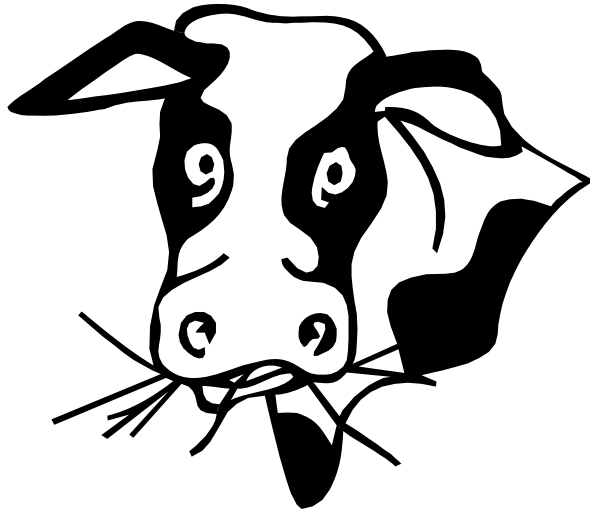


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**WHO GETS THE
DAIRY FARM?**

**SUCCESSION PLANNING
PILOT PROJECT**

**GUIDE
BOOK**

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- The farm families and their professional advisers who took part in the “trial run” for the guidebook.
- The rural counsellors who facilitated the family support
- WestVic Dairy
- Natural Resources and Environment, South West
- Community Connections Victoria - The Legal Centre
- The Victorian Women’s Trust
- Office of Rural Communities
- Institute of Land and Food Resources, University of Melbourne

Facilitator’s name and contact details

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Background to the Project

- **Funding and Project Management**

The ‘*Who Gets the Dairy Farm?*’ Project is an initiative of the Department of Natural Resources and Environment, funded jointly by WestVic Dairy and the Victorian Women’s Trust (via The Legal Centre). Qualified Rural Counsellors will facilitate the Project, guided by the Working Group. The Project evaluation will be coordinated by Lindsay Ferguson of Glenormiston College.

- **Working Group**

The *WGDF? Project* Working Group was established in mid-1999 in response to recognition throughout member organisations that farm families were still reluctant to *actually produce* a succession plan. Funding was successfully sought from WestVic Dairy to develop the Project. Additional funding was negotiated via an arrangement with The Legal Centre to share their grant from the Victorian Women’s Trust. TLC had received funding in the previous two years to examine succession-planning issues relating to women on farms and has to date, produced a poster and a seminar.

- **Working Group Members**

June 1999.

Mike Weise	DNRE – Target 10 Business Management Coordinator
Jeremy Moloney	DNRE – Office of Rural Affairs
Sam Simpson	DNRE – <i>Farm\$mart</i> Leader SW Victoria
Caroline Love	DNRE – <i>Farm\$mart</i> facilitator
Deb Nicholson	The Legal Centre (Community Connections Victoria)
Vivienne Renden	Rural Counsellor
Lindsay Ferguson	University of Melbourne - Glenormiston College

In June 2000 Caroline Love left and Juliet Williams of *The Legal Centre* joined the working group.

- Reason for the Project.

Succession Planning.

Most farm families don't *avoid* the issue of succession planning, they just '*haven't got around to it*' and are well aware of the need to implement a succession plan for the family farm business. Very few however take the necessary steps to do so. A consequence of this is that often succession planning decisions are made in haste due to a family crisis. Decisions made under these conditions can prove to be extremely stressful as well as financially costly. DNRE and other stakeholders have been very active in promoting awareness of succession planning and have reported excellent levels of interest and attendance at information seminars and workshops throughout the region. However, there is no evidence to suggest that the interest and enthusiasm has significantly increased the numbers of farm families taking active steps to develop a business plan for the transfer of the family farm. This resistance by farm families has many identified reasons including: lack of time; not knowing 'where to start'; fear of mortality (some might say fear of *reality*); perceived or real complexity; and fundamental ignorance of the long-term importance of the issue.

