell the child anything. The parent/s should *paint the picture* in the most encouraging colours possible. The children will need to be encouraged to give their view on what should or should not occur and it should be made very clear that they will not be penalised for saying something that the parents do not agree with. It is advisable to have an experienced communications consultant present if there is any risk of conflict.

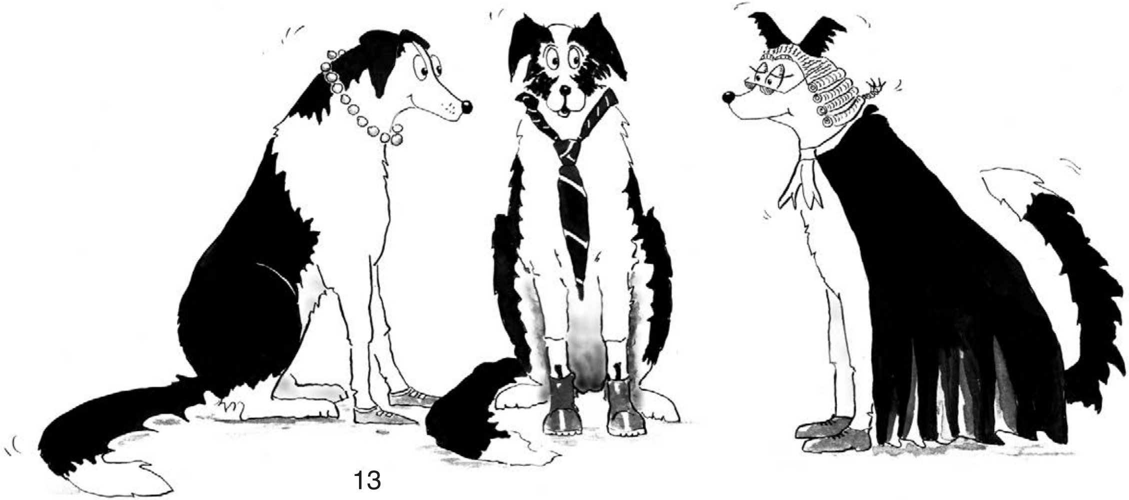
Things to avoid

It is vital that the succession plans do not produce jointly owned assets. Each child should receive (by transfer or by will) individual assets or individual entities which are not jointly owned with a sibling. Passing assets and entities (trusts, companies etc) to more than one child is likely to create numerous potential legal problems for those children in the future. The children can always agree to farm their assets together or with others. To force two or more children to share an asset can give rise to a range of legal problems which rarely have an inexpensive solution.

It is usually unhelpful (and sometimes catastrophic) for parents to make big promises to children before a properly evolved plan is prepared. To start promising a teenage son, for example, that 'one day you will own all of this' leads to false expectations regarding division of assets and the time of delivery, and will make any future planning extremely difficult if that child is to derive less than 'all of the farming assets'. There are likely to be very few exceptions to this. No promises should be made to any children - other than that they will be fairly dealt with - until the completed plan is ready for implementation. The best time to inform children of your intentions regarding transfer of the assets or entities is after all consultations and advice, when the plan is fully worked out and agreed to by the parents and their advisers.

Always look for advisers who are experienced in rural matters and who are practical and encouraging, and who can do so with either humour or without undue technicality. Never hesitate to seek the comment of a second or third adviser. The person who consults the 'wrong' adviser first up will save himself a small fortune by consulting a second or maybe even a third adviser to get someone with whom he is more comfortable. The most competent advisers can usually advise you in the simplest terms. Advisers who feel the need to take you into enormous technical detail are very often telling you the only thing that they know.





GUIDING PRINCIPLES FROM A LAWYER FROM THE PERSPECTIVE OF THE FARMING FAMILY

There are as many solutions to succession planning as there are farming families. Communication is the key. Farming families need to come together and discuss their goals and aspirations for themselves and for the farm business. Any solution must satisfy the needs of the older generation to feel ‘secure’ and also provide the next generation with motivation and a future.

A will is not a succession plan. Consideration must also be given to ownership of the assets and also the management and control of the business. This should include:

- a consideration of the current business structure and the alternatives to include the younger generation
- remuneration of those who ‘work’ in the business
- regular business meetings
- transfer of land (in stages if necessary) taking into account needs such as housing.

Some farms adequately support more than one family. Consideration needs to be given to ultimately transferring management and control to the younger generation by providing sufficient off-farm assets for the older generation to retire.

Farms that support only one family need to consider pension planning objectives: the social security five year rule; taking into account ‘foregone wages’; and the ‘granny flat’ provisions.

The law is a tool to assist families to achieve their objectives. If there are concerns which stand in the way of implementing family goals then these need to be addressed. For example:

1. A claim being made under the *Family Provisions Act* (or equivalent) by family members in or outside the business.

Consider the possibility of early inheritance, deeds of release, transfer prior to death.

OR

2. The risk of a family law dispute within the farming business.

Consider the possibility of a binding financial agreement or ‘clawback’ provisions contained in the transfer documentation.

Road test the will. If you died tomorrow, what would happen? Consider the role of life insurance.

What are the tax implications? What are the costs (stamp duty, bank and legal costs)? This should not be a ‘road block’. Don’t be ‘penny wise, pound foolish’.

Document the proposal and the decisions made.

Review regularly.

A solicitor can act for the whole family on the condition that if there was a conflict of interest (or if they wished), family members could obtain independent legal advice.

GUIDING PRINCIPLES FROM A FINANCIAL PLANNER

Start planning now

Most difficulties in succession planning can be summed up in the fact that the ‘money bag’ is not big enough to fund all family members. The more that is in the ‘bag’ the more options you have.

Identify your goals -

What does that mean?

Visualise your future, as you would like it to be.

Older generation

- When do you want to retire and what do you think you will need to live on?
- When do you want to hand over management of the farm?
- When do you want to hand over ownership of the farm?
- Where do you want to live when you retire?
    - On the farm?
    - In the local town (to be close to the farm and children/grandchildren)?
    - In a nearby larger town (for the supply of services such as medical/health)?
    - On the coast?
- What will you do when retired?
    - Will you travel to the farm to help? If so, how often?
    - Will you travel Australia/overseas? If so, how often?
- What do you want to leave the farming children?
- What do you want to do for the non-farming children?
- Do you want any debt in retirement?
- What is your estate plan?

Younger generation

- Is farming what you really want to do?
- Can you work with your siblings? Would you choose to?
- Have you been appropriately remunerated for the work you have done on the farm?
- Can the farm cater for expected expenses such as school fees, holidays, etc

Establish your current position

- What assets (market value) do you own?
- Who owns them (what structures)?
- What are farm assets? What are not (for example AWB shares)?

Identify strategies with advisers

Identify strategies with advisers in order to develop a documented action plan and achieve your goals.

The facilitator - to help you set the vision - particularly if the children are older/grown up, you will need to take into account their vision.

The accountant - to help you determine your current position and structures. The accountant helps you to consider all possible strategies in relation to current taxation laws. Accountants can assist with planning funding for the successful execution of your vision, making sure that the farm is not unsustainable in the future. The accountant should also consider not just the best structure for today, but also the best structure for the future.

The financial planner - to help you determine the costing of your vision and other strategies to do with superannuation and investments.

The solicitor - to be involved in what is and is not possible legally (in terms of anything you do today and also anything you do in your estate plan).

All of these parties will give advice. With their advice and support you can devise a plan that helps you reach your vision and gives you peace of mind.

Review, and review again

Nothing stays the same - review your plan against changes in your life.

GUIDING PRINCIPLES FROM A FACILITATOR

Why use a facilitator?

- Often the advisers to a business are closely aligned with the current operators.
- A facilitator provides independence, objectivity and control.
- It might be difficult for a family member to facilitate a succession meeting as they are a stakeholder and a family member, with their own views and opinions.

How do you choose a facilitator?

- You need to feel comfortable with their experience/endorsement.
- You need to feel that they will create a safe environment which enables openness and effective communication.
- The facilitator needs to have indemnity insurance.
- The facilitator needs to have professional and clinical support.

Who comes to the meeting?

- All stakeholders should attend the meeting. All family members are potential stakeholders in the estate and are therefore impacted by succession decisions in the business. In-laws and long term partners living and/or working on the farm are also stakeholders.
- The risks of not including all family members need to be understood.
- The accountant of the business is a valuable addition to the meeting for the provision of taxation and business structure advice, and for the purpose of generating options.

Where is the meeting held?

- Preferably in a neutral place, off-farm where there are no distractions.
- External catering is important.

How long does the meeting take?

- It is usual for a meeting to last 6 to 8 hours
- It is important to understand that a meeting is one part of a complex process. Another meeting may be required; it might take a considerable amount of time for decisions to be implemented.

What should be achieved?

- Clarification of every stakeholder's goals.
- An opportunity to reach agreement and to take the next step.

Points to remember

- Compromise is important.
- Each family's position is different
  and therefore each outcome will be different.

GUIDING PRINCIPLES FROM A GENERATION CONSULTANT

Understanding the impact of the generations on communication and succession

Fundamental value differences exist between different generations. It isn't necessary to agree with the values of different generations, but it is essential to understand the difference and to be aware of how each group sees the world based on their experiences. While it is important to recognise many dimensions of diversity, such as race, sex, sexual orientation, geographic location, etc., we can generalise many values based on generations.

Veterans pre 1946

Veterans are private people often referred to as the 'silent generation'. Members of this generation cannot be expected to share their thoughts immediately. They believe that 'your word is your bond'. They prefer face-to-face or written communication and do not appreciate others wasting their time.

Baby boomers 1946 - 1964

The baby boomers are the 'show me' generation, so body language is important in the communication process. It is important to speak in an open, direct style and avoid language that articulates control when communicating with baby boomers. Always answer questions thoroughly and expect to be quizzed for the details. Present options to demonstrate flexibility in your thinking.

Gen X 1965 - 1977

Gen X-ers use email as a primary communication tool and accept direction in short directives: they do not enjoy long explanations. Always ask them for their feedback and provide them with regular feedback in turn. They like to be included and kept 'in the loop', so share information with them on a regular basis. They prefer a relaxed, informal style of communication.

Gen Y 1978 - 1994
Gen Y-ers use electronic forms of communication, so utilise the email network. When speaking with them, use language that paints pictures. They like to be challenged. They resent being talked down to (as do most generations). Give and receive their frequent feedback. They have a sense of fun and appreciate humour and an interesting and interactive learning environment. They have a great team spirit and enjoy socialising with colleagues.

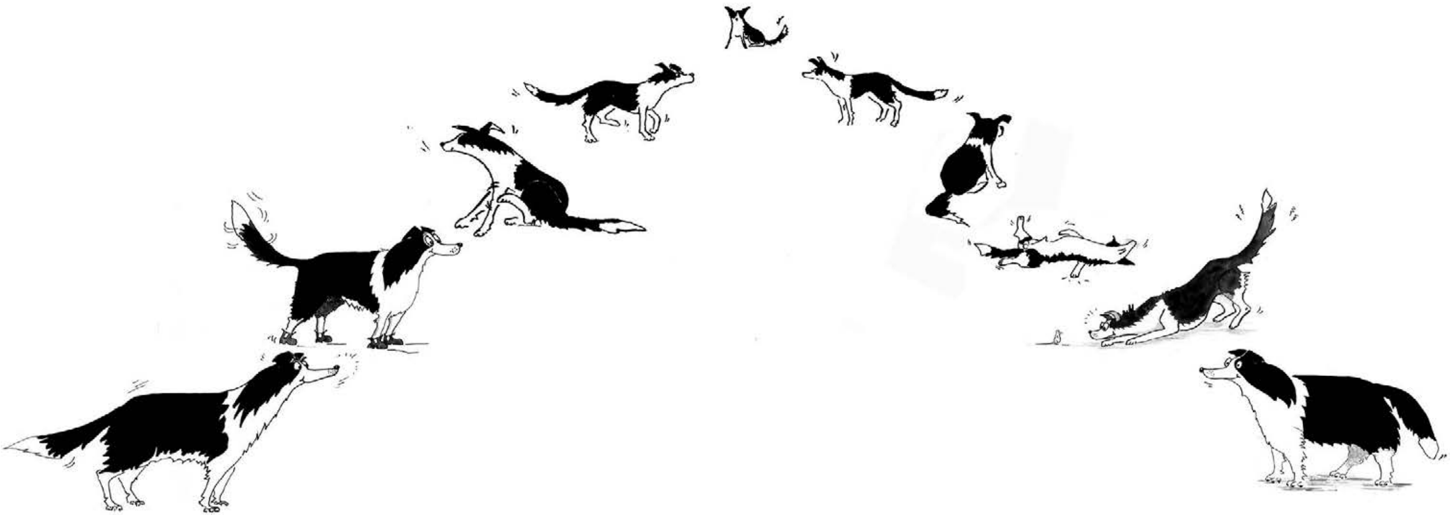
Points to remember when dealing with different generations

- differing work ethics
- different perspectives on work
- distinct and preferred ways of managing
- unique ways of viewing quality
- different priorities that effect how and when they show up for work.

	Attitude
Veterans	Work First!
Boomers	Live to Work!
Generation X	Work to Live!
Generation Y	Live, then Work!

Understanding contrasting views

	Veterans	Baby Boomer	Generation X	Generation Y
Education & qualifications	Least studied, least understood generation	Shaped the youth culture of the 1960's and 1970's	Most educated generation	Very techno-literate, most ethnically diverse
Business role	Are firm leaders, empty nesters with decent incomes and growing leisure time	Primary leaders, looking toward retirement	Senior staff and middle management	The workforce of tomorrow
Career	First generation of women to move into the workforce at significant rates	Work long hours, children home alone; women into management roles	Committed to being available to their families and work/life balance	Expect to change jobs frequently
Lifestyle	Place importance in human relations: many are involved in cultural and societal issues, age not a barrier	Risk takers, value creativity, adventure, independence, may be permissive	Cynical, sensitive to hype and politics; Enjoy music, problem solving, flexibility and independence; value teamwork, friends, and are not intimidated by authority	Team players, strong sense of fairness and ethics, respond to humour, direct language, easily bored; respect earned not positional



Part two

2

CASE STUDIES

Sustaining families and farms

PART TWO: CASE STUDIES

The authors have had the privileged opportunity to share time with many families as they face the challenge of succession planning. No one of those families are reflected here. Elements of many have found their way to these pages.

For the generosity of all those families spanning over twenty years - thank you.

We hope this publication will help many others.

