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28 November 2013

Dr Kathleen Dermody  
Committee Secretary  
Senate Economics References Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Dr Dermody

**Inquiry into the performance of the Australian Securities and Investments Commission  
Invitation to NAB to respond to submission by Mr Christopher Priestley and Ms Claire Priestley (the Priestleys)**

Thank you for your letter dated 15 November 2013 addressed to Ms Jillian Segal as a director of National Australia Bank Limited (**NAB**), enclosing a submission (**Submission**) made by the Priestleys to the Senate Economics References Committee (**the Committee**).

The Submission makes comments that are critical of NAB and Ms Segal as a director of NAB. As invited, and on behalf of NAB and Ms Segal, we provide this response which is confined (as requested) to those comments.

### **Privacy**

In providing this response, NAB is mindful of its obligations under Commonwealth privacy legislation and the general law with regard to the Priestleys' banking customer information.

NAB believes it can provide this response, consistent with those obligations, by reference to the information contained in the Submission, and/or in various public judgments of the New South Wales Supreme Court and Court of Appeal in the recent proceedings (**NAB/Priestley proceedings**) between NAB and the Priestleys.

### **Background**

From 2004 until 2009, NAB provided banking loan facilities to the Priestleys for the purpose of their rural operation conducted on their properties at Walgett, New South Wales.

The Priestleys loan facilities fell into default, and in April 2010 NAB gave notices to the Priestleys in accordance with the *Farm Debt Mediation Act*. On 12 May 2010, the Priestleys responded to NAB that they wished to proceed to a farm debt mediation in accordance with that Act.

In July 2010, NAB and the Priestleys participated in a farm debt mediation conducted by Ms Robin Lees, an independent mediator.

At the conclusion of that mediation, NAB and the Priestleys entered into a Heads of Agreement under which the Priestleys agreed to repay their indebtedness to NAB, or alternatively sell their properties, by 30 April 2011.

The Priestleys did not comply with their above obligations under the Heads of Agreement.

In September 2011, NAB commenced proceedings against the Priestleys in the Supreme Court of New South Wales (Case No. 2012/29621) for possession of their properties.

In December 2011, the Priestleys filed a defence in those proceedings prepared by their then legal representative. That defence was struck out on NAB's application in March 2012. Subsequently and acting through new lawyers, the Priestleys made three unsuccessful applications to file amended defences, with each application rejected on the basis that the defences proffered did not disclose an arguable defence to NAB's claim.

NAB obtained default judgment for possession of the properties in May 2012.

On 31 January 2013, the Sheriff's Office executed a writ of possession and handed possession of the Priestleys' properties to NAB.

In May 2013, the Priestleys (self-represented) brought an appeal in the New South Wales Court of Appeal which was unsuccessful.

### **Priestleys' submission in respect of their dispute with NAB**

The Priestleys' grievance arises from NAB's decision not to advance funding in 2010 for their farming operation, which they say was inconsistent with earlier representations of support made by NAB in prior years.

The Priestleys assert in the Submission that their complaints to NAB about this decision were not dealt with by NAB, as required by the Code of Banking Practice, and that instead NAB chose to proceed with farm debt mediation and ultimately court recovery action.

The Priestleys also make critical assertions in the Submission about Ms Segal in respect of their complaint.

### **NAB's response**

NAB does not agree with the Priestleys' submission that it did not comply with its obligations under the Code of Banking Practice, or indeed that its conduct was in anyway unfair or inappropriate.

NAB did not make any inaccurate or misleading representations that it would continue to fund the Priestleys after 2009.

In any event, and as indicated by the above background, the Priestleys requested and agreed to a farm debt mediation with NAB in July 2010 as a forum in which to ventilate and explore a resolution

of the issues they now raise. That decision to go to mediation was made voluntarily by the Priestleys, as was their decision to enter into the abovementioned Heads of Agreement.

NAB considers the matter was settled by the Heads of Agreement.

As also indicated by the above background, the Priestleys had numerous occasions to ventilate their grievances in the above Supreme Court and Court of Appeal proceedings, were legally represented through-out the Supreme Court proceedings, and the Court rejected their arguments.

**Ms Segal**

Ms Segal's only involvement in this matter was as a recipient, along with other NAB Board members, of correspondence from the Priestleys in January 2013 shortly prior to the Sherriff's office eviction.

Ms Segal had no input or involvement into NAB's conduct of the Priestley matter, either from a lending perspective, the farm debt mediation or the subsequent litigation. Specifically, Ms Segal did not make any inaccurate or misleading representations to the Priestleys.

Yours faithfully

**Nathan Butler**  
**General Counsel**  
**Governance Corporate & Enterprise Services**  
**National Australia Bank Limited**