Speech By

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MEMBER FOR BURDEKIN

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FARM BUSINESS DEBT MEDIATION BILL; RURAL AND REGIONAL ADJUSTMENT (DEVELOPMENT ASSISTANCE) AMENDMENT BILL

Mr LAST (Burdekin—LNP) (8.49 pm): I rise to speak to the amendments proposed by the opposition to the government's Farm Business Debt Mediation Bill 2016. From the outset let me say that the opposition agrees with the intent of the bill, which is following a nationally agreed approach to farm debt mediation and largely follows mediation mechanisms already in place in New South Wales and Victoria. However, the opposition believes that some further amendments are needed to improve the operations of the mechanism for mediation and, moreover, make the operation of the new Queensland Rural and Industry Development Authority, QRIDA, much more effective in specifically helping farmers deal with farm debt restructuring.

The issue of rural debt, particularly debt caused by the prolonged drought, is a complex issue that has had a significant and long-lasting impact on our rural families and communities. Underpinning the difficulties faced by our farmers experiencing financial stress is an inflexible and cumbersome system for dealing with farm debt issues. Do we need a new or separate rural bank? The answer is no. The last thing we need in Queensland is to establish yet another financial institution that would simply add to the bureaucracy and the red tape that our farmers are currently facing. I note the establishment of a rural and industry development bank is not supported by either AgForce or the Queensland Farmers' Federation and that both organisations have identified farm debt mediation as an area requiring attention. I also note the comment from the QFF that new compulsory farm debt mediation legislation in Queensland must be an improvement on the current voluntary arrangements in place under the QFFS. The main concerns of the Queensland Farmers' Federation are conflicts of interest, appeal time frames, consistency with New South Wales and transition support for farmers.

For many of our graziers facing a third, fourth or even fifth consecutive year of drought the issue of farm debt can be overwhelming. Many of these graziers are widely recognised in history as good operators and yet through no fault of their own they now find themselves in financial difficulties. There is no question that the ongoing drought and mounting levels of debt have left many of our primary producers in a perilous financial position, particularly in the western and north-western areas of the state. It is worth noting that almost 90 per cent of our state is drought declared at present. Certainly debt to valuation levels have deteriorated and in some areas values have crashed despite record cattle prices.

Those lucky few who have received rain and are wanting to restock are finding that record cattle prices are prohibitive, thus adding to their financial predicament. There is no question that producers are looking for an assistance package that will reduce financial stress and improve the financial sustainability of the rural sector. It is how we go about providing that assistance and managing risk that poses the dilemma. The last thing that we need is farmers defaulting on loan repayments, which results in bank enforcement action. The Farm Business Debt Mediation Bill legislates farm debt mediation, which will provide farmers with a process that is independent and consistent in its approach to resolving complex financial matters.

I have firsthand experience in dealing with disputes involving farmers and financial institutions. I can assure honourable members that the stress and the mental anguish imposed on farmers and their families when they are at risk of losing their farm cannot be underestimated. I have attended situations in my former life as a police officer where farmers took their own life because of financial stress. Any mechanism that can assist in alleviating the situation should be welcomed. In a lot of cases it comes down to communication. The last thing a farmer needs to see is the receiver coming in the front gate to take over the farm. Every possible avenue needs to be explored before it gets to this stage. I would hope that this legislation before the House tonight goes some way to addressing this issue of Big Brother riding roughshod over our farmers.

Many of our drought-affected graziers have completely destocked their property, either selling their stock or sending them away on agistment. Of course, this can present its own problems with farmers in many cases unable to restock their property when the season breaks due to record cattle prices or a short supply of cattle. Many of our graziers are unable to source replacement breeder stock due to the reduction in the national herd and the lack of female cattle more broadly across Queensland. I know from talking to drought-affected graziers that simple things that we take for granted, such as purchasing food, clothing or fuel, have suddenly become insurmountable problems.

I note that this legislation is similar to the farm debt mediation process that currently exists in New South Wales and Victoria and that it requires all providers of rural credit in respect of a farm mortgage to offer primary producers access to farm debt mediation prior to the creditor commencing enforcement action. Whilst we have the voluntary Queensland Farm Finance Strategy in place, this agreement lacks independence as there is no separation between the ownership of the agreement and its operation. Furthermore, it does not require providers of rural credit to participate.

This bill does not stop farmers resolving issues informally with banks or seeking legal processes to resolve disputes. What it does do is legislate a mediation process as an alternative to expensive and drawn out legal processes to resolve financial disputes. I note that QRAA proposes to implement a governance framework for the new authority's functions in relation to farm business debt mediation with particular attention to maintaining information barriers between the lending and farm business debt mediation functions. It is important that we have separated service delivery and the necessary compliance audits built into this process that will ensure transparency going forward. I welcome the fact that no fees are proposed to be introduced at this time to recover costs from farmers applying for an enforcement action suspension certificate, mortgagees applying for an exemption certificate and mediators applying for accreditation. This is important for our farmers because the last thing they need when experiencing financial stress is more costs and fees. A mortgagee who is owed money must not take action to enforce the mortgage until they serve a notice on the farmer advising of the proposed enforcement action and the availability of mediation and has entered into mediation in good faith if requested by the farmer.