Each case study consists of:

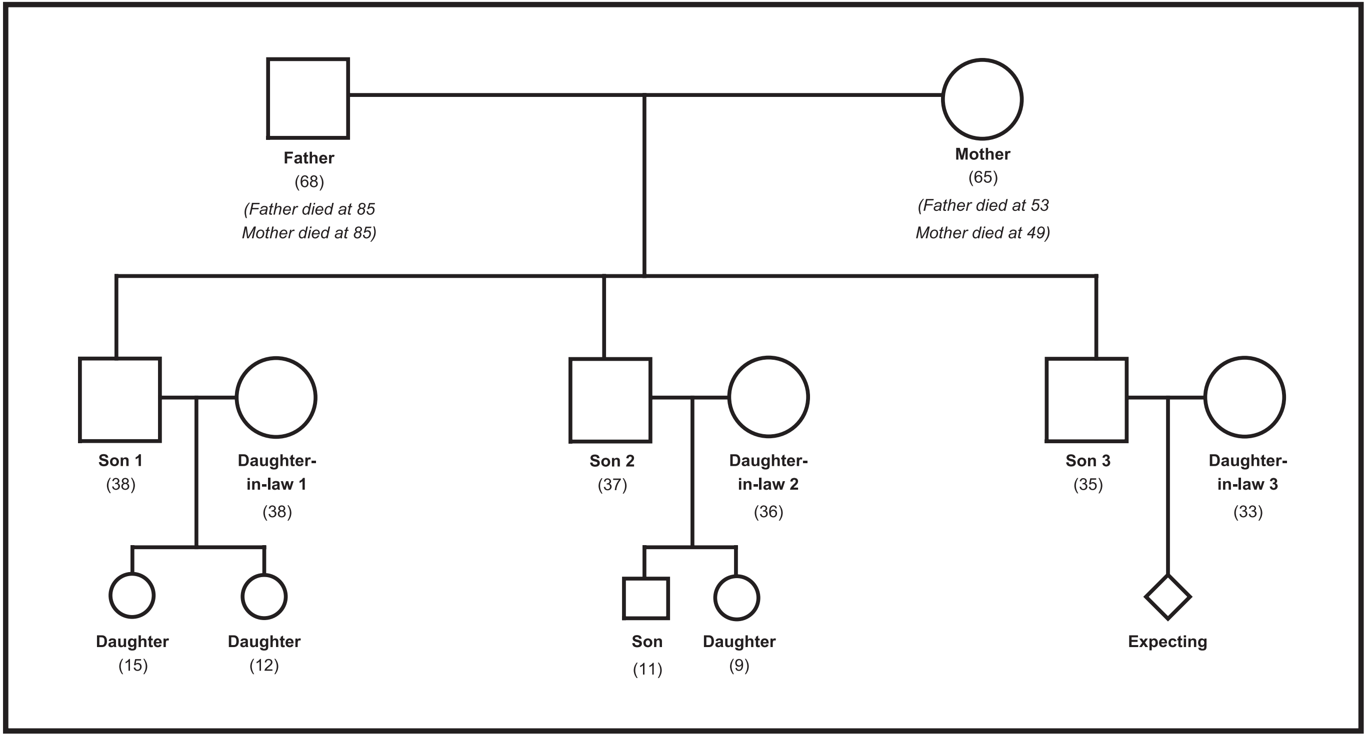
- an explanation of why the family have come together
- a genogram which is a diagrammatic representation of the family
- a list of assets and liabilities to give a picture of the business and enterprises
- agreements made by the family
- comments from each family member depicting their feelings or thoughts at the end of the meeting.

The agreements are those agreed to by families at family meetings. They reflect a range of views in relation to equity, viability and fairness. They do not necessarily reflect the views of the authors or any of the experts who have contributed to this publication. These case studies are designed to encourage families to think about options. It is not meant to provide solutions or 'recipes'.

A Genogram is a tool utilised to provide information on a family and its relationships.

○	Circles are women
□	Squares are men
—	A line joining a circle and square indicates union like marriage
- - -	Broken line indicates a partner or not married
//	through the line indicates divorce or separation
✕	through a circle or square indicates someone who has died

Case study one - unhappy daughter-in-law



This family came together as a result of increased conflict between those working on the farm and the plan not progressing. Daughter-in-law 3 is expecting their first child, and is not prepared to remain on the farm if the conflict is not resolved and a long term plan for security established. Sons 1 and 2 have been supported through tertiary education; they have not worked on the farm since completing their education.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	1400	$1,500,000
Block 2	1255	$1,000,000
Block 3	1620	$800,000
Block 4	200	$250,000
Operational		
Sheep		$300,000
Cattle		$130,000
Plant		$350,000
Grain		$130,000
Off-farm		
Investments		$900,000
Total assets		**$5,360,000**
Liabilities		
Bank 1		$600,000
Bank 2		$400,000
Family loans		$200,000
Total liabilities		**$1,200,000**
Nett		**$4,160,000**

Structure

- family trust
- trading as a company. (as trustee for the trust)
- beneficiaries - all family members, as decided by the trustee.

Agreements

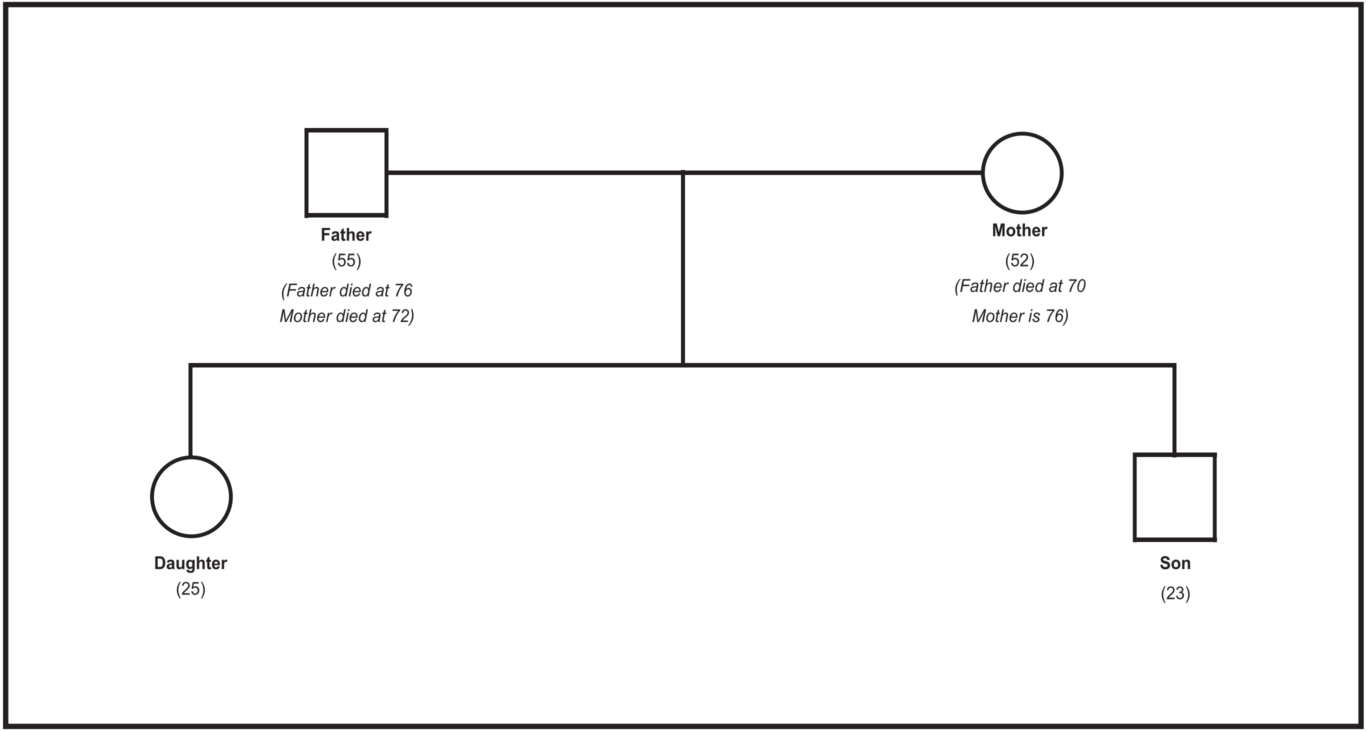
In the parents' estate equality is not possible. It was agreed:

- to give the farming child 50%, others 25% each
- to transfer blocks 1 and 4 (secured by second mortgage to parents - amount agreed) to son 3
- in the event of land sale by son 3, a loan will be used to establish equity to other sons
- block 3 also to be transferred to son 3 with a mortgage of two thirds the value to be paid within an agreed time to parents at agreed interest rates
- block 2 remain with parents and leased to son 3 at 5% of the market value. This land to be distributed in the parents' wills to son 1 and 2 with all other assets
- to guarantee full market valuation to ensure the best cost base for CGT moving forward
- son 3 to buy plant and equipment from parents interest free loan to be forgiven in the will.

Family Member	Comment
Son 1	Good, positive going forward.
Son 2	Relieved and satisfied. Pleased accountant will drive process.
Son 3	Relieved nervous about moving forward.
Mother	Pleased family happy.
Father	Satisfied glad it is done and the family are happy.

The accountant is to chase each stage, and the agreement is to be completed no later than end of the current financial year.

Case study two - father feeling over-committed



The family came together as the father was feeling over committed with the cropping program and an employment commitment elsewhere. The son has been involved with the business since leaving school and is also working for a producer locally. The daughter has completed high school, has been supported through tertiary education, and is now in permanent employment. The mother has always worked off-farm.

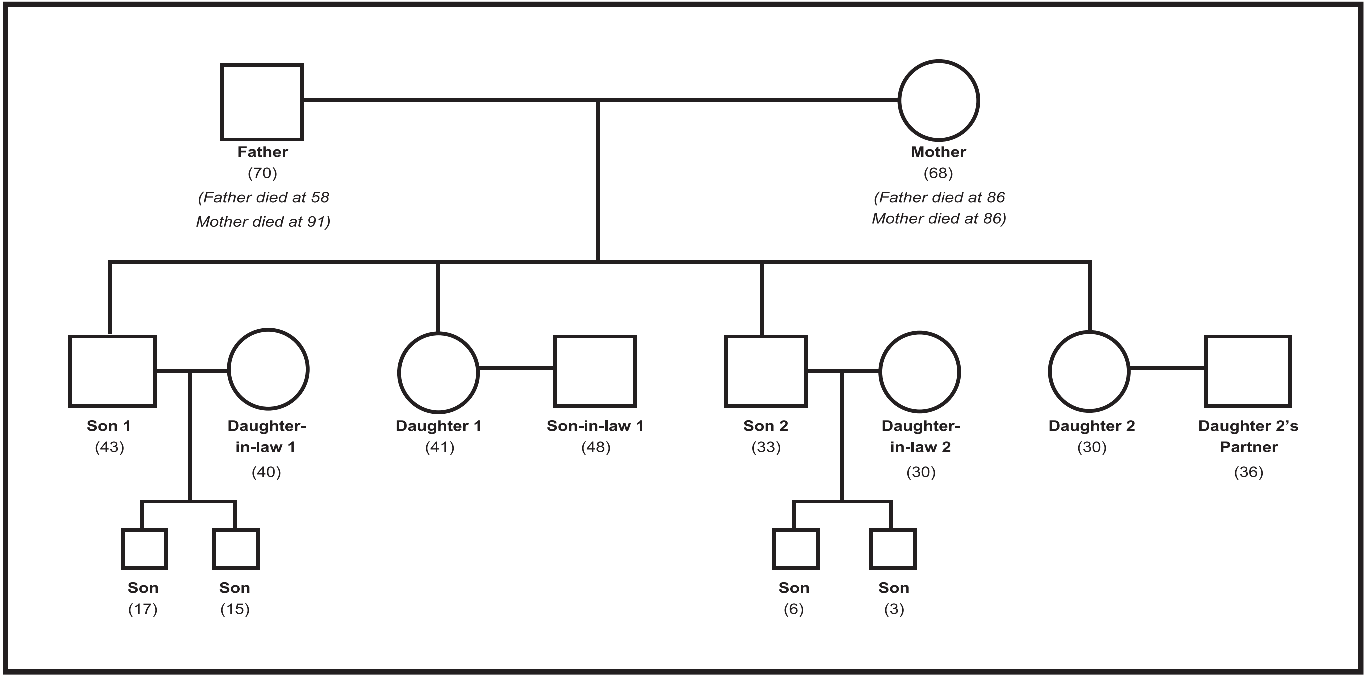
Assets & liabilities			
Land	**Hectares**	**Value July 2003 Figues**	**Current Values**
Block 1	236	$590,000	$825,000
Block 2	240	$715,000	$1,080,000
Block 3	160	$160,000	$200,000
Block 4	60	$145,000	$276,000
Lease Block	200	Leased from Mother's family - to be inherited by Mother	
Operational			
Livestock		$120,000	
Wool		$30,000	
Grain Pools		$70,000	
Plant		$500,000	
Off-farm			
House		$170,000	
Superannuation		$350,000	
Investments		$150,000	
Total assets		$3,000,000	
Liabilities			
Plant		$300,000	
Overdraft		$100,000	
Loan		$150,000	
Total liabilities		$550,000	
Nett		$2,450,000	

Agreements

- The trading entity is worth $300,000.
- The son's wages had been short $20,000 a year for the last 2 years.
- The son will take over the machinery and the loan. The parents will sell the son the machinery for the amount of the debt
- Parents will gift the son $100,000 of which $40,000 is made up of unpaid wages, so the actual gift is $60,000
- The daughter to be given a gift of $60,000. She has already received $20,000 as a house deposit. To equate the outstanding $40,000 the son will pay his sister $20,000 per year for the next two years
- The son to share-farm the land and pay 70% of the costs, receive 70% of the income. Parents to pay 30% of the costs, receive 30% of the income
- The father will continue to manage the stock in the business, and help out when necessary. This allows him also to pursue new career interests
- If both parents die, the farming assets (of approx $2,000,000) will go to the son. The non-farming assets, which include house, shares, superannuation and insurance policies, will go to the daughter, with a value of approximately $1,200,000
- The family agreed to review the arrangements in 5 years, with meetings every 12 months.

Family Member	Comment
Daughter	Good to be clear.
Son	I now know what I am doing.
Mother	We have made steps in the right direction.
Father	Good to move my son part way into the business.

Case study three - generational conflict



The family came together as a result of the poor working relationship between the father and sons. Son 1 had been working in the business for twice as long as son 2. The mother was concerned about the health of one of her sons. There was a desire by the parents to separate and secure farm assets from potential legal attack from non-farming family members. Daughter 2 currently estranged from the family and not present at the meeting. The children's education opportunities had varied. Both off-farm children have been given assistance to buy real estate.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	260	$585,000
Block 2	220	$566,500
Block 3	320	$1,400,000
Block 4	320	$1,400,000
Block 5	560	$2,450,000
Operational		
Livestock		$120,000
Wool		$30,000
Grain Pools		$70,000
Plant		$500,000
Off-farm		
House		$170,000
Superannuation		$350,000
Investments		$150,000
Total assets		**$7,791,500**
Liabilities		
Plant		$300,000
Overdraft		$100,000
Loan		$150,000
Total liabilities		**$550,000**
Nett		**$7,241,500**

Agreements

All agreed to separate the farming operation, splitting the stock and plant equally between the two sons, accepting that they will lose the advantage of scale.

