



# Succession planning on the agenda

*There is an old adage that says you can't farm without family, but you cannot farm with all of them either. It neatly captures one of the most complex and difficult topics farming families have to navigate about the future of their farm.*

The issue of farm succession has never been a simple one, but more recently the increased complexity of farming, increased operating costs, and sheer demographics have put more farms at a crossroads, some would say in the cross hairs, of tough decision making.

But for those families that invest the time regularly and early, successful farm succession can prove a rewarding and collective win for all family members, farming or not.

Looking back 30 years, the options for those wanting to exit their farm were somewhat broader on a sheer numbers basis.

The farm buying cohort back in 1996 aged from 25-44 formed 30 percent of the rural population.

However, today that number has plummeted to only 22 percent, by almost a third, while the proportion

of farmers aged 65-plus most likely wanting to exit their farm has doubled from 10 percent to 20 percent of the rural population.

Put most simply, the open market pool of farm buyers has shrunk, while those wishing to exit has risen, putting pressure on sale options and opportunities.

For that same reason it means succession demands more time, care and thought than ever before if the reality of family-owned farms is to remain a valued part of New Zealand's rural backbone.

## KICK OFF EARLY - AND LISTEN

Mark Tavendale of Tavendale + Partners law firm has over 20 years' experience helping farming families navigate the tricky waters of succession.

He maintains there isn't a "one size fits all" silver bullet to farm succession solutions. That comes despite something of a cottage industry developing in recent years of advisors offering silver bullet packages to solve families' succession challenges.

"But nor is it enough to simply say 'it depends on the family' when trying to offer some solutions to keep the farm in the family," says Tavendale.

By putting up some of the common areas of conflict and consideration, he hopes conversations will at least get started around farming families' dinner tables.

He also believes the environment today that advisors work in is more complex and litigious than

ever before, and it demands some courage from them to not shy away from those challenges by simply offering limited, lukewarm advice.

He maintains succession discussions are best started early in a farmer's career, more so when they own land, and integrating those discussions into the farm calendar, not unlike the regular catch ups with the vet or accountant when setting animal health or cash flow plans for the coming year.

Estimates are that 70 percent of farmers do not have a succession plan, and he encourages them to kick things off sooner rather than later.

"That can often be by having a solid listening exercise to canvas the views of the multiple people captured by any succession decision."

He also urges getting a good team together for regular conversations, one that should include experts alongside those family members.

It is also something Rod Hansen, accountant and agribusiness advisor with BDO Christchurch strongly supports. He also cautions having alignment between those advisors is crucial, keeping the desires of the farming family's senior members front and centre at all times.

Both agree that starting the conversation sooner rather than later is in the interests of the entire family in terms of expectations and managing the best outcome for the farming parents.





Tavendale says what often concerns him is that he sees more wealth succession being determined later in life by people entering their 70s and even 80s.

"I question whether that is the healthiest approach to determining a family's future pathway.

"I do see families do well with these decisions, but they have had conversations from an early stage. There is no waiting to read the will. There are no surprises when the inevitable happens."

#### CHECK THE BALANCE SHEET

In the meantime, having those regular conversations will also prove more productive when the farm's profitability and cash flow are clearly understood, and hopefully in the black.

"You have to sit down and ask just how realistic is what we are trying to achieve here? You have to be honest and this is where most succession exercises start to break down," Tavendale says.

From determining profitability comes the discussion around what is "fair" and what is "equal", if the farm is to remain in the family.

"It is not common that you can divide the equity of the farm equally among all children and still retain the farm. If there is a farming child, then the other siblings should have some understanding of the 'fair not equal' idea."

Farmers can also look at their position, by making strategic financial decisions throughout their career with a view to succession, he says.

"But it is important the idea of "fairness" be discussed.

"If the goal of the family, and crucially the parents, is to hold onto the farm then being fair may not equate to being equal."



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#### MARK TAVENDALE

FOUNDING PARTNER AND MANAGING DIRECTOR, TAVENDALE + PARTNERS

Hansen cautions that often non-farming siblings may not appreciate the traps and pitfalls of a farm business's cash flow pattern which significantly impacts the business's ability to make lump sum payments or even annual income type payments.

Thinking early and acting early in your farming career with an eye on how assets beyond the farm itself could be distributed at a later date can provide more flexibility and opportunity to provide for non-farming family members earlier.

#### KEEPING ALL FAMILY ALL IN

Tavendale points to the time cost of money, and being able to pay out even a small portion to another non-farming family member from a non-farm asset.

"That can be invaluable to helping them get ahead at certain life stages.

"And most successful succession plans will generally require continuing growth of assets and income, or having an exit plan at some point that is viewed with realism."

