



AUDIO TRANSCRIPT- SHORT FILM - MEDIATING WELL - NSW FARM DEBT MEDIATION

This is video four in a four part series that explains farm debt mediation in NSW.

Hello, I'm a farm debt mediator. In this video we'll discuss the outcomes from mediation under the NSW Farm Debt Mediation Act.

Narrator: Mediations work best when the participants prepare well for the process, bring all relevant documents and information to the mediation, and come with a willingness to listen, understand and negotiate. It's important to focus on realistic and achievable outcomes.

Mediation also works best when everyone comes with the right attitude and behaviour. The legislation talks about mediating in good faith.

Farmer: I guess the communication channels have just broken down over the last 18 months or so. We just felt that we were on our own. It's been a really tough time.

But today, today, we're going to try to put all of that behind us. We're going to work something out with the bank so that we can stay on the farm and grow the business.

Mediator: Mediators ensure that everyone gets a chance to speak, be heard, and be treated with respect. Everyone needs to be prepared to listen to the other side, make offers, consider offers and negotiate.

But you are not required to accept an offer or make an agreement.

I can see everyone feels very strongly about this. Shall we take a short break or do you want to continue to discuss the last option some more?

Narrator: The mediator will encourage everyone to be polite and respectful during the mediation as this often helps the negotiation progress.

It is however important to be open and honest to ensure that the real issues are discussed.

Mediator: I see that everyone feels very strongly about this. Shall we take a short break or do you want to continue and discuss this more?

Narrator: If at any time during the mediation you have concerns or questions, please raise them with the mediator, your Rural Financial Counsellor, or your adviser. Or you can contact the Rural Assistance Authority.

Narrator: Sometimes participants in mediations are disappointed, angry or feel like the situation is hopeless. Let the mediator know how you are feeling, and please speak to your medical practitioner if your health is being affected before or after the mediation.

Narrator: If you reach an agreement at the mediation it's a good idea to include as much detail as possible – so there won't be any confusion or misunderstandings later.

Mediator: So, when will you know about the agistment?

Farmer: Well, my neighbour wants to do this but we haven't agreed on any rates. I should know more next week.

Mediator: Did the bank ask for the agistment contract within 2 weeks? Will that allow enough time?

Farmer: Yes, I guess so.

Narrator: The agreement should include who does what, when and how, and it will include a cooling off period. In the future parties might choose to amend their agreement if necessary or even return to mediation.

Bankers: Some of the possible outcomes from farm debt mediations include: an agreement about debt repayment, refinancing, agistment, the sale of part or all of a property or other assets, a release, compensation and in some cases, an agreement about how a creditor will take possession of a property.

Try to think about the pros and cons of various realistic options before the mediation.

If there is an agreement, the farmer and lender will keep a copy of the Agreement which is legally binding on them. And a copy of the agreement will be sent to the Rural Assistance Authority.

You will also be asked to complete an optional exit questionnaire after the mediation.

Narrator: The mediator will report back to the Rural Assistance Authority about whether the mediation was satisfactory. The Rural Assistance Authority will take the mediator's report into account before issuing a certificate under the Act. The certificate authorises enforcement action within three years if the agreement falls over, or if there was a mediation and no agreement was reached.

The Authority will also contact the farmer before issuing any certificate and invite their comments on the certificate application. The lender also has to confirm that default continues before the certificate can be issued.

There is a right of appeal to the Authority about a certificate being issued. And a court appeal may be an option too – but you should seek legal advice before making this decision and weigh the risk of incurring significant legal costs.

For more information see the NSW Rural Assistance Authority website or speak to your Rural Financial Counsellor.

End screen