

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture, Drought and Emergency Management  
and the Minister for Finance

*Regional Investment Corporation Act 2018*

*Regional Investment Corporation Operating Mandate Amendment (National Water  
Infrastructure Loan Facility) Directions 2020*

### **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.

Subsection 11(1) of the Act provides that the responsible Ministers must, by legislative instrument, give directions to the Corporation about the performance of the Corporation's functions.

Further, paragraph 8(1)(g) of the Act provides that it is a function of the Corporation to administer programs prescribed by the Rules. Subsection 8(5) of the Act relevantly provides that the Rules may prescribe one or more programs to be administered by the Corporation.

Section 54 of the Act provides that the responsible Ministers may, by legislative instrument, make Rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient for carrying out or giving effect to the Act.

### **Purpose**

The purpose of the *Regional Investment Corporation Operating Mandate Amendment (National Water Infrastructure Loan Facility) Directions 2020* (the Amendment Instrument) is to amend the *Regional Investment Corporation Operating Mandate Direction 2018* (Operating Mandate) to remove all references and matters relating to the National Water Infrastructure Loan Facility (Loan Facility) as the Loan Facility is no longer available. The amendment instrument also seeks to provide consistency to language and definitions.

The Operating Mandate sets out the policy objectives, mandatory eligibility requirements and assessment criteria relevant to water infrastructure loan applications. The Operating Mandate also sets out the Corporation's requirements in administering the Loan Facility as well as the requirements for developing and publishing water infrastructure loan guidelines.

### **Background**

On 6 October 2020, the Australian Government announced that it would not continue with the Loan Facility. The Loan Facility was available to provide State and Territory governments with water infrastructure loans to co-fund the construction of major water infrastructure.

The Corporation provides independent advice to the Commonwealth on projects for consideration under the Loan Facility and administers water infrastructure loans to State and Territory governments on behalf of the Commonwealth. No loan applications were made by State and Territory governments since the Loan Facility since the Loan Facility was administered by the RIC.

The Government is focused on investing in critical infrastructure to generate employment and assist with Australia's economic recovery from the coronavirus pandemic and will continue to work with states and territories to support primary industries and generate jobs in regional Australia.

### **Impact and Effect**

As the Loan Facility is no longer continuing the Corporation will no longer be required to administer the Loan Facility. The Amendment Instrument removes all references and matters relating to the Loan Facility and therefore removes all requirements and functions of the Corporation relating to the Loan Facility.

### **Consultation**

The Department of Agriculture, Water and the Environment consulted with the Department of Finance, the Department of Infrastructure, Transport, Regional Development and Communications and the Regional Investment Corporation on the Amendment Instrument. The Attorney-General's Department was consulted on the Statement of Compatibility with Human Rights. The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required (ID:43150).

### **Details/ Operation**

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

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

The Amendment Instrument is compatible with the 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 Amendment (National Water Infrastructure Loan Facility) Directions 2020***

**Section 1 – Name**

This section provides that the name of this instrument is the *Regional Investment Corporation Operating Mandate Amendment (National Water Infrastructure Loan Facility) Directions 2020* (the Amendment Instrument).

**Section 2 – Commencement**

This section provides that the Amendment Instrument commences the day after the instrument is registered on the Federal Register of Legislation.

**Section 3 – Authority**

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

**Section 4 – Schedules**

The effect of this section is that the *Regional Investment Corporation Operating Mandate Direction 2018* is repealed or amended as set out in the Schedule to the Amendment Instrument.

**Schedule 1 – Amendments**

*Regional Investment Corporation Operating Mandate Direction 2018*

**Item 1 – Sections 1 and 2**

This item omits “direction” and substitutes “instrument” in sections 1 and 2 of the Operating Mandate. This change will ensure there is consistency throughout the Operating Mandate.

**Item 2 – Section 4**

This item repeals section 4 of the Operating Mandate and substitutes a new section 4. Section 4 provides the definitions of terms that are used in the Operating Mandate.

A new note is included in this section to clarify that a number of expressions used in the Amendment Instrument are defined in the Act, including:

- *Agriculture Minister* (Minister who administers the *Primary Industries Research and Development Act 1989*)
- *Board* (the Board of the Corporation established by section 14 of the Act)
- *Corporation* (the Regional Investment Corporation established by section 7 of the Act)

- *Desertification Convention* (the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, done at Paris on 17 June 1994);
- *farm business loan* (a loan made, or proposed to be made, to a farm business (a) engaged solely or mainly in producing commodities for constitutional trade or commerce; or (b) for the purpose of encouraging or promoting constitutional trade or commerce; or (c) that is a constitutional corporation; or (d) to allow the business to satisfy the requirements of a contract with a constitutional corporation which relates to the corporation’s trading activities; or (e) in an affected area, within the meaning of the Desertification Convention, for the purpose of implementing Australia’s international obligations under that Convention; or (f) in a Territory); and
- *responsible Ministers* (the Agriculture Minister and the Minister who administers the *Public Governance, Performance and Accountability Act 2013*).

The new term *Agriculture Department* is defined to mean the Department administered by the Agriculture Minister.

The terms *Water infrastructure loan* and *water infrastructure loan facility* are removed from the definitions as they are no longer relevant as a result of the Loan Facility no longer being available.

Other expressions in the Operating Mandate, such as Act, drought loan, farm business concessional loan and farm business concessional loan program remain unchanged.

### **Item 3 - Subsection 5(1)**

This item omits the words “and water infrastructure loans” from the Operating Mandate as the Corporation is no longer required to administer the Loan Facility.