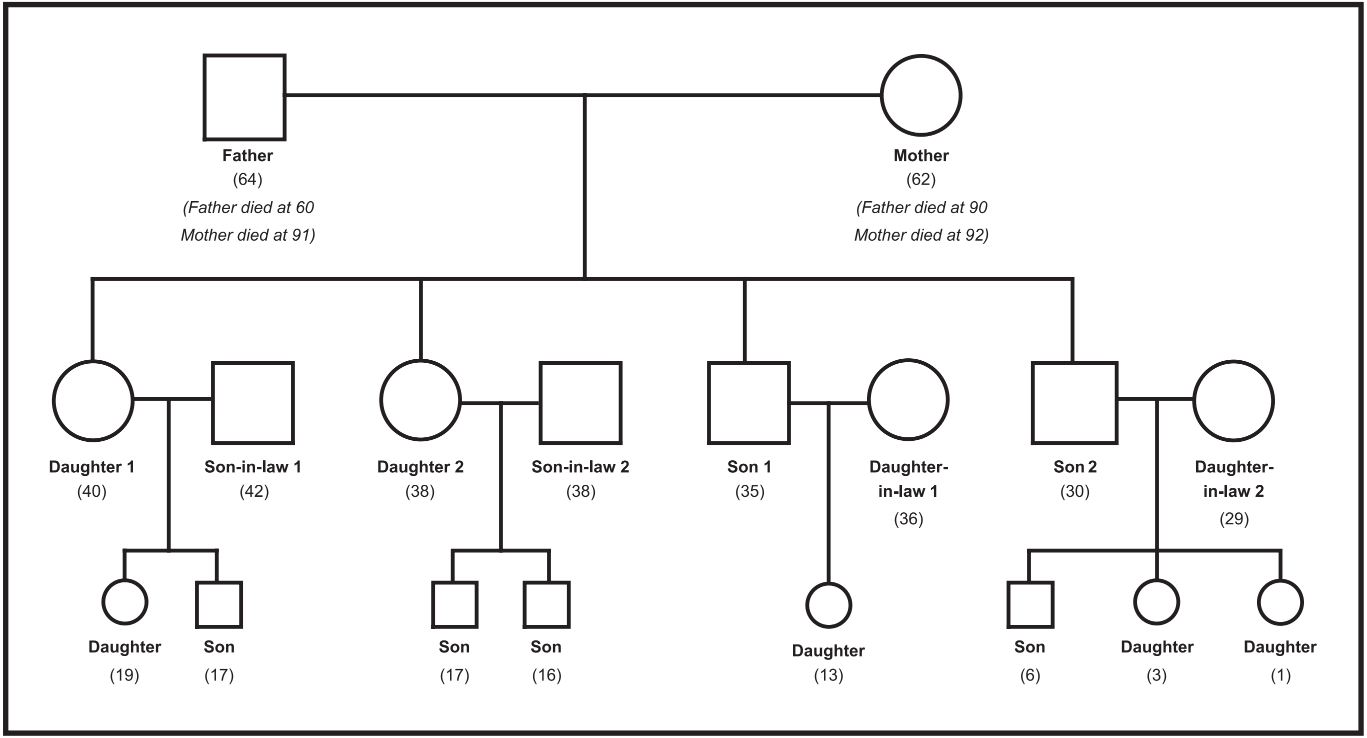
The amount of the debt owed to son 1 for unpaid wages was agreed upon. The land portions were decided:

- son 1 receives blocks 1 and 2
- son 2 receives blocks 3 and 4
- block 2 (understanding that it may be sold by its new owner)
- block 5 to remain in parent's ownership to be distributed in wills
- son 1 is to retain his current home in the town
- investment land is to be developed - corner block for son 2
- agreed inequities in division of blocks would be offset by debt
- water licences remain with the land.

Sons 1 and 2 to pay an annual figure to the parents: the amount was agreed and payment will be made in cash or in-kind. Daughters to inherit in the wills.

Family Member	Comment
Daughter 1	Surprised the way it has split - a good resolution.
Son 1	Timing was right, glad sister present, glad to be independent.
Daughter-in-law 1	Achieved great resolution, fantastic effort from everyone.
Son 2	Thank everyone for getting where we have, thanks Mum and Dad for generosity, hope we can make a go of it.
Daughter-in-law 2	Happy with what is agreed, need to do the budgets to plan our way forward.
Mother	Very positive, relieved everyone is happy.
Father	Congratulations to eldest son on his generosity - delighted with the boy's acceptance, Thanks everyone.

Case study four - parents ready to retire and move



This family came together as a result of the parents' desire to move. Son 2 had worked in their business for approximately 16 years. Other members have worked for short periods from time to time, always being paid for their efforts. All family members have experienced the same levels of education and been afforded similar opportunities to pursue their own interests.

Assets & liabilities			
Land	**Hectares**	**Price per Ha**	**Value**
Block 1	800	$8,750	$7,000,000
Block 2	400	$8,750	$3,500,000
Block 3	290	$4,828	$1,400,000
Operational			
Sheep			$150,000
Cattle			$100,000
Plant			$700,000
Off-farm			
Superannuation			$605,000
Investments			$100,000
Family company			$600,000
Beach house			$400,000
House			$400,000
House block			$300,000
Total assets			**$15,255,000**
Liabilities			
Hire purchase			$300,000
Bank			$5,000,000
Total liabilities			**$5,300,000**
Nett			**$9,955,000**

Agreements

***Son 2 and daughter-in-law*:**

- immediate transfer of management
- 55% of block 1 to be transferred to son - with sunset clause for 10 years (i.e. if the son sells within the first 10 years of transfer he will only receive a portion of the return. Only after 10 years will he receive the entire sale price)
- the balance of 45% to be leased from the parents at commercial interest rate.

***Off-farm children*:**

- daughter 1 to receive $400,000 house plus $100,000 by the end of financial year
- daughter 2 to receive $300,000 house block plus $200,000 by the end of financial year
- son 1 to receive $500,000 by the end of financial year
- beneficiaries of the wills to be the daughters only.

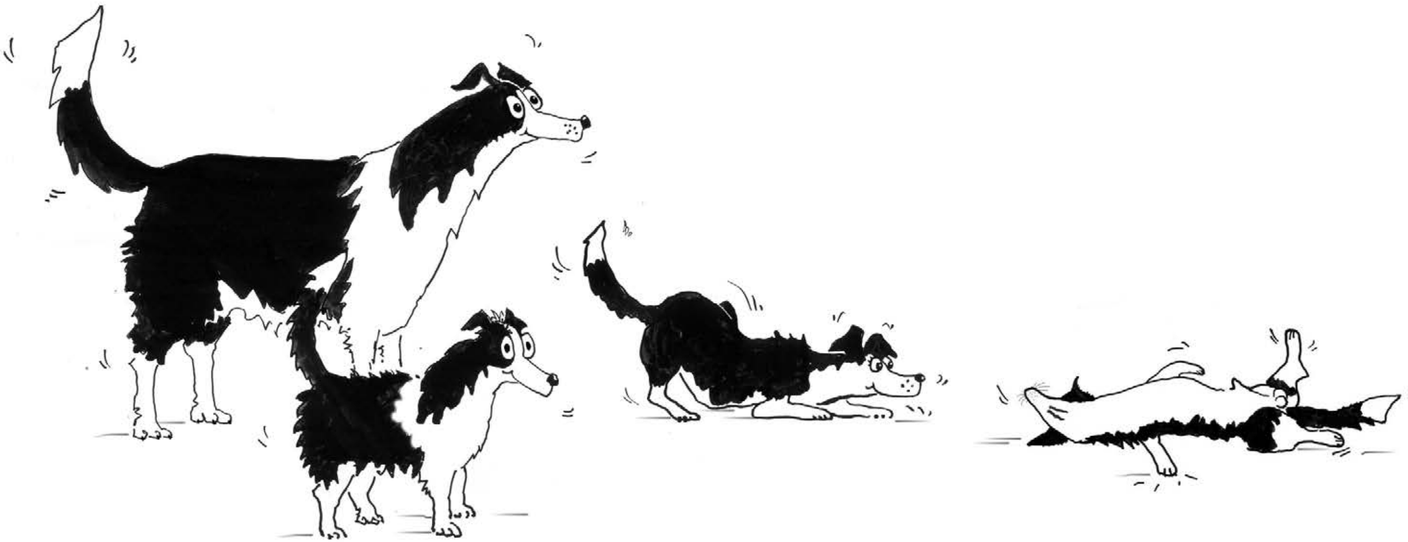
***Parents*:**

- 45% of block one to remain in parents' name (to be leased at commercial rate to son 2)
- beach house
- remainder of investments (son 1 and daughters' inheritance).

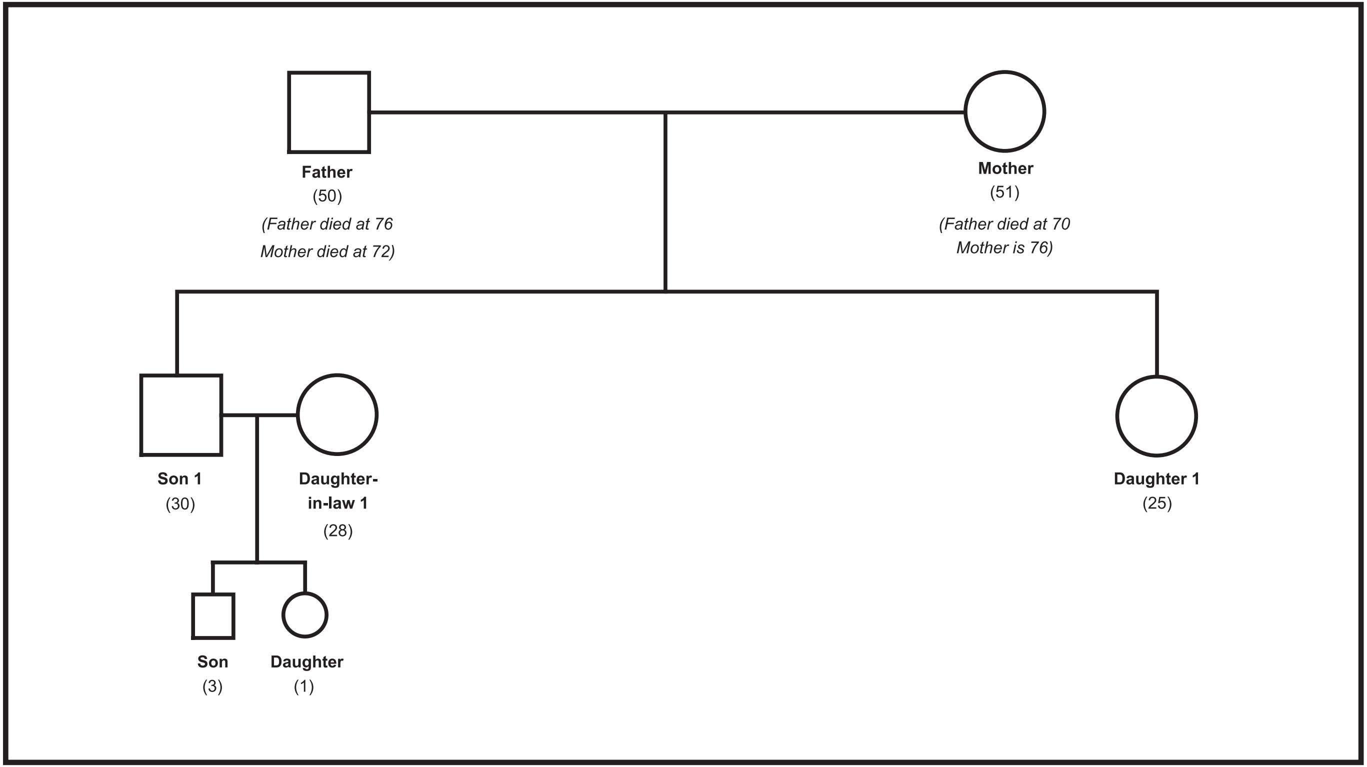
Blocks 2 and 3 are to be sold to reduce debt and make funds available to off-farm children.

If son 2 wishes to purchase the remaining 45% of block one, it is to be at market value, whether it be from his parents or from his siblings (who will inherit it through the estate). The same 10 year sunset clause applies to the off-farm children as to son 2.

Family Member	Comment
Daughter 1	Great outcome, very creative.
Son-in-law 1	Positive: everyone wins.
Daughter 2	Fantastic outcome, great that parents are cared for.
Son-in-law 2	Good process, impressed.
Son 1	Thankyou Mum and Dad, overwhelmed and appreciative.
Daughter-in-law 1	Constructive, generosity beyond belief.
Son 2	The feeling of freedom is wonderful. Congratulations Dad for sticking with it during the tough times.
Daughter-in-law 2	Best as it can be for everyone.
Mother	Congratulations husband, my family are happy - I am happy.
Father	Relief, thank advisers for their help.



Case study five - discomfort about debt



This family came together as a result of conflict: the father and the children wanted to increase borrowings for a new enterprise. The mother was reluctant to do so, and was concerned about asset protection in case of death, divorce, or dementia.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	320	$1,200,000
Block 2	500	$1,200,000
Operational	**Head**	
Cattle	180	$50,000
Pigs	300	$300,000
Plant		$400,000
Off-farm		
Shares		$330,000
FMD		$220,000
Cash		$300,000
Block		$100,000
House 1		$300,000
House 2		$350,000
Total assets		**$4,750,000**
Liabilities		
Bank (overdraft)		$70,000
Bank 1		$1,200,000
Personal debt		$300,000
Total liabilities		**$1,570,000**
Nett		**$3,180,000**

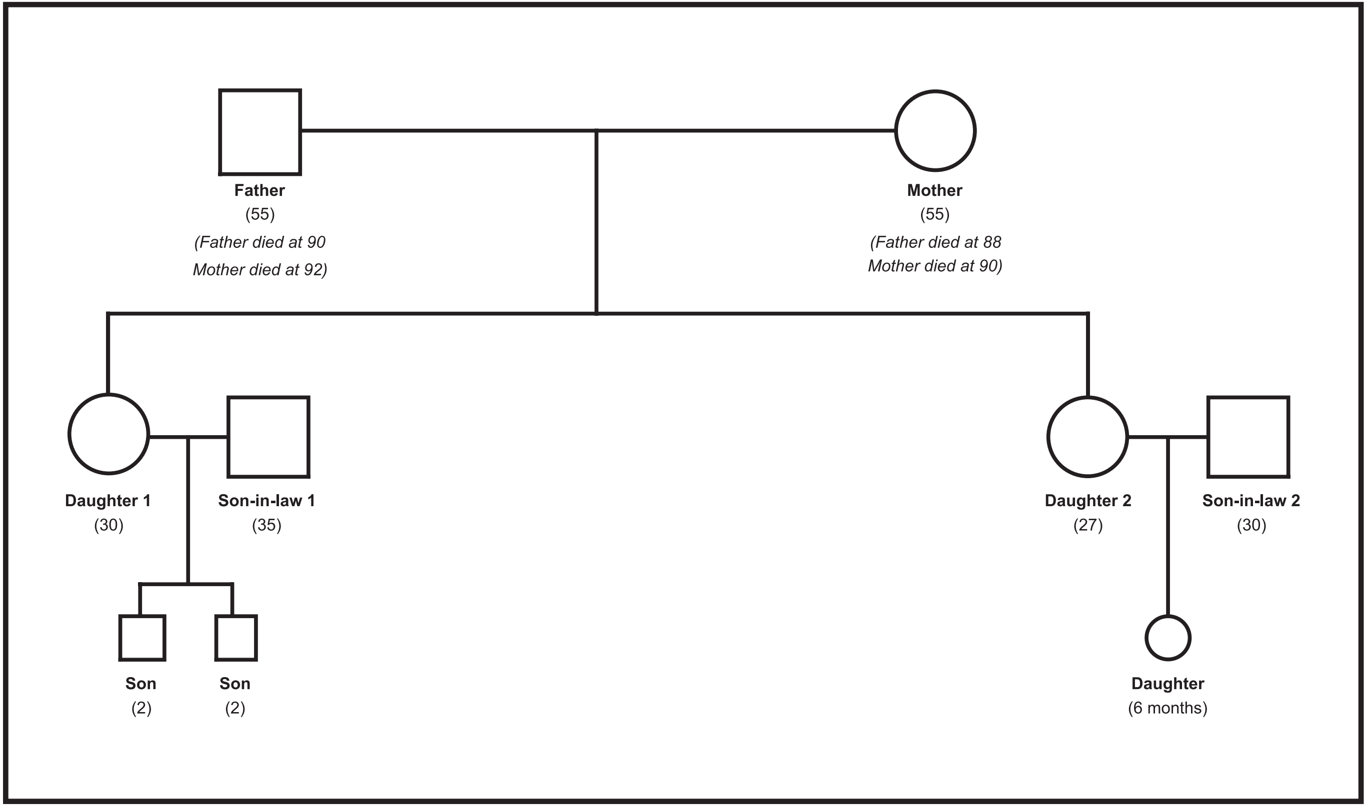
Agreements

The following agreements were reached:

- separate the mother's assets from the farm business
- the mother's needs are a debt free home and $1,500,000 in superannuation
- establish a self managed super fund
- keep house 1
- sell house 2 and town block of land
- cash in the farm management deposits in manageable chunks, thus maximising tax benefits
- the farming business is to lease the land at 4% of actual value
- wills, power of attorney and life insurances to be reviewed
- land to be transferred to children in approximately 2 years, restructuring of trusts to be reviewed.