Aims of the Project.

The goal of the Project is for more farm families to implement succession plans.

The Project aims to demonstrate that farm families are more likely to implement succession plans if they are **guided** through the process, using easy to understand written materials alongside hands-on support from a qualified facilitator (in this case a rural counsellor). Other aims are:

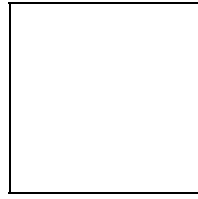
- *To generate awareness by which family members realise the importance of implementing succession plans;*
- *To guide people through the process of developing succession plans for implementation;*
- *To develop a guidebook that farm families can use as a tool in developing succession plans; and*
- *To promote improved understanding of and management of the family farm business.*

More about succession planning...

Succession Planning is by definition - *the process of transfer of the family farm business*. This includes both management and estate planning and therefore involves communication, financial and legal issues. The general approach taken in this Project is:

- To collect information on the present arrangements of management and ownership;
- To idealise about the future for the family for the family and the business; and
- To plan to re-organise the family business affairs so that the future ideals can be achieved to the greatest extent.

The diagram on the next page shows how we have designed the process for this Project. You will see that YOU, YOUR FAMILY and YOUR ADVISORS are the key players. The number of meetings and the exact flow of activities may change as you proceed towards your goal of a workable and IMPLEMENTED succession plan.



The Guidebook.

Why a Guidebook?

Comments from rural counsellors and outcomes of previous research in the area showed that if farm families were provided with a *practical form of guidance* they were more likely to implement succession plans. This understanding formed the basis of this guidebook. Consultation with the rural counselling service has been integral to the project's development, implementation and evaluation. Rural counsellors will facilitate the families' involvement in this project. The guidebook provides a structured process for achieving a succession plan and is designed to be user-friendly.

Confidentiality.

The information you provide in this guidebook is confidential. Please be assured that you are not required to "hand in" the guidebook at any time, nor are you expected to disclose information to any member of the Working Party. Confidentiality between you and your facilitator is in accordance with the rules of confidentiality followed by the Rural Counselling Service. A copy of these rules and further explanation will be provided at the first facilitated meeting.

Fairness, attitudes and expectations.

Fairness

Ideally the process of planning for the future should involve all members of the family. Even though members of the family may have moved away and have careers away from the farm. There may be desires or opinions, which have not been stated. Just because a son has moved to the city and works in another occupation does not mean that he does not wish to be a farmer, it may be that as there was no opening for him in the family business he chose that path. It may be that he would have liked to be a farmer.

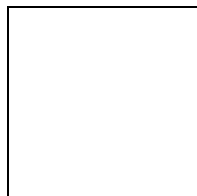
Involvement in the process means at least communication, letting all members of the family know what is being discussed, and letting them have their say.

Attitudes and expectations

Research conducted in the last decade has identified that there is a profound dilemma amongst farmers who on one hand wish for their sons to marry to ensure that there will be heirs for the farm and on the other hand do not want any daughter-in-law to have a say in the business of the farm or [perhaps their greatest fear] to seek a share of the farm in the event of divorce. Daughters-in-law report feeling excluded, mistrusted and that their role as business partners is diminished due to an unspoken fear that they will leave and exercise their rights under the Family Law Act. Ironically, some (ex) daughters-in-law report that it was their treatment by older generations [or other in-laws] that contributed to their marriage breakdown. It is also unusual for a daughter-in-law to fully exercise her rights under the FLA because of the complex business structures of farms or the social pressure to “not split up the farm”. Women also report feeling unable to participate in the succession planning process because of the attitudes of some professionals (solicitors, accountants etc). They report feeling ‘invisible’, ‘patronised’ and that the professional had ‘sexist’ and ‘old-fashioned’ views about women and women’s role on the farm.

