Handing over the family farm: proceedings of a Succession Planning Seminar Wednesday 2 March 1994 Dymesbury Lodge, King River.

Department of Agriculture and Food, Western Australia

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Handing Over the Family Farm

Proceedings of a Succession Planning Seminar
Wednesday 2 March 1994
Dymesbury Lodge, King River
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Succession planning for farm businesses is becoming of increasing interest and importance. The increased pressure from competitive world markets and more marginal farming profits is necessitating better planning for many farm families who wish to provide a sustainable family farming unit. Today's seminar has been arranged to inform farmers of the related issues and importance of careful estate planning. As the Department of Agriculture does not have specialised resources in the relevant areas, it is imperative that experienced individuals from the private sector are utilised to provide this information. These proceedings have been written by such individuals and are intended to provide a broad overview of farm estate planning. The time and effort of the authors is greatly appreciated.

Adrian Ross
Regional Economist
Albany District Office, Department of Agriculture, Western Australia
FARM ESTATE PLANNING - HOW TO GO ABOUT IT!

David Poutney, Rural Counsellor, Southern Agcare

Welcome, and may I congratulate you all for being here today to look at the delicate issue of handing on the farm. If there is any one topic capable of causing procrastination of decisions, tension within a family and a partial or total breakdown of communication between family members, then the many issues that must be addressed concerning the succession of ownership of the family farm and business is that topic.

Your attendance here today is an acknowledgment of your desire to improve your skills and understanding of SUCCESSION PLANNING, and I feel sure the day will provide that opportunity in abundance.

If the second generation is to successfully take over the family farm it is more likely to be achieved following careful planning, rather than sudden retirement, illness or death being the pivot around which the younger farmers get thrown in off the deep end. It must be appreciated that all farmers will leave the farm one day, either vertically or horizontally, and that careful planning will not only improve the chances of success, but will also reduce anxiety for all family members over the period of the transfer.

A plan to hand the farm on should be seen as an ongoing plan, which may run for many years before its goals are achieved. Elements such as grooming the younger generation, catering for the entry and exit of family members from the business, satisfying social, traditional, cultural and legal claims of members of the family while providing the security and retirement needs of the older generation are some of the issues to be addressed, and in most cases juggled and compromised around limited available resources.

If five or even ten percent of the time spent on generating cashflow budgets was spent on formulating and reviewing an ESTATE PLAN then one of the most common reasons for farm business failure would be avoided. For a farm business without any plans or goals is like a sailing ship without a chart. No one knows where it is now, where it is headed, or where it will end up.
There are almost as many plans and methods of handing on the family farm as there are farming families. Your plan will almost certainly be unique. Only after careful input from all participants to establish individual agendas, and professional advice on the maze of legal and technical implications applicable to your specific situation, can a successful plan be formulated.

Ladies and Gentlemen there isn't really a great deal more that I want to say at this point. The answers to many of the issues I have raised will be forthcoming from the individual professionals who will address you directly. Once again I congratulate you on taking the time to look at this important but perennial problem, and if today's proceedings cause you to take some action to secure the future of your farming business then our goals will have been achieved.

FARM ESTATE PLANNING - HOW TO DO IT!

In the five Shires of Albany, Plantagenet, Cranbrook, Kojonup and West Arthur in 1982 there were 1869 farm enterprises.

By 1992 there was 1451 farm enterprises, a decline of 22% in 10 years.

In 1990-91 in Western Australia:

64% of wheat was grown by 30% of growers

36% of wheat was grown by 70% of growers

43% of wheat was grown by 15% of growers

A full overview of a large proportion of farm businesses confirms they have not got the resources to fund the retirement of parents and have a viable business unit as well as provide an inheritance to other family members.

Despite the family farm being a haven for family members to learn, develop, grow and mature, it must be run on a sound business footing to be able to survive, hard decisions must be made.

Be aware you will all leave the farm one day, either vertically or horizontally. Both scenarios need to be planned for.

Accept that all members of the family will have an influence over the farm, whether you want them to or not.
Regular family business meetings should be held. Make them official and important. There’s plenty to discuss. Regular meetings will disseminate information and issues will keep being raised to be dealt with, not swept under the carpet and ignored. Establish what the individual expectations of the business are. A forum for personal agendas to be aired is essential for succession planning.

Be alert to each individual’s needs.

The issue of intergenerational transfer is usually not tackled because no one makes a start on it. Transfer is not viewed as an ongoing process. The needs and expectations of all the individual family members are not discussed, issues are not identified, options not explored. Death becomes the pivot of change, often suddenly, by when the opportunity to foster motivation, confidence and competence may have been forgone and the farm business is in immediate jeopardy.

Intergenerational transfer can cause tension. Tension restricts communication. The potential for sibling conflict and family disintegration increases.

Be sensitive to the older generation’s conservatism. Security is very important to them as they get older. Don’t threaten their security.

Family businesses may suffer from continual conservatism if the older generation are always in control. Hanging on too long may cause this.

It is impossible to successfully transfer an unviable farm business.

Be sure you are leaving or inheriting a viable farm business.

The family farm can only survive under the current terms of trade if it has the ability to expand the asset base. A static enterprise will produce a falling profit while living costs increase.

It can take a decade or more for a farm business to fail. Constant monitoring is required to detect a loss of equity.

Taxation accounting is not sufficient monitoring of business performance. Good records are necessary to measure improvement.

Any agreements or plans are only as good as the people who make them.

Despite the family farm being a haven for family members to learn, develop, grow and mature, it must be run on a sound business footing to be able to survive, so hard decisions must be made.
If a farming estate is to be divided between two or more of the younger generation, set it up so that the whole can be easily split after the older generation have handed over, if it is not divided at the time of departure.

Be aware that farming profits for the future will be generated from production orientated activities and that the terms of trade for farmers will make this more and more of a challenge for the younger generation. Asset accumulation may be more difficult for the next generation of farmers than it has been for the older generation.

Having sons home on the farm for many years before the parents retire may not be the best course of events. Time spent gaining a profession, trade or skills is often very beneficial to all parties.

Resist bringing family members home to save the farm if things are not going well, especially if it interferes with the development of their own career and independence.

Be aware that the departure of one or both of the older generation, whether by death or design, will change the dynamics of the remaining relationships considerably. Sometimes for the better, sometimes for the worse.

The younger generation must have a challenge to tackle. Be sure they have one at all times. Allow them to tackle it in their own way. Parents should not feel guilty about the second generation taking over some debt.

Much resentment and argument can be avoided between family members if each family unit or independent has control over, and is responsible for their own:

- Petrol
- Phone
- Privacy (the 3 P's)
During the period of transfer the older parents must;

- Put in place retirement plans
- Groom the younger generation to manage
- Be patient with new ways of doing things
- Ensure finance and business growth occur
- Maintain a veto on financial control within reason during the early stages of transfer
- Withdraw from the farm slowly
- Hold regular meetings and be an astute listener at those meetings
- See others points of view
- Don't hang on too long
- Ensure the 3 P's are provided

During the period of transfer the younger generation must;

- Learn to work
- Learn that money doesn't grow on trees
- Develop changes
- Manage farm finances
- Manage risk
- Manage their own affairs
- Seek and take responsibility
- Prospect for and obtain skills and ideas

A survey in NSW revealed that;

- 55% of the second generation of farm families did not know the contents of their parents will
- 42% of parents had not discussed the subject of intergenerational transfer with each other
- 63% of parents had not spoken to the second generation about transfer of the farm business
Handing Over the Family Farm

- 84% of parents had not included their daughter-in-law in any discussions, even though it has a major effect on her life and family.
- 74% of parents had not discussed transfer of the farm with their accountant.

If you are the wife of a son, the messages you receive are probably very distorted.

Be aware of the change in gender roles. Women should feel free to take on management and leadership roles. An increasing number of women are going through our agriculture education system. Women are involved more in the business side of farming as well as carrying out a larger role in the physical running of farm properties.

The human resource is the most important resource on a farm. Is it being used fairly, effectively and efficiently?

Skill levels and job satisfaction are high in the older generation. Developing skills is a challenge for the younger generation.

Consider all opportunities and increase management and technical skills. Joint ventures, value adding, syndication, cooperatives, cottage type industries will all continue to offer opportunities. Consider what talents and skills exist within the family that can be put to good use.

Trust is the basis of a good family business - LOVE is also present in this circle of business partners.

Farm families should consider what expectations and motivation, as well as education they provide for their children.

A person’s needs are their motivation. When needs are interfered with by a person with controlling powers then a less complete person is created who will build up resentment, may be mischiefvous, irresponsible etc. Motivation may be lost if needs are not considered.

People’s needs vary as they progress through life.

- Young people’s needs can be - select a mate, marry, establish a home, develop social support network, develop career and skills.
- Middle aged people’s needs can be - maintain family, assist children, consolidate career, take responsibility, social and civic duties, cope with physical changes.
Handing Over the Family Farm

- Older people's needs can be - adjusting to reduced physical ability, coping with retirement, cope with possible death of spouse, to maintain family relationships.

Don't cut things that can be untied.

More family splits occur at times of financial stress. This is usually when the business can least afford a split.

Some family structures cope with stress well and offer and provide support to family members during tough times, while some families' reaction to difficult times increases the stress on the family members.

Nervous energy expended under stress and at times of high emotion causes sickness eventually. the ability to think clearly and make rational decisions is affected or lost. People in this state are also prone to accidents.

Stress is cumulative, excessive stress commonly leads to chronic hypertension and heart disease.

Constantly monitor yourself for anxiety and denial. If you are not addressing the challenges in your life get help to break the deadlock within yourself.

Anger manages things poorly.

Worry is a poor substitute for action.

Perhaps being a successful farmer is not worth it if you are a failure at home. Money can be a stressful way to keep score in the game of life.

Farms "gobble up" families under stress.
SUCCESSFUL PEOPLE WILL DO ALL OR MOST OF THE FOLLOWING THINGS:

1. Accept that problems are normal.
2. Set a GOAL or GOALS
   Write the goal down;
   Break the goal down into achievable segments.
3. Take responsibility.
4. Do the hard things.
5. Change.
6. Prospect.
7. Visualise themselves doing what they want to do.
1. SUMMARY OF THE CONCEPT

1.1 Simple Structures

Discretionary Family Trusts are simple structures.

If properly used, discretionary family trusts can create many advantages in your personal and business activities.

Some people who have not dealt with discretionary family trusts previously, find the concept confusing and even people who have been dealing with discretionary family trusts for some time, do not fully understand the concepts.

In order to assist you in better understanding the concepts and principals of discretionary family trusts, this paper contains a summary of provisions contained in the Deed of Settlement and a note on the advantages of the trust as an instrument of income tax planning and a convenient and flexible means by which to control the ownership of property;

1.2 Establishment of Trust

A trust provides for an independent person (the Settlor) who gives a sum of money (the Settled Sum) to a person or company (the Trustee) for the ultimate benefit of nominated persons (the Beneficiaries) at some future time (the Vesting Date) under conditions which are evidenced in writing by the Settlor in a Deed of Settlement (or Trust Deed). *Enclosed is a diagram illustrating the set up of a trust;

1.3 Purchase of Property

Following the formation of the Trust, the Trustee may acquire other income producing assets for the benefit of the Beneficiaries upon the same terms as are contained in the trust set out in the Deed;

1.4 Business of the Trust

The terms of the Trust Deed provide that a Trust Deed can conduct a business operation, own shares in operating companies, own rent producing properties, carry out speculative ventures or any other activity that a company or individual can conduct without becoming liable to income tax applicable to proprietary companies.
2. DEFINITION OF EXPRESSIONS USED IN THE TRUST DEED

2.1 Settlor

The Settlor is the person who initiates the formation of the Trust by providing the Settled Sum which is usually deposited in a fixed deposit savings account with a bank or building society. Apart from providing the Settled Sum and signing the Deed of Settlement, the Settlor takes no further part in the operations of the Trust. The Settlor cannot get any future benefit from the Trust assets;

2.2 Trustee

2.2(a) Trustees may either be:

- a natural person or persons; or

- a proprietary limited company usually incorporated specifically for the purpose of acting as a trustee;

2.2(b) If you are also planning to set up your own private superannuation fund, then the Trustee must be a company. The main advantage of having a company as a Trustee is that it avoids the situation of confusion between Trust assets and non Trust assets;

2.2(c) The Trustee is the legal owner of all the property comprised in the Trust Fund but that legal ownership is held on trust for those persons listed in the Trust Deed as beneficiaries;

2.2(d) The Trust Deed confers wide powers on Trustees enabling the Trustee to deal with and manage the trust property;

2.2(e) Subject to the consent of the Guardian, it is the Trustee who is empowered to distribute the income and capital of the Trust Fund. In any particular year, the Trustee may deal with the income of the Trust in the following manner:

2.2(e)(i) all or any part of the income may be paid out to any one or more of the beneficiaries in proportions as the Trustee, in his absolute discretion, decides but subject to the Guardian's approval;

2.2(e)(ii) Any part of the income not paid out is divided equally and held in trust specifically for the Specified Beneficiaries;

2.2(e)(iii) If the Trustee resolves in writing, all or any part of the income can be accumulated, in which case the income would be subject to a penal rate of tax under Section 99A of the Income Tax Assessment Act ie. taxed at a rate of 47c for every $1.00 of assessable income;
2.3 Capital of the Trust Fund

The Trustee may deal with the capital of the Trust Fund in any of the following ways:

2.3(a) The capital of the Trust Fund is distributed on the Vesting Date amongst the Specified Beneficiaries nominated in the Deed (or if they are deceased amongst their children or grandchildren) in equal shares unless the Trustee, by Deed made prior to the Vesting Date with the express consent of the Guardian appoints the capital in favour of the General Beneficiaries in other specific proportions;

2.3(b) Any part of the capital may be advanced for the benefit of one or more of the General Beneficiaries from time to time at the discretion of the Trustee;

2.3(c) If the Guardian is dead, or if the position becomes vacant, then the range of persons between whom the Trustee can choose, is limited. Until the following classes are exhausted, the choice is restricted to the Specified Beneficiaries or their brothers and sisters and should there be no Specified Beneficiaries or their brothers and sisters, then their children;

2.4 Powers of Investment

The Deed includes wide powers of investment to allow the Trust to operate any type of business venture, speculative venture, or investment;

2.5 Vesting Date

The Vesting Date in Western Australia is 80 years from the date of commencement of the Trust. As a matter of law, the Trust must terminate or vest at a date not later than 80 years after its commencement. However, there are provisions in the Trust to enable the Trustee, with the consent of the Guardian, to nominate an earlier Vesting Date;

2.6 Safeguard and Control

2.6(a) Appointor

The Appointor has power under the Deed of Settlement to remove and replace the Trustee as he sees fit. Therefore, the person holding the office of Appointor assumes indirect control over the whole trust operations, including the Trustee;

The Appointor may appoint a person to take over the position of Appointor of the Trust by way of Deed or will. It is advisable that where a person is an Appointor under a Trust that provision is made in their will for the appointment of a person to take over the role of Appointor of the Trust;

2.6(b) Guardian

The Guardian carries the power to veto distributions of income and capital by the Trustee and to vary the terms of the Trust during the lifetime of the Guardian.

On the death of the Guardian, if no provision for succession has been made, the office becomes
vacant and the capital is held upon a fixed trust for the Specified Beneficiaries in equal shares (or if they are deceased for their children or grandchildren). The range of beneficiaries from whom the Trustee can choose to distribute income is also limited;

2.6(c) Regaining Control of the Trust’s Assets

The person who holds the office of Appointor and Guardian can effectively regain control of the Trust assets by resettling the Trust Fund in favour of an eligible Trust. An eligible Trust is defined in the Deed of Settlement as any other Trust under which any Specified or General Beneficiary is named as a beneficiary;

2.7 Beneficiaries

Beneficiaries are divided into 2 classes:

- Specified Beneficiaries
- General Beneficiaries

The Trust Deed defines General Beneficiaries by reference to the Specified Beneficiaries. Other persons who are not included within the class of General Beneficiaries are defined in the Trust Deed and may be specifically named as additional members of the class.

