

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture and Water Resources and the Minister for Finance.

*Regional Investment Corporation Act 2018*

*Regional Investment Corporation Operating Mandate Direction 2018*

### **Legislative Authority**

The *Regional Investment Corporation Act 2018* (the Act) establishes the Regional Investment Corporation (the Corporation). The Corporation's functions are set out in section 8 of the Act and include administering farm business loans and administering financial assistance, on behalf of the Commonwealth, granted to States and Territories in relation to water infrastructure projects. The Corporation will administer any future programs prescribed by the rules.

The *Regional Investment Corporation Operating Mandate Direction 2018* (the Operating Mandate) is made under subsection 11(1) of the Act. Subsection 11(1) requires the responsible Ministers to give directions, by legislative instrument, to the Corporation about the performance of the Corporation's functions. Subsection 11(2) of the Act sets out the matters that may, without limitation, form part of directions in the Operating Mandate.

### **Purpose**

The purpose of the Operating Mandate is to direct the Corporation in relation to the performance of the Corporation's functions. The directions include matters relating to the objectives the Corporation is to pursue in administering its programs, expectations in relation to the strategies and policies to be followed for the effective performance of the Corporation's functions, eligibility criteria for farm business loans or financial assistance to the States and Territories for water infrastructure projects, financial arrangements and other matters that the responsible Ministers think appropriate.

The Operating Mandate is a key mechanism by which the responsible Ministers will give directions and communicate overall government expectations for the Corporation.

Under the Act, the Corporation must perform its functions in a proper, efficient and effective manner, in accordance with directions issued by the responsible Ministers.

It is anticipated that the responsible Ministers will review the Operating Mandate periodically and issue new operating mandates as necessary and appropriate. The first Operating Mandate focusses on the establishment phase of the Corporation. Further operating mandates may also deal with future programs prescribed by the rules under subsection 8(5) of the Act.

### **Background**

The Act received Royal Assent on 20 February 2018 and the substantive provisions of the Act (sections 3 to 54) commenced by proclamation on 8 March 2018. The commencement of

these sections provided for the establishment of the Corporation, its functions, and the roles of the Board and CEO.

The Corporation streamlines administration of farm business loans, delivering national consistency and ensuring loans are assessed prudently, consistently and efficiently to help farmers in need. The Corporation assists the Commonwealth in effectively responding to the needs of Australian farm businesses and regional communities.

The Corporation provides independent advice to the Commonwealth on projects for consideration under the National Water Infrastructure Loan Facility, and administers water infrastructure loans to State and Territory governments on behalf of the Commonwealth. This supports long-term regional economic growth and development by investing in economically viable water infrastructure that will provide secure and affordable water.

### **Impact and Effect**

The Operating Mandate directs the Corporation to perform its functions in an efficient and effective manner consistent with the government's objectives and expectations for the Corporation and the programs it administers.

Subsection 11(3) of the Act prohibits the responsible Ministers from giving a direction in the Operating Mandate that relates to an individual loan, including a farm business loan or other loan provided under a program prescribed by the rules. This limit applies to all aspects of administering an individual loan and ensures that decisions on individual loans are made independently of the government.

Importantly, in accordance with subsection 13(1) of the Act, the Corporation is required to take all reasonable steps to comply with directions provided under Part 2 Division 2 of the Act, including the directions in the Operating Mandate. However, as provided by subsection 13(6) of the Act, a failure to comply with a direction does not affect the validity of any transaction entered into by the Corporation, providing certainty of the Corporation's activities for the recipients of loans in the event of any non-compliance.

### **Consultation**

Consultation on the establishment of the Corporation occurred across a broad range of stakeholders, including peak agricultural industry bodies, national and State farming organisations, State and Territory government primary industry departments and delivery agencies, rural financial counselling service providers and the commercial lending sector including the Australian Banking Association.

A discussion paper on the Corporation's new farm business concessional loans scheme was also made publicly available through the department's website to provide opportunities for other stakeholders, including farmers, to provide input. Consultation explored stakeholder views on the scheme including key loan settings and eligibility criteria which are set out in the Operating Mandate.