With growth and scale can also come the opportunity to involve more non-farming family members if the farm business expands beyond its core farming focus.

This can provide the opportunity to leverage the skills those family members may bring to the fold, whilst also giving them the opportunity to participate in a commercial and personal sense in the family enterprise.

Hansen also finds farming families who have already had some form of governance in place are already well schooled in gearing towards a more formal succession process.

"They have already learnt to talk business in an appropriate way, they know it and they know what the business is capable of.

"They are even more successful when you have a family with strong relationships, they respect their parents and have no entitlement behaviour."

#### FORM FOLLOWS FUNCTION

Tavendale says the business structure should follow the content and strategic succession direction set by the family, rather than the other way around.

In the past trusts have become a more popular vehicle, largely on grounds that trustee taxes were 33 percent, compared to individual top tax rate of 39 percent.

But this has lent itself to older generations sometimes accepting professionals' advice to take a "paint by numbers" approach and adopt a trust.

The rules around trusts and tax rates have recently changed, with trustee tax rates now aligned with the 39 percent top personal tax rate.

"Trusts are still good if needed. With these changes requiring more disclosure to beneficiaries, it's an opportunity to be encouraging more communication between family members - having people talking about this stuff is a great start.



"With a clear succession strategy in place and an understanding of what needs to happen, the form the business needs to take will unfold pretty quickly."

#### ROD HANSEN

AGRIBUSINESS ADVISORY PARTNER, BDO CHRISTCHURCH

"I am seeing families having conversations that include asking themselves the really hard questions like: 'Do I really want to come back and be a farmer?'"

Hansen agrees.

"And with a clear succession strategy in place and an understanding of what needs to happen, the form the business needs to take will unfold pretty quickly."

#### NEW RULES - NEW OPPORTUNITIES

Rural lawyer Ian Blackman literally wrote the book on farm succession *Keeping farming in the family*.

He is celebrating the law changes that have bought trustee tax rates in line with personal tax rates from the 2024-25 year and believes it may open the door for more constructive, participatory structures in family farming businesses.

"What I have seen is how it cannot be explained how families can realistically manage succession by using a family trust as a vehicle."

He says the predominance of 'boiler plate' trust vehicles is anecdotally estimated to be used in over 50 percent of NZ farmland ownership.

"They only provide that on the death of the surviving parent the final beneficiaries are entitled to a share on winding up of the trust asset, usually the farm."

He advocates starting early with a family company farm model ahead of a trust, putting the operation's current and potential future operations at the centre, not its dispersion upon death which is a more negative, difficult obstacle to surmount.

"With a good company trading model there, you also have a means to bring in good governance around it, and benefit from a company tax rate of 28 percent."

With family members able to purchase shares in the farming company, it can ease the passage to final purchase on the parents' death if shares have been progressively bought up over time.

"There is simply no mechanism within a trust where you can sell small parcels of shares over time to the next generation."

Hansen says he has already been seeing more farming families challenging trust models more, in part due to the administration obligations and costs that accompany them.

"However, in many instances trusts are still fit for purpose in regard to why they were put in place originally. In most succession outcomes there will often be a mix of entities to help achieve tax efficient outcomes in regard to appropriate protection and effects required for estate planning from a legal perspective."



"With a good company trading model you also have a means to bring in good governance around it, and benefit from a company tax rate of 28 percent."

IAN BLACKMAN  
CONSULTANT, BLACKMAN SPARGO RURAL LAW

#### PUTTING UP THE "FOR SALE" SIGN

Ultimately, the best option for a smooth succession may be the succession of family wealth, rather than the farm itself. That may involve liquidating the wealth held in the farm by selling it, and then determining how best to distribute the returns.

Tavendale says some of the best succession exercises he has seen have involved just this.

"It may not have been when timing was perfect in the market, but it has been the right decision to make at that point in time.

"I do not see that as a failure, compared to maybe sitting there on the concept of shared equity and 15 years down the track due to a change in family circumstances or relationships, that decision does not work out. You do not get those years back."

He does not encourage families to shy away from considering the option to sell, one he says can be called courageous, and sometimes liberating for all parties.

#### NOT JUST A BUSINESS

"Farming as a business is quite different to having a warehouse or factory. It is immediate and quite intimate in terms of people's relationships with their farm.

"Everyone has a story to tell around their farm. For that reason, you can get a guilt factor there when selling the farm, it's a very unique relationship."

Ultimately, however, Tavendale says the needs and wellbeing of parents is paramount in any decision.

"They are the generation passing on the asset, and they need to be acknowledged and provided for. They have worked hard to preserve and grow the family asset, and this should be recognised."

Hansen maintains the most successful succession story is one where all members of the family can still sit down and enjoy Christmas dinner together after a decision on the farm's future has been made.