Family Member	Comment
Daughter	Good plan - very excited.
Son	I think it will work, look forward to us all getting on better.
Daughter-in-law	Happy appreciate everyone's honesty.
Mother	Good to see everyone happy. Hope there will be no repercussions.
Father	I think it is a good plan if we all pull together.

Case study six - drought and wanting to sell



Family came together as a result of drought. The parents had decided to sell, and when they informed the daughters, one daughter requested that they sell to her.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	1600	$1,000,000
Block 2	800	$500,000
Operational	**Head**	
Cattle	80	$50,000
Plant		$100,000
Off-farm		
Superannuation		$800,000
Shares		$200,000
Cash		$200,000
House 1		$250,000
House 2		$200,000
Total assets		**$3,300,000**
Liabilities		**$0**
Total liabilities		**$0**
Nett		**$3,300,000**

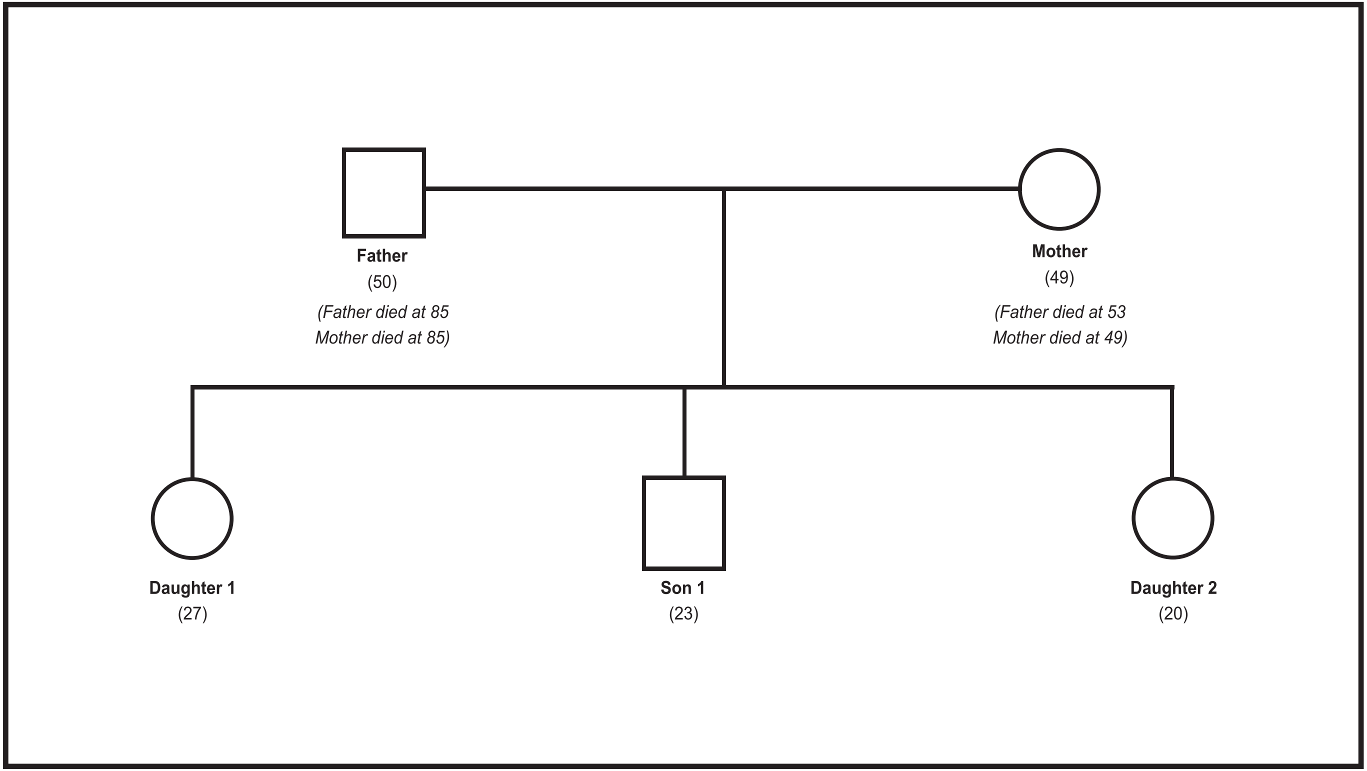
Agreements

The agreements that were reached were:

- parents sell the trading entity to daughter 1 and son-in-law 1 for $100,000 ($50,000 less than its actual value)
- daughter 2 receive a gift of $50,000 as a deposit for real estate
- the land to be transferred to daughter 1: receive block 1 with a debt to half its value
- Block 2 to go to daughter 2 with no debt (as it is half the value of block 1) within a 2 year time frame
- binding financial agreements be put in place for daughters and their partners
- daughter 2 to lease land to daughter 1. A lease agreement to be drawn up including buy and sell options
- all parties agree to seek advice regarding structures.

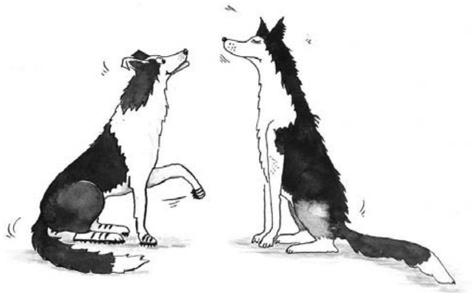
Family Member	Comment
Daughter 1	Very appreciative of Mum and Dad's generosity. Excited.
Son-in-law 1	Productive day, looking forward to the future.
Daughter 2	Surprised by the outcomes and happy.
Son-in-law 2	Good, thankyou.
Mother	Pleased every one is happy.
Father	Excited about the prospect of the new generation, pleased not to be selling.

Case study seven - poor family history



This particular family came together as a result of attending a succession planning workshop. In previous generations their family history had not been good. The parents decided to have a family meeting to plan a path forward, in order to avoid mistakes of the past.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	485	$1,400,000
Block 2	1020	$3,000,000
Block 3	350	$1,000,000
Operational		
Sheep	12000	$720,000
Cattle	1200	$950,000
Plant		$100,000
Hay and Silage		$50,000
Off-farm		
Investments - Mother		$200,000
Investments - Father		$50,000
Total assets		**$7,470,000**
Liabilities		
Bank overdraft		$200,000
Machinery		$25,000
Total liabilities		**$225,000**
Nett		**$7,245,000**

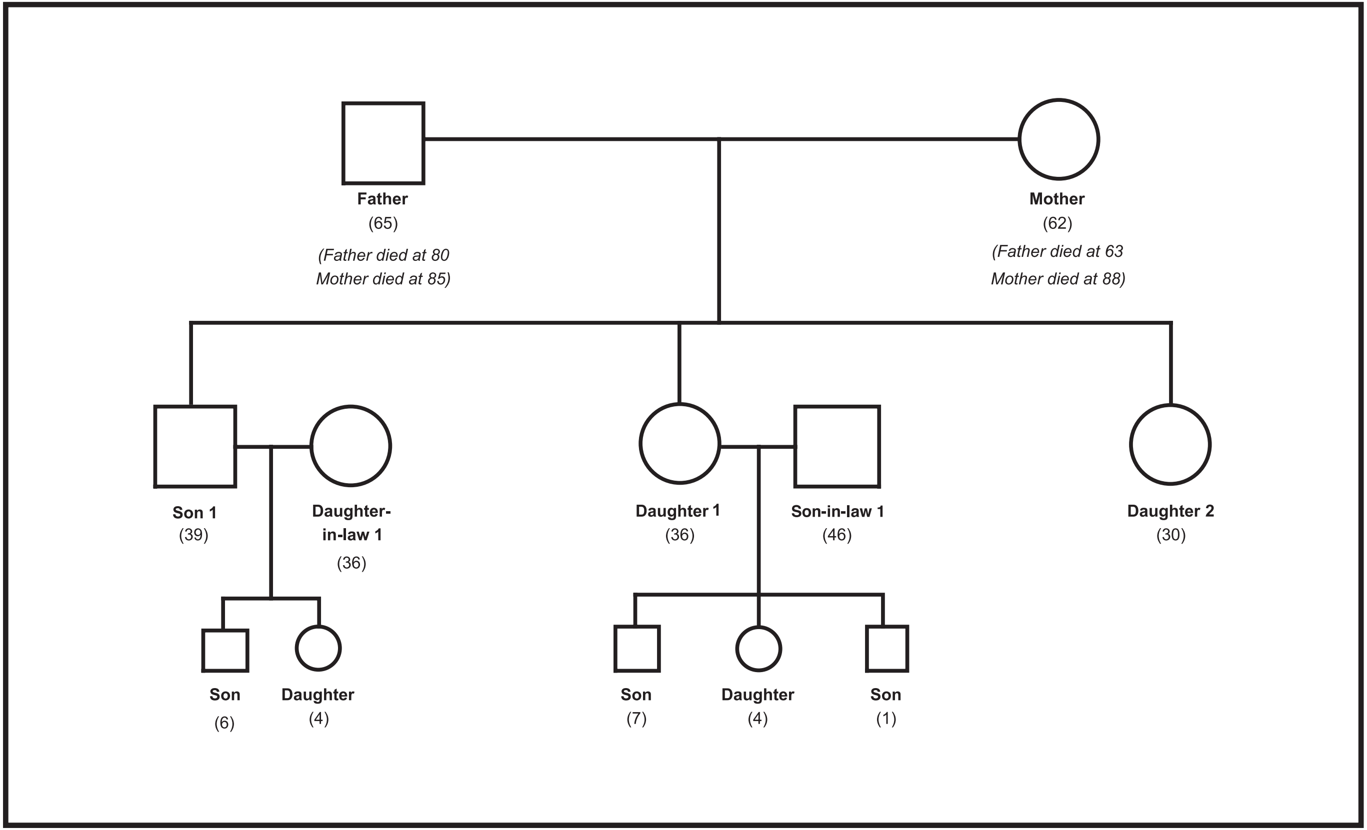


Agreements

- the differences in education costs to be equalised
- daughter 2 to receive livestock to address her shortfall as she was keen to enter the partnership. She would also use an inheritance (from grandparent) to buy a share in the livestock partnership
- parents be fully self supporting in ten years
- self managed super-fund to be established
- anyone returning to the farm in the next 5 years will be an employee
- anyone wanting to return to the family business requires four years external experience
- the family will meet in three years, unless anyone wishes to present a proposal
- Daughter 1 and son 1 to continue with their off farm careers.

Family Member	Comment
Daughter 1	Happy Mum and Dad are planning for the future, Thanks everyone for their honesty.
Daughter 2	Very worthwhile.
Son 1	Pretty happy with how the day worked out.
Mother	Thankyou to everyone. Excellent open discussion.
Father	Great start to a process that will provide flexibility for some and security for others. Thankyou to everyone, very proud of the family and their fabulous participation.

Case study eight - parents to retire



This family came together as a result of the parents wanting to retire and move off the farm.

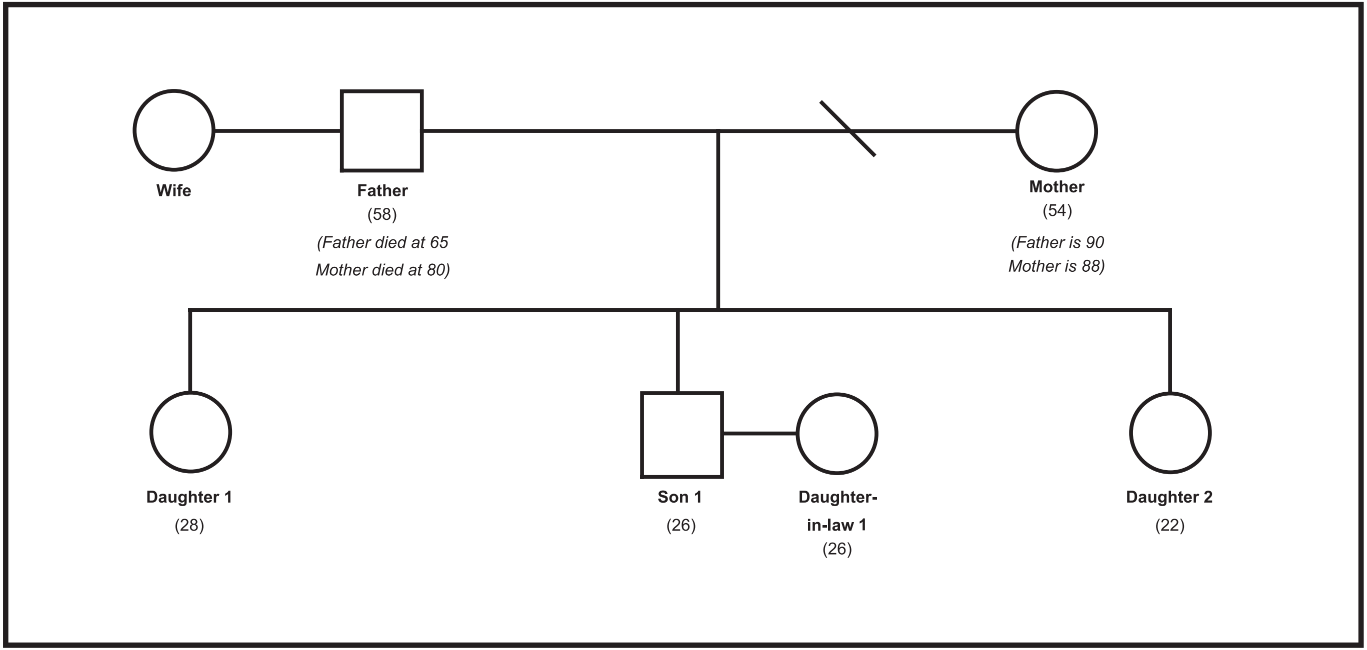
Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	800	$2,000,000
Block 2	90	$200,000
Block 3	120	$300,000
Operational		
Sheep		$75,000
Cattle		$250,000
Plant		$56,000
Off-farm		
Superannuation		$330,000
Investments		$1,000,000
Total assets		**$4,211,000**
Liabilities		
Bank overdraft		$100,000
Total liabilities		**$100,000**
Nett		**$4,111,000**

Agreements

- son is owed by the partnership for half time wages. He will receive block 2 as payment
- block 1 is to be transferred to the son with a sunset clause: if he sells in the first year each daughter will receive $500,000; in the second year the daughters will receive $450,000 each; in the third year $400,000 etc. By the eleventh year nothing will be paid to the daughters if the son sells the land. An exception to the clause will be if the son becomes disabled or deceased
- block 3 is to be purchased by the son and daughter-in-law for $300,000 (borrowed), $200,000 to the parents, and $50,000 to each daughter
- the son to join the trading partnership at 25% from the beginning of the financial year, and will take over 100% of the partnership in following year
- daughters 1 and 2 will receive their parents' investments as inheritance
- parents to purchase a town property
- investigate rolling parents' investment portfolio into superannuation with their financial planner in order to fund their living expenses.

