

EXPLANATORY STATEMENT

**Issued by Authority of the Minister for Agriculture and Water Resources and
the Minister for Finance and the Public Service**

Regional Investment Corporation Act 2018

Regional Investment Corporation Operating Mandate (Amendment) Direction 2019

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, on behalf of the Commonwealth, financial assistance to States and Territories in relation to water infrastructure projects funded through the National Water Infrastructure Loan Fund (NWILF).

The *Regional Investment Corporation Operating Mandate (Amendment) Direction 2019* (the Amendment Direction) is made under subsection 11(1) of the Act. Subsection 11(1) of the Act requires the responsible Ministers to give directions, by legislative instrument, to the Corporation about the performance of the Corporation's functions.

On 6 June 2018, the responsible Ministers for the Corporation made the *Regional Investment Corporation Operating Mandate Direction 2018* (the Operating Mandate). The Operating Mandate directs the Corporation in relation to the performance of the Corporation's functions, including matters relating to the:

- objectives the Corporation is to pursue in administering its programs,
- expectations relating to the strategies and policies to be followed for the effective performance of the Corporation's functions,
- eligibility criteria for farm business loans and financial assistance to the States and Territories for water infrastructure projects, and
- financial arrangements for the Corporation.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make an instrument of a legislative character, it includes a power to amend such an instrument.

Purpose

The Amendment Direction amends the Operating Mandate to provide for changes to the terms of the Commonwealth's water infrastructure loans.

Background

The changes were announced in the MYEFO 2018–19. The adjustments to the lending arrangements for the \$2 billion National Water Infrastructure Loan Facility will ensure an increase in the number of commercially viable projects that can access funding.

Impact and Effect

The Amendment Direction enables the Government to work with the State and Territory Governments to identify and co-fund the construction of new water infrastructure.

Consultation

The Department of Agriculture and Water Resources consulted with the Department of Infrastructure, Regional Development and Cities, the Regional Investment Corporation and the Department of Finance in drafting the Amendment Direction.

Details / Operation

Details of the Amendment Direction are set out in [Attachment A](#).

The Amendment Direction is a legislative instrument for the purposes of the *Legislation Act 2003*.

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

Details of the *Regional Investment Corporation Operating Mandate (Amendment) Direction 2019*

PART 1 – PRELIMINARY

Section 1 – Name

This section provides that the name of the instrument is the *Regional Investment Corporation Operating Mandate (Amendment) Direction 2019*.

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 Amendment Direction 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 refers the reader to section 11(4) of the *Regional Investment Corporation Act 2018*.

Section 4 – Schedules

This section provides that the Schedule amends the *Regional Investment Corporation Operating Mandate Direction 2018*.

SCHEDULE – AMENDMENTS

Regional Investment Corporation Operating Mandate Direction 2018

Item 1: Schedule 2 (subparagraph (c)(ii) under the heading ‘Eligibility requirements’) omits the words “\$50 million” and substitutes “\$10 million”, to provide that the minimum loan amount funded under the NWILF will be \$10 million.

Item 2: Schedule 2 (paragraph (d) under the heading ‘Eligibility requirements’) omits the existing paragraph (d) and replaces it to provide that funding for the construction of water infrastructure (which may include funding for final design and approval costs) is dependent on it being able to be commenced within 12 months of funding being agreed and all relevant Commonwealth and State regulatory and planning approvals being in place. Final design and approval costs are expected to only include the final detailed design and site approvals.

Item 3: Schedule 2 (paragraph (e) under the heading ‘Eligibility requirements’) omits the existing paragraph (e) and replaces it to provide that funding for the construction of water infrastructure will be dependent on the loan term being 30 years or less, which may include a construction period of up to a maximum of five years comprising either or both an interest

only period; or a no repayment period, during which interest will be capitalised and become payable as part of the principal after the construction period.

Item 4: Schedule 2 (paragraph (a) under the heading ‘Mandatory assessment criteria’) omits the words “water infrastructure is significant and in the national interest” and substitutes “project will increase water security and supply through the construction of new water infrastructure or by materially enhancing existing water infrastructure” to provide that projects can encompass both on and off farm water infrastructure where it delivers public benefits through increasing water supply and security and support regional economic growth.

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 (Amendment) Direction 2019

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 amend the *Regional Investment Corporation Operating Mandate Direction 2018* to increase the water infrastructure projects funded through the National Water Infrastructure Loan Fund (NWILF) by providing financial assistance to States and Territories in the form of loans.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon. David Littleproud MP
Minister for Agriculture and Water Resources

Senator the Hon. Mathias Cormann
Minister for Finance and the Public Service