The Department of Agriculture and Water Resources worked with the Department of Finance on the development of the Operating Mandate, and also consulted other government agencies including:

- the Department of the Prime Minister and Cabinet
- the Department of the Treasury
- the Attorney-General's department
- the Department of Foreign Affairs and Trade
- the Department of Infrastructure, Regional Development and Cities and
- Infrastructure Australia.

The RIC Board was consulted on the final draft of the Operating Mandate.

### **Details/Operation**

Details of the Operating Mandate are set out in Attachment A.

The Operating Mandate is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Operating Mandate is compatible with human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

**Details of the *Regional Investment Corporation Operating Mandate 2018***

**PART 1 – PRELIMINARY**

**Section 1 – Name of Instrument**

This section provides that the name of the instrument is the *Regional Investment Corporation Operating Mandate Direction 2018* (the Operating Mandate).

**Section 2 - Authority**

This section provides that this instrument is made under subsection 11(1) of the *Regional Investment Corporation Act 2018*.

**Section 3 – Commencement**

This section provides for the Operating Mandate to commence on the day after registration. The section includes a Note that provides that section 42 of the Legislation Act 2003 (which deals with the disallowance of legislative instruments) applies to the instrument. The Note makes a reference to section 11(4) of the Act.

**Section 4 – Definitions**

This section defines a number of terms used in the Operating Mandate.

**PART 2 – DIRECTIONS**

**Section 5 – Introduction**

This section outlines the broad functions and purpose of the Corporation along with the general manner in which the Corporation will undertake its functions.

Subsection 5(1) provides that the Corporation will administer farm business loans and water infrastructure loans. It will provide streamlined and nationally consistent Commonwealth concessional finance supporting regional Australia.

Subsection 5(2) provides that the Corporation will undertake its functions in an efficient and effective manner to meet its policy objectives. This is consistent with the Corporation's obligations as a corporate Commonwealth entity under the *Public Governance and Performance Accountability Act 2013*. It will treat clients fairly and equitably providing a nationally consistent service.

Subsection 5(3) provides that the Corporation will assist the Commonwealth in effectively responding to the needs of Australian farm businesses and regional communities, and supporting the provision of affordable and secure water supplies and the growth of regional economies across Australia.

## Section 6 – Policy objectives

This section states the policy objectives for the Corporation, farm business loans and water infrastructure loans.

Subsection 6(1) provides that in establishing the Corporation, the Commonwealth is providing practical support to help rural and regional communities achieve economic growth and agricultural productivity.

Subsection 6(2) provides that the farm business loans will provide low cost finance to farm businesses that are in financial need of assistance, to recover from short-term hardship, but are assessed as financially viable over the long-term and able to repay.

Paragraph 6(3)(a) provides that the Corporation will deliver farm business loans that will support the long-term strength, resilience and profitability of Australian farm businesses by helping them to build and maintain diversity in the markets they supply, and take advantage of new and emerging opportunities across Australia and overseas. Paragraph 6(3)(b) provides that the Corporation will also deliver farm business loans that will assist farm businesses to prepare for, manage through and recover from periods of drought.

Subsection 6(4) provides that the Corporation will administer water infrastructure loans to the States and Territories to support long-term regional economic growth and development by investing in economically viable water infrastructure that will provide secure and affordable water.

Subsection 6(5) provides that the full policy objectives of each program administered by the Corporation are detailed in the attached Schedules to the Operating Mandate.

## Section 7 – Funding arrangements

This section sets out funding arrangements for the Corporation, how amounts received by the Corporation are to be dealt with and the circumstances in which amounts are to be remitted to the Commonwealth.

Subsection 7(1) provides that the Corporation will be funded by an appropriation through an Act of Parliament. All advances of loan funds will be within the limit of the Corporation's appropriation.

### *Farm business loan funds*

Subsection 7(2) provides that funds for farm business loans will be provided to the Corporation upon the Corporation's request to enable the advance of loan funds to recipients. Paragraph 2(a) provides that loan funds must only be requested by the Corporation as they are required to advance loan funds to recipients (once a farm business loan has been approved, loan documentation is finalised and settlement is imminent). This ensures that funds are held by the Commonwealth until required, thereby minimising the cost of borrowing (or cost of capital) to the Corporation, supporting the Corporation to offer concessional interest rates.