Because the Trust is a Discretionary Trust, no beneficiary has an interest in the Trust Fund and no beneficiary can require the Trustee to exercise his discretion so as to appoint income or capital in his favour. The only right that a beneficiary has is to require the Trustee to exercise his discretion bona fide and in good faith.

3. DISTRIBUTION OF INCOME

Under the terms of the Trust, income may be distributed as desired annually, or accumulated with a view to achieving maximum tax advantages. These advantages are obtained by distributing the trust income among the whole series of beneficiaries so that the benefit of a lower marginal rates of tax can be obtained. As a matter of practice, the distributions are simply reflected as book entries in the trust books of account. However, if actual distributions are made, any one or more beneficiaries can be excluded from the annual distribution as considered desirable.

4. STAMP DUTY ADVANTAGES

4.1 Acquisition of Property by the Trust

Stamp duty is payable at the usual rates on acquisition of property by the Trust;

4.2 Passing Control of the Trust

The indirect control of the assets can be passed from one person to another person by a Deed changing the Appointor of the Trust. The duty on the Deed transferring the control of the Trust may be nominal.
For example, if a Trust owns farming land and the Appointor of the Trust is the father, it would be possible for the father during his lifetime by way of a deed to remove himself as an Appointor of the Trust and appoint his son the Appointor of the Trust and thereby pass the indirect control of the Trust to his son. This would result in the son having the indirect control over the farming property.

There is no obligation on an Appointor to pass the indirect control of a Trust to another person;

4.3 Transfer to Beneficiaries

If the Trustee transfers property of the Trust to a natural person beneficiary named in the Deed at the time the property was acquired by the Trust, there may be substantial duty savings.

If the transfer involves no assumption of liabilities (express or otherwise), then duty on the transfer may be nominal;

4.4 Legal Advice

The transactions stated relating to stamp duty advantages are examples only. Stamp duty is a duty on instruments and in limited cases also on transactions.

Instruments and transactions must be looked at on an individual basis in order to determine the stamp duty implications.

It is therefore imperative that legal advice be obtained before signing any instruments or entering into any transactions relating to Discretionary Family Trusts.
BUSINESS STRUCTURES

Philip Wyatt, Partner, Haynes Robinson, Albany

1. Partnerships

1.1 A partnership, as defined by the Partnership Act is "the relation which subsists between persons carrying on a business, with a view of profit". A "person" does not have to be an individual, it can be a corporation.

1.2 The advantages of acting as a partnership are as follows:

1.2(a) You do not have to go it alone and you have both increased capital and expertise into your business;

1.2(b) You have someone to back you up and assist you and to use as a sounding board for your ideas;

1.2(c) There are taxation advantages;

1.2(d) You are not responsible for all the losses and obligations of the business and these are shared between the partners.

2. Companies

2.1 There are 2 principal types of companies being:

2.1(a) Public companies;

2.1(b) Proprietary Limited companies (private companies);

2.2 It would be unusual for anyone commencing a business or purchasing an existing business to be involved with public companies therefore this paper will deal solely with proprietary companies;

2.3 As from 1 January 1991 the Australian Securities Commission became the sole national body for administering a national corporations law. Companies are governed by the Corporations Law (1991);

2.4 It will generally cost between $800.00 and $1,000.00 to incorporate a company. The majority of these costs are Government filing fees;
2.5 The first step is to choose a name and have that name approved and reserved by the Australian Securities Commission;

2.6 After the name has been reserved, then an application for incorporation can be lodged. A Memorandum and Articles of Association are prepared and these contain the rules governing the operation of the company and who its initial subscribers are and the general purposes for which the company is incorporated;

2.7 After the company has been incorporated, the Australian Securities Commission will allocate a company number (A.C.N.) and issue a certificate of incorporation;

2.8 Then there is an initial meeting of the Directors of the company (which may be husband and wife for example) and certain formalities are carried out, usually with the advice of solicitors and/or accountants;

2.9 The Directors and shareholders of companies have periodic obligations regarding completion of certain forms and returns but usually this is left to your accountants to attend to the necessary formalities;

2.10 The advantages of trading as a company are as follows:

2.10(a) A company is a separate legal entity and unless the Directors have been guilty of some particular breach of the Corporations Law, or given personal guarantees, neither the Directors nor the shareholders nor employees of the company can be personally liable for the company's debts;

2.10(b) This can be contrasted with a partnership where each partner, depending upon the nature of their partnership agreement, is usually jointly and severally liable for the debts of the partnership;

2.10(c) A company is an ongoing entity and does not have to be dissolved or reconstituted if a director or shareholder dies or leaves;

2.10(d) Contrary to popular belief, you do not have to be rich and inject a huge amount of capital to set up a company. You have probably all heard of the expression "a $2.00 company". This means that the 2 initial directors (there must be a minimum of 2) have purchased a $1.00 share in the company, although the capital of the company can be any amount usually $100,000.00. This capital does not have to be paid up;

2.10(e) A company has taxation advantages, the present rate of taxation being 33c in the $.
1. REASONS FOR HAVING A WILL

1.1 Estate Planning - partnerships, companies and trusts;

1.2 Administration Act. A person who dies without a Will is said to die intestate. In that case the deceased’s property is distributed according to the terms of the Administration Act. The deceased’s property is therefore distributed in accordance with the law and may not be distributed in accordance with the deceased’s wishes.

2. WHAT IS A WILL?

2.1 The making of a Will is governed by the Wills Act of 1970 and more recently the Wills Amendment Act 1987;

2.2 Prior to 22 November 1987 a Will was invalid unless it complied with Section 8 of the Wills Act. Section 8 required a Will to be:

2.2(a) In writing;

2.2(b) Signed by the Testator (the person making the Will) or by a person directed to do so by the Testator - and such direction is acknowledged in the Will, for instance in the case of a blind person;

2.2(c) The Testator signs in the presence of 2 witnesses who are present at the same time;

2.2(d) The 2 witnesses witness the Will in the presence of the Testator;

2.3 Any alteration to a Will was also required to be attended to in the above manner;

2.4 The Wills Amendment Act 1987 now ceases the more stringent requirements of the Wills Act. The Wills Amendment Act applies to persons dying after 22 November 1987 and in respect of persons so dying extends to any document, writing or alteration executed or made up before that day;

2.5 A few important aspects of the Wills Amendment Act are:

2.5(a) A document purporting to embody the testamentary intentions of a deceased person is a
Will of that person even if it has not been executed in accordance with Section 8 of the Wills Act;

2.5(b) any alteration made to a Will of a deceased person after the Will was executed or made has effect even if the Will was not properly witnessed;

2.5(c) A writing declaring an intention of a deceased person to revoke a Will or part of a Will has effect even if not properly witnessed;

2.5(d) A writing declaring an intention of a deceased person to revive a Will or part of a Will that has been revoked has effect even if not properly witnessed;

2.6 Notwithstanding the above, it must be remembered that where the Will has not complied with the Wills Act and it is said to rely on the Wills Amendment Act, the Supreme Court in a Probate action must be satisfied that there can be no reasonable doubt as to the deceased's intentions;

2.7 Such a standard of proof is extremely "high" and it is recommended that where it is at all possible the requirements of the Wills Act should be complied with.

