




Speech By  
**Patrick Weir**

**MEMBER FOR CONDAMINE**

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

 **Mr WEIR** (Condamine—LNP) (10.20 pm): As a former member of the Finance and Administration Committee, I rise to speak to the two bills before the House: the Farm Business Debt Mediation Bill 2016 and the Rural and Regional Adjustment (Development Assistance) Amendment Bill 2016. The Rural and Regional Adjustment (Development Assistance) Amendment Bill is a private member's bill introduced by the member for Mount Isa, Mr Robbie Katter, on 26 May 2016 as a result of one of the recommendations of the Rural Debt and Drought Taskforce report 2015 of which the member for Mount Isa was the chair. On 30 August the then minister for agriculture and fisheries and member for Bundaberg, Leanne Donaldson, introduced the Farm Business Debt Mediation Bill 2016 into the House. The Finance and Administration Committee resolved to consider both bills together and received 37 submissions. Public hearings were held by videoconference in Cloncurry, Longreach, Mackay, Emerald, St George, Burdekin, Hughenden and Roma plus three in Brisbane. The objective of the private member's bill is to change the name and role of the Queensland Rural Adjustment Authority to the rural and industries development bank with the authority to raise and lend money in rural and regional Queensland.

As we are all aware, over the past few years much of rural Queensland has experienced long drought conditions and all the associated hardships that have accompanied these conditions. This could not have come at a worse time for the cattle industry in particular following the live cattle export ban as a result of mistreatment of our livestock in the Indonesian slaughterhouses, which was the subject of a *Four Corners* documentary. The then prime minister, Julia Gillard, placed an immediate ban on live exports of cattle to Indonesia and sent the Australian cattle market into a tailspin which impacted Queensland producers the hardest. This event coincided with worsening drought conditions and many producers were forced to sell cattle at rock-bottom prices. Cattle were transported to saleyards in the south which forced prices down across the state. Some producers tried to hold stock and handfeed, waiting for the ban to be lifted and prices to improve, but the drought continued to worsen. In some areas conditions have improved whilst in others they still remain very dry.

The problem now is that those producers that are trying to restock are trying to access cattle at record high prices, the worst possible scenario one can imagine. The flow-on effect to our regional towns and employment in these centres has been devastating. All of these issues along with others such as graziers being forced to switch from sheep to cattle due to the scourge of wild dogs were presented to the committee. During the hearings it became apparent that there has been no up-to-date data available on rural debt levels in this state since 2011. In that survey it showed that the beef sector accounted for 54 per cent of total rural debt and that 86 per cent of all producers were viable or potentially viable over the long term.

QRAA stated to the committee that they had had difficulty commissioning a debt survey since 2011 due to the reluctance of commercial lenders to participate in the survey, both for the 2013 and the 2015 surveys, as the banks would prefer to have a national survey. The Australian Bankers' Association

maintained that they are working with the banks and the federal government to establish a single collection model to be undertaken by the Australian Prudential Regulation Authority. APRA will then provide the data to the Australian Bureau of Agricultural and Resource Economics and Sciences, or ABARES, to supplement its data collection process. The proposed model would include total lending by state, loan amount, agriculture type and the measure of debt stress. It would also include those more than 90 days in arrears as well as non-bank lenders and credit providers. All ABA member banks that lend to the agriculture sector have agreed to participate in the national collection of data. This information is vital to understand the debt levels across the industry. The lack of data was a source of great frustration to the committee.

While some individual submitters were supportive of a rural bank, leading agribodies such as the Queensland Farmers' Federation and AgForce were not. AgForce said that there is a lack of detail in the bill and outlined some areas that need to be addressed. These included the regulatory arrangements of a rural industry development bank with direct lending capacity, how commercial lenders would view the bank, the eligibility criteria of lending, refinancing of distressed loans and the cost to government to name just a few. The department stated that there are many regulatory and legal arrangements that apply to a bank and would limit how prescriptive the Queensland government could be with respect to its operation and the basis upon which it would lend. It stated—

Banking is regulated by the Commonwealth, so the State has no capacity to override these requirements. The regulatory environment has changed significantly since the Global Financial Crisis and a State-owned bank today would be subject to significantly more controls and restrictions than was the case when the State owned Queensland Industry Development Corporation.

This was a very important point. Whilst the committee understands the motivation behind the proposed private member's bill, as stated in the committee's comments there is simply not enough detail as to how the rural and industries development bank would operate within the national regulatory framework. It was for these reasons that the committee was not able to support the bill.

Some of the concerns raised by submitters during the process will be addressed in the Farm Business Debt Mediation Bill. The government's Farm Business Debt Mediation Bill 2016 would replace the Queensland Rural Adjustment Authority with the Queensland Rural and Industry Development Authority, which is modelled on the New South Wales Farm Debt Mediation Act 1994. This authority would continue with the previous role of QRAA including drought recovery and concessional loans and would include grants to community service providers, sporting and cultural organisations and the administration of some aspects of farm debt mediation including accreditation of mediators and a review of decisions regarding enforcement action.

Most submitters were supportive of the changes to QRAA, although the committee identified a number of areas that could be improved and have suggested a total of 19 amendments across a range of subjects. One of these concerns was that the bill concentrates on the end result instead of earlier intervention to find solutions for the affected landowner.

The availability of qualified rural financial counsellors was raised as an issue by some submitters, although the committee heard that the Commonwealth had increased funding in 2016 which would result in an increase of 17 full-time rural financial counsellors nationally. The committee learnt that the Legal Aid Queensland Farm and Rural Legal Service is being serviced by only one lawyer, Mr Denis McMahon, who is a senior lawyer with Legal Aid Queensland. This is resulting in mediations being delayed due to the availability of Mr McMahon and there is need for another lawyer to be employed through Legal Aid Queensland. The committee recommended that provision be made in the bill for mediation to be conducted electronically if this is agreed to by both parties as it is sometimes difficult and at times impossible for the farmer to appear in the required time frame due to weather or work commitments.

The subject of the exclusion of crop liens, machinery and livestock loans in the mortgage agreement was the subject of much debate. The ability of the farmer to service or repay the debt is reliant on these assets. In the case of farm machinery, not only is it used on the farm but also it can be a source of off-farm income. The committee heard of some cases where stock and machinery were under stock mortgages, and farmers were forced to sell stock at inopportune times and machinery which was essential for the management of the property. It is the view of the committee that these combined assets should be considered in the farm mortgage when it comes to mediation.

The definition of 'default' was a contentious issue. Disturbingly, the committee heard from some submitters—including financial consultants—of cases where farmers who have never been in arrears with their payments were subject to enforcement action by banks because of a property land revaluation by the lender. These farmers had no warning until a letter arrived in the mail to notify them that they were no longer viable. This behaviour is truly disgraceful, and the committee recommends that the lender must offer mediation before any enforcement action can be taken when the loan-to-value ratio

has been altered. Compulsory mediation would correct this gross injustice. Instead of 15 days to respond to an enforcement notice and request mediation the committee recommends 20 business days and that the location be convenient for the farmer to attend. There were several submitters who stated that they were required to attend mediation in Brisbane at great expense and inconvenience.

The drafting of the heads of agreement raised some concern, in particular a predrafted heads of agreement provided by the mortgagee's lawyers, which could result in the farmer feeling pressured to simply agree to the proposed heads of agreement. The committee was of the view that the mediator should either draw up the agreement or supervise its drafting.

In one section of the bill it was unclear what the reference to 'act in good faith' meant. There are references in the bill which specified that one party—usually the farmer—is required to act in good faith but it does not specify that the other party is to act in good faith. This needs to be addressed by a more specific 'good faith' provision applying to all dealings by all parties in relation to mediation. This still raises the question of what is deemed to be 'acting in good faith'. The department advised that there is no definition of 'acting in good faith' in the government bill. The committee has recommended that the minister advise the House what 'acting in good faith' means, examples of how a farmer can act in good faith, examples of not acting in good faith and possible consequences of not acting in good faith. One example of the confusion surrounding good faith was with regard to the landowner producing documents. The committee heard of an instance where a landowner could not access documents from their accountant because the landowner had been unable to pay their accounting fees. The committee recommends that if the landowner has made reasonable attempts to access the relevant documents that should be 'acting in good faith'.

I will briefly speak to the other acts in this legislation. The proposed amendments to the Biosecurity Act would recognise industry issued biosecurity certificates from accredited third party operators. These amendments have the full support of the nursery and garden industry and QFF. The amendments to the Biological Control Act would facilitate the rollout of two viruses—one to control European carp and another for rabbits—and they were supported by the committee. The other amendment was to the Drugs Misuse Act to allow growers and researchers to grow cannabis and sell the seeds to those who are licensed and authorised to cultivate medical cannabis. It should be recognised that this is for seed only, as any further development of the plant for medical purposes is regulated by the Commonwealth government under the Narcotic Drugs Act 1967. The committee supports this amendment.

In closing, I come back to the two bills that carry the long title of these bills. As I have stated previously, due to changes to banking regulations and a lack of data and detail, the committee could not support the private member's bill. The committee has made a number of recommendations to the government bill and the shadow minister for agriculture, Dale Last, will move amendments that go some way to addressing the concerns of the member for Mount Isa which could not be accommodated in the private member's bill.

The forced sale of agricultural property is always a very contentious issue. I have friends who have been through the process, so I know it very well. I purchased my parents' property and went through droughts, built up a bit of capital and went through the devastating floods of 2011 and 2013. Then when I was preselected to run for this position I had to decide what to do with the farm. When I thought of leaving it in somebody else's hands to manage and the risk of ending up in the position we have just described, I decided to sell the farm. I know how emotional that is, because four generations of my family walked the black soil on that farm. My father drew his last breath on this earth on that farm. It is a difficult decision, but the decisions we had to make tonight have to be made with the head and not the heart. The shadow minister for agriculture, Dale Last, moved some good amendments tonight, particularly to establish a farm debt reconstruction office and QRIDA. That will be of great assistance to those who are in debt so we can pick up the situation a lot earlier than we have. The disgraceful situation that I described earlier of people who have never, ever missed a payment and never been in arrears suddenly being told that they are unviable and will be sold up are the sort of practices that we need to stop. With some good, sensible amendments and legislation we can do it, but I am afraid that we have to do it with a clear head and not with an emotive heart.