Family Member	Comment
Son 1	Really happy, have been worried but it is okay now.
Daughter-in-law 1	Much better outcome than I expected.
Daughter 1	Really happy with the discussions and with the decisions that we have made.
Son-in-law 1	Perfectly happy and glad that everyone has got what they wanted.
Daughter 2	Really happy with they way things have turned out and pleasantly surprised with what we have.
Mother	Glad every one is happy and feel we have gone a long way today.
Father	Happy with the whole situation. Thankyou to all, it has changed my outlook on life.

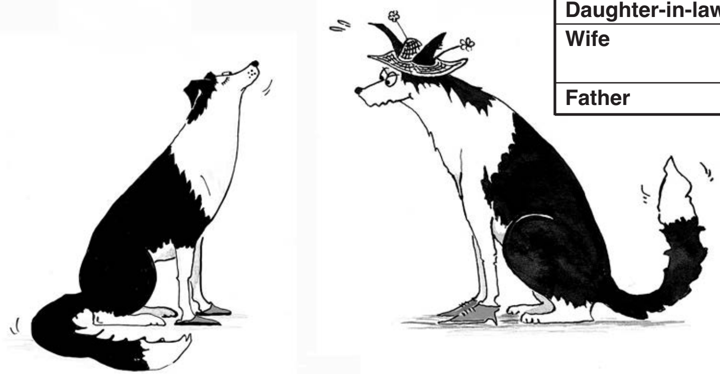
Case study nine - concern over father's new wife



In this case the family came together as a result of the son and daughter-in-law, who run the family farm, expressing concern regarding siblings and the father's new wife, should the father die. The parents' divorce had divided family and assets, and the son was estranged from his mother. The son has a half share in the land. Due to the increase in land value he would be unable to buy the other half from his siblings in the event of his father's death. The son had had an offer from his wife's family to join their operation.

The mother of the children was not present at the meeting, however the father and his new wife were.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	10,000	$3,000,000
Operational	Head	
Cattle	3000	$1,500,000
Plant		$200,000
Off-farm		
Superannuation		$900,000
House father lives in		$200,000
Total		**$5,800,000**
Liabilities		
Bank		$900,000
Total		**$900,000**
Nett		**$4,900,000**

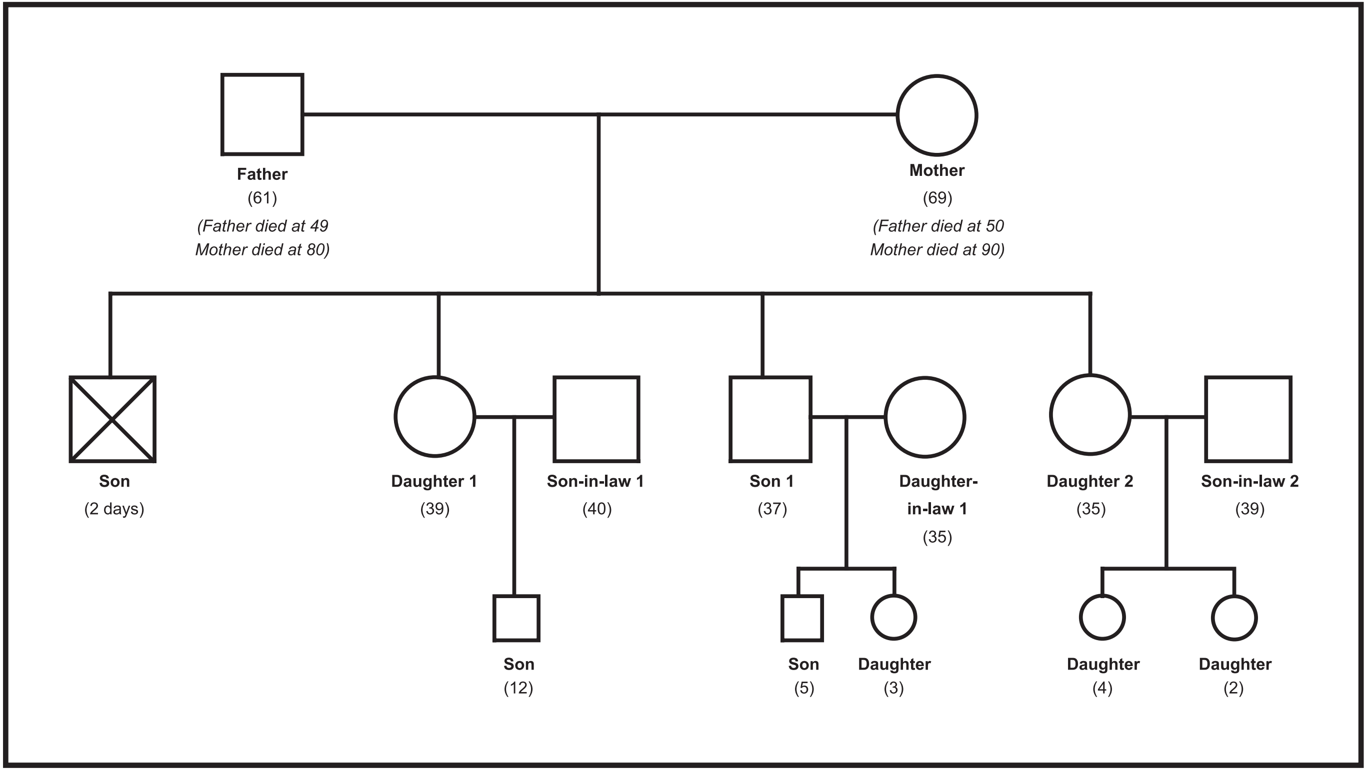


Agreements

- the father's wife to inherit the super-fund when her husband dies
- the home they live in will be hers
- the other children would be catered for from assets in other locations
- phone link up was arranged with the family solicitor for the meeting
- Solicitor suggested a contractual will, where death initiates a contract allowing the son to purchase the family farm and operation at a set value
- all present agreed to proceed with this option
- Management is to move to the son over the next 5 years
- details of this arrangement were agreed.

Family Member	Comment
Son	Hard to stay out of parents issues. Feel relieved as long as this proceeds.
Daughter-in-law	Good outcome - need to stay focused on the future.
Wife	Good to communicate. Relieved about my own security not jeopardising the business.
Father	Good progress made.

Case study ten - poor health



The family came together as a result of the father's increasing poor health relating to a degenerative disease, and deteriorating relationships between mother and son. It was triggered primarily over renovations to the kitchen and the son's dissatisfaction with his salary and conditions.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	2846	$4,000,000
Water license		$1,000,000
Operational	**Head**	
Cattle	1300	$750,000
Plant		$600,000
Grain and storage		$25,000
Off-farm		
Superannuation		$25,000
Term deposit		$40,000
Total assets		**$6,440,000**
Liabilities		
Bank		$100,000
Machinery loans		$200,000
Pivot loan		$100,000
Total liabilities		**$400,000**
Nett		**$6,040,000**

Agreements

The family agreed that the business did have an unpaid wages debt to son.

The value of benefits received living on the farm included rent, electricity, telephone, water, meat etc. The value of these benefits was put at $10,000 to $12,000 per annum. Approximately $10,000 to $15,000 of drawings were taken per annum. The son was therefore receiving a range of $15,000 to $25,000 per annum. It was decided to adopt the mid range point of $20,000 per annum for the purpose of the exercise.

It was agreed that the son had:

- fully managed the property for 10 years
- partly managed the property for 8 years
- been an employee on the property for 2 years,

resulting in a total of 20 years of work on the farm property.

Calculation of the shortfall in wage payment was based on the assumption that the value of a full manager was $100,000 in wages per annum. The shortfall of full wages as agreed is tabled below.

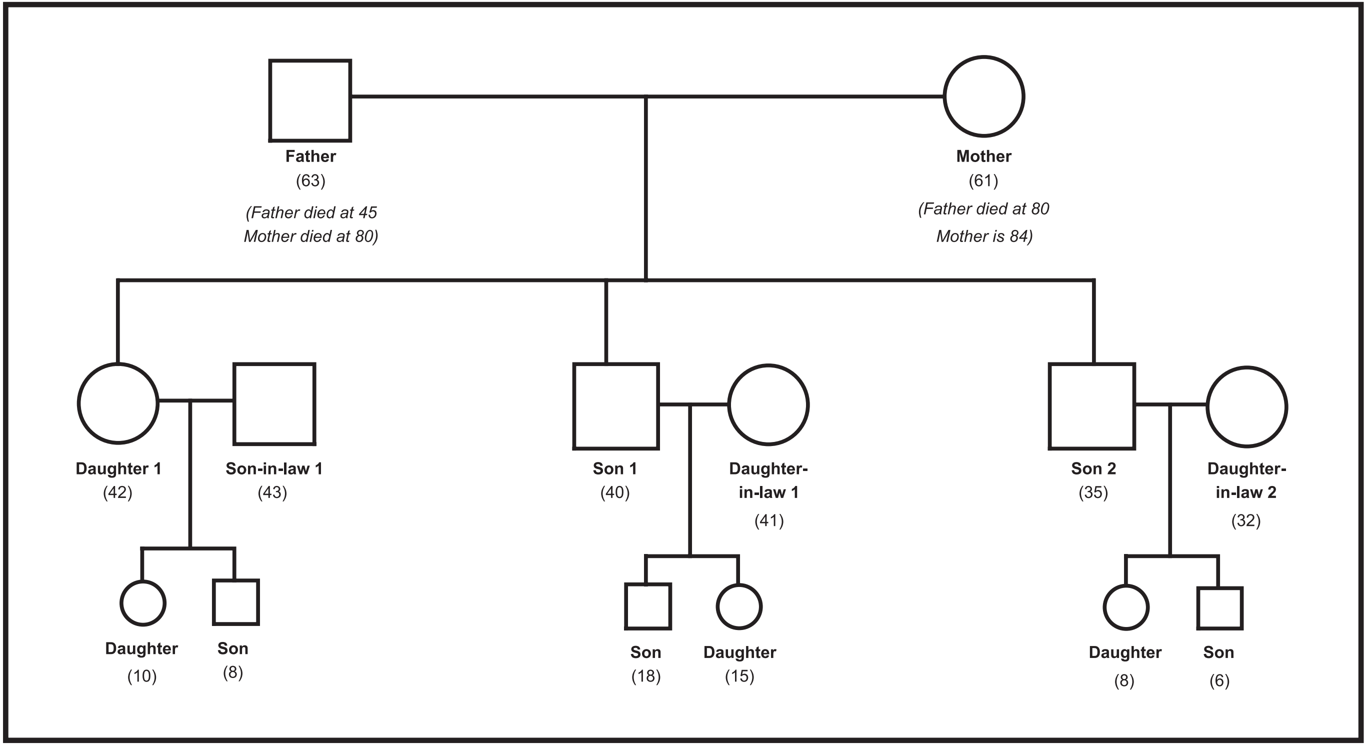
	Shortfall in wages	Total
Full manager	10 years at $70,000 per annum	$700,000
Employee/part manager	10 years at $35,000 per annum	$350,000
Son's unpaid contribution total		**$1,050,000**

Decisions made:

- transfer all the land to the son subject to a binding financial agreement
- life tenancy agreement for the parents with a requirement that all structural maintenance required for their house be paid for by the farm
- a vendor finance loan be secured by a mortgage of $600,000, and be indexed to the CPI. The indexed balance of this principal sum will be paid to both daughters in accordance with the parents' wills
- the mother will transfer her one-third share of the partnership to the son (which will give him a two-thirds share in the partnership) subject to receiving a gift of $500,000 from her husband
- the son to pay a cash settlement to the father of $500,000, in addition to $600,000 vendor finance
- the partnership would consist of father and son, and the partnership would guarantee $25,000 per annum indexed to the father. This is the minimum amount - additional profit distribution will occur in more profitable years
- the farm to pay electricity, rates, water, and fuel. The parents will meet their own living costs
- a self managed super fund be established for the mother.

Family Member	Comment
Son	Appreciates parent's generosity. Sorry if they felt pressured.
Daughter-in-law	Relieved.
Mother	Exhausted, hopeful.
Father	Happy.

Case study eleven - different ideas about management



This family came together as a result of increasing conflict over management between father and son. Father was prepared to withdraw but not move house if agreement could be reached. The whole family were concerned about the conflict. The meeting was convened by the non-farming brother who had been paid out ten years before, as he wanted independence.