Where a farmer is in default and the mortgagee refuses to participate in mediation or does not participate in good faith, the farmer may apply for an enforcement action suspension certificate which blocks the enforcement of the mortgage. The proposed provisions seek to balance the mortgagee's rights to enforcement under farm business mortgages against the interests of farmers to address actual or perceived issue or disempowerment in negotiating alternative solution in debt disputes.

I am pleased that this legislation provides clarity that the act relates to farmers who owe farm business debts to mortgagees in relation to farm mortgages which have the farmer's farm property as security and, furthermore, that the bill will not apply to a farmer who is bankrupt. I also note that the bill will not apply where the farmer and the mortgagee entered into a contract, mortgage or other document to give effect to a heads of agreement entered into as a result of previously taking part in mediation under the bill and the farmer defaulted in relation to the contract, mortgage or other document.

I previously mentioned the difficulties experienced by many of our farmers when dealing with financial institutions, particularly relating to business debt. This bill imposes a requirement on the mediator to provide to each party and the authority a summary of that mediation within 10 business days of it ending. The summary must state a number of matters including inter alia the date when the first mediation meeting was held and the reason the mediation ended if no heads of agreement was reached. The mediator is also required to provide their opinion on whether the mediation was satisfactory and, if it was not, the mediator's reasons for this opinion. If the parties do not agree with the mediator's opinion or reasons for it, the parties may ask the mediator to note their disagreement on the summary. This makes the process transparent to all parties, and that is certainly something that has been lacking up until now. It provides a written documentary record that will help alleviate the mistrust and accusations of improper conduct that currently exist.

I note that QFF and AgForce are generally supportive of this legislation. I am sure there are a lot of farmers out there currently doing it tough who will also welcome a legislated farm business debt mediation process. If this legislation results in even one farmer retaining their farm, I think it will have been well worth it. Governments do what they can with drought and fodder subsidies and assistance with drought and recovery loans, but we need to target reconstruction and that is what these amendments aim to do. To deliver good policy it is no secret that governments need good information and good data on what is happening on the ground, and when it comes to farm debt we all know that it is growing and in certain areas there are real problems.

We have heard of the protein export boom and the opportunities that abound in Asia, and that is all well and good if you are not in a drought and you have the cattle to sell, but the harsh reality is there are debt hotspots and we need to deal with them. To do that properly we need good, reliable data. We need to get back to the basics and again have the type of data that was available in the Queensland Rural Debt Survey that was published up until 2011, when some of the banks decided they were no longer going to provide QRAA with their figures. Those on this side of the House do not think that is anywhere near good enough. While we hear that there may be something happening federally with data being collected at a federal level which will then be made available to the states and territories, we want to make sure that data is available for QRAA, the department and the minister to make sound policy decisions.

For that reason we propose amendments to ensure that the minister, the department responsible for primary industries and the Queensland Rural Adjustment Authority—to be renamed Queensland Rural and Industry Development Authority, or QRIDA—do have powers to compel banks and other rural lenders to provide up-to-date data on rural lending to allow QRIDA to publish a biannual rural debt survey. We also propose to compel the minister to release the survey within three months of finalisation by QRIDA. The provision to compel banks and/or lenders to provide information is based on section 26 of the Gasfields Commission Act. Hopefully, all banks and other rural lenders will provide the information regularly as they did in the past and the provisions to compel them will not be needed.

States and territories have agreed on plans for a national scheme for farm debt mediation based on the existing New South Wales scheme, and therefore it makes sense to align the Queensland legislation with the scheme operating in New South Wales. We certainly agree with the amendment to expand the definition of 'farm mortgage' to include machinery as per New South Wales. We also seek to amend the bill to address the potential conflict of interest of QRIDA running mediation processes and accrediting mediators while also being a rural lender.

Concerns were raised by the farm stakeholder group Queensland Farmers' Federation about the need to have another body other than QRIDA appoint the mediator. The amendment will make the chief executive of the department responsible for primary industries, currently DAF, responsible for appointing mediators. We seek to amend the purpose of the act to provide a framework for good faith mediation as per the Queensland Law Society's submission. We also seek to strengthen the intent and expand the definition of 'adviser', again as per the Queensland Law Society's and AgForce's submissions to the review conducted by the Finance and Administration Committee, to allow the parties to have more than one adviser present. We agree with amending so that parties who have undertaken mediation before under the act are not prohibited from mediation again as per stakeholder submissions. However, we are determined to redress the situation where those who miss out on low-interest loans and are in genuine hardship have nowhere to go but to remain dealing with existing lenders.