Paragraph (2)(b) provides that the Corporation must only use funds provided for farm business loans for that purpose. This is to ensure that loan funding is available only for farm business loans.

Subsection 7(3) provides that the Corporation is authorised to collect all loan repayments (including principal repayments and payments of interest) from farm business loan recipients. The purpose of this subsection is to clarify the application of subsection 8(6) of the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*.

Subsection 7(4) provides that, subject to subsection 7(5), all loan repayments (including principal repayments and payments of interest) received by the Corporation from farm business loan recipients must be paid to the Commonwealth as soon as reasonably practicable.

Under section 47 of the Act, if the Corporation provides a loan to a person, the Corporation may charge transactions costs incurred in relation to farm business loans (for example, fees for title searches and mortgage registrations).

Subsection 7(5) provides that any funds received by the Corporation from farm business under section 47 of the Act to reimburse the costs the Corporation has incurred in relation to the farm business loan may be retained by the Corporation and do not need to be paid to the Commonwealth.

#### *Water infrastructure loan funds*

Subsection 7(6) provides that once a water infrastructure loan has been entered into under subsection 10(5), the Corporation may request funds for the water infrastructure loan to be paid to the relevant State or Territory government by the Commonwealth. It is envisaged this request will be made to the relevant Commonwealth department with policy responsibility for the water infrastructure loan facility.

As water infrastructure loan amounts are a payment from the Commonwealth to the relevant State or Territory government, subsection 7(7) provides that the Corporation must ensure that all loan repayments from State and Territory governments are paid directly to the Commonwealth in accordance with the relevant loan agreement, and not to the Corporation.

#### *Administrative expenses*

Subsection 7(8) provides that funds provided to the Corporation for administrative expenses must only be used for that purpose. It is intended that funding for administrative expenses is likely to cover, but is not limited to staff, property and other operational expenses.

#### Section 8 – Interest rates

Section 8 of the Act requires the Board of the Corporation to set, and adjust as required, interest rates applicable to loans and financial assistance.

Subsection 8(1) provides that the Board must set variable interest rates for each program of farm business loans that the Corporation administers, and a rate for water infrastructure loans. Those rates must be applied to all loans within the relevant program or type. This will ensure the Corporation provides a nationally consistent rate, treating clients fairly and equitably.

Subsection 8(2) provides that the Board must set rates in accordance with an interest rate methodology that is agreed by the responsible Ministers. The methodology will include the items set out in paragraphs 2(a) to 2(c). Paragraph 2(a) provides that the interest rate will only cover the Corporation's administrative costs to deliver concessional loans and the Commonwealth's borrowing costs. Paragraph 2(b) provides that the interest rate for each program will be reviewed every six months in November and May and revised if necessary in line with material changes to the Commonwealth 10 –year bond rate, where a material change is taken to be a movement of more than 10 basis points (0.1 per cent). Paragraph 2(c) provides that any change in the interest rate will take effect from 1 February or 1 August each year as applicable.

The Corporation, its farm business concessional loans program and the National Water Infrastructure Loan Facility are intended to be budget neutral over their life, with interest rates to be set at a level that only covers the Corporation's administrative costs to deliver concessional loans and the Commonwealth's borrowing costs.

The Commonwealth's borrowing costs are determined using the Commonwealth 10-year bond rate. Rates are set in this manner, independently of commercial agribusiness interest rates.

Subsection 8(3) provides that the Corporation will notify loan recipients in writing in advance of any changes to interest rates. This will ensure the Corporation treats clients fairly by providing adequate and appropriate notice of changes to loan interest rates.

## Section 9 – Farm business loans

This section sets out directions specific to farm business loans.

### *Program guidelines*

Subsection 9(1) provides that the Corporation must develop and publish program guidelines for each program of farm business loans consistent with the Operating Mandate and in consultation with the responsible Ministers. It is envisaged that the guidelines will set out detailed program information for potential applicants, for example eligibility requirements, how applications will be assessed and how to apply.