“Fair is not always equal”

Often emphasis is given to giving equally to all members. This may mean that the farm becomes unviable. As assets are distributed, whether through a will or transfer, there should be consideration given to the needs of the future for each member and the priorities you hold yourself. If your main priority is to keep the farm in the family then this needs to be communicated and the plan needs to be weighted so that this can be achieved.



- **Terms used in the Guidebook.**

Succession Planning - *the process of transfer of the family farm business. This includes both management and estate planning and therefore involves communication, financial and legal issues.*

Family – this is taken to mean all members – both direct family members (by birth) and indirect family members (by marriage e.g son-in-law)

Market Value – the current value of assets at the price they could be sold for in the marketplace (net of selling expenses). Depending on the market conditions this is often more (or less) than the price at which they were purchased (historical cost)

Facilitator – the qualified rural counsellor who will work with you throughout this pilot project, towards the goal of implementing your succession plan.

Estate Planning – refers to issues to concerning your Will.

Will - a will is a legally binding document that explains what you want done with your assets after your death.

Caveat – a caveat is a lodgement of an interest in the land (usually registered with the titles office), which may operate to restrict or limit dealings with that land. The person who lodged the caveat must be made aware of proposed dealings with the land.

Covenant - a covenant is an agreement or pledge to make certain provisions in regard to the property. A common covenant is for conservation – to preserve native bushland or wildlife areas etc. Covenants are transferred in wills.

Joint tenancy - where 2 or more people own property jointly. When any of the joint owners die the principle of survivorship operates so that their share is redistributed to the surviving owner/s.

Tenants-in-common – where 2 or more people own property jointly but their shares are divisible. The principle of survivorship does not apply to properties owned under TiC. The share of a single TiC can be sold or transferred via a will or estate.

Life tenancy – refers to the ‘gift’ of a right to occupy and use a property for life, without the benefits of ownership. A person who is given a life tenancy in a will can use the property rent-free but cannot sell, borrow against or sub-lease it.

Power of Attorney - power of attorney is a legal power giving a nominated person control over aspects of your affairs if you are unable to do so for yourself. POA does not actually **replace** the person’s decision-making power it **duplicates** it. It is a common misconception that a person’s power to make decisions is voided by granting a POA.

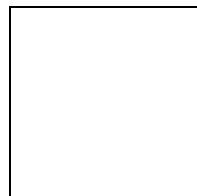
- **How to use the Guidebook.**

The guidebook is designed for you to use with your facilitator to develop your succession plan. The completed guidebook will also become a manageable system for you to build and store the vital family farm records. This has clear benefits to

your business. Apart from forming the basis of your succession plan; the completed guidebook is a handy tool to save time (and money!) at the accountant's or solicitors office. The guidebook does not attempt to collect every detail of information required by your professional advisors, but to gather sufficient essential information in summary form that can allow the major planning decisions to be made.

With your family members and with the help of your facilitator you will need to:

1. Read the entire guidebook, making notes in pencil or on a separate sheet. An exercise book with binder holes is a good idea. Make a note on the sheets provided of any questions you want to ask your facilitator. Record your facilitator's contact details on the front page of your guidebook.
2. Have a family meeting to decide how you will manage the completion of the guidebook - who will do what? What if there is conflict? Will you do the tasks individually and then compare notes or will you do it as a group exercise? Communicating these ideas (including fears and anxiety) is an important part of the process.
3. Decide who will obtain copies of all documents listed in *Appendix A* - allow some time to do this. You may wish to use the *sample letter* to your solicitor/accountant/financial advisor provided at the back of the guidebook. (*Appendix B*)
4. Each section of the guidebook is separated by a divider - place copies here of documents relevant to each section - you can either photocopy the documents and place them directly into the folder or put them into a plastic pocket or envelope.