3. WHAT MAKES A WILL INVALID?

3.1 Marriage after making a will. However, it is possible to make a Will in contemplation of marriage;

3.2 Non-compliance with the provision of the Wills Act.

4. MATTERS THAT SHOULD BE DEALT WITH IN A WILL

4.1 Full personal details of the Testator;

4.2 Details of the Executor to be appointed in the Will;

4.3 Details of the person to be appointed a substitute Executor in the Will;

4.4 If the Testator has children under the age of 18 years, full details of the Guardians to be appointed in the Will;

4.5 Details of any specific bequests;

4.5(a) Gifts of chattels;
4.5(b) Gifts of money;

4.5(c) Annuities;

4.5(d) Full details of the property to be bequeathed under the Will and the full name, address and occupation of the person to receive the bequest;

4.6 Details of any gifts of land. Full details of the land includes Certificate of Title volume a folio numbers and the full name, address and occupation of the person to receive the land;

4.7 Details of the person who will receive the property under the Will, including the full name, address and occupation of the beneficiaries;

4.8 Details of any debts and loans that the Testator wishes to forgive under the Will. Full details of the debt and loan and whether or not the debt or loan is secured and the full name, address and occupation of the debtors;

4.9 If the estate is to be bequeathed to more than one child, are the children to inherit in equal or unequal portions (e.g. say three children, is it one third each or the eldest one half and the other one quarter each?);

4.10 If the estate is bequeathed to children, the age that the children will inherit the estate, i.e. 18, 21 or 25;

4.11 Details of any specific directions to the Executor relating to the burial of the Testator's body remains, i.e. whether the person wishes their body to be cremated or any other specific directions;

4.12 Details of any other matters the Testator wishes to include in their Will.

5. REVISION OF WILL

5.1 A Will should be revised every 5 years;

5.2 It is highly probable that one of the following events will occur in a person's life within period of five years:

5.2(a) Change of wealth;

5.2(b) Birth of children;
5.2(c) Death of an Executor or Beneficiary;

5.2(d) Marriage;

5.2(e) Divorce;

5.3 It is extremely important that a Will is revised and kept up-to-date to reflect a person's present situation. A will is made today in case you die tomorrow, therefore the Will must reflect the person's current situation.

6. SAFE CUSTODY OF ORIGINAL WILLS

6.1 The original signed Will should be kept either in safe custody with the Testator's bank or solicitor;

6.2 The Testator should advise the Executor where the original signed Will is kept. If the Testator desires, the Executor can be given a signed copy of the Will for their records;

6.3 The Testator should keep a copy of the signed Will in their possession.

7. COST OF PREPARING A WILL

7.1 It is essential that a Will be prepared by a legally qualified person. Everyone in today's society has their own degree of expertise and it is extremely dangerous to go outside one's area of expertise;
7.2 Generally, lawyers made extremely bad farmers, and therefore farmers should not attempt to prepare their own Wills. Farmers never attempt to take out their own appendix, therefore Farmers should not attempt to prepare their own Wills;

7.3 It is extremely dangerous to obtain a standard pro-forma Will from a newsagency and attempt to complete the blanks and thereby prepare your own Will;

7.4 If a Will is not prepared property so as to comply with all the requirements, then the Will will be invalid and the Testator will die intestate;

7.5 Generally a solicitor will be able to advise you of the legal costs for the preparation of your Will at the time of taking the initial instructions.

8. VARIATION OF A WILL BY A COURT

8.1 Courts may vary the terms of a Will. The Inheritance (Family and Dependents Provision) Act 1972 allows the Supreme Court where it considers that a deceased has now made adequate provision from his estate for the proper maintenance, support, education or advancement in life of the persons mentioned in the Act, to make provision as the Court sees fit from the estate of the deceased;

8.2 Person who may benefit from provisions being made by the Court are referred to in the Inheritance Act and include:

8.2(a) The widow or widower of the deceased;

8.2(b) A person whose marriage to the deceased has been dissolved or annulled and who at the date of death of the deceased was receiving or entitled to receive maintenance;

8.2(c) A child of a deceased including an unborn child;

8.2(d) A grandchild of the deceased who at the time of death of the deceased was being wholly or partially maintained;

8.2(e) A parent of the deceased and a de facto widow or widower of the deceased;

8.3 It is important to remember that the terms of the Inheritance Act apply to provisions made by a deceased in his Will and also to the law relating to intestacy. The Inheritance Act allows the Court to vary the terms and distribution under the Administration Act;
8.4 Claims under the Inheritance Act are discretionary and the Court has to consider what is "adequate" provisions for the "property" maintenance. The Court has to have regard to all the circumstances of a case which will include:

8.4(a) The means of the deceased;

8.4(b) the means of the applicant;

8.4(c) The contribution to the creation of an asset, which may be assisting to develop a farm by leaving school at an early age to provide physical labour; or

8.4(d) Alternative assistance indirectly by caring for a family and running a household;

8.4(e) Assistance and emotional support to the deceased and others;

8.5 Applications pursuant to the Act should be made within six months from the date of which the Administrator becomes entitled to administer the estate within Western Australia. The Court may extend the time in which to apply where the justice of the case so requires.
When the time has come to consider including additional family members in the farm partnership, in a lot of cases the direction taken often turns out to be inappropriate.

A typical scenario might be where at the annual visit to the accountant, Dad states that he would like his son to become a partner of the farm partnership. Little consideration is given to any future implications this might have. There might be little or no discussion on the direction in which the family or the farm are heading and then son becomes a partner.

More appropriately there should have been a meeting involving all family members where a whole range of issues could have been discussed including:

- Mum and Dad’s retirement (even if still 10 years away)
- Sons intentions
- The direction of the other family members

Then, after considering the overall picture and addressing all the issues it may be apparent that having son simply become a partner may not necessarily be the most appropriate action to take.

- Partnership owns the farm assets of which each partner has a share (ie equity and control)
- Partnership income is shared between the partners equally or by partners agreement
Family Trust owns the farm assets which are held in trust for the beneficiaries.

The trustee manages the assets of the trust (ie is in control of the day to day running of the farm).

The appointer has the power to each the Trustee at any time and is therefore the ultimate person in control of the Trust and its assets.

Trust income is distributed to the beneficiaries in accordance with the Trustees wishes.
TRANSFER OF LIVESTOCK

Where there is a change in the ownership of livestock due to someone entering or leaving the partnership, (ie a variation of partnership), or a family trust taking over the livestock, for tax purposes this is treated as a notional disposal of the livestock from all the old owners to all the new owners at market value.

The old and new owners may elect to have the transfer occur at tax values rather than market value. Section 36A (2).

The option to adopt the tax value is available where:

- the livestock becomes an asset of the farm enterprise carried on by the new owners.
- after the notional disposal the old owners retain at least a 25% interest in the livestock.
- the market value of the livestock at the date of disposal is greater than tax value.

TRANSFER OF PLANT

If an undivided fractional interest in depreciated assets is transferred (ie partnership variation etc) tax law applies as though there had been an actual disposal of the depreciated assets by all the original owners to all the new owners at market value.

Similarly to the livestock a joint election for roll-over relief can be made by both the old and new owners at the time of transfer to have the plant transferred at tax values rather than market values. Section 59AA.

BALANCING CHARGES

A balancing adjustment must usually be made when a unit of depreciated property is sold, scrapped, destroyed, lost or transferred.

- If the "consideration receivable" on the disposal or deemed disposal is less than the depreciated (tax) value, the deficiency is deductible in the year of disposal.
- If the "consideration receivable" exceeds the depreciated (tax) value, the excess, up to the amount of the total depreciation deductions allowed to date on that item, is assessable in the year of disposal.
CAPITAL GAINS TAX IMPLICATIONS

One of the major "tax reform" initiatives of the mid 1980's was the introduction of a comprehensive "capital gains tax" which applies in relation to the disposal of assets acquired after 19th September 1985.

For the capital gains tax provisions to be attracted:

- There must be a disposal, (or deemed disposal), of an asset after 19th September 1985.
- The asset must have acquired, (or deemed to be acquired), by the seller after 19th September 1985.