### *Offering farm business loans*

Subsection 9(2) provides that the Corporation is to administer the farm business concessional loan program in accordance with the specifications set out in Schedule 1. These specifications include the maximum loan amount, loan term, acceptable types of security and capacity to repay.

Subsection 9(3) provides that the Corporation must be satisfied that a farm business concessional loan applicant fulfils the mandatory requirements set out in Schedule 1 before the Corporation offers the applicant a farm business loan. These mandatory requirements set out key eligibility criteria and approved loan purposes.

Requiring the Corporation to deliver the farm business concessional loan program in accordance with the loan specifications and mandatory requirements set out in Schedule 1 will ensure that the Corporation provides a nationally consistent loan product and service, treating clients fairly and equitably.

Subsection 9(4) provides that the Corporation will offer and promote voluntary refinancing to eligible farm businesses under the farm business concessional loan program. This may include debt from previous concessional loan programs.

Subsection 9(5) provides that for each program of farm business loans that the Corporation administers, the Corporation should be mindful that the Commonwealth is not seeking to impede appropriate structural adjustment nor be the lender of last resort to the farming sector. The subsection further provides that to this end, the Corporation should not provide loans to applicants who have intentionally pursued high risk strategies and practices without adequately assessing risks and seeking to mitigate them where possible.

Subsection 9(6) provides that the Corporation will ensure that farm business loan applicants are informed of the outcome of their loan application as soon as practicable after a decision on their application has been made. This will ensure the Corporation treats clients fairly by providing adequate and appropriate notice of the outcome of loan applications.

#### Section 10 – Water infrastructure loans

This section sets out directions in relation to water infrastructure loans.

##### *Program guidelines*

Subsection 10(1) provides that the Corporation must develop and publish guidelines for water infrastructure loans consistent with the Operating Mandate. These guidelines must be developed in consultation with the responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility. It is envisaged that the guidelines will set out specific detail for the delivery of the program including information to assist State and Territory governments to consider eligibility for, or to apply for, water infrastructure loans.

##### *Corporation's role*

Subsection 10(2) sets out some of the Corporation's responsibilities in administering water infrastructure loans on behalf of the Commonwealth, in line with the functions set out in the Act. Paragraph 2(a) provides that Corporation will be responsible for assessing applications and providing a recommendation to responsible Ministers, and a copy to the Minister with policy responsibility for the water infrastructure loan facility. Paragraph 2(b) provides that the Corporation will be responsible for providing advice on a water infrastructure project to the responsible Ministers, and the Minister with policy responsibility for the water infrastructure loan facility. The Corporation may provide advice on a potential water infrastructure project which is not yet the subject of an application for financial assistance.

Subsection 10(3) provides that the Corporation must ensure that the water infrastructure loan facility is promoted and delivered in alignment with national water policy. National water policy, as updated from time-to-time, includes but is not limited to, the National Water Initiative—the Council of Australian Governments' national blueprint for water reform, the



National Water Infrastructure Development Fund, projects in the Murray-Darling in accordance with the Basin Plan, the *Water Act 2007*, and the Reef 2050 Plan.

#### *Water infrastructure loan applications*

Paragraph 10(4)(a) provides that the Board must not recommend that a water loan application be approved unless the Board is satisfied that the applicant fulfils the eligibility requirements set out in Schedule 2. Paragraph 4(b) provides that the Board must not recommend that a water infrastructure loan be approved unless the Board is satisfied that the water infrastructure project is assessed as suitable against the assessment criteria set out in Schedule 2.

Subsection 10(5) provides that the Corporation may only enter into a water infrastructure loan where the Corporation has been given a direction by the responsible Ministers under section 12(3) of the Act. The subsection further provides that the terms and conditions included in a water infrastructure loan must be in accordance with rules and any relevant direction given by the responsible ministers. Under subsection 12(3) of the Act, the responsible Ministers may direct the Corporation to enter into a water infrastructure loan agreement on behalf of the Commonwealth.