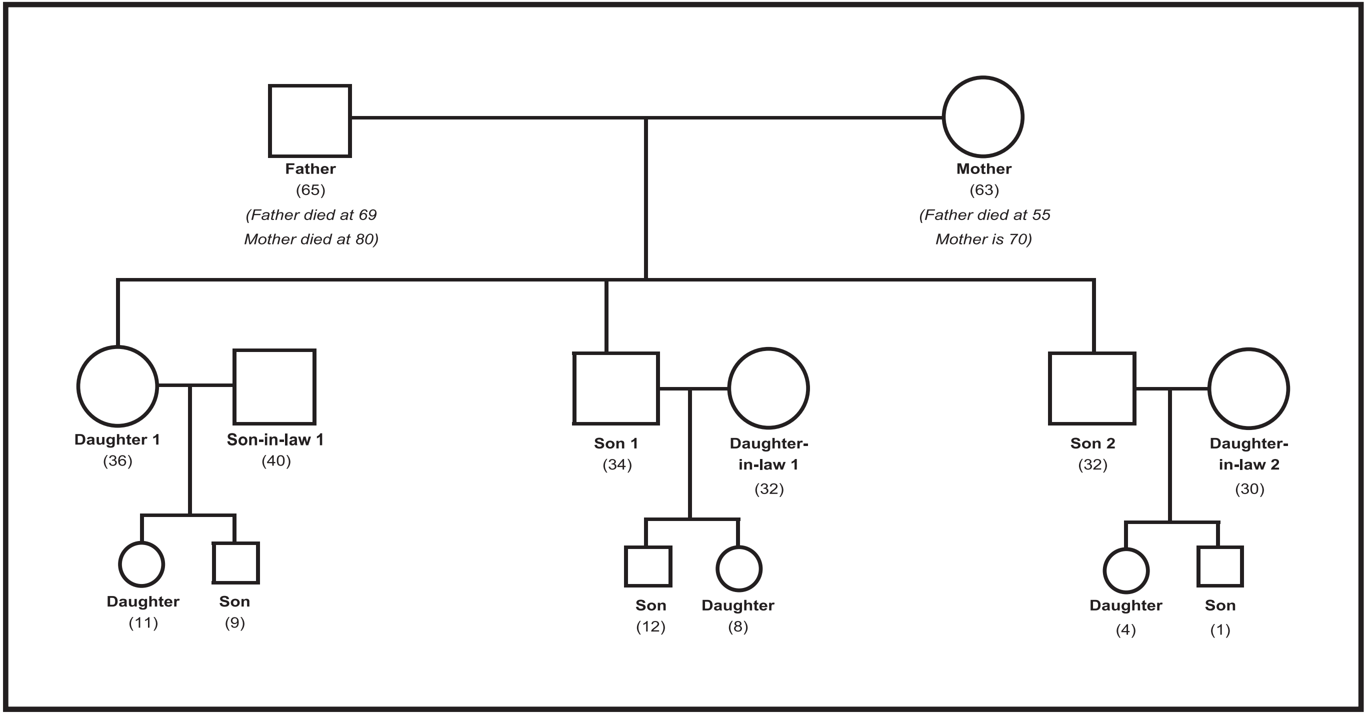
Assets & liabilities			
Land	**Owned by**	**Hectares**	**Value**
Block 1	Parents	330	
Block 2		100	
Block 3		140	
Block 4		100	
Block 5	Parents	45	
(Blocks 1-5)		715	$2,450,000
Block 6	Parents and son 2	400	$1,400,000
Operational			
Sheep			$800,000
Plant			$100,000
Total assets			$4,750,000
Liabilities			
Bank			$510,000
Total liabilities			**$510,000**
Nett			**$4,240,000**

Agreements

- all land be valued at $139.00 per acre
- each of four shares of the stock plant were valued at $225,000
- the daughter will receive block 5 and the balance in cash on her share in stock and plant
- son 2 was owed unpaid wages, averaging $20,000 for 20 years
- son 2 to take ownership of stock and plant in lieu of unpaid wages and pay the $50,000 shortfall
- son 2 to take on the debt for mother's share of block 6, increasing his ownership to two thirds and leaving his parents debt free
- the parents to retain ownership of blocks 1, 2, 3 and 4 plus one third of block 6
- son 2 to lease the land from his parents for less than market value. Details of this arrangement to be made at a future meeting with the accountant in one month's time.

Family Member	Comment
Daughter 1	Needed help to get the information out. Great outcome, time to work out the detail.
Son 1	Wish we had done this 20 years ago, everything is now clear cut.
Son 2	Relieved, cautiously optimistic.
Mother	Good, very good.
Father	Need time to make it work.

Case study twelve - decision to leave farming



In this case the family came together as a result of growing discontent from the daughter-in-law. The father had a very unsatisfactory business separation with his brother after his father's death. In the mother's family the transfer of family assets went to the males in the family.

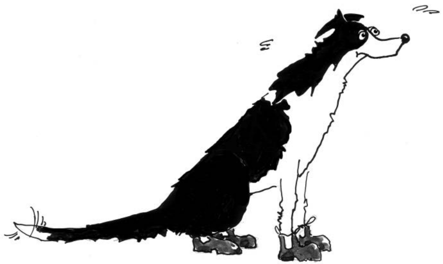
High levels of conflict between the farming sons. There is a lack of understanding by the family about business structures and finances. The business has shown no profit for 12 years.

Assets & liabilities			
Land	**Owned by**	**Hectares**	**Value**
Block 1	70% Father & 10% to each child	1000	$1,300,000
Block 2	20% father & children	26,000	$3,400,000
Operational			
Sheep			$555,000
Plant			$400,000
Off-farm			
Town house			$650,000
Total assets			**$6,305,000**
Liabilities			
Bank			$700,000
Total liabilities			**$700,000**
Nett			**$5,605,000**

Agreements

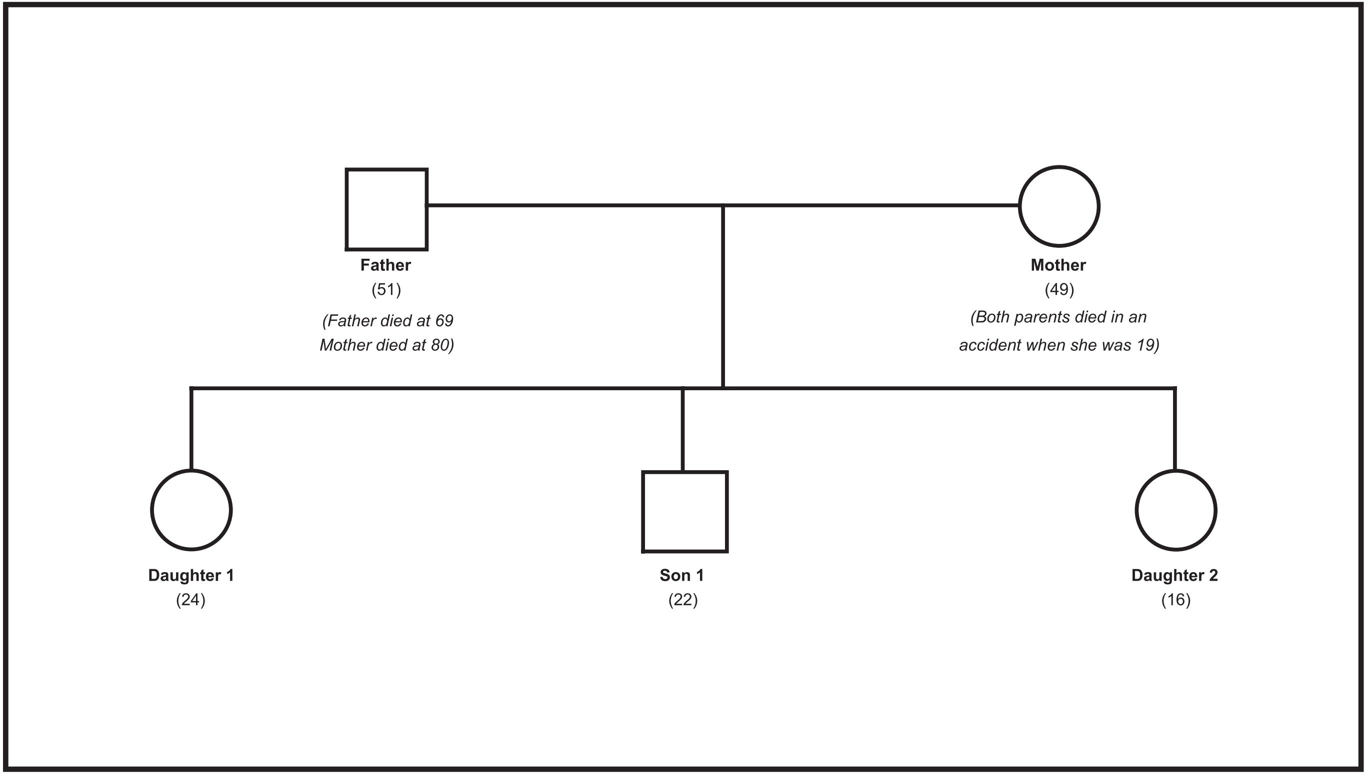
The family agreed that:

- they cannot continue as they are
- the mother to live predominantly in the house in town and renovate it
- the father to share his time between town and farm (he is fearful of dying if he retires to town)
- the parents require between $40,000 and $80,000 a year - definite amount to be finalised
- all or half of block 2 to be sold
- the sons are to be independent of each other
- one son will receive money and the other will take block 1
- the daughter will receive money - the final amount yet to be decided
- everyone is to make new wills as soon as possible
- they will meet again in 8 weeks time.



Family Member	Comment
Daughter	Happy if there is some resolution soon.
Son 1	Lets keep things progressing.
Daughter-in-law 1	Will need to keep working at it.
Son 2	Need to keep working through things.
Daughter-in-law 2	Keep it moving so we can sort things out soon.
Mother	Given us food for thought everyone needs to think about this.
Father	Unsure, will need to think about it all.

Case study thirteen - include young family members



This farming family came together as a result of a facilitator being in their area - they were keen to find out what the children's thoughts were regarding succession and inheritance. The eldest two children had both finished their first block of tertiary study. The youngest child is in final years of high school.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	1000	$1,300,000
Block 2	700	$1,700,000
Operational		
Sheep		$400,000
Plant		$500,000
Off-farm		
Town House		$400,000
Office Blocks		$600,000
Total assets		**$4,900,000**
Liabilities		
Bank		$700,000
House loan		$300,000
Total liabilities		**$1,000,000**
Nett		**$3,900,000**

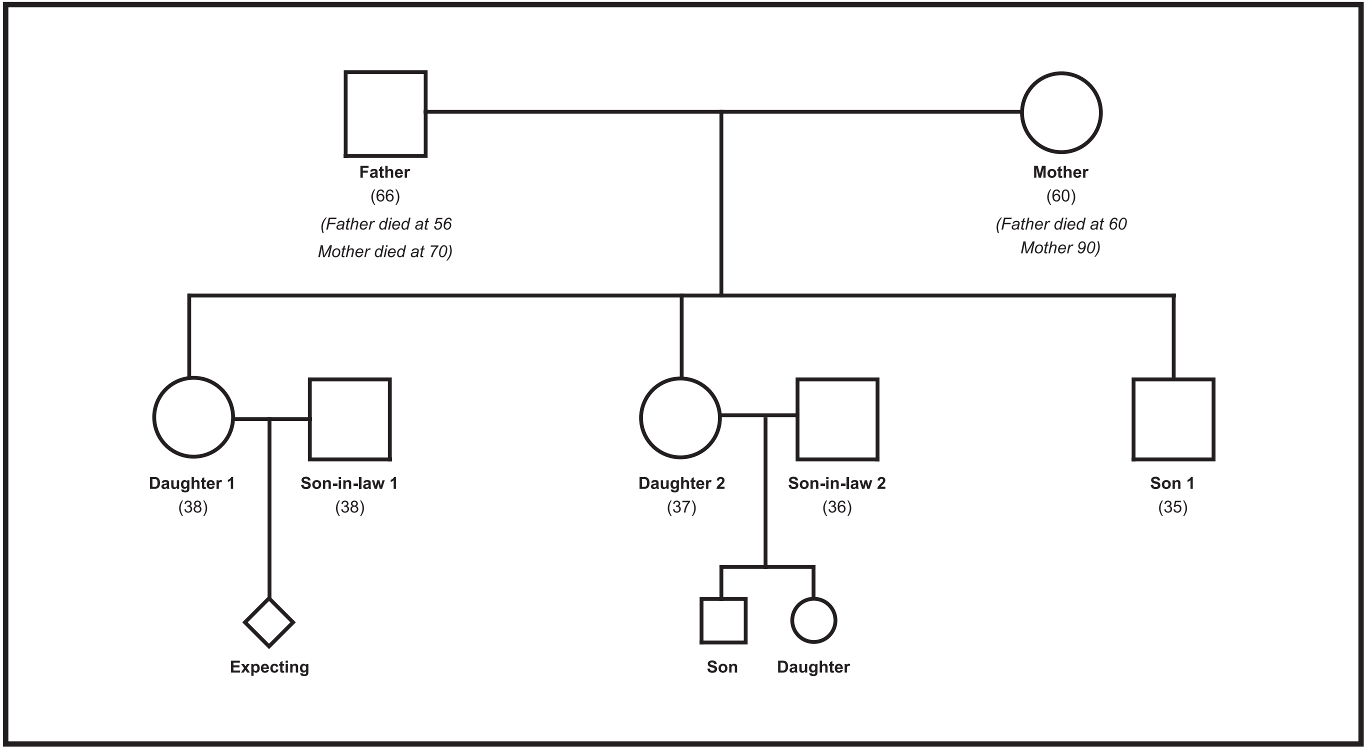
Agreements

No one was happy with the current state of the parents will. Three quarters of the asset were to go to the son and one quarter remaining to be divided between the two daughters. The parents did not intend to discriminate but were unsure what else to do. It was agreed that:

- all children would receive the same educational opportunities
- if anything happened to the parents in the next five years, the older children would support the younger sister until she finished university
- all the children thus far had had equal input into the business relevant to their current age
- the family wanted to end up with a viable business and a viable family
- new wills to be drawn up for the parents
- should the parents die in the next 5 years, the assets are to be distributed equally (none of the children plan to return to the business in the next 5 years)
- clarify land titles
- the family to meet annually
- the family to meet with the facilitator again in five years time.

Family Member	Comment
Daughter 1	Surprised about the will, pleased we had a chance to talk about it while Mum and Dad are alive and make changes.
Son 1	Surprised by the level of emotion including my own. Glad we did not leave it ten years.
Daughter 2	Glad we are not selling the farm.
Mother	Relieved that we had the discussion about the will even though the answers are not easy.
Father	Proud of his children and the way they handled themselves today.

Case study fourteen - concern about profitability



This family came together as a result of the business not making a profit and some family members unsure if they will continue to be involved in the business.

Parents disagree on future direction. The father wanted to sell but the mother did not.