Let me be clear: we do not believe there should be a new rural bank and a new rural lending institution set up in Queensland. However, we propose an amendment to fine-tune, if you like, the operations at QRIDA by establishing a Farm Debt Reconstruction Office in QRIDA headed by a manager and three to four expert agricultural staff with the appropriate qualifications to undertake the assessment of farms and farm businesses under stress and to personally consult with owners, accountants, financial advisers and lenders on their overall personal situation to establish a way forward for long-term farm business viability and, if this is not possible, then to advise on an exit strategy while preserving as much capital as possible. These professional officers could, for example, undertake negotiations with lenders on behalf of farmers to agree to lower loan amounts and restructured debt packages. This is a key amendment and sets a new and, if you like, clearer role for QRIDA and farmers in real trouble.

We hear of the success of the First Start and productivity loans provided by QRAA to assist younger farmers onto the land and other farmers to increase productivity and hopefully profitability. We need to recognise that there are farmers in trouble and we are doing something to try to redress their situation through a more thorough and critical assessment of the situation. I would also like to add that I appreciate all of the input that has gone into this legislation and the overall goodwill of the people involved to gain some improvement. However, I believe what has been proposed by Katter's Australian

Party would come under federal jurisdiction and the Australian Prudential Regulation Authority, which is the prudential regulator of banks, insurance companies and superannuation funds, credit unions, building societies, friendly societies et cetera. The days of the state controlled agriculture bank are over, and that includes the QIDC.

QRAA is able to borrow funds through Queensland Treasury, and this will continue. Currently QRAA has access to money from 2.3 per cent, so it is able to provide money at very competitive low rates and this should continue. Unlike other states, we do have an organisation in place that already deals with assistance and low-interest loans for our farm businesses. Indeed, QRAA undertakes assessment and distribution of Commonwealth assistance packages not just for Queensland but also for other jurisdictions. Our view is that QRAA needs to undertake more specific work to assist farmers with debt reconstruction. While it does undertake some work currently, we believe this needs to be broadened and expanded.

We recognise that federal assistance, including drought assistance and reconstruction loans, is available but they are too low and even combined will only provide a low-interest loan to a maximum of $1 million. Our view is that this needs to be increased and, at a minimum, doubled to $2 million and perhaps even more. We raised this during a briefing with the department earlier today, and I want to thank the departmental staff who provided that briefing for their insights today. I would formally ask the minister to write to his federal counterpart and raise this at the next COAG meeting which deals with drought assistance, because currently even combined the maximum amount available through drought recovery assistance and debt refinancing is just $1 million which, as mentioned, is insufficient.

I will move on to the amendments to the Biosecurity Act 2014 and the provision of third-party biosecurity accreditation systems. This amendment will allow third-party accreditation schemes to be recognised as a framework under which biosecurity certificates may be issued. Persons can then be approved as an operator of such a scheme provided they have the requisite systems in place. The bill provides that a person operating within an approved scheme can issue biosecurity certificates for the purposes of the Biosecurity Act 2014. I am pleased that the bill provides that persons can only issue certificates in accordance with the rules of that approved scheme.

Any such scheme is intended to be completely distinct from the government accreditation systems with its own governance and administration arrangements, including auditing systems and procedural controls. I note that it will remain accountable to the government by monitoring of the scheme operator through auditing arrangements, and I think that is important. It is also important to understand that biosecurity accreditation systems enable Queensland producers to conduct activities and access markets from which they might otherwise be excluded by law or other requirements.

With regard to the Rural and Regional Adjustment Act 1994, I note that the new provision in clause 127 expands functions to carry out research into developing policies and giving advice to the minister about the financial performance and sustainability of the rural and regional sectors in Queensland—in particular, primary producers, small business and other components of the state's economy—and I would certainly hope this is the case given the government's financial commitment to the new entity in this year's budget.

With regard to the Biological Control Act 1987, despite the controversy and the ongoing scientific debate about whether a virus is a living entity, there is a need to ensure the appropriate legislative mechanisms are in place to allow the use of viruses as biological control agents. Where would we in Australia be without the calicivirus, which helped turn back the rabbit plague which threatened our rural sector? I note recent amendments to the Commonwealth Biological Control Act 1984 to provide for the declaration of viruses and subviral agents as 'agent' and 'target' organisms under that act. Amending the Queensland Biological Control Act 1987 to reflect the amendments to the Commonwealth Biological Control Act 1984 will support a nationally consistent approach to the relevant definitions to expressly provide for viruses or subviral agents to be an organism and prescribed organism to ensure that the protections from liability and injunctions provided by that act would apply.

Finally, part 5B of the Drugs Misuse Act 1986 would be amended to allow Queensland growers and researchers to supply certain cannabis seeds to persons licensed to cultivate medicinal cannabis under the Commonwealth Narcotic Drugs Act 1967. Once again, we on this side of the House have no opposition to that amendment.