



REGIONAL INVESTMENT CORPORATION OPERATING MANDATE DIRECTION 2018

Regional Investment Corporation Act 2018

We, DAVID LITTLEPROUD, Minister for Agriculture and Water Resources, and MATHIAS HUBERT PAUL CORMANN, Minister for Finance, make this Direction under subsection 11(1) of the *Regional Investment Corporation Act 2018*.

Dated 06 June 2018

DAVID LITTLEPROUD
Minister for Agriculture and Water Resources

MATHIAS HUBERT PAUL CORMANN
Minister for Finance

PART 1 – PRELIMINARY

1. Name of Instrument

This direction is the Regional Investment Corporation Operating Mandate Direction 2018.

2. Authority

This direction is made under subsection 11(1) of the *Regional Investment Corporation Act 2018*.

3. Commencement

This direction commences the day after registration.

Note: Section 42 of the *Legislation Act 2003* (which deals with the disallowance of legislative instruments) applies to this instrument: see section 11(4) of the Act.

4. Definitions

In this document:

Act means the *Regional Investment Corporation Act 2018*.

Board means the Board of the Corporation established by section 14 of the Act.

Corporation means the Regional Investment Corporation established by section 7 of the Act.

Desertification Convention has the same meaning as in the Act.

farm business concessional loan means a farm business loan offered under the farm business concessional loan program.

farm business concessional loan program means the farm business concessional loan program described in Schedule 1 to be administered by the Corporation in accordance with this Operating Mandate.

farm business loan has the same meaning as in the Act.

responsible Ministers has the same meaning as in the Act.

water infrastructure loan means a grant of financial assistance to a State or Territory administered by the Corporation on behalf of the Commonwealth in relation to water infrastructure projects funded from the water infrastructure loan facility.

water infrastructure loan facility means the National Water Infrastructure Loan Facility available to provide States and Territories with concessional loans to co-fund the construction of water infrastructure projects, which are to be administered by the Corporation in accordance with this Operating Mandate.

PART 2 – DIRECTIONS

5. Introduction

- (1) The Corporation will administer farm business loans and water infrastructure loans. It will provide streamlined and nationally consistent Commonwealth concessional finance supporting regional Australia.
- (2) The Corporation will undertake its functions in an efficient and effective manner to meet its policy objectives. It will treat clients fairly and equitably providing a nationally consistent service.
- (3) 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.

6. Policy objectives

- (1) In establishing the Corporation, the Commonwealth is providing practical support to help rural and regional communities achieve economic growth and agricultural productivity.
- (2) 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.
- (3) The Corporation will deliver farm business loans that will:
 - (a) 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; or
 - (b) assist farm businesses to prepare for, manage through and recover from periods of drought.
- (4) 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.
- (5) The full policy objectives of each program administered by the Corporation are detailed in the attached Schedules.

7. Funding arrangements

- (1) The Corporation will be funded by an appropriation through an Act of Parliament.

Farm business loan funds

- (2) Funds for farm business loans will be provided to the Corporation upon the Corporation's request to enable the Corporation to advance loan funds to recipients as required. The Corporation must:
 - (a) only request funds as they are required to advance loan funds to recipients;
 - (b) only use funds provided for farm business loans for that purpose.
- (3) The Corporation is authorised to collect all loan repayments (including principal repayments and payments of interest) from farm business loan recipients.
- (4) Subject to subsection 7(5) below, 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.
- (5) Any funds received by the Corporation from farm businesses under section 47 of the Act to reimburse 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

- (6) 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 by the Commonwealth.
- (7) The Corporation must ensure that all water infrastructure loan repayments (including principal repayments and payments of interest) from State and Territory governments are paid directly to the Commonwealth in accordance with the loan agreement agreed with the relevant State or Territory.

Administrative expenses

- (8) Funds provided to the Corporation for administrative expenses must only be used for that purpose.