If we consider a partnership variation and how the plant is treated when transferred, suddenly:

**PLANT THAT PREVIOUSLY ESCAPED THE CAPITAL GAINS TAX PROVISIONS MAY BECOME SUBJECT TO CAPITAL GAINS TAX WHEN SOLD AT A LATER DATE**

This would occur because a deemed sale has occurred on plant after September 1985, which originally may have been purchased prior to September 1985.
**SHOULD WE HAVE OUR OWN SUPERANNUATION FUND?**

<table>
<thead>
<tr>
<th>PERSONAL SUPERANNUATION FUND</th>
<th>INTERNALLY MANAGED FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who are these funds designed for?</strong></td>
<td>For people receiving a salary from their own business.</td>
</tr>
<tr>
<td>Self employed</td>
<td></td>
</tr>
<tr>
<td>ie. Those running their own business.</td>
<td></td>
</tr>
<tr>
<td><strong>Who pays the contribution?</strong></td>
<td>Contributions are paid by family company or trust.</td>
</tr>
<tr>
<td>Contributions paid by each member.</td>
<td></td>
</tr>
<tr>
<td><strong>Who claims the deduction?</strong></td>
<td>Family Trust or Company.</td>
</tr>
<tr>
<td>The member ie. The self employed business proprietor/farmer.</td>
<td></td>
</tr>
<tr>
<td><strong>What tax deduction is available?</strong></td>
<td>100%</td>
</tr>
<tr>
<td>First $3,000 plus 75% of additional contributions. (Only if they are considered substantially self employed)</td>
<td></td>
</tr>
<tr>
<td><strong>Who controls my Superfund Investments?</strong></td>
<td>Trustee - You!</td>
</tr>
<tr>
<td>Trustee is usually a life office or trading bank (ie AMP, Westpac)</td>
<td>ie you have full control as to where to invest your money.</td>
</tr>
<tr>
<td>- Versatility</td>
<td></td>
</tr>
</tbody>
</table>
OUTLINE OF TAX CONCESSIONS

CONTRIBUTIONS: are generally allowable as a tax deduction however 15% tax is deducted from all contributions to superfunds which have been allowed as a tax deduction

FUND INCOME: complying funds are taxed at 15% non-complying funds are taxed at the top marginal rate. (ie currently 47%)

BENEFITS: ie. lump sum payments from the fund are taxed at the time of withdrawal - the maximum rate depends on the members age

<table>
<thead>
<tr>
<th>Age</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 55 years</td>
<td>20%</td>
</tr>
<tr>
<td>Their whole lump sum taxed at 55 years and over</td>
<td>0%</td>
</tr>
<tr>
<td>$0- Threshold*</td>
<td>15%</td>
</tr>
<tr>
<td>over Threshold*</td>
<td></td>
</tr>
</tbody>
</table>

* Threshold in 1993 is $76,949 and is index to Average Weekly Ordinary Time Earnings
EXAMPLE OF EFFECTIVENESS OF AN INTERNAL FUND

Assumptions:
- Dad and Mum (both aged 58)
- Both wish to retire from the farm
- Average rate of tax 35c
- Capable of funding large contributions
  (say $40000 each for 2 years)

CASH FLOW PROJECTION (OVER 2 YEARS)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total contributions</td>
<td>$160,000</td>
</tr>
<tr>
<td>Tax on contribution@ 15%</td>
<td>$24,000</td>
</tr>
<tr>
<td>Tax saving on tax deduction from the contributions (160000 x 35%)</td>
<td>$56000</td>
</tr>
<tr>
<td>Net Tax Saving</td>
<td>$32000</td>
</tr>
</tbody>
</table>

Mum and Dad can withdraw all their superfund investments out of the fund tax free.
FARM BUSINESS PLANNING

Roderick Grieve, Roderick Grieve Farm Management Consultants, Albany

Farm business planning is about preparing for the future. Its preparation and implementation is really no different from the physical farm plan most of you have drawn on plastic overlays. There is one major difference, however, it involves the farm's most valuable resource - individual family members.

A good place to start is where are you now?

After several very tough years of low wool prices and capped off in 1993 with a very wet year which reduced crop yields many families are in a dilemma.

A sense of failure, a lack of enthusiasm, an unwillingness to face the future, not knowing where to turn, should I sell up now?, isolation, a sense of wasting your life, an inability to face reality, living in the past, blaming the government, clutching at straws, why do I put myself through this?, why did I become a farmer? are many of the questions and feelings common to farming families along the South Coast.

Where do you go from here?

This is all to easy to present on paper but reality (especially dealing with the emotions) is different.

The best option is to take a break - go on holidays and a have a few weeks at the beach. This will help you clear your mind and allow you to step back from the day to day pressure of running the property and view your operation from a different perspective. This will allow you time to sort out those questions which have been bothering you for so long (what do I really want out of life, where do I want the business to go, who is really in charge, what changes need to be made, what changes can I make) and discuss them with your spouse.

On returning to the farm fresh from your holiday you can then proceed with your plans for the year.

If there is more than one generation living on the farm a family round table discussion is a good place to start. Differences in ages, social attitudes, ego's, sex, attitudes to risk etc will not make things easy. However, it will let everyone know they are important to the farm business and have
something positive to offer. All members should be encouraged to put their case. It is important
too try and understand the issues raised from the other persons view point.

What topics should be discussed and where should we start?

A difficult question! I have listed the major points below that need to be discussed to form part of
an overall farm business plan. For most farming families the production options are something
everyone is familiar with and can discuss openly. Once the discussion gets rolling it will be easier
to discuss the more emotional topics.

<table>
<thead>
<tr>
<th>1. A personal plan</th>
<th>- sets out what you and your family want to achieve on a personal level.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. A work plan</td>
<td>- who does what and when to make the best use of everybody's abilities.</td>
</tr>
<tr>
<td>3. A production plan</td>
<td>- what crops and where, flock structure, lambing times etc.</td>
</tr>
<tr>
<td>4. A financial plan</td>
<td>- where and when money is going to be spent and when income is received. Equity changes also need to be budgeted.</td>
</tr>
<tr>
<td>5. An estate plan</td>
<td>- wills, partnerships, insurance, trusts etc as well as who takes over what and when.</td>
</tr>
</tbody>
</table>

Estate planning is the most important part of the farm business plan. It is often a "taboo" subject
and as such is very difficult to discuss openly - there are all sorts of reasons why it can't be. One
thing is certain - delaying it will only make it harder.

**What is farm business planning about?**

It is not about predicting the future it is about preparing for it.

It is about determining what your business performance has been and is capable of.

It involves identifying the opportunities and threats your business faces so you can take advantage
of its strengths and protect its weaknesses.

It incorporates the goals you and your family have in the longer term. Then implementing the best
paths/options to take to achieve those goals.

It includes evaluating and reviewing your progress along the way to determine if you are achieving your goals.

It is also about continually changing your strategies so that goals are met.

How do I go about farm business planning?

Step 1 - What has been your business’s past financial and physical performance? What position is it in now?

A critical analysis of your business’s past actual performance looking at indicators such as cash surpluses/deficits, percentage equity, total equity, equity changes, operating costs as a percentage of gross income, debt to income ratios, wool cuts per hectare, stocking rates and grain yields (this list is just about endless but I have listed the major ones) will provide you with a better understanding of not only how your business performed but reasons why it performed.

The trends in these calculations over several years tend to highlight many factors that are not obvious when looking at just one year’s performance.

Step 2 - Identification of strengths, weaknesses, opportunities and threats to your business.

Now that you have some idea of how your business has performed physically and financially you are better able to identify the strengths and weaknesses of the business. A simple "SWOT" analysis (strengths, weaknesses, opportunities, threats) will highlight the areas that need addressing.

Step 3 - Setting objectives or goals for your business.

Using the SWOT analysis as a guide develop goals for your business.

A typical set of goals of a farmer may be;

- increase farm profitability each year
- pay less tax in 1995
- send children to boarding school
- become debt free in 4 years
- set up 4 sons on their own farms by 2000
- grow a 6 tonne/ha crop in paddock 6 in 1995
• have a 4 week holiday each year
• enjoy a satisfying lifestyle
• increase farm size by the year 2000
• retire off farm by age 65

Unfortunately goals are unlikely to be achieved because they are indefinable, impossible, conflicting or competing.

