



CHARTERED ACCOUNTANTS™
AUSTRALIA + NEW ZEALAND

31 July 2019

Committee Secretariat
Primary Production Committee
Parliament Buildings
Wellington 6160
Via email: pp@parliament.govt.nz

Dear Sir or Madam,

Farm Debt Mediation Bill (No 2)

Chartered Accountants Australia and New Zealand (CA ANZ) welcomes the opportunity to provide a submission to the Primary Production Committee on the Farm Debt Mediation Bill (no 2) (“the Bill”). We support the establishment of the framework behind the Farm Debt Mediation Programme and the work carried out by the Ministry for Primary Industries in working with both the Office of the Minister of Agriculture and the Office of the Minister of Commerce and Consumer Affairs in developing this legislation.

We have focused our feedback on key areas where we consider we can add the most value and have received input for this submission from our members operating in the rural sector. Appendix A provides more information about CA ANZ.

General comments

In the past, failures of a number of farming enterprises resulted in rapid sales of farming properties with the primary purpose being to recover funds quickly for the financial institution. This process left many farming families and farming communities in dire straits, both financially and mentally and the effects of this in some cases are still being felt today. For many farming families, the loss of their farming business also involves the loss of their family home. In a number of cases, these farming properties have been in the same family for many generations.

If a form of Farm Debt Mediation had been in existence then, whilst the ultimate outcome (the loss of the farm) may have been the same, the financial outcome, particularly for the farmer, could have been considerably better. Farms would not have been sold on a ‘fire-sale basis’ to only recoup the secured creditors debt.

We support the three key objectives of the Bill which are to:

1. Support farmers in financial distress in their involvement with secured creditors;
2. Make it possible to explore options for turning around a failing farming business; and
3. Allow a farmer with an unviable business and for whom few other viable options exist, to “exit with dignity”.

We also support the use of the “New South Wales” model in developing this legislation. The NSW Rural Assistance Authority (RAA) provides supporting resources in the form of videos, approved mediation

forms and other resources to help parties prepare for the process. We recommend such resources are considered for New Zealand's approach. The RAA also recommends that prior to mediation, the farmer seeks professional advice from a solicitor, accountant or other appropriately qualified person. Advisers need sound financial skills and a clear understanding of the mediation process to help farmers prepare and consider options realistically.

Detailed points

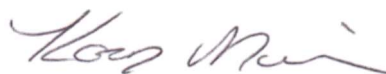
- We agree with the proposal that farmers can initiate mediation and that secured creditors must offer mediation before taking any steps towards enforcement action.
- We consider it important that mediators are approved and experienced. We recommend that the Ministry responsible ensures mediators have a good knowledge of farming and farming practices to ensure appropriate outcomes are reached.
- We support the proposal that the fees for the mediation be shared equally as between the parties.
- Clause 23 (2) Duration of Mediation. We are concerned that the stated period of 60 working days for the completion of the mediation process may not be sufficient. Whilst this clause can be extended by agreement with the parties, if agreement is not reached, in our view 60 days will not be long enough to complete the process without it being rushed. We suspect that in the early stages of the Bill's utilisation and/or during a significant farming downturn, there will not be enough experienced mediators, nor time to reasonably complete the process. We recommend consideration is given to extending the period to 90 working days.
- Clause 40 (1) (c) Duration of Certificate. In this clause, the duration of a prohibition certificate is 6 months. We do not consider this to be long enough, especially, for example, for a Dairy Farm in peak season. We recommend the period of a prohibition certificate be extended. This would enable the season to be completed without additional stress on the farmer and should also minimize the risk of animal welfare issues arising, which could occur under a shorter period.

Should you have any queries concerning the matters discussed above or wish to discuss them in further detail, please contact Karen McWilliams via email at karen.mcwilliams@charteredaccountantsanz.com or phone (612) 8078 5451.

Yours sincerely



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Appendix A

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 120,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations.

We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation professional accountants across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.