People

Communication

Any process involving human beings, traditional ways of life and money is almost certain to be challenging! Failure to communicate effectively is one of the key causes of distress and family breakdown in farming families and is also one of the most significant barriers to the completion of a succession plan. Poor communication is most common where there is more than one generation farming the land and where there is a lack of trust about the involvement of in-laws, particularly daughters-in-law. Families that have successfully completed succession plans have all needed at some point in time, to pay attention to communication issues within and between family members. The ability to listen to what someone else is saying, respond respectfully and voice your own thoughts and opinions are central to success in this process. You may need to use a professional counsellor/facilitator to help you learn to communicate and reach agreement without sacrificing important relationships.

Family Tree

Use the diagram on the next page to draw a 'tree' of your immediate family. It might be a good idea to do a few rough copies first! Only include family members *still living* – that is, start with the oldest living generation and work down. Include the following details at each generation level: name, date of birth, occupation, spouses' names and dates of birth, names, occupations and ages of children and grandchildren.

Business contacts

Name of solicitor.....Firm:.....

Your contact person:.....Tel.....

Name of accountant.....Firm:.....

Your contact person:.....Tel.....

Name of farm consultant.....Tel.....

Other advisor/s.....Tel.....

Personal details

Use this page to record personal details for each member of the family who are listed in the family tree. You will need to photocopy any extra pages required.

Don't forget to include in-laws and off-farm family members!

FULL NAME.....DATE OF BIRTH.....

OCCUPATION.....

ADDRESS.....

.....P/C.....

TELEPHONE (03)..... FAX (03).....

EMAIL ADDRESS.....

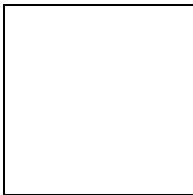
ARE YOU IN GOOD HEALTH? IF NOT, PLEASE EXPLAIN.

WHEN DID YOU LAST **REVIEW** YOUR WILL? Did you know that if you get divorced this does not automatically affect your will?

ARE THERE ANY OTHER PERSONAL OR FINANCIAL FACTORS WHICH COULD BE RELEVANT TO A SUCCESSION PLAN? For example, divorce, child support payments, disability or other carer issues; expected inheritances?

YOUR INPUT INTO THE FARM BUSINESS e.g. 21 years hard labour, weekend milking, after school and before marriage.

YOUR BENEFITS RECEIVED FROM THE FARM BUSINESS e.g house, car, and drawings of \$XX.00 per week.



Finances

If you prefer you could download this information from your computer financial program (e.g Quicken) and replace the one provided for in this section. Please make sure you record the DATE and MARKET VALUE (see definitions page) of your assets and liabilities. **NB** Each family member who holds assets and liabilities in his/her own name should fill out a separate sheet.

Statement of assets and liabilities.

ASSETS as at / /2000

Land	Area	Value \$/Ha	Total Value
Name of block			\$.....
.....			\$.....
.....			\$.....
.....			\$.....
Total Land Value			\$.....
Value of livestock			\$.....
Value of plant & equipment			\$.....
Cash in all bank accounts			\$.....
Other assets			
Shares in dairy company			\$.....
.....			\$.....
Total value of assets			\$.....

LIABILITIES as at / /2000

Amount owing

Overdraft \$.....

Overdue accounts \$.....

Factory advance \$.....

Other liabilities (eg stock agent debt) \$.....

..... \$.....

..... \$.....

..... \$.....

..... \$.....

..... \$.....

Lease finance \$.....

..... \$.....

..... \$.....

Long term loans \$.....

..... \$.....

..... \$.....

Total liabilities \$.....

Equity (total assets less total liabilities) \$.....

Risk management

Risk management (see definitions page) is an essential part of succession planning. Current and appropriate levels of insurance are part of risk management. Provide the following general (including public liability) and personal insurance information. Keep copies of all policies in the back of this section.

General Insurance.

Name of insurance company	Policy type	Policy number	Date commenced	Item[s] insured	Policy owner	Insured amount / benefit	Annual premium

Superannuation.

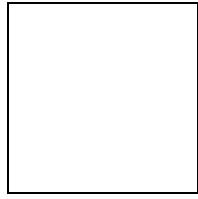
Company	Annual contribution in super	Present value of super	Death Cover Yes/no	Amount of cover	Person insured	Owner of policy	Policy number	Annual premium	Estimated maturity value

Life Insurance.

Company	Type of policy	Amount of cover	Person insured	Policy owner	Policy number	Surrender value	Annual premium	Estimated maturity value



You may need to write to more than one insurance and superannuation company to get information or copies of policies. To save time draft only one letter leaving blank spaces for policy details and copy the draft letter inserting relevant details for each company. This is very easy to do on a computer.



Estate Planning

Talking about death and making plans for what happens to your farm business after you die is confronting and sometimes upsetting, BUT the consequences of not having a valid will or not being clear about the implications of certain conditions in the will can be devastating for family members left behind.

All family members over 18 years should complete this section. Refer to the definitions section to help you understand the terms used in this section.

- **Wills.**

Do you have a will? If yes, please give details of where it is kept and who the executors are. (*You may also keep a copy in this folder.*)

You should consider having a valid and current will as an essential element of the succession planning process.

Power of Attorney

Does anyone currently hold power of attorney on any family members behalf behalf? If yes, who is it, and under what conditions can it be implemented? (*Eg. in the event of illness, incapacity etc*)

Transfer of Assets

Have you transferred any assets to any members of your family in the last five years? If yes, please give details.

Covenants and caveats

Are there any covenants or caveats affecting your property and/or will?

Tenants-in-common, joint tenancy or life tenancy.

Does your will make provision for any of these tenancy situations? Do you know if any such provisions affect you as a beneficiary?

A valid will is the best legacy to leave your family!

Goals

Successful farm transfers take into account the goals, aspirations and dreams of each family member. Successful farm transfers also require good communication to ensure their success. This section asks you to visualise where you and your farm are likely to be in the future. The topics in this section are also excellent discussion starters for family meetings. When everyone has completed this section (some of it can be done together e.g. history) get together and discuss the answers as a family. The basic question you are trying to answer is “What do I want to see happen to the family farm?” Everyone needs to have a say (include the younger members of the family too!) and all ideas and opinions should be heard. Complete the monthly living expenses in the ‘Finances’ section. If you already have a budget in your computer financial program you could print it out and place it in that section.

History of the farm business

Using a separate sheet of paper, write a short story outlining the history and heritage of your family farm. How long has it been in the family? What is your family’s history in the district? Who had the farm before it came into your possession? Was it always a dairy farm?

Business goals

What are your plans for the future of the farm business?

Hopes and dreams

What is your vision for the future of the family farm? How important is it that the farm ‘stays in the family’? What do you wish for your children? How important is it that the farm remains a dairy farm? Is diversification an option? What else do you want out of life?

Retirement and lifestyle

When do you plan to retire? Will you retire full-time or part-time? If you retire part-time what will your involvement in the farm be? Where will you retire? Will another property need to be bought for you to live in after retirement? Do you want to travel or pursue other recreational opportunities?

Future income requirements

How will you support yourself in retirement? What do you think your monthly living expenses will be?

The business

Provide details in this section of your current business structure/s. You should provide copies of any agreements or contracts regarding the business structure/s. Consider the following areas:

- Draw diagrams of how the business is organised.

- Describe (or diagram) patterns of ownership.

- Describe any profit sharing arrangements.

- Explain any guarantees affecting the business structure.

Farm Details

Map your farm/s details in brief. You could even provide (or draw) maps to illustrate this section. Describe the land and facilities including the following:

- Production capacity (overall stocking rates, hay yields, milk production)

- Inputs (labour, working capital and financial requirements)

- Future developments

- Desired covenants

Management details.

One of the most important resources on your dairy farm is the PEOPLE. The organization of the people and how decisions are made is also important. Use the table below to describe who does what. If you feel the table provided will not meet your needs discuss with your facilitator how to tailor to your requirements.