Let's have a look at the above for examples of these types of goals.

The obvious indefinable goal is "enjoy a satisfying lifestyle". A good example of an impossible goal is to "set up four sons on their own farms." (One of my own impossible goals is "marrying Elle McPherson"). An example of a conflicting goal is "increase farm profitability" and "pay less tax" - even though it is one we all would like to achieve!

Competing goals would include "become debt free" and "increase farm size" as well as "send children to boarding school" and "become debt free".

It is a good idea to review your goals periodically to eliminate the impossible goals, resolve conflicting and competing goals and rank your goals in order of priority.

Goals are sometimes easier to achieve if they are broken down into a series of manageable steps.

Be careful that you are setting goals not strategies. Goals are SMART (Specific, Measurable, Agreed, Realistic, Time constrained).

**Step 4** - Develop strategies to achieve the goals/objectives you have just set.

An essential aid to developing strategies is the cash flow budget. The budget can be run out for several years to look at the impact of various scenarios on farm profitability.

**Step 5** - Implement strategies (probably the most important task!)

Sort out who is going to take responsibility for the strategy and decide who will do it and by when.
The following is the situation to avoid.

"This is a story about four people: "Everybody, Somebody, Anybody and Nobody". There was an important job to be done and Everybody was sure Somebody would do it. Anybody could have done it but Nobody did it. Somebody got angry about that, because it was Everybody's job. Everybody thought Anybody could have done it, but Nobody realised that Everybody wouldn't do it. It ended up that Everybody blamed Somebody when Nobody did what Anybody could have done." Anon

Step 6 - Monitor and evaluate progress.

We live in a rapidly changing world. Remember the rapid political changes in Eastern Europe, the stock market crash, the wool price crash, interest rates, trade wars etc. It is therefore necessary to constantly compare budgets to actuals and evaluate progress - preferably on a monthly basis. This will allow better financial control of the business and allow plans to be reviewed well in advance and as events unfold.

With your finger on the pulse of the business you are better able to ride out the troughs and take advantage of the opportunities that arise from time to time. With clearly defined goals decision making is easier. It tends to keep you from making those rash decisions that inevitably cost you money.

Farm business planning is a continual process. Your goals, interest rates and commodity prices (to name a few) are constantly changing. An ideal time to review your business plan is when you do the bank review each year. You can analyse last years performance and address any issues within your control which impacted on your business performance (poor weed control, low yields, worm outbreaks, low lambing/calving % etc) within the coming years budget/planning process.

Talking over these issues together as a family will lead to a better understanding and appreciation of other family members. The problems and issues involved will not be solved overnight. Discussions may initially last several weeks or even months. It is important to understand the issues raised from the other persons viewpoint. As issues are resolved and decided upon the people involved will feel that they are important to the business.

This sense of belonging and working together as a team can give the business a new lease of life.

There are no hard and fast rules about what the outcome should be. Everybody is different!
WHAT CAN I DO AT MY BANK?

1. Interest only:

This is the easiest to arrange and the least cost.

Find out your margin and negotiate to ensure you are paying the least margin possible. Make an offer, bargain your good will, use other banks to counter-offer.

Use this tactic to finance purchases through the overdraft.

2. Defer/miss a payment:

You may have whittled off some of the debt over the years. The bank would still have the security stamped to the original loan amount. This gives them a bit of room.

Part or all of a payment can be deferred or missed in this case without any costs.

The interest component of the payment is capitalised (added to the total owing).

3. Reverse recent principal payments:

Payments to term loans automatically come out of the operating (cheque) account. And it's the operating account that is under pressure.

In some cases, the bank will be willing to reverse this principal payment back to the operating account.

4. Change to Fixed Term lending:

All banks offer fixed term/fixed rate/direct lending - these are different names for the same thing.

You can lock into a fixed interest rate for any period up to 5 years.

They are interest-only (although the bank may try to insist on some reduction plan).

The bank will match your requirements against an investor and add a margin.
Rates are around those for PIBA (see my notes later on), although usually a bit higher if you work out the rates on a true annual basis.

Rates are significantly less than term loan rates.

Fees and costs should be far less than for a new loan, because the bank is merely switching loans. Negotiate very hard here.

Try getting the bank to incorporate other more expensive loans into the fixed term loan:

- Stock firm operating
- HP/lease
- Bankcard
- Personal loans
- etc.

Avoid any attempt by the bank to get you to contribute to parallel savings arrangements.

You will get 6-7% less on these savings and this defeats the advantage of going to fixed term lending in the first place.

Avoid arranging too much fixed term finance, such that you go into substantial credit for a significant period.

5. Rearrange your fixed/operating debt so that there are no significant seasonal credit funds.

You may come into significant credit after seasonal income is in. The overdraft is cleared and the credit funds are invested in harvest accounts.

But the fixed debt is copping interest some 5-8% more than you're earning in the harvest account.

Also, the interest earned from a harvest account can be taxed at a higher rate than your average.

Arrange a bigger operating facility, so that this only just clears at best.

Swing the balance to pay out part of the fixed debt (preferably that debt with no early reduction penalties).
6. Use Commercial Bills for operating finance.

A commercial bill is a fixed interest loan for a short period (up to 6 months).

Commercial bills are usually cheaper.

BUT, you have to arrange them properly to take full advantage.

Arrange part overdraft and part bills.

Don’t get into significant credit by taking out a bill - you get less interest on credit funds, and you’re still paying for the unused overdraft.

7. Caps and Collars.

These are the new interest rate management products being offered by some of the banks.

For a fee (usually quite hefty) you can set a maximum interest rate that you will pay. If rates go above your maximum you will only pay the maximum. If rates fall you pay the going rate. This is called an interest rate cap.

For example if you set a "cap" of 12% and rates go to 16% you still only pay 12%. If notes fall to 8% that is all you pay.

For a much cheaper fee you can set a maximum and a minimum interest rate, this is called a collar. For example you set a maximum of 12% and a minimum rate of 10%. While interest rates are in this range you pay the going rate. If rates go above 12% or below 10% your interest rates will be pegged at these rates.

Interest rates move in cycles. We are very close to the bottom of cycle now. These products have little or no benefit at the present time. They may be of benefit if we were in the middle of the interest rate cycle. At present it would be better to use fixed rate lending.

36
8. Plan a bit of public relations with the manager.

It is good business to have your financier confident in your management.

- Graph the budget.
- Graph your monthly actual position.

![Budget Versus Actual Performance Chart]

9. It is possible to negotiate on rates, fees and other costs.

The manager has some discretionary powers.

Your chances of success will depend a lot on the manager's assessment of you as a client, your value to his bank and your ability to scurper from his bank.

During the year, carefully check the fees charged and challenge any you think shouldn't be there. (You would be appalled to add them up - remember these costs must be added to the interest as the total cost of borrowing).

Remember also that a branch manager is partly judged on his ability to make profit for the bank - and he gets the money from you!
CAN I CHANGE BANKS?

1. Am I in a position to change banks?

It is more difficult to change banks in tough times.

With land value low, it may well be that a farm’s current bank finds that their lending is well outside what it would call a safe position. In this case, other banks would feel the same way about that farm’s business, and decline to take over the business.

As a rule of thumb, a bank’s total lending (fixed plus operating limit) would not exceed 55-60% of land market value.

The State Government is offering a rebate on stamp duty for refinance EXISTING loans. Offer closes 31 December 1993.

2. Is there any advantage in changing banks?

In the long run, there may well be some big advantages in shifting to a better offer.

Right now, there may not be an advantage.

There are costs involved in shifting (although these have been lowered a lot by the State Govt’s refund on some mortgage stamp duty).

As a rough guide, 0.7-1.5% of the loan amount would be what you’re facing up front.

The current bank may have a little clause in the loan documents which give them discretionary powers to impose a penalty (usually 3 month’s interest).

Before signing loan contracts in the future, ensure

that this little gem is not included.

If the farm can shift:

Apply to another bank, negotiate on their offer, find their absolute bottom line.

Go to your current bank and table the other bank’s offer in a professional manner.

Work your way to find your bank’s bottom line.
Handing Over the Family Farm

Not surprisingly, you get more royal treatment thereafter.

3. How can I compare the quotes when there's "up-front" this and "monthly-in-arrears" that?

It is difficult to look at two quotes and say that one is better than another.

LOOK OUT for:

- Different periods of charging - monthly, quarterly, etc.
- The quoted (nominal) rate is NOT the effective (annual) rate. (SEE NEXT PAGE)
- Establishment fees

On-going costs - and again there is a difference in the way they're charged.

eg. 2 clients with similar total debt have very different annual on-going costs (incl FIDs, etc):

**BANK TERM LOAN/OVERDRAFT**: $2049
**PIBA/WESFARMERS CHQ A/C**: $157

The PROPER way to do it is to calculate an internal rate of return over the period of the loan - is bring the whole lot to one effective interest rate. Unfortunately, this is not easy. Not even bank managers can do it!

For example: Which is the cheapest?

<table>
<thead>
<tr>
<th></th>
<th>WESF</th>
<th>COM</th>
<th>WEST</th>
<th>NAB</th>
<th>ANZ</th>
<th>R&amp;I</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
<td>13.5%</td>
<td>11.4%</td>
<td>11.75%</td>
<td>11.5%</td>
<td>11.5%</td>
<td>11.75%</td>
</tr>
<tr>
<td>Establishment</td>
<td>1272</td>
<td>1312</td>
<td>1405</td>
<td>1668</td>
<td>1420</td>
<td></td>
</tr>
<tr>
<td>Fees</td>
<td>30 monthly</td>
<td>250 quarterly</td>
<td>165 half yearly</td>
<td>420 half yearly</td>
<td>425 quarterly</td>
<td>250 quarterly</td>
</tr>
</tbody>
</table>

Stock firms are handy for short-term increases in limit. Stock firms will lend up to 50% of the value of your stock or 1/3 of expected first advance.
But also consider someone like Standard Wools:

Up to 75% of clip value.

<$50000 - NO security (but: contract to sell).

Around 13%.

Dinky-di interest-free shearing advance ($250/bale).

4. Is PIBA cheaper?

I have never seen a case where PIBA has not been cheaper in the long run.

But it is the 1.1% up-front costs, plus all the costs of winding up the existing loans, that can hurt at a time when cash is important.

Nevertheless, PIBA is well worth considering:

PIBA RATES (6-MONTH IN ARREARS BASIS) (as at 27/1/94)

<table>
<thead>
<tr>
<th>Length</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-6 months</td>
<td>5.45</td>
</tr>
<tr>
<td>1 year</td>
<td>5.75</td>
</tr>
<tr>
<td>2 year</td>
<td>6.15</td>
</tr>
<tr>
<td>3 year</td>
<td>6.60</td>
</tr>
<tr>
<td>4 year</td>
<td>6.85</td>
</tr>
<tr>
<td>5 year</td>
<td>7.05</td>
</tr>
</tbody>
</table>

There are no costs whatsoever after the one up-front establishment cost.

No other bank's facility has the same flexibility and customer control.

You can book an interest rate 6 months ahead of the "rollover" if rates look like they are moving up.

You can use PIBA for operating funds at the same rates as COMMERCIAL BILLS.
Handing Over the Family Farm

The contract margins are set for 5 years.

PIBA is generally better place for seasonal cash:

Trading banks 2% to 4%  
PIBA 5%

BUT PIBA has more stringent guidelines than other banks:

They lend a minimum of $250,000.

They lend to only 40% of land market value.

Total equity must be better than 75%.

Previous years must show good profitability.

IDEALLY:

PIBA on all debt:

Mixture of loan periods:

- hedge against rate hikes
- use as operating kitty

WESFARMERS credit cheque a/c with sweepover link to small Wefarmers cash deposit a/c.

Larger deposits with PIBA.

Answer

<table>
<thead>
<tr>
<th></th>
<th>WESF</th>
<th>COM</th>
<th>WEST</th>
<th>NAB</th>
<th>ANZ</th>
<th>R&amp;I</th>
</tr>
</thead>
<tbody>
<tr>
<td>Without Establishment</td>
<td>14.73</td>
<td>12.90</td>
<td>12.61</td>
<td>12.85</td>
<td>13.71</td>
<td>13.28</td>
</tr>
</tbody>
</table>
### Effective Annual Rate When Nominal Rate is Compounded

<table>
<thead>
<tr>
<th>Nominal Interest Rate Per Annum</th>
<th>Six Monthly</th>
<th>Quarterly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.00%</td>
<td>10.25%</td>
<td>10.38%</td>
<td>10.47%</td>
</tr>
<tr>
<td>10.25%</td>
<td>10.51%</td>
<td>10.63%</td>
<td>10.75%</td>
</tr>
<tr>
<td>10.50%</td>
<td>10.77%</td>
<td>10.93%</td>
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Are you planning to pass the farm onto the next generation and retire? If so, a plan is needed to accomplish this. This is especially so if you are wishing to qualify for the old age pension. The pension is dependent on maximum and minimum asset and income tests. The maximum and minimum limits of these tests are detailed below. Your assets or income must lie between these limits for you to qualify for the old age pension.

<table>
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<tr>
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<th>Married Couple</th>
<th>Single Pensioner</th>
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<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
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</tr>
<tr>
<td>minimum</td>
<td>$160,000</td>
<td>$112,500</td>
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<tr>
<td>maximum</td>
<td>$338,500</td>
<td>$220,000</td>
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The only thing you own which is not included in your assets is your house. If you retire on the farm you are allowed the house and 5 acres. Be careful to note that house furniture and fittings are counted as assets.

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<th>Single Pensioner</th>
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<tr>
<td><strong>INCOME</strong></td>
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<tr>
<td>minimum (fortnight)</td>
<td>$152.00</td>
<td>$88.00</td>
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<tr>
<td>maximum (fortnight)</td>
<td>$1,217.20</td>
<td>$730.80</td>
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If you have dependent children an extra $24 per week is allowed to be earned for each one without affecting your pension.

Both the asset and income tests are applied to each application. The amount of pension paid depends on which test gives the lowest amount.

This is all pretty straightforward, however, two difficulties can arise.

The first difficulty is the gifting of assets. There is a gift limit of $10,000 per couple per year. This means any gifts of $10,000 or less will not be counted as an asset or be deemed to earn an income for pension purposes. This may be a little double dutch but the following paragraphs will hopefully make this a little clearer.
Prior to 1/3/1991 any assets which you gifted above $10,000 per year were still classified as your assets. Their value was decreased at 10% per year for a maximum of five years after gifting for pension purposes. For example if you were applying for the pension today and had gifted $100,000 on the 1/2/1991 it would now have a value of $70,000 for pension purposes.

After 1/3/1991 any asset which you gift is valued at its original value for five years. Also the asset is "deemed" to earn an income. The current deeming rate is 4%. So if you were applying for the pension today and had gifted your $100,000 on 1/3/1991 not only would its full value be included as an asset it would also be "deemed" to be earning you income of $4,000 per year.

Don’t forget that gifts of land will attract stamp duty and they will be then subject to Capital Gains Tax if sold.

Now to the second difficulty. Some people have large assets which don’t earn any income. A good example of this is Mum and Dad who still own the farm but receive little or no income. If the farm cannot support them they can apply for the pension under what are termed "hardship provisions". This just about sums up the legislation governing this area. It is very tough and complex. In general there has to be exceptional circumstances for you to qualify for the pension under these conditions. If you think you have grounds for qualifying under these provisions it is best to put an application together and submit it to the Department of Social Security.
WHAT IF I DIE TOO EARLY? WHAT IF I GET DISABLED OR LIVE TOO LONG?