8. Interest rates

- (1) For each program of farm business loans that the Corporation administers, the Board must set a variable interest rate for each program and apply that interest rate to all farm business loans offered within that program. The Board must also set a variable interest rate for water infrastructure loans and apply that interest rate to all water infrastructure loans.
- (2) The Board must set interest rates in accordance with a methodology that is agreed by the responsible Ministers. The methodology will include the following:

- (a) The interest rate will cover only the Corporation's administrative costs to deliver concessional loans and the Commonwealth's borrowing costs.
 - (b) 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).
 - (c) Any change in the interest rate will take effect from 1 February or 1 August each year as applicable.
- (3) The Corporation will notify loan recipients in writing in advance of any changes to the interest rate.

9. Farm business loans

Program guidelines

- (1) The Corporation must develop and publish guidelines for each program of farm business loans consistent with this Operating Mandate and in consultation with the responsible Ministers.

Offering farm business loans

- (2) The Corporation is to administer the farm business concessional loan program. The Corporation can only offer farm business loans under the farm business concessional loan program in accordance with the specifications set out in Schedule 1.
- (3) In administering the farm business concessional loan program, the Corporation must be satisfied that an applicant fulfils the mandatory requirements set out in Schedule 1 before the Corporation offers that applicant a farm business loan.
- (4) The Corporation will offer and promote refinancing to eligible farm businesses under the farm business concessional loan program. This may include debt from previous concessional loan programs.
- (5) 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. 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.
- (6) 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.

10. Water infrastructure loans

Program guidelines

- (1) The Corporation must develop and publish guidelines for water infrastructure loans consistent with this Operating Mandate and in consultation with responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility.

Corporation's role

- (2) The Corporation is responsible for administering water infrastructure loans on behalf of the Commonwealth, including:
 - (a) assessing any application for a water infrastructure loan and providing a recommendation to responsible Ministers and a copy of the recommendation to the Minister with policy responsibility for the water infrastructure loan facility; and
 - (b) providing advice to responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility on a water infrastructure project.
- (3) The Corporation must ensure that the water infrastructure loan facility is promoted and delivered in alignment with national water policy.

Water infrastructure loan applications

- (4) The Board must not recommend that a water infrastructure loan application be approved unless the Board is satisfied that:
 - (a) the applicant fulfils the eligibility requirements set out in Schedule 2; and
 - (b) the water infrastructure project is assessed as suitable against the assessment criteria as set out in Schedule 2.
- (5) The Corporation may only enter into a water infrastructure loan with a State or Territory where it has been given a direction by the responsible Ministers under section 12(3) of the Act. The terms and conditions included in a water infrastructure loan must be in accordance with the rules and any relevant direction given by the responsible Ministers.

Consultation with other Commonwealth entities

- (6) Where a water infrastructure loan application is for an amount greater than \$100 million, State or Territory borrowers will be required to consult Infrastructure Australia before submitting their application for assessment. The Corporation will have regard to the outcome of the review undertaken by Infrastructure Australia when preparing its advice for responsible Ministers.

- (7) The Corporation will consult with the Commonwealth department with policy responsibility for the water infrastructure loan facility in regard to water infrastructure loan applications and projects. As appropriate, the Corporation will also consult with relevant Commonwealth stakeholders including other Commonwealth departments.

11. Loan management

- (1) The Corporation must undertake all aspects of its loan management in a prudential manner to minimise the risk of default.
- (2) The Board must ensure that prudential and arrears management policies and procedures are developed and applied by the Corporation. The Board must ensure at all times the loan management, arrears management, recovery action, foreclosure arrangements, waiver of debt, write-offs and dispute/complaints handling are undertaken in accordance with those policies and procedures.

Farm business loans

- (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 offer, and undertake where required, farm debt mediation.
- (4) The Corporation may take farm business loan recovery and foreclosure action. Any decision on foreclosure of a farm business loan must be made by the Board and cannot be delegated.
- (5) The Corporation may waive an unpaid farm business loan debt, in accordance with its arrears management policies and procedures. Before waiving any unpaid farm business loan debt, the Corporation must consult with, and take 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.

Water infrastructure loans

- (6) 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. The Corporation will also 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.

12. Internal review

- (1) The Board must ensure that an internal review procedure for decisions to grant or refuse farm business loans is developed and applied by the Corporation.
- (2) The internal review procedure is required to be transparent, robust and fair. Specifically the internal review procedure:
 - (a) will require the internal review to be carried out by a person who was not the primary decision-maker in the original decision;
 - (b) 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)); and
 - (c) must be consistent with principles of procedural fairness.
- (3) 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.

