

The Benefits and Pitfalls of Family Business Succession in Australia



In the vibrant economic landscape of Australia, family-owned businesses stand as the backbone, with an estimated 70% of all businesses falling into this category. This considerable segment of the economy highlights the pivotal role family businesses play in innovation, employment, and wealth generation. However, the journey of passing the torch from one generation to the next is fraught with both opportunities and challenges, underscoring the critical need for meticulous succession planning.

A cautionary tale that exemplifies the perils of inadequate succession planning and the power of Court intervention, can be seen in a very recent NSW Supreme Court case, where 2 embittered brothers fought over the inheritance of the family farm. Mum's Will intended most of the farm to pass, together with all stock and plant, to an unmarried son who lived with her and worked the farm ...and 100% cared for her until her passing at the age of 89. Her Will was successfully disputed by an estranged son/brother, who had a family and a successful academic career and who had virtually nothing to do with Mum or the farm since Dad died in 2005. He relied in his claim of "promissory estoppel", on an alleged verbal promise, before Dad died, that the 2 sons would ultimately share **equally** in inheriting the farm. This case starkly illustrates how, notwithstanding a well-drafted Will in 2010, the absence of a well-thought-out and documented succession plan can lead to a family disaster, emphasizing the necessity for foresight, professional advice, and strategic planning. More than 50% of Wills in NSW are challenged, more commonly under Family Provisions legislation...and some 80% result in adjusted distributions!

To avoid such pitfalls, the following actions outline the steps identified by EPI-centre to perpetuate a successful family business.

- **INITIATION:** Recognise the need for succession planning and commit to the process.
- **EVALUATION:** Assess the current state of the business and identify potential successors, consider their circumstances relevant and relative.
- **DEVELOPMENT:** provide training and development opportunities for the chosen successor(s).
- **COMMUNICATE:** Gather input from those selected and inform all who need to know what changes will follow.

Implementing a comprehensive family business succession plan offers a myriad of benefits:

- **CONTINUITY AND STABILITY:** Ensures business operations continue smoothly, preserving legacy and brand reputation.
- **CONFLICT REDUCTION:** Minimises disputes among family members by clearly outlining roles and expectations.
- **FINANCIAL SECURITY:** Protects the family's financial interests and supports wealth management across generations.
- **ADAPTABILITY:** Encourages innovation and adaptability by preparing the next generation for future challenges.
- **ENHANCED MORALE:** Boosts morale among employees and family members knowing the business's future is secure.

In the complex journey of family farm succession, facilitation and sometimes mediation plays a crucial role. John Gowing, a seasoned listener and accredited SAPEPAA member can help bridge the gaps between family members, ensuring that the succession plan is not only effective but also preserves family harmony. His skills in facilitating open communication, developing strategies and resolving conflicts are indispensable in bringing a family business succession plan to life, enabling longevity and prosperity of the farm for generations to come, but also successful and fulfilling careers for those who must step out of the family farm.