Management Tasks	Now - Who?	Future - Who?	By When?
Office work/bookkeeping			
Milking			
Animal Management			
Feed Management			
Repairs & Maintenance			
Overall decision-making			
Other activities			

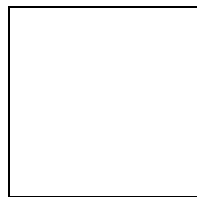
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- **Checklist for collection of asset details**

An important part of planning for the transfer of assets is the confirmation of ownership of those assets. Use this section to identify the proof of ownership of your assets. In the section labelled “Finances” provide a summary of assets and liabilities held by you and/or your business. You could use the summary form provided below or print out a copy from your current computer finance package.

Provide details and documents for the following:	Who?	By date?
<p style="text-align: right;"><i>For example:</i></p> <p>Title deeds of all farmland owned by each family member</p> <ul style="list-style-type: none"> • <i>Check with bank or solicitor for originals. Include date of acquisition, rate notices.</i> <p>Provide an estimate the values of each property.</p> <ul style="list-style-type: none"> • <i>Provide a recent (last 3 years) formal valuation or a valuation from a stock and station agent.</i> <p>In whose name is the dairy licence?</p> <p>Is there a water licence attached to the property?</p> <ul style="list-style-type: none"> • <i>Provide confirmation.</i> <p>Estimate the total market value of plant, equipment and stock.</p> <ul style="list-style-type: none"> • <i>Provide depreciation schedule and livestock schedule (from accountant)</i> <p>List your accounts with banks, building societies and credit unions.</p> <ul style="list-style-type: none"> • <i>Are there separate accounts for personal and farm?</i> <p>List any shares you hold in public companies.</p> <ul style="list-style-type: none"> • <i>If you have a share portfolio your stockbroker will hold complete records.</i> <p>List any other types of investments you have.</p> <ul style="list-style-type: none"> • <i>Cash management trusts, mortgage trusts, equity trusts, rollover funds, time-sharing accounts etc.</i> <p>Provide an estimate of the value of any other investments.</p>	DN	1/7/01

- | | | |
|---|--|--|
| <ul style="list-style-type: none">• Stamp collection, antiques, vintage cars etc. | | |
|---|--|--|



Further reading

Maddern, P et al, 1997, *'Succession Planning'*, for South West Rural Counselling & Farm Management 500, Hamilton.

- Document located at The Legal Centre.

WestVic Dairy & Dairy Research and Development Corporation, (? date)
'Advancing the Dairy Industry in Western Victoria: Human Resource Development in Western Victoria's Farming Community. Key Issues Identification'

- Document located at The Legal Centre.

Standing Committee on Women in Agriculture and Resource Management, 1998, *A Vision for Change: National Plan for Women in Agriculture and Resource Management*, Commonwealth of Australia.

- Document located at The Legal Centre and Upstream Projects. Copies available from Rural Women's Unit, Rural Division, DPIE, GPO Box 858 Canberra, ACT 2601. Tel: 02 6271 6300.

Rural Industries Research & Development Corporation, 1995, *Transfer of the Family Farm Business in a Changing Rural Society*, RIRDC, Barton, ACT.

- Document located at The Legal Centre.

McGuckian et al, 1995, *Your Farm, Their Future – Together: A Manual for Farm Transfer Planning*, Lachlan Advisory Group Inc, Tottenham, NSW

- Book located at The Legal Centre and Glenormiston College. Available from the publishers (02) 68 933843

Talty, P & Thomson, B (? date) *Handing on the Family Farm – Let's Get Started*. (incomplete information about publisher on copy reviewed)

- Document (photocopy) located at DNRE Warrnambool (Caroline Love). This is a "marketing tool for professional advisors to encourage their farming clients to begin the succession planning process"

Smith, E, 1991, *Surviving the Rural Crisis of the 90s and How to Save the Farm*, Schwartz and Wilkinson, Melbourne.

- Book located at Upstream Projects. Available from DNRE Bookshops.

Use these pages to make notes or write questions to ask the facilitator.