During our lifetime we strive to provide a comfortable living standard for our families and ourselves. When was the last time you reviewed your Estate, Financial and Insurance affairs? These days most of us are so busy maintaining a lifestyle that we don't take the time to plan properly for tomorrow. As farmers and business people are usually "asset rich" and "cash poor" - there is a great need for protection. This is one main reason why we take out Insurance cover and organise our affairs to protect our family and business. An Estate Plan can be individually designed to protect your family and property and will also help minimise problem areas that may occur. A basic goal in Estate Planning is the transfer of property or economic value at death or during lifetime from the estate owner to another person or persons. One of the most important functions performed in the estate planning process is to motivate clients to think about their objectives, have them legally document these objectives in the form of a Will, and then review their Wills on a regular basis to keep them up-to-date. Some of the areas we look into for our clients are:

FINANCIAL DEVELOPMENT

There are three main components involved in this development - Management, Labour and Liquidity. If you do not have money set aside and/or enough life insurance cover - do you have enough capital to clear your current debts prior to retirement or clear them totally in the event of unexpected death?

RISK MANAGEMENT

This involves two areas - Partnerships and Share Purchases (Company). Have you legally drawn up documents to protect your family in the event of unexpected circumstances?

SUCCESSION PLANNING - ESTATE EQUALISATION

Have you decided how your Estate will be divided in the event of unexpected death or retirement? Should only one of your family decide to continue running the business or farm - how will you compensate the remaining members?
RETIREDMENT PLANNING AND SUPERANNUATION

Do you have enough Superannuation to provide for a comfortable retirement? If not - do you have other assets that could be used to provide an income for retirement?

WILLS

Do you have Wills and are they current? Do they include details of how you wish to settle your Estate?

EDUCATION FOR CHILDREN

Have you considered the future costs involved with your children's education? If they need to attend Boarding School or find accommodation in Perth to continue their studies - where will the money come from?

LIFE ASSURANCE

Do you have Life Cover? Without any - how will you clear your debts and leave enough money for remaining family members to continue living until they "get back on their feet"?

PERSONAL ACCIDENT AND/OR ILLNESS COVER/INCOME PROTECTION INSURANCE

Do you have enough (or any!) of this type of cover in the event of short or long term illness or disablement? How long can you and your family survive without an income?

CAPITAL GAINS AND STAMP DUTY IMPLICATIONS

Do you know if these will affect your situation? The use of Land Holding Trusts may be an effective way to alleviate immediate problems involved.

The Life Assurance industry has included Estate Planning as part of their strategy for at least 100 years - while the steps involved in making Estate Planning sales are not new, the problem in the past has been that the majority of salesmen have been taught to "sell, sell, sell" without explaining to their clients WHY they need to have Insurance, what the insurance is doing for them and how it is working for them.

To ensure an Estate Plan is more effective - we like to liaise with your Lawyer, Accountant and when required, your Bank Manager and Farm Adviser.
PROTECTING YOUR BENEFICIARIES

There are four (4) main categories of life insurance:

Term Insurance
Whole of Life
Endowment
Trauma

Let me explain each category in a little more detail:

TERM INSURANCE

"Term Insurance" ... which means that you simply insure yourself for a particular amount ... for one year at a time... and Life Companies usually guarantees you right to renewal up to age 100 (depends on the Insurance Company).

It has no savings or investment component and therefore does not acquire an asset value. If you die while you are insured, your family receives the full insurance benefit. At the end of each term you can review your cover.

What cover do you need?

Think about the things your family will need to consider if you're not there.

REAL COVER - your benefit automatically increases each year up to age 75 to keep pace with inflation. Your premiums will be adjusted annually to meet the cost of the increases in cover and your increasing age. Should you decline an automatic increase in two consecutive years, no further offers will be made.

LEVEL COVER - your benefit will stay the same every year. Only your premiums will be adjusted as you get older.

LEVEL PREMIUM - your cover will be adjusted each year but your premium will remain the same.
LIFE COVER ONLY - if you choose life cover only, your premiums will be minimised for a given level of cover. As long as you continue to cover yourself the Life Company guarantees that the full insurance benefit will be paid to your beneficiaries in the event of your death, the only exclusion being suicide within 13 months of the policy commencement date.

LIFE & PERMANENT & TOTAL DISABILITY - if you choose Life and Permanent And Total Disability Cover, you pay higher premiums for as long as you wish to continue with the option but in addition to Life cover you also have the advantage of receiving the insurance benefit of your policy, paid as a cash sum, if you are totally and permanently disabled.

ADDITIONAL BENEFITS (Only available with some Companies)

TERMINAL ILLNESS - if you are diagnosed as terminally ill with less than six months to live the Insurer will immediately pay 50% of the sum insured. Your policy will then continue at a corresponding reduced premium and sum insured with the remaining benefit payable on death.

SPECIAL ACCIDENT BENEFITS - if you are unfortunate enough to suffer a permanent loss due to accident - the Insurer guarantees that you will receive the full insurance benefit.

GUARANTEED FUTURE INSURABILITY - up to age 45 next birthday this benefit enables you to obtain additional protection (regardless of your state of health) by up to 25% of your original sum insured.

DISCOUNT FOR NON-SMOKERS - you qualify if you have been a non-smoker for 12 months or more.

WHOLE OF LIFE

Personal Whole of Life Plan provides long term life insurance which is flexible enough to meet your needs.

* You pay regular premiums.
* Provides a Guaranteed Death Benefit for the Life insured. Other options are available as plan additions.
* Bonuses added to the plan (your share of investment profits).
* Upon death insurer pays the Guaranteed Death Benefit as well as the insurance value of the bonuses.
* Upon termination of the policy, other than upon death or Permanent and Total Disablement, an investment value may be paid.
GUARANTEED DEATH BENEFIT - Once issued the insurer guarantees to provide life cover equal to the initial amount of benefit chosen plus any bonuses added to the plan up to the time of death.

BONUSES - these are investment profits made by the insurer and passed onto the life cover of the policy. Bonuses substantially increase the amount of life cover and investment value of your plan over the years. Policies are eligible for bonus distribution after one year. Once declared, the bonuses are guaranteed and will be paid when the life cover is payable.

ACCESS TO YOUR FUNDS - Personal Whole of Life Plan acquires an investment value after not more than three years, provided the premiums have been paid for three years. After the policy has an investment value, you can access the investment value by cashing

* the accrued value of bonuses, or

* the investment value of the Guaranteed Death Benefit.

If you withdraw part of your investment value, your life cover will reduce. Financial institutions may accept the investment value of your plan as collateral or security for a loan.

SPECIAL ACCIDENT BENEFIT - should the life insured suffer certain losses then the insurer will pay the total life cover. Alternatively should the life insured suffer partial loss then the insurer will pay 25% of the life cover and the plan will continue at the corresponding reduced life cover and premium.

CHILD'S PLAN - You can use this plan to help build a solid foundation for your child's future.

ENDOWMENT PLAN

Endowment Plan is to provide long term life insurance which is flexible enough to meet your needs. How it works : 

* You pay regular premiums
* Provides a Guaranteed Death Benefit for the Life Insured. Other options are available
* Bonuses added to the plan
* Upon reaching the maturity term or on earlier death of the Life Insured the Guaranteed Death Benefit is paid as well as the insurance value of the bonuses.
* Upon termination of the plan before maturity, other than upon death or Permanent and Total Disablement, an investment value may be paid.
TRAUMA INSURANCE

Trauma Insurance allows you to insure yourself for a particular amount for one year at a time and provides for payment of the full insurance benefit if you are diagnosed as suffering a Vital Health Condition or upon your death. Statistics show that if you are now in your twenties, you could have as high as a one in four chance of suffering from a major health problem before you are 65...and as you get older the likelihood is even greater. Trauma insurance is more than just life insurance, it is a simple, low cost way to guarantee that you'll have a tax free lump sum should you suffer any one of the following conditions:

Heart Attack, Stroke, Malignant Cancer, Coronary Artery By-Pass or Heart Valve Surgery, Aorta Repair, Major Brain Injury, Chronic Kidney Failure, Major Organ Transplant, Paraplegia, Quadriplegia, Hemiplegia and Diplegia, Multiple Sclerosis, Blindness, Terminal Illness.