#### *Consultation with other Commonwealth entities*

It is government policy that Infrastructure Australia must conduct a review where funding of more than \$100 million is sought from the Commonwealth, including across multiple schemes and portfolios. Subsection 10(6) provides that, where a water infrastructure loan application is for an amount greater than \$100 million, State or Territory government borrowers will be required to consult Infrastructure Australia for the review before submitting their application to the Corporation for assessment. The Corporation will have regard to the outcome of the review undertaken by Infrastructure Australia when preparing its advice for the responsible Ministers.

Subsection 10(7) provides that the Corporation will consult with the Commonwealth department with policy responsibility for the water infrastructure loan facility, and with other relevant Commonwealth stakeholders including other Commonwealth departments as appropriate, in regard to water infrastructure loan applications and projects.

#### Section 11 – Loan management

This section sets expectations with respect to loan and risk management.

Subsection 11(1) provides that the Corporation must undertake all aspects of loan management in a prudential manner to minimise the risk of default. This provision is in line with the Corporation's *Public Governance, Performance and Accountability Act 2013* responsibilities in relation to the proper use and management of public resources.

Subsection 11(2) provides that the Board must ensure prudential and arrears management policies and procedures are developed and applied by the Corporation. The subsection further provides that the Board must ensure at all times the loan management, arrears management, recovery action, foreclosure arrangements, write-offs and dispute/complaints handling are undertaken in accordance with those policies and procedures.

### *Farm business loans*

Subsection 11(3) provides that in developing the Corporation's policies and procedures in relation to farm business loan management activities, the Corporation is expected to have regard to the concessional nature of farm business loans and consider the impact on the farm business of any proposed action in relation to the loan. It is intended that the Corporation would ensure it balances careful management of loans, to minimise the risk of default, with appropriate flexibility for farm businesses in need. The subsection further provides that the Corporation must offer, and undertake where required, farm debt mediation.

Subsection 11(4) provides that the Corporation may undertake farm business loan recovery and foreclosure action. The subsection further provides that foreclosure decisions must be made by the Board and cannot be delegated. This reflects the serious nature of these decisions and the impact they may have upon both the farm business and the Commonwealth.

Subsection 11(5) provides that the Corporation may waive an unpaid farm business loan debt, in accordance with the Corporation's arrears management policies and procedures. The subsection further provides that the Corporation may only waive a debt after it has consulted with, and taken into account the views of, the responsible Ministers. Any decision to waive an unpaid farm business loan debt must be made by the Board and cannot be delegated. This reflects the serious nature of these decisions, the financial impact they may have upon the Commonwealth and the usual role of the Finance Minister in waiving debts owed to the Commonwealth.

### *Water infrastructure loans*

Subsection 11(6) provides that, in administering water infrastructure loans, the Corporation will ensure that loan funds are only advanced by the Commonwealth in accordance with the loan agreement agreed with the relevant State or Territory, for example, in line with a payment schedule or when milestones or conditions are met.

Subsection 11(6) also provides that the Corporation will work with the Department of Agriculture and Water Resources and the Department of Infrastructure, Regional Development and Cities to ensure a smooth transition of the water infrastructure loan facility to the Corporation, including the transition of any existing loan agreements or application assessments. The assistance of both departments in this respect is relevant, as policy responsibility for the water infrastructure loan facility was recently transferred from the Department of Agriculture and Water Resources to the Department of Infrastructure, Regional Development and Cities.

### Section 12 – Internal review

Subsection 12(1) provides that the Board must ensure that the Corporation develops and applies an internal review procedure for decisions to grant or refuse farm business loans. Through this process, applicants will have the ability to have decisions made by the Corporation to grant or refuse farm business loans reviewed on their merits.

Subsection 12(2) provides that the internal review procedure is required to be transparent, robust and fair. Paragraph 2(a) provides that the internal review procedure will require the internal review be carried out by a person who was not the primary decision-maker in the

original decision. Paragraph 2(b) provides that the internal review procedure will require the decision on the internal review to be made by an officer within the Corporation who was not the primary decision-maker in the original decision (who may be the same person referred to in paragraph (a)). Paragraph 2(c) provides that the internal review procedure must be consistent with the principles of procedural fairness.