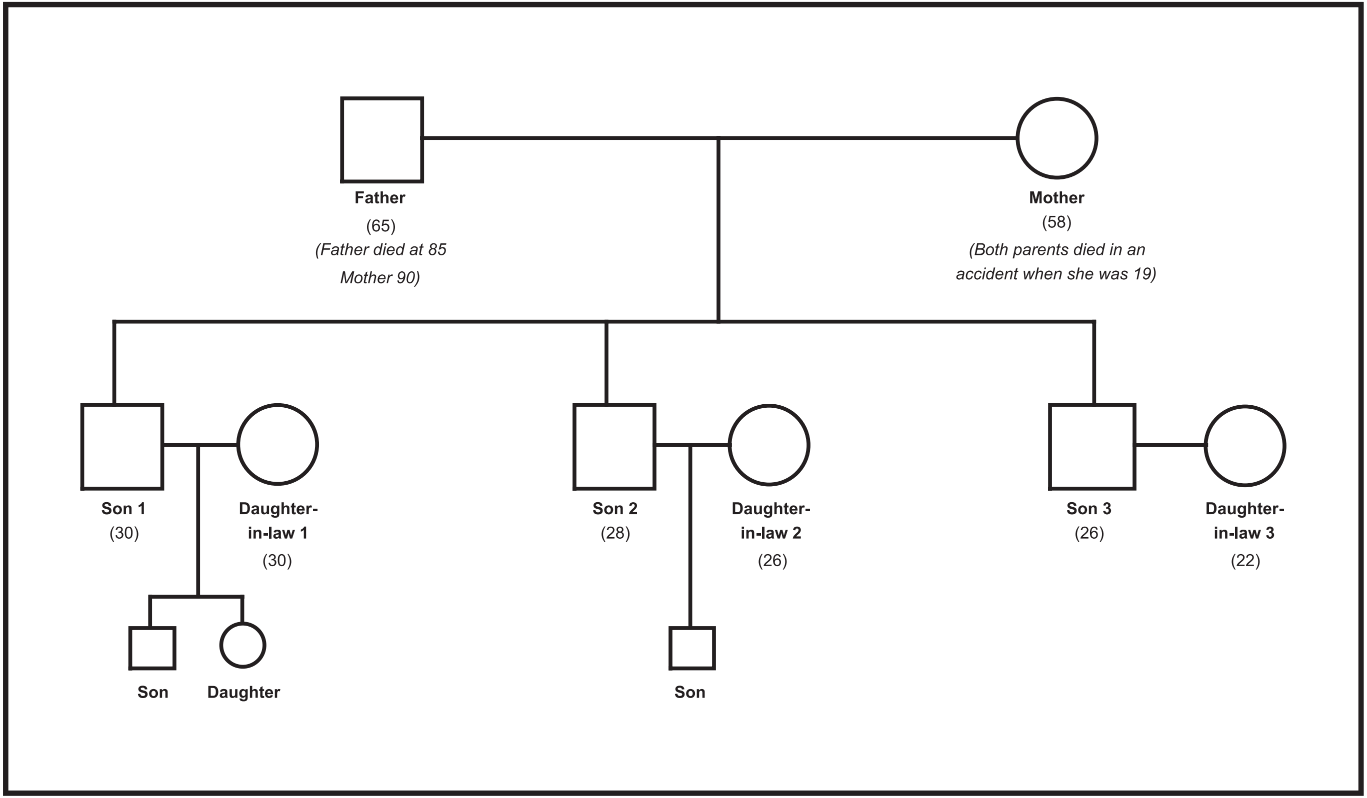
Assets & liabilities		
Land	**Hectares**	**Value**
Cane block	1334	$5,346,000
Operational		
Cattle		$450,000
Plant		$395,000
Off-farm		
Superannuation		$40,000
Life assurance		$450,000
Total assets		$6,671,000
Liabilities		
Bank		85,000
Investments		980,000
Leases		85,000
Total liabilities		**$1,150,000**
Nett		**$5,521,000**

Agreements

- will not sell at this time
- son will take leave from the business for two years to travel
- daughter 1 will continue to do bookwork with mother in exchange for meat and fuel
- son-in-law 1 wage set at $50,000 gross per annum
- business needed to make a profit
- prepare budget for cattle and cane and discuss with accountant in 4 weeks
- review in two years if no profit - reassess sale
- meet regularly on the first Monday of each month in the accountant's office
- decisions reached concerned only those working in the business
- daughter 2 to continue her off farm career.

Family Member	Comment
Son 1	Great, keen to get away.
Daughter 1	Relieved we have started to plan together not all pulling apart.
Son-in-law 1	Great opportunity for me, can't wait to get started.
Daughter 2	Disappointed final decision not made.
Son-in-law 2	Good start, hope it will be better and my wife will be happier.
Father	Think we have done pretty well.
Mother	Hope we can pull together like we have today.

Case study fifteen - parents need a hand



This farming family came together as a result of the parents looking for someone to help in the day-to-day running of the farm. None of the children were interested in returning to the farm.

Assets & liabilities		
Land	**Hectares**	**Value**
Block 1	800	$1,600,000
Operational		
Cattle		$200,000
Sheep		$150,000
Plant		$400,000
Off-farm		
Superannuation		
Total assets		**$2,350,000**
Liabilities		
Bank overdraft		$90,000
Bank debt		500,000
Machinery lease		$120,000
Total liabilities		**$710,000**
Nett		**$1,640,000**

Agreements

Mother will retire from nursing at 60. Father cannot continue to farm without permanent help.

No one is prepared to return to the farm, as they all have well paying jobs. No one is prepared to take the financial or family relationship risks involved with returning to the farm.

The business is not profitable enough to employ full time labour, and continue to partially support parents.

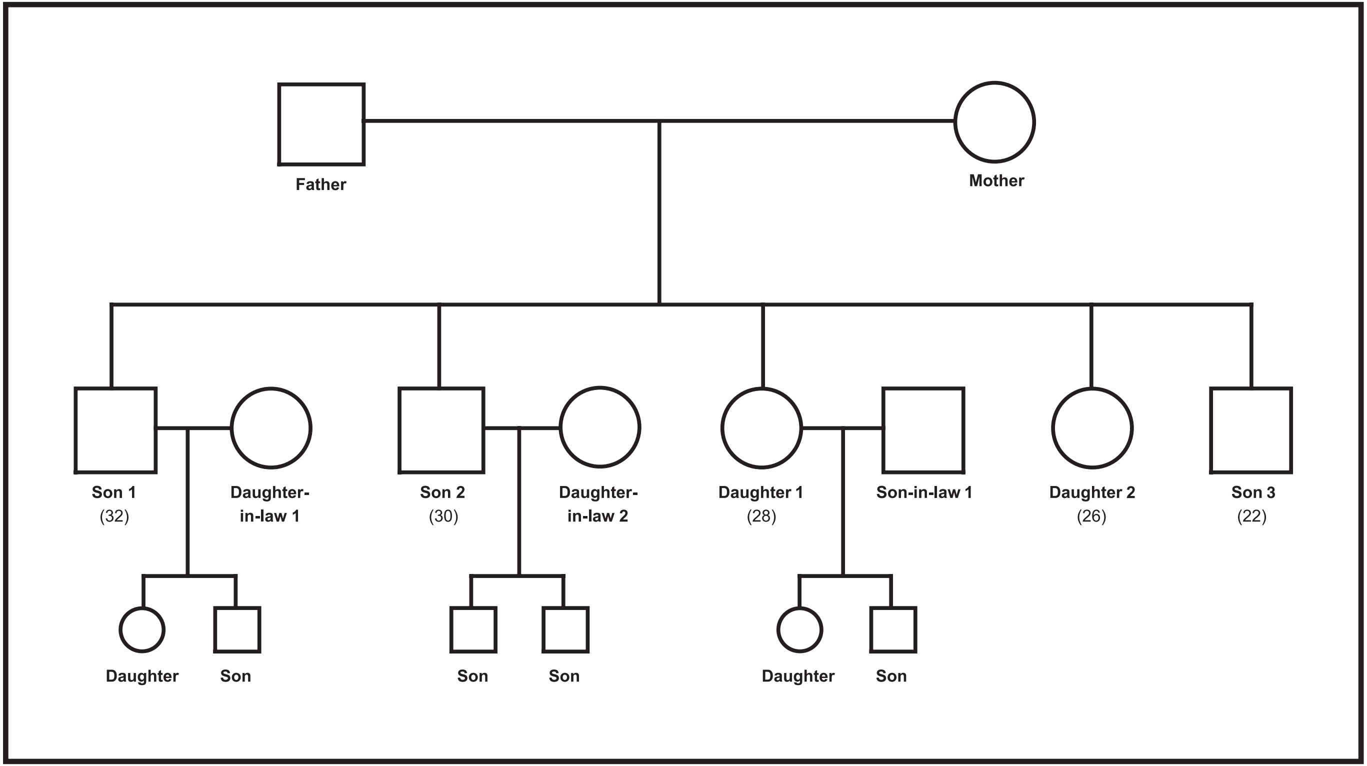
It was decided to take up the lease offer made by neighbouring family.

Family Member	Comment
Son 1	Glad we have got an agreed plan.
Daughter-in-law 1	Will be good for every one at this stage.
Son 2	Leaves it open for the future without tying everyone down now.
Daughter-in-law 2	Pleased mother-in-law is able to retire.
Son 3	Hope Dad will be able to manage with someone else running the place.
Daughter-in-law 3	Hope they keep some stock for a couple of years.
Mother	Relieved, a little anxious about how her husband will cope, should not rush to sell the stock.
Father	Probably not my ideal outcome, best we can do under the circumstances.

Decisions made:

- all children will be treated equally
- parents to make an appointment with their accountant investigating the implications of selling stock and plant, taxation implications of leasing agreement, and potential to establish self managed super fund with proceeds from stock and plant sale
- to undertake a five year lease option in response to offer
- the parents do not wish to move away from the farm at this point
- the family will reconvene at the end of the 5 year lease option.

Case Study sixteen - a sad story



What can happen if you don't plan

The farm was run by a partnership of father and mother and their three sons. Their daughters were not involved. They have not included daughter-in-laws as they were not 'sure' about them.

- Son 1 and daughter-in-law 1 lived on Property One in a house built in 1978
- Son 2 and daughter-in-law 2 lived in town (15 kilometres from Property One) in a house owned by the father and mother
- Son 3 was single, recently graduated from agricultural college and living with his parents in the original homestead on Property One
- Daughter 1 studied Ag Economics after leaving school and now works in a bank. She had hoped to be involved in the farm but father was not keen on her being in the partnership. Son-in-law 1 is a solicitor, who the rest of the family dislike because he has strong opinions on many issues, including how the farm is run
- Daughter 2 is single and a teacher.

Both parents were both highly respected in the district for their farming ability and their involvement in community affairs.

Each year, their accountant suggested that they review their wills. The father hadn't done so because he felt very well and expected to live for quite a few years yet. He also wanted to buy the neighbouring property so he could leave a farm to each of the sons. On 18 December 1992, while auguring grain into one of the silos, father had a heart attack and died the next morning.

No one in the family knew what was in the father's will. The mother contacted the solicitor who explained that the father had left his interest in the farming partnership and the farm property, Property One in equal shares to each of his three sons. All other assets (life insurance, small share portfolio) were left to the mother. As the parents owned both Property Two and the house in town as joint tenants, ownership of these assets passed directly to the mother.

The mother and sons felt this was a fair distribution of assets. Daughter 1 and son-in-law 1 said they would challenge the will in the courts. Daughter 2 did not express an opinion - her concern was her mother's security.

During the next year (1993), there were many heated family discussions and arguments. All parties sought legal advice and finally there was agreement to settle out of court with the farm paying a substantial sum to the daughters.

Son 3 announced that he had decided to study Agricultural Economics at University and become a farm consultant. He had realised that he had inherited a small area and considerable debt (his proportion of the payout to sisters). Further, he knew that he wanted to farm differently to his brothers and that there would be disagreements if he stayed. He agreed to sell his share of farming assets to his brothers at market value on favourable terms.

By 1998, the farming sons and wives were not getting on. An agreement was reached to separate, dividing assets equally. Both believed that farming was picking up and that they could manage their share of the debt.

At this time other problems emerged. They both lived on the same property, and the mother still owned a portion. She agreed to sell to either son, but needed current market value to secure her future. She was willing to accept a long term repayment schedule at low interest with a second mortgage over both properties.

Son 2 decided to upgrade his tractor and sowing gear so he could work more efficiently and adopt conservation farming practices. This was financed by a lease of $180,000 payable over three years.

A combination of poor seasons (including an extremely wet harvest) and poor wool prices resulted in missing the lease payment. While this was renegotiated with the finance company (at higher interest), the following year was also difficult. The new equipment was repossessed and sold at less than the lease owing. During the bank review in 2002, the bank manager said the situation was hopeless. Although they were devastated, they made the difficult decision to sell the farm and move to a large country town so daughter-in-law 2 could return to nursing.

Son 1 worked hard to meet his commitments. His wife tired of financial pressure and family arguments, and decided to move to another town with the children. Son 1 spoke to the solicitor who told him that any divorce property settlement would be likely to involve the sale of their farm. He chose to sell the farm to save his marriage.

Within 10 years of the father's death, the family's 75 year history of farming in the district was finished.

Family wealth statement

	Father	Mother	Son 1	Son 2	Daughter 1	Daughter 2	Son 3
Assets							
Property One	800,000						
Property Two	300,000	300,000					
Interest in partnership	110,000	90,000	20,000	12,000			8,000
House in town	75,000	75,000					
Bank accounts	1,500	10,000					
Shares	5,000	5,000					
Life assurance	8,000	5,000					
Superannuation							
Total assets ($1,824,500)	1,299,500	485,000	20,000	12,000			8,000
Liabilities							
Term loan	10,000	10,000					
Net assets ($1,804,500)	1,289,500	475,000	20,000	12,000			8,000

Family wealth statement - after the death of Father

	Father	Mother	Son 1	Son 2	Daughter 1	Daughter 2	Son 3
Assets							
Property One			266,667	266,667			266,667
Property Two		600,000					
Interest in partnership		90,000	56,667	48,667			44,667
House in town		150,000					
Bank accounts		11,500					
Shares		10,000					
Life assurance		13,000					
Superannuation							
Total assets ($1,824,500)	**0**	**874,500**	**323,333**	**315,333**	**0**	**0**	**311,333**
Liabilities							
Term loan		5,000	5000	5000			5000
Net assets ($1,804,500)	0	869,500	318,333	310,333	0	0	306,333

Part three 3

TIPS & CHECKLISTS

Collect information

Generate options

Start decision making

Develop your plan

Implement your plan

INTRODUCTION

The Checklists and tips are to help you to think about the succession planning process. These are a collection of forms and suggestions that can be used, some of which will apply to you and your family or your business.

Remember the plan will be yours and there are no right and wrong answers and it is best to do what you believe is the best for your family from the options that area available.

One size does not fit all.

Succession planning checklist

This checklist is a tool to help you think about the succession planning process. It contains suggestions only, not all of which will be applicable to your family or your business. If you decide you want to take up a suggestion, note how and when you are going to do it in the action & timetable column.