### **Item 4 - Subsection 5(3)**

This item omits “the provision of affordable and secure water supplies and the growth of regional economies across Australia” as the Corporation is no longer required to administer the Loan Facility.

### **Item 5 - Before Subsection 6(2)**

This item inserts a new heading “*Farm business loans*”.

### **Item 6 - Subsection 6(4)**

This item repeals subsection 6(4) of the Operating Mandate.

Subsection 6(4) provided 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.

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

#### **Item 7- Subsection 6(5)**

This item omits “each program administered by the Corporation” from subsection 6(5) of the Operating Mandate and substitutes “the farm business concessional loan program”. This is because after the removal of the Loan Facility there will only be one schedule, relating to the farm business concessional loan program.

#### **Item 8 - Subsection 6(5)**

This item omits “the attached Schedules” and substitutes “Schedule 1” in subsection 6(5) of the Operating Mandate. This amendment reflects the fact that after the removal of the Loan Facility there will only be one schedule to the Operating Mandate (dealing with the Farm Business Concessional Loans Program).

#### **Item 9 - Subsections 7(6) and (7)**

This item repeals subsections 7(6) and (7) of the Operating Mandate. This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

Subsections 7(6) and (7) provided the funding arrangements for the water infrastructure loan funds including payment and repayment of loans. As the Loan Facility is no longer available, these subsections are redundant.

#### **Item 10 - Subsection 8(1)**

This item omits the sentence “*The Board must also set a variable interest rate for water infrastructure loans and apply that interest rate to all water infrastructure loans.*” from subsection 8(1) of the Operating Mandate. An interest rate for the Loan Facility will not be required as it is no longer available.

#### **Item 11 – Subsection 9(1)**

This item omits “*Operating Mandate*” and substitutes “*instrument*”. This change will ensure consistency in terminology throughout the Operating Mandate.

#### **Item 12 – Section 10**

This item repeals section 10 from the Operating Mandate.

Section 10 provided directions in relation to the Loan Facility including the requirements to develop and publish guidelines, the Corporation’s roles and responsibilities in administering the Loan Facility, the application process for a loan under the Loan Facility and the requirement to consult with Infrastructure Australia where funding of more than \$100 million is sought from the Commonwealth.

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

#### **Item 13 – Subsection 11(6)**

This item repeals subsection 11(6) from the Operating Mandate.

Subsection 11(6) provided directions on the administration of the Loan Facility including the requirement that the Corporation ensures that loan funds are only advanced by the Commonwealth in accordance with agreement, and the requirement that the Corporation will work with relevant Commonwealth departments responsible for the Loan Facility.

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate

#### **Item 14 – Section 14**

This item omits the “Department of Agriculture and Water Resources” and substitutes “Agriculture Department”. This amendment reflects the recent name change of the Department and provides flexibility for future changes to the Department’s name without the need to further amend the Operating Mandate.

#### **Item 15 – Subsection 15(2)**

This item repeals subsection 15(2) of the Operating Mandate, which requires the Corporation to undertake ongoing engagement with State and Territory governments and proponents, where appropriate, to promote the availability of water infrastructure loans.

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

#### **Item 16 – Subsection 15(3)**

This item omits “both farm business loans and water infrastructure loans” and substitutes “farm business loans” from subsection 15(3) of the Operating Mandate.

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

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

### **Item 17 – Subsection 16(2)**

This item repeals subsection 16(2) of the Operating Mandate.

Subsection 16(2) required the Corporation to provide a water infrastructure loan report to Responsible Ministers and the Minister with policy responsibility for the water infrastructure loan facility at the end of each financial year.

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

### **Item 18 – Subsection 17(1)**

This item omits “both farm business loans and water infrastructure loans” and substitutes “farm business loans” in subsection 17(1) of the Operating Mandate.

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

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

### **Item 19 – Subsection 17(2)**

This item omits “For farm business loans, the” and substitutes “The” in subsection 17(2) of the Operating Mandate.

This is a consequential amendment as a result of item 3 of this Amendment Instrument to remove the Loan Facility from the Operating Mandate.

### **Item 20 – Subsection 17(3)**

This item repeals subsection 17(3) from the Operating Mandate. The Corporation is no longer required to keep abreast of the Commonwealth’s water infrastructure priorities due to the Loan Facility no longer being available.

### **Item 21 – Subsection 17(4)**

This item omits “*Operating Mandate*” and substitutes “*instrument*”. This change will ensure consistency in terminology throughout the Operating Mandate.

### **Item 22 – Subsection 17(5)**

This item repeals subsection 17(5) from the Operating Mandate. The Corporation is no longer required to provide advice to responsible Ministers on the application of the Operating Mandate to water infrastructure loans due to the Loan Facility no longer being available.

**Item 23 – Schedule 1 (heading)**

This item omits “LOANS” from the heading of Schedule 1 to the Operating Mandate and substitutes “LOAN”. This amendment ensures consistency with the term *farm business loan* in section 4 of the Operating Mandate.

**Item 24 – Schedule 2**

This item repeals Schedule 2 from the Operating Mandate.

Schedule 2 sets out the policy objectives and mandatory requirements and assessment criteria relevant to the Loan Facility.

Schedule 2 is no longer required because the Loan Facility will no longer be available.



**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 (National Water Infrastructure Loan Facility) Directions 2020*

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 *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.

Subsection 11(1) of the Act provides that the responsible Ministers must, by legislative instrument, give directions to the Corporation about the performance of the Corporation's functions.

Further, paