23 June 2017

Select Committee on Lending to Primary Production Customers
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Email: primaryproductionlending.sen@aph.gov.au

Dear Senator Roberts,

Re: Lending to Primary Production Customers

NSW Farmers' Association (the Association) thanks the Select Committee for considering the issue of primary production lending in the context of the other reviews of the banking sector currently underway.

Access to capital is vital to primary producers as it enables the sector to expand and adopt new technologies. This supports the sector both by allowing farmers to invest in more efficient capital machinery, adopt new farming processes and maintain financial viability during droughts, natural disasters and cashflow downturns.

Operating in international commodity markets, Australian farmers compete directly with foreign primary producers, some with considerably cheaper cost bases. These savings stem from cheaper labour and more relaxed regulatory requirements. As such, access to capital and a variety of financial products, both results of an advanced financial sector, are an important tool to maintaining cost competitiveness.

Given the nature of the loans themselves, and the variable nature of farm business structures, the Association will not be making reference to specific cases. Rather, we seek to make a number of general points for the Select Committee to consider. Other submissions to this inquiry have detailed the landscape of lending within the rural/primary production sector. The Submission from Legal Aid Queensland underscores the seasonal nature of business operations in the sector. Further, the submission from Department of Agriculture and Water Resources (DAWR) gives a broad outline of national farm debt, noting difficulties faced by sub-sectors like Dairy.[1]

We add to this some data to assist the Committee in understanding the value of supporting the sector:

- a recent Goldman Sachs report has shown the degree to which the broader economy suffers when the agricultural sector is under stress. It notes that droughts tend to strip anywhere between 50-100 basis points from GDP growth.[2]
- the Australian Farm Institute (AFI) 2014 Review of NSW Drought Policy notes that over the period 1975-2011, in comparison with all sixteen market sectors of the Australian economy (as defined by the ABS), farm business managers experienced the highest level of volatility.[3] Further, whilst livestock farms experience a level of volatility which is comparable with other nations, Australian grain farms were found to face the highest level of production and revenue volatility of any farmers globally.[4]

---

[1] Sub 007, Accessed via: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Lending_to_Primary_Production_Customers/LendingPrimaryProducion/Submissions

[2] http://www.afr.com/news/economy/a-drought-could-be-the-biggest-risk-to-the-economy-20151027-gkjfsj

[3] Keogh, M. and Goucher, G. 2014. *Review of NSW Responses to Drought Policy Reforms Research Report*, Sydney : AFI, p. 4

[4] *ibid.*, p.3

The Farm Management Deposit (FMD) scheme is therefore critical in ensuring that farmers can manage cash flows between good and bad seasons. We therefore supported the doubling of the FMD, from $400,000 to $800,000, and the removal of legislative impediments to these being used as farm business loan offset accounts. However, we note that only one bank is currently offering this offset facility. The legislative change does nothing to 'force' institutions to make what is essentially a commercial decision. Further, in evidence to the Parliamentary Banking Inquiry the 'big four' banks have all indicated that it would be 'complicated and costly' for them to offer this product, and ANZ has noted:

> FDMs [*sic*] must be held in personal names while farms are often established through a corporate structure. A core issue for a bank lender is that offsetting a liability owed by a corporate entity with a FDM [*sic*] held by a person or partnership is complex legally and operationally. Bank business lending systems are not designed to provide such a capability. …Recent legislative changes lifted the prohibition that prevented FMDs from being offset against a loan relating to the FMD owner's primary production business. The legislation does not assist with the issue noted above.[5]

With respect to the Terms of Reference of your inquiry:

a. *The lending, and foreclosure and default practices, including constructive and non-monetary default processes*

We welcome the recent announcement from the big four banks that they will be removing non-monetary default clauses on small- to medium-sized business loans under $3 million. The move underscores the value of the new Australian Small Business and Family Enterprise Ombudsman (ASBFEO), however we would argue that the limit should be raised to $5 million in line with the original recommendation to ensure that more farm businesses are captured. Otherwise, the banks' announcement will be meaningless for the majority of productive farm enterprises.

b. *The roles of other service providers to, and agents of, financial institutions, including valuers and insolvency practitioners, and the impact of these services*

A private valuer to a farmer is likely to value the property more realistically. Annual reviews conducted by the bank can sometimes result in an unrealistically high valuation, allowing banks to extend their business. This could encourage poor lending practises.

Further, when farmers do get into trouble, it is in the interests of the banks to have issues resolved more rapidly. Feedback from our members suggests that regional managers often let issues escalate knowing that farm debt mediation (FDM) is available. Therefore, if a farmer uses the bank's internal dispute resolution processes, and if there is any likelihood that the case will end up in a FDM process, the bank is likely to stall until the farmer enters into that process. Banks need to be more proactive, and regional managers need to demonstrate their value as local representatives of the bank.

c. *The appropriateness of internal complaints handling and dispute management procedures within financial institutions.*

We note that the Government intends to establish a nationally consistent FDM scheme. We support the NSW *Farm Debt Mediation Act* and participated in the recent review of the legislation, pointing out that the scheme works well in NSW and does not require any significant changes. Any national scheme should take as its reference point the legislation operating in NSW.

[5] 15QON - Farm management bonds and loan offset, accessed via: http://www.aph.gov.au/Parliamentary_Business/Committees/House/Economics/Four_Major_Banks_Review/Documents

We also note the Government's recent response to the Ramsay Review flagged a new one-stop shop to be established by 1 July 2018 to replace the Financial Ombudsman Service, the Credit and Investments Ombudsman and the Superannuation Complaints Tribunal. We further note that in its submission to the Ramsay Review, the Australian Banking Association (ABA) has noted that with the establishment of a new ombudsman, farmers should only have access to one dispute resolution process and instead be given the option to make an informed decision as to which dispute resolution mechanism they seek to access.[6] However, we emphasise the need for flexibility for farmers and would be loath to lock them in to a process that did not meet their needs.

We welcome the ABA's recent announcement that they are aiming to publish a new Code by the end of 2017 which will include some improvements regarding the relationship between farmers and the banks. We take the view that simpler, standardised mortgage documents (with loan terms in subsidiary documents) with the key points of reference being clearly visible for farmers would improve financial literacy and transparency. It may also be easier to compare offers from institutions and perhaps encourage switching between institutions.

We also welcome initiatives from the ABA to work with farmers to develop stronger banking literacy. This mirrors the Association's work with our Young Farmer members. In its pilot year, our Young Farmer Business Project has engaged with over 1500 individuals and held 10 bank ready workshops across NSW with over 280 participants. It has resulted in a $6 million allocation from the 2017 NSW State Budget to support the next generation of farmers entering and expanding the business of agriculture. There is a specific focus in the program on building skills to manage risk and make sound business decisions.

d. *The appropriateness of loan contract terms particular to the primary production industries, including loan-to-value ratios and provision of reasonable written notice.*

Our members' position is that the loan-to-value ratio should be able to be lifted to 80 per cent. A farmer's ability to withstand long term downturns requires flexibility with cash flow.

We note that the ABA submission refers to the very real difficulties suffered by farmers in north west and south west Queensland.[7] However, we remind Senators of the very real issues faced by farmers via a recent example of our members based in and around Bourke, Brewarrina and Walgett in north west NSW. Farmers in this area received no rain for a period of four years or more to 2016 despite the fact that available data did not identify their land as 'in drought'. At the time, our members in this region noted they had experienced between 75-100 per cent loss of income, depending on the property. These heavy effects on a small pocket of NSW underlines the extreme seasonality of farming and the importance of banks understanding the volatility of farm businesses when considering loan terms. Farmers in this same region have since experienced record harvests, but their ability to recover their investments is only as good as the support of their bank through the tough times.

Should you wish to discuss any of these issues further, please do not hesitate to contact Isabella McDougall, Policy Advisor, on or .

Kind regards,

Matt Brand
CHIEF EXECUTIVE

---

[6] Sub, Accessed via http://www.treasury.gov.au/~/media/Treasury/Consultations%20and%20Reviews/Consultations/2016/Review%20of%20the%20financial%20system%20external%20dispute%20resolution%20framework/Submissions/PDF/Australian_Bankers_Association.ashx p. 3

[7] Sub 012, Accessed via: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Lending_to_Primary_Production_Customers/LendingPrimaryProducion/Submissions