1. Collect information	Actions & timetable
❑ Have you attended a workshop or seminar to get an overview of the issues and some ideas to get started?	By…………
❑ Have you read articles about succession planning? (eg. Good Weekend Magazine, Sydney Morning Herald, Aug 14, 2004 - ask your local library)	By…………
❑ Have you talked to family, friends, advisers, lenders, to clarify your ideas?	By…………
❑ Have you decided to use a succession facilitator as a guide through the process?	By…………
❑ Have you looked at your current financial position? Is it meeting financial obligations? Is it profitable? How does it look for the future?	By…………
❑ Have you looked at the family's living costs? Are there extra expenses coming (eg education, marriage, children, building/buying a house)?	By…………
❑ Have you discussed others' needs and expectations for themselves and the farm business?	By…………
❑ Have you thought about your retirement lifestyle and needs (financial, housing)?	By…………

❑ Do you have some basic knowledge of options for transfer of ownership, how it might be financed, tax and legal implications?	By…………
❑ Do you plan to gift assets? Are there implications of gifting such as stamp duty or capital gains tax?	By…………
❑ Have you considered vendor finance? What would the mortgage contract include?	By…………
❑ Do you have a will? Do you know where it is? Does anyone else know what's in it?	By…………
❑ Have you started to think about how you might transfer ownership? What is fair? What is good for the business? Who will take over management? How you will make these decisions?	By…………
❑ Have you considered holding a facilitated family meeting with an independent person to provide a safe environment for talking about issues & decision making?	By…………

2. Generate options	Actions & timetable
Try to list as many options as you can to address the issues and concerns of the family and the business. These might include:	
❑ Secure retirement for the senior generation.	By…………
❑ Treating children fairly (not the same as equally).	By…………
❑ Will family members be working together for at least a while? If so, in what type of business arrangement?	By…………
❑ Who will participate in the business? In planning?	By…………
❑ How will you make decisions?	By…………
❑ Who are potential successors?	By…………
❑ How & when will management be transferred?	By…………
❑ What skills will you need & how will you get them?	By…………
❑ What financing options do you have?	By…………
❑ What types of insurance may be useful?	By…………
❑ Will the older generation remain involved in the farm? If so, what activities do they want to be involved in?	By…………

❑ How will ownership of different assets be handled? How will use of assets be handled?	By…………
❑ How will non-family employees be treated?	By…………
❑ Have you started to think about the parts of a plan: - communication - retirement - transfer of labour, management and ownership?	By…………
❑ Have you started to think about options for contingencies such as death, injury or divorce?	By…………

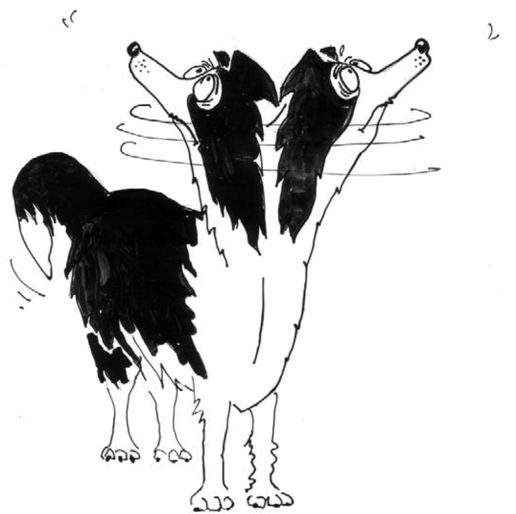
3. Start decision making	Actions & timetable
❑ Have you used your list of options to make some early decisions about management, ownership, retirement and succession?	By…………
❑ **It is a good idea to have a family meeting to talk about goals, objectives and expectations and options for meeting them.** Have you decided to use a family meeting facilitator to ensure everyone has a safe environment to discuss their concerns without damaging family relationships?	By…………

4. Develop your plan		Actions & timetable
If you are using a family meeting facilitator and/or succession facilitator, you may already have developed and discussed a plan with your family, so the next few steps may be completed.		
❑	Have you written down some ideas and preliminary plans - maybe a few different approaches?	By…………
❑	Have you reviewed the plan(s) with the family and asked for feedback?	By…………
❑	Have you discussed your plan with your accountant, solicitor, lender, insurance specialist, and asked for their feedback, advice and comments?	By…………
❑	Have you taken their ideas and incorporated them into your plan?	By…………
❑	Have you finalised your plan? Is it written down? Does it have all the elements - retirement, transfer of labour, management, ownership, up to date will, contingency plan, and timetable for implementation?	By…………
❑	Has the family reviewed the final plan in an open manner?	By…………

5. Implement your plan	Actions & timetable
❑ Do you have a timetable and are you following it?	By…………
❑ Have you given each family member a copy of the timetable for implementation?	By…………
❑ Have any family members started to put the plan in place? What have they done? What still needs to be done?	By…………
❑ Do you have a date in the future when you will formally review the plan with the family and make any adjustments needed?	By…………

Remember, this is **your** plan. There is no 'right' answer - choose whatever you believe is the best outcome from the options available for your family.

Enjoy your planning - it's a challenge, but a very rewarding one.



Binding financial agreements

Divorce

Since December 2000, couples prior to or during marriage can enter into a binding financial agreement under the *Family Law Act* (1975). A binding financial agreement can set out how their assets will be distributed upon divorce or separation.

For the agreement to be binding there must be a full disclosure of assets and each party must obtain independent legal advice. The solicitor for each party must certify that he or she is satisfied that each party fully understands the legal effect of the agreement.

Observations suggest that people entering into a second marriage, and/or couples with separate assets or interest in family businesses such as farmland, are entering into binding financial agreements which set out all or some of the following:

- the property of each person
- the assets to be treated as joint assets, to be divided equally on divorce or separation
- set clauses regarding the occurrence of a review every five to ten years (to discuss changes in circumstances, such as children)
- arrangements regarding ownership of the family home in the case of divorce or separation (eg. some agreements ensure the partner who assumes everyday responsibility for the children will take ownership of the family home subject to certain conditions)
- specification of terms and conditions upon which a spouse can be paid out.

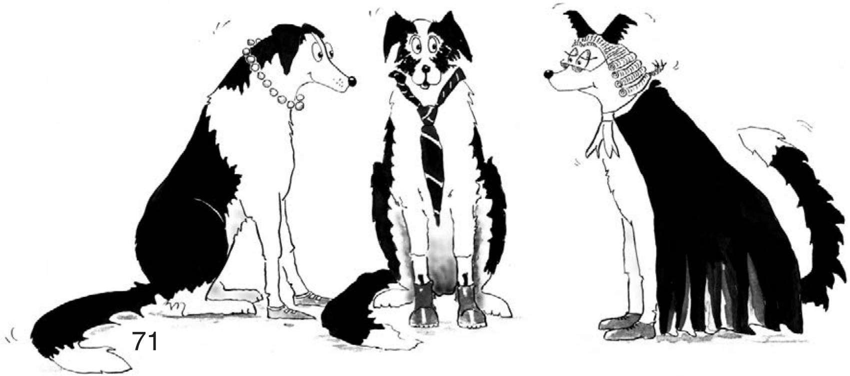
It is advisable for couples to consider tying a financial knot around their relationship before taking the plunge into married life. Pre-nuptial or binding financial agreements should be viewed as positive moves within a relationship and addressed long before the couple's big day.

It is important for couples to think of the impact a change in marital status will have on their personal affairs. Often people get caught up in the moment and give little thought to their individual situations, which will change after their marriage and could affect them long after the honeymoon is over. It is the one time when couples should sit down during their pre-wedding planning and let their heads rule their hearts in the best of interest of themselves and their families.

The binding financial agreement can be likened to a having a fire extinguisher or burglar alarm in the house. They're not the most personal items you can give someone as a gift, but they are important to have around the house - even though we hope we never have to use them.

Binding financial agreements are not to be viewed as negative documents but rather as people planning for the worst and hoping for the best. Why not have a disaster plan put in place when people are thinking clearly rather than wait until things have gone wrong and affected people's judgement?

No one plans to fail … however we shouldn't fail to plan!



Legal checklist

A successful succession plan depends upon:

- communication
- balance of economic and non-economic issues
- balance of the security for the older generation and the viability of the younger generation.

Contact your solicitor to review your will or obtain a copy of your will.

Questions to ask include:

- are family members treated fairly rather than equally?
- is the will practical and workable?

Review your business structure with your accountant:

- get them to summarise the structure for you and your family (if need be prepare a flow chart)
- are there loan, capital or beneficiary accounts that need to be reviewed especially if a company or trust is involved?
- can your business structure be simplified?

Questions to ask include:

- if I died tomorrow would I leave behind a mess?
- should I be organising a succession plan/retirement plan? Is the plan practical?
- should I get family members to complete a family questionnaire?
- should there be a change in the control of the business?
- should there be a change in the ownership of assets?

Delegate someone to follow up the above suggestions.

Don’t be ‘penny wise, pound foolish’. Get good professional advice.

Family agreements

An example

Business structure
The business structure shall be reviewed regularly.

Regular meetings
All adult members of the farming business will meet at least once a month, on a date to be agreed upon, to review the business operations.

Agenda
The agenda will include:
- comparison of cash flow budget and actuals
- report on the different enterprises operating
- review of drawings
- plans for the future
- issues in dispute
- general business.

Minutes
The family will keep brief minutes of the meeting in an exercise book or folder. The minutes will set out :
- matters that have been agreed upon
- whether someone disagrees with a decision
- work that has to be carried out.

Dispute resolution
Should a dispute arise that cannot be resolved, then any family member may serve a written notice on other family members, advising that a meeting will be organised with an independent chairperson within 72 hours.

Land ownership

The land ownership will be reviewed regularly to take into account where people are living, and improvements and work carried out for the business by particular family members.

Improvements

Before placing any improvements on any block, or carrying out any repairs, consideration will be given to the long term succession plan and possible division of the property.

Housing

The housing arrangements for the different family members will be reviewed on a regular basis. The need for repairs, additions and extensions will be reviewed on a regular basis.

Business expenses

Expenses to be paid by the business include:

- electricity
- motor vehicle expenses and registration
- telephone
- home maintenance
- fuel
- replacement of motor vehicle
- medical insurance
- house rent or repayments

Family expenses

Each individual family will be responsible the following:

- food
- clothing
- education

Drawings

There will be a minimum drawing of $ X.00 per month to be paid into the bank account of each partner subject to the following conditions:

- the drawing will be reviewed annually and will increase at least in accordance with the CPI
- the same drawing will be received by all partners. If any partner does not wish to take their drawing this will be considered to be a loan to the business and interest will be payable on the loan at ten percent (10%) per annum.

Loans

If there are any loans to the business by any partner they shall be repayable on three (3) months written notice. Interest will be payable at a rate equivalent to the indicator lending rate currently used by the bank that the business holds its accounts with.

Capital loan and beneficiary accounts of the business

Capital loan and beneficiary accounts of the business will be reviewed each year and be adjusted to reflect any benefits received by any particular member of the business. Adjustments will also be made if there is a difference in capital accounts due to taxation figures.

Financial reports/update to non-farm members

There will/will not be a yearly summary given to the non-farmers in family.

Off-farm income

Provided the off-farm work does not interfere with the business activities of the farm, and notice of absence is given, the off-farm income will remain the income of that person.

Minimum hours

The business agrees as follows:

Holidays

Each member of the partnership will be entitled to a minimum holiday of four weeks per annum.

Term insurance

The business will review and/or organise:

- either loss of income and accident insurance, or workers compensation for each worker
- term insurance of death coverage or trauma insurance to cover the debt and/or surviving spouse, especially in relation to the younger generation.

Fairness rather than equality

Any business plans or succession plans will be based on the concept of fairness rather than equality. Those farmers and non-farmers will be recognised for their contribution either directly or indirectly to the farming enterprise. When determining the entitlement of any farmer or non-farmer the family will take into account the following:

- the contributions directly or indirectly made by the family member
- the needs of a family member
- whether considerations should be given to an early inheritance to the non-farmers.

Succession planning

The members of the business agree as follows:

- the will of each member of the business will be reviewed to ensure they complement each other
- the ownership and control of the business will be reviewed on a regular basis
- the ownership of the land will be reviewed on a regular basis
- retirement plans will be reviewed on a regular basis.

Wills

The wills of each member of the business should be reviewed to take into account the following:

- who receives the farmlands?
- who receives the plant/livestock/business/capital loan and beneficiary accounts?
- who is to be appointer and trustee of any trust?
- who receives the insurance and non farm assets?

Dated this day of

Signed by each family member involved in the business and/or non-farmers.

Financial planning tools

1. Determine the capital required for funding your retirement.

If you want to retire at age 65 and you want to have an income to age 100, assuming a rate of return of 7.0% (net of all fees), and no Centrelink benefits, you will need the following capital sums:

Income per annum	Capital required
$35,000	$670,500
$40,000	$772,000
$45,000	$868,500
$50,000	$976,000

2. Build up off-farm assets.

All farming children have the expectation that they will receive **all farming assets** and, so the more land you buy, the larger the issue becomes.

However, they do not have the same attachment to non farm assets - these can be used for your retirement and non-farming children.

3. Fund your own pension through superannuation contributions.

Superannuation contributions are tax deductible and thus you get to keep more of your income to assist with growing your assets.

	Outside super	Inside super
Net Income	$20,000	$20,000
Net Tax	$ 6,000	$ 3,000 (15%)
Net Wealth Increase	$14,000	$17,000

4. Commence a superannuation pension.

Superannuation pensions will be completely tax free as an income stream after age 60 from 1st July 2007. This means that you could have an income stream of $50,000 per annum in retirement from superannuation paying no tax, versus paying tax of $6,450 per annum - having $43,550 in the hand - if the income is from investments outside superannuation. Or to put it another way - if you have assets inside superannuation you only need $868,500 to fund $45,000 per annum, whereas outside superannuation you need $976,000 to fund gross $50,000 and net $43,550 per annum in retirement. Which would you prefer to fund?

5. Consider transferring assets to superannuation to fund your pension.

It is worth considering whether some of the farm land could be transferred to superannuation and the lease from the land (to the next generation) could be used to fund your living expenses. The next generation could fund the purchase of the land from you (and your superannuation fund) by contributing to superannuation themselves and repurchasing the land. This way there is no tax involved when paying the debt off. (Be aware of capital gains tax and stamp duty implications on ‘sale’.)

6. Consider access to age pensions

Things to consider include:

- foregone wages
- loans to family members - lower balances with higher interest to assist in accessing the age pension (due to deeming)
- granny flat arrangements
- *Farm help* funding for advice

Checklist for arranging family meetings

1. Getting agreement

Reluctance from some family members is often due to their lack of clarity about the meeting process. Many families have found that watching the video Talking families in business often overcomes individuals' concerns. The second half of the video snapshots a family meeting.

2. Booking your facilitator

Aim to choose a facilitator everyone is comfortable with. Things to consider include:

- what have you heard about them?
- is there any alliance - real or perceived?
- do they have professional indemnity?
- are they professional?
- do they have any quality assurance measures in place?
- what training or experience do they bring to the job?
- what training or experience do they bring to your family and business?

3. Book your accountant

You will need to include a professional who understands the business side of the family business. An important part of the facilitated family meeting process is to balance the needs of the family and the needs of the business - therefore these meetings work best with two external people. The facilitator provides expertise in getting people to talk openly and the second person provides the business expertise. This might be your accountant, consultant, or rural financial counsellor.

4. Recording the meeting

It is crucial to have a written record of the meeting. It is best to have an agreement about who will do this before the meeting - the accountant/financial counsellor might be able to do it, or another impartial person who is not involved in the meeting process could be asked to attend in order to record the meeting.

5. Arrange a suitable venue for the meeting

It is important to hold the meeting in neutral venue. This minimises distractions and maximises the opportunity for family members to contribute. The venue should have a large table to seat everyone, preferably one that is rectangular rather than square in shape. Meetings sometimes continue until after 5pm so it is important to ensure that the venue can accommodate this.

6. Who should attend

We encourage all members of the family, including in-laws to attend. Experience and feedback from families indicates that when family members are not included (ie off-farm children) they feel excluded, possibly upset and relationships can be damaged as a result. The inclusion of off-farm children is very useful as they often bring a different perspective to those involved in the day-to-day running of the business. Some families might choose not to include in-laws.

Final thoughts and questions

It is important to understand that when a family is given an opportunity to express their hopes and concerns they do so. The potential is that a can of worms may be opened. The meeting opportunity is a can opener, it does not create the worms.

- Wherever you are in the family or the business cycle the time to start is now, as tragedy can trigger a succession plan at any time.
- If you, your partner or brother were killed tomorrow are you happy with what would happen the next day?
- Have you raised you children to expect equality?
- Are your plans consistent and with expectations you have created?
- Have you created a communication environment where everyone can be completely open?
- Review your plans regularly. Many professionals suggest five years as a good time to review: how long is it since your last review?
- Success is more likely and easier to achieve when everyone comes to the table prepared to give more than they receive!
- Endless help is available: access what you need and make a start!!!