13. Service provision

The Corporation is expected to develop and implement service level standards to ensure the Corporation and any external service provider contracted by the Corporation to deliver services on its behalf, treat applicants and stakeholders in a fair, transparent and timely manner. These standards should be developed in accordance with benchmarked best practice standards.

14. Support from responsible Ministers

The Corporation must consider, and use as appropriate, the support made available by responsible Ministers to assist in its establishment. The Commonwealth, through the Department of Agriculture and Water Resources, will provide guidance and options including to establish organisational structures, logistical arrangements and corporate and operational policies, as well as draft program guidelines and documentation to assist with procurement processes.

15. Communication and stakeholder engagement

- (1) 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 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.
- (2) 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.

- (3) The Corporation must also 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.

16. Reporting

- (1) 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 it administers. The farm business loan report is to include information regarding the uptake of loans for each program, details of the loan portfolio, financial performance information and any other matters requested by the responsible Ministers.
- (2) 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 water infrastructure loan report is to include details regarding 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.
- (3) The Corporation must provide any additional information requested to either responsible Minister as and when requested.

17. Other advice

- (1) 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.
- (2) 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.
- (3) 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.
- (4) On request, the Corporation will provide advice to responsible Ministers on the application of this Operating Mandate to an emerging issue or industry crisis, including how, where appropriate, the Corporation can respond.
- (5) On request, the Corporation will provide advice to responsible Ministers on the application of this Operating Mandate to water infrastructure loans.

18. Corporate Governance

The Corporation is expected to have regard to principles of best practice in determining its approach to corporate governance principles, including environmental, social and governance issues.

19. Reputation

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

SCHEDULE 1 – FARM BUSINESS CONCESSIONAL LOANS PROGRAM

Policy objectives

Farm business concessional loans seek to support the long-term strength, resilience and profitability of Australian farm businesses by helping them to:

- (a) build and maintain diversity in the markets they supply and take advantage of new and emerging opportunities across Australia and overseas; or
- (b) prepare for, manage through and recover from periods of drought.

Loan specifications

Offering farm business concessional loans

The maximum amount of an applicant's farm business concessional loan or loans is the lesser of:

- (a) an amount that would result in the farm business having 50 per cent of its total debt in Commonwealth funded concessional loans; or
- (b) \$1 million in total.

Note: 'Total debt' is the sum total of debt established on commercial terms, at commercial interest rates, plus all Commonwealth funded concessional loans provided to the farm business; and 'Commonwealth funded concessional loans' includes the Commonwealth loans identified in the program guidelines.

The Corporation has discretion to set the terms and conditions upon which a farm business concessional loan is made, provided that the farm business concessional loan:

- (a) falls within the definition of a 'farm business loan' in the Act;
- (b) has an initial loan term of ten years;
- (c) has an initial interest-only period of five years; and
- (d) allows full or partial early repayment (of principal and/or interest) at any time without penalty.

Loan security and capacity to repay

The Corporation must not approve a farm business concessional loan application unless:

- (a) the farm business is assessed as having the capacity to repay the loan; and
- (b) sufficient security for the loan is provided by the farm business.

The Board has discretion to determine what security it requires for each farm business loan.

The Corporation must develop guidelines regarding the type of security that it will consider for a farm business concessional loan. The Corporation must consider at least the following types of security:

- (a) registered mortgage over land;

- (b) registered livestock mortgage; and
- (c) registered security interest in water rights.

Mandatory requirements

Eligibility

A farm business will only be eligible for a farm business concessional loan if the loan falls within the definition of ‘farm business loan’ in the Act. Generally, eligible farm businesses will either:

- (a) solely or mainly supply, or intend to solely or mainly supply, products interstate or outside Australia; or
- (b) be located in an ‘affected area’ as defined in the Desertification Convention and have a drought management plan which outlines the activities the loan will be spent on.