These principles include giving a fair hearing appropriate to the circumstances, lack of bias, providing evidence and reasoning to support a decision, and making proper inquiry into matters in dispute.

Subsection 12(3) provides that the Corporation must include details of the right to request an internal review of application decisions and the process for requesting such a review in the farm business loan guidelines. This provision will ensure transparency.

### Section 13 – Service provision

This section provides that the Corporation is expected to develop and implement service level standards, in line with benchmarked best practice standards, to ensure the Corporation and any external service provider contracted by the Corporation delivers services and treat applicants and stakeholders in a fair, transparent and timely manner.

### Section 14 – Support from responsible Ministers

This section provides that the Corporation must consider, and use as appropriate, the support made available by responsible Ministers to assist in the Corporation's establishment.

The section further provides that the Commonwealth, through the Department of Agriculture and Water Resources will provide guidance and options to the Corporation, including to establish organisational structures, logistical arrangements and corporate and operational policies, draft program guidelines and documentation to assist with procurement processes.

This list is not intended to be exhaustive. There may be other support made available to assist the Corporation that is not listed. This support is to enable the Corporation to be established and commence operations quickly and smoothly.

### Section 15 – Communication and stakeholder engagement

This section sets out the Corporation's engagement obligations with relevant industry, Commonwealth, and State and Territory government stakeholders as relevant to farm business loans and water infrastructure loans.

Subsection 15(1) provides that for farm business loans, the Corporation must undertake ongoing engagement with relevant industry stakeholders to ensure loan products offered can respond to issues as they emerge. The Corporation will also undertake communication activities to promote the Corporation and manage and drive demand of programs, ensuring in-need eligible farm businesses are aware of, and have ready access to, concessional finance.

Subsection 15(2) provides that for the water infrastructure loans, the Corporation must undertake ongoing engagement with State and Territory governments and proponents, where appropriate, to promote the availability of water infrastructure loans.

Subsection 15(3) provides that the Corporation must work flexibly and constructively with Commonwealth entities to ensure the implementation and ongoing administration of both farm business loans and water infrastructure loans are undertaken in a manner that is consistent with broader government policy and supports timely responses to emerging issues and/or industry-specific crises.

These communication and stakeholder engagement requirements will ensure that the Corporation keeps abreast of ongoing and emerging agricultural industry issues and broader government policy, to proactively manage demand for loan funding and help target assistance to those most in need. These provisions will promote the Corporation and ensure eligible farm businesses, State and Territory governments, and industry partners are aware of and are able to readily access concessional finance.

This engagement will also facilitate the Corporation to actively advise, or respond to requests for advice from, the responsible Ministers on emerging issues or industry crises.

### Section 16 – Reporting

This section sets out reporting requirements for the Corporation, including quarterly farm business loan reports to the responsible Ministers and an annual water infrastructure loan report to the responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility. These reporting requirements are in addition to reporting obligations the Corporation may have under other applicable legislation, including the *Public Governance and Performance Accountability Act 2013* which amongst other things requires the development of a corporate plan and annual reports.

Subsection 16(1) provides that the Corporation must provide a farm business loan report to the responsible Ministers as at the end of every March, June, September and December in respect of each farm business loan program the Corporation administers. The subsection further provides that the quarterly farm business loan report must include information regarding the uptake of farm business loans and details of the loan portfolio for example loan amounts, loan uses and agricultural industries, as well as financial performance information and any other matters requested by the responsible Ministers.

Subsection 16(2) provides that the Corporation must provide a water infrastructure loan report to the responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility as at the end of every financial year. The annual water infrastructure loan report must include details of the uptake of water infrastructure loans, the progress of funded water infrastructure projects, financial performance information and any other matters requested by the responsible Ministers.

Subsection 16(3) provides that the Corporation must provide any additional information to either responsible Minister as and when requested. This information may include, but is not limited to, further detail about loans in a particular state or region, or an industry affected by an emerging crisis.

## Section 17 – Other advice

This section sets out the Corporation's role in providing other advice to the responsible Ministers, the Minister with policy responsibility for the water infrastructure loan facility and the Commonwealth.

