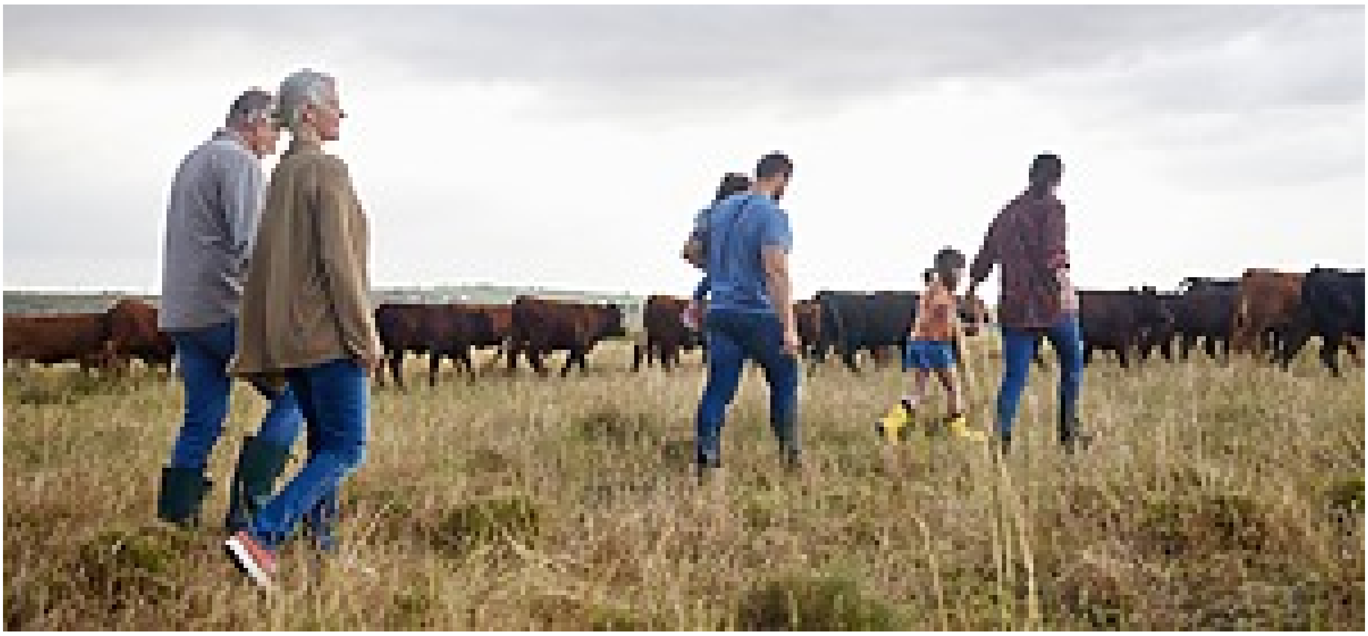

Keeping your Farm & Orchard Business in the Family

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For many farming and orcharding families, the land represents far more than a business. It reflects decades of hard work, family history, and a desire to see the next generation continue what has been built. However, succession planning can become particularly challenging where there are multiple children, differing expectations, and competing needs.

One of the most common misconceptions about succession planning is that it is a single transaction. In reality, succession is a process that often unfolds over many years. Starting early gives families time to have meaningful discussions, consider options, and work through difficult issues with trusted advisors before they become disputes. Early planning is particularly important in the rural sector, where the value of land and business assets often far exceeds what can realistically be divided equally between children without jeopardising the viability of the operation.

A common scenario involves one child actively working in the family business while other siblings have pursued careers elsewhere. Parents frequently want to treat their children fairly, but fairness does not always mean equality. The farming or orcharding child may have invested years of labour, accepted lower income, or made personal sacrifices in reliance on a future role in the business. At the same time, non-participating siblings may understandably expect to share in the family wealth. Balancing these competing interests requires careful consideration and open communication. These issues become more difficult when parents re-partner after a separation or death of one of the parents.

Unfortunately, unclear expectations are one of the leading causes of family conflict. Informal understandings, verbal promises, and assumptions about who will eventually take over the business can lead to significant resentment and, in some cases, litigation. Rural succession disputes often arise when family members have different understandings of what was intended or when plans are changed late in life. The resulting conflict can damage family relationships and threaten the future of the business itself.

This is why successful succession planning should involve the entire family. Bringing everyone together to discuss goals, expectations, concerns, and priorities can help identify potential areas of conflict before they become entrenched. While these conversations are not always easy, they are often far easier than resolving disagreements after a death or incapacity. Families who engage in open discussion and receive independent advice are generally better positioned to reach outcomes that are understood and accepted by all involved.

A comprehensive succession plan will usually involve more than a will. Depending on the circumstances, it may include trusts, companies, partnership arrangements, shareholder agreements, enduring powers of attorney, contracting out agreements (‘pre-nups’), gifting programmes, and financing arrangements. Consideration should also be given to parents’ retirement needs, tax implications, protection of assets from future relationship property claims, and the long-term viability of the farming or orcharding enterprise.

Every family’s circumstances are different, and there is rarely a one-size-fits-all solution. What remains consistent is the importance of starting early, communicating openly, and ensuring the plan is legally robust and commercially workable.

At CLM, our team understands that farm and orchard succession planning is about much more than documents and structures. It is about people, relationships, and preserving both family harmony and the business for future generations. With expertise across family law, estate and asset planning, trusts, and property matters, CLM’s multidisciplinary team can help families navigate the succession planning process with confidence and clarity.