

## **DRAFT SECOND READING SPEECH**

### **THE HON MADELEINE OGILVIE MP**

#### *FARM DEBT MEDIATION BILL 2024*

*\*check Hansard for delivery\**

Madam Speaker, I move that the Bill now be read a second time.

It gives me great pleasure to introduce the Farm Debt Mediation Bill 2024 to the House today.

The introduction of this Bill delivers on an election commitment that the Government implement a legislated Farm Debt Mediation Scheme in Tasmania, supporting a key recommendation from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry which advocated for the enactment of a national scheme of farm debt mediation.

Specifically, this Bill is modelled closely on the New South Wales farm debt mediation legislative framework, which has led the way for a harmonised national approach to farm debt mediation.

Madam Speaker, currently, a Tasmanian farming operation can be foreclosed by a creditor without any form of mediation or negotiation. This can obviously have a severe impact on a farmer and their family, especially when the farm is also the family home.

The requirements outlined in the Farm Debt Mediation Bill have been developed to create a more level playing field in situations that may otherwise involve a significant power imbalance in favour of the creditor. The Bill does this by establishing an efficient and equitable mediation process for matters involving farm debts as an alternative to an expensive court process, and even in a situation where a farm business cannot be saved, the Farm Debt Mediation scheme can help facilitate a dignified exit for farmers.

The parties may enter this mediation process, or if they choose not to participate, then the Bill provides for safeguards and mechanisms for the resolution of the matter which I will speak to further below.

Madam Speaker, I will now talk to the Bill in more detail.

Farming operations that the Bill applies to includes those businesses primarily involved in agriculture, aquaculture, or cultivating and harvesting.

The Bill enables farmers to request creditors enter into mediation before defaulting on a loan related to farming operations. It does this because when mediation occurs early, farmers are in a stronger bargaining position at a time when their emotional stress is lower and they may have more options available to them.

Importantly, if a creditor does not agree to mediate under the Scheme, the farmer can apply for a prohibition certificate, which prevents the creditor from taking foreclosure action under the Scheme for six months once issued.

If a farmer defaults on a loan, the Bill requires a creditor to provide an invitation to mediate with the farmer and to attempt to engage in mediation in good faith with the farmer before taking any enforcement action.

Under the bill, a satisfactory mediation is one that has achieved a resolution or has proceeded as far as it reasonably can in attempting to achieve resolution but has failed to resolve the matter.

If a farmer does not wish to mediate under the Scheme, the creditor can apply for an exemption certificate. Once issued, this certificate states that the Scheme does not apply to this debt for three years, allowing the creditor to take foreclosure action. Creditors are only required to offer mediation once per farm debt as there needs to be balance in this process.

If both parties agree to mediate, the mediation process utilises a neutral and independent mediator to assist farmers and creditors to communicate effectively, reach agreement on the issues, and to achieve their own resolution of the dispute. The Bill clearly defines the role of the mediator and what they can and can't do to support this process.

The farmer and creditor will be responsible for paying an equal share of the mediation fees, and any of their own costs associated with attending mediation.

The Bill also establishes a Farm Debt Mediation Commissioner. The Commissioner will oversee mediator accreditation and administration of the Scheme, including the issuing of certificates. The Commissioner will have the power to require farmers and creditors to provide information to determine the application of the Farm Debt Mediation Scheme.

Farmers, creditors and mediators will have access to request a review of certain decisions made by the Commissioner, consistent with administrative law principles.

Madam Speaker, the Government undertook public consultation on the key principles of the Farm Debt Mediation Scheme. Submissions were received from the Tasmanian Farmers and Graziers Association, Mediator Standards Board and the Australian Banking Association, among others. This consultation has informed the development of the Bill before you today.

The agricultural sector is a vital contributor to the Tasmanian economy, however, farmers and their assets are vulnerable to financial challenges due to harsh climate conditions and changing commodity prices. In addition, due to the unique set of pressures faced by farmers, they are more vulnerable to experiencing mental health challenges caused by financial pressures and isolation.

The Farm Debt Mediation Scheme aims to promote the long-term viability and

resilience of farm businesses in Tasmania. This will also help support the primary industry sector as a whole. Helping farmers manage financial stress, and supporting them to take early action will help promote positive mental health and resilience in rural communities.

The Government is committed to helping Tasmanian farmers and believes that farmers, through a legislated Farm Debt Management Scheme, should be given an opportunity to present their case with an independent mediator and work to achieve a resolution before any enforcement action is taken by their creditor.

Madam Speaker, I commend this Bill to the House.