

Business & Estate Planning and Wills for Western Australian Farmers

The Australasian Lawyers Group Pty Ltd trading as Butlers, Barristers & Solicitors

Many of our clients at Butlers are farmers and we have extensive experience in the preparation of Business & Estate Plans and Wills for farming clients.

If you are a farmer, you will appreciate the considerations which are unique to you. You may have asked yourself questions such as :-

1. When should I pass on my farm (or farms) to my child (or children)?
2. Should I take advantage of the State Government exemption from stamp duty on the transfer of my farm?
3. How do I distribute my assets fairly between my children if one of them is to receive the farm?
4. How do I minimize the risk of an unhappy child or children making a claim against my Estate?
5. How do I safeguard the farm in the event that the marriage of one of my children breaks down?

These are all questions which we have answered many times. We are happy to make our experience and knowledge available to you at our offices. Alternatively, please visit our website or ring us.

Many of our farming clients are unaware of the importance of planning before they acquire assets, particularly additional land. They are also unaware of the importance of having a written partnership agreement, if they are operating in partnership. We are regularly presented with situations where farming clients have incurred unnecessary tax liabilities because they did not either seek or receive sound advice on the implications of the use of a particular business structure, or the acquisition of an asset in a way which was tax effective.

We find that many of our farming clients are concerned as to how they will fund their retirement (or semi-retirement) without becoming a burden on the child, or children, who continue to farm. Despite the Government's constant changes to the law relating to superannuation, there are still opportunities for our farming clients to use self-managed superannuation funds to significantly improve their ability to provide financially for their retirement, in a way which is not a burden on the farm.



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When we prepare a Business & Estate Plan for a farming client, we review all aspects of their financial circumstances, including :-

1. Their present ownership of all farming land.
2. The present ownership of all off-farm assets.
3. The present structure of the farming operation (eg sole trader, partnership or trust).
4. Taxation liabilities and issues relating to the above.
5. The present ownership of any business assets.
6. Possible benefits available to that client from restructuring the ownership of the farm, or the day to day farming assets.
7. Present superannuation entitlements, including insurance cover and beneficiary provisions applying to that superannuation.
8. Potential benefits available from more effective use of superannuation.
9. Potential capital gains tax and other taxation implications of that client's wishes with regard to the passing on of their farm, and other assets, to other family members.

Apart from the immediate financial issues, we find that many of our farming clients benefit from the opportunity to discuss with us issues such as :-

1. Choosing an Executor.
2. Duties of an Executor.
3. The appropriate use of Enduring Powers of Attorney.
4. Control versus ownership, particularly with Discretionary Trusts.
5. Providing for children of a prior marriage.
6. Providing for a spouse where there has been a prior marriage.
7. The possibility of claims being made against their estate under the Inheritance Act.

Our commitment at Butlers is to make the law more accessible, affordable, understandable and human, for our rural clients.

Our aim is to see every Western Australian farmer with a current, comprehensive and tax effective Business & Estate Plan and Will which avoids unnecessary tax liabilities and enables the family farm to

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be passed on from one generation to the next.

We therefore encourage our farming clients to act now to obtain the information and advice which will enable them to ensure that the family farm is preserved, and passed on in the way they want.

Butlers

At Butlers we pride ourselves on being “The Personal Law Firm”. Our commitment at Butlers is to make the law more accessible, affordable, understandable and human. We aim to reduce your concerns by speaking and writing in plain English, cutting through legal jargon and keeping you informed at all times. Through it all, we work closely with your family’s accountant, bank manager, financial adviser, and other professionals as required. We therefore encourage you to contact us if we may be of any assistance.

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