Subsection 17(1) provides that the Corporation is expected to proactively advise the Commonwealth on matters that will improve the operation and policy outcomes of both farm business loans and water infrastructure loans.

Subsection 17(2) provides that for farm business loans the Corporation will keep abreast of ongoing and emerging agricultural industry issues to manage demand for finance and ensure assistance is reaching eligible farm businesses that are most in need.

Subsection 17(3) provides that for water infrastructure loans, the Corporation will keep abreast of the Commonwealth's water infrastructure priorities and advise responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility on potential water infrastructure projects, including potential projects that are identified by either the Corporation or the Commonwealth.

Subsection 17(4) provides that, on request, the Corporation will provide advice to responsible Ministers on the application of the Operating Mandate to an emerging issue or industry crisis, including how, where appropriate, the Corporation can respond.

Subsection 17(5) provides that, on request, the Corporation will provide advice to responsible Ministers on the application of the Operating Mandate to water infrastructure loans.

These requirements reflect the expectation that the Corporation will have close links to the industries and communities in which the programs are targeted and operating, and will monitor and seek to respond to industry issues such as drought or an industry crisis, as they arise. The Corporation will also be best placed to monitor and advise on any emerging risks of loans or improvements to its operations.

Through these requirements, the Corporation will provide support to the Commonwealth in understanding and effectively responding to the needs of Australian farm businesses and regional communities.

## Section 18 – Corporate Governance

This section provides that the Corporation is expected to have regard to best practice principles in determining its approach to corporate governance, including environmental, social and governance issues.

## Section 19 – Reputation

This section provides that the Corporation must not act in a way that is likely to cause damage to the Commonwealth's reputation.

## **Schedule 1**

This Schedule sets out the policy objectives, loan specifications, mandatory eligibility requirements and approved loan purposes relevant to farm business loans.

In accordance with subsection 9(1), the Corporation is required to develop and publish guidelines for each program of farm business loans consistent with this Operating Mandate and in consultation with the responsible Ministers. It is envisaged that these guidelines will set out detailed guidance for the delivery of the program e.g. requirements and eligibility, loan uses, how to apply, and the assessment of applications.

## **Schedule 2**

This Schedule sets out the policy objectives and mandatory eligibility requirements and assessment criteria relevant to water infrastructure loan applications. Relevant terms and conditions are set out in the Rules to be made under subsection 12(5) of the RIC Act.

In accordance with subsection 10(1), the Corporation is required to develop and publish water infrastructure loan guidelines consistent with this Operating Mandate and in consultation with responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility. It is envisaged that these guidelines will set out detailed guidance for the delivery of the program e.g. requirements and eligibility, the assessment of applications, and how to apply.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Regional Investment Corporation Operating Mandate Direction 2018**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The purpose of this Legislative Instrument is to direct the Regional Investment Corporation in relation to the performance of the Corporation's functions. The directions include matters relating to the objectives the Corporation is to pursue in administering its programs, expectations in relation to the strategies and policies to be followed for effective performance of its functions, eligibility criteria for loans or financial assistance, financial arrangements and other matters that the responsible Ministers think appropriate.

**Human rights implications**

This Legislative Instrument engages the following rights:

- The right to privacy in Article 17 of the International Covenant on Civil and Political Rights.

This Legislative Instrument does engage an applicable right, the prohibition on interference with a person's privacy, family and home, because the direction permits the Regional Investment Corporation to take loan recovery and foreclosure action.

However, the foreclosure action is not arbitrary; rather, the Corporation may only take foreclosure action on farm business loans for recovery purposes. Further, under subsection 11(3), in developing its policies and procedures in relation to farm business loan management activities, the Corporation is expected to have regard to the concessional nature of the farm business loans and consider the impact on the farm business of any proposed action in relation to the farm business loan. The Corporation must also offer, and undertake when required, farm debt mediation. These provisions ensure the limitation on the prohibition on interference with privacy and the home is reasonable, necessary and proportionate to achieve the legitimate aim of farm business loan recovery.

**Conclusion**

The Legislative Instrument is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.