In addition, eligible farm businesses are those:

- (a) who are in financial need of a concessional loan;
- (b) where at least one member of the farm business is an Australian citizen or a permanent resident as defined in the program guidelines;
- (c) that are assessed as financially viable, or as having sound prospects of a return to financial viability within the term of the concessional loan;
- (d) that have existing commercial debt and the support of their commercial lender to the proposed concessional loan;
- (e) that undertake all primary production aspects of the business wholly within Australia;
- (f) where at least one member:
 - i. has experience operating a farm business; and
 - ii. has the farm business as their principal business pursuit (in terms of being where they contribute the majority of their labour and where they derive the majority of their income)
- (g) that operate as a sole trader, partnership, trust or private company;
- (h) that are registered for tax purposes in Australia with an Australian Business Number (ABN) and registered for GST; and
- (i) that are not under external administration or bankruptcy.

Approved loan purpose

Broadly, farm business concessional loans will be made available for debt restructuring, and new debt for operating expenses, productivity enhancements, drought preparedness, management and recovery activities, in line with the policy objectives of the program.

Specific eligible and non-eligible loan purposes will be outlined in program guidelines.

SCHEDULE 2 – WATER INFRASTRUCTURE LOANS

Policy objectives

The water infrastructure loan facility provides a mechanism for the Commonwealth to work in partnership with the States and Territories and their private sector partners to finance the construction or enhancement of major water infrastructure projects. These projects must be economically viable and support sustainable primary industries, including agriculture and the long-term growth and development of regional Australia. The water infrastructure loan facility terms will require water to be managed in accordance with the National Water Initiative—the Council of Australian Governments’ national blueprint for water reform, as updated from time to time.

The investment priority is for water infrastructure that, if developed, will provide secure and affordable water supplies to support the growth of regional economies and communities.

Preference should be given to water infrastructure, such as dams, weirs, pipelines, managed groundwater (aquifer) recharge and wastewater reuse schemes that deliver broad public benefits, including through increased regional water availability and security for water users.

Ensuring sufficient and appropriately treated water for critical human needs is a core responsibility of the States and Territories, and as such, water infrastructure storage and supply systems primarily for urban and potable use are not eligible for a water infrastructure loan.

Eligibility requirements

An application for a water infrastructure loan must:

- (a) be made by a State or Territory;
- (b) have written support of the State or Territory Minister responsible for water infrastructure;
- (c) be seeking a loan amount that:
 - i. does not result in total Commonwealth funded finance for the water infrastructure project exceeding 49 per cent of the total project cost; and
 - ii. is at least \$50 million, and
- (d) be for the construction of water infrastructure, including but not limited to: dams, weirs and pipelines; managed groundwater (aquifer) recharge and wastewater reuse schemes that:
 - i. is ready to commence construction or will commence construction within 12 months of funding being agreed; and
 - ii. has or will have all relevant Commonwealth and state regulatory and planning approvals in place.

- (e) be seeking a loan term of 15 years or less, which may include an interest-only construction period up to a maximum of five years.

Mandatory assessment criteria

The Board must not recommend approving an application for a water infrastructure loan unless the following criteria are satisfied:

- (a) There is a clear need for the water infrastructure, and that the water infrastructure is significant and in the national interest.
- (a) The proposed water infrastructure project will be of public benefit and support long-term regional economic growth and development—with the capacity to supply multiple water users and produce benefits to the broader economy, community and environment.
- (b) The proposed water infrastructure project is economically viable over its proposed operational life and is supported by a clear and credible business case.
- (c) The proposed water infrastructure project and any related water resources will be managed in accordance with the principles of the National Water Initiative —the Council of Australian Governments’ national blueprint for water reform, as updated from time to time.
- (d) The proposed water infrastructure project is unlikely to proceed, or will only proceed at a much later date, or with a limited scope, without assistance from the Commonwealth.
- (e) The proposed water infrastructure project has received the regulatory and planning approvals required to proceed to construction or that evidence is provided demonstrating that such approvals are in the advanced stages of being attained.
- (f) There is clear and credible plan to fully engage and consult with affected stakeholders and communities, including an Indigenous engagement strategy that sets out objectives for Indigenous participation, procurement and employment in the proposed water infrastructure project.
- (g) The proposed water infrastructure project is sufficiently co-funded such that finance from all Commonwealth sources will not exceed 49 per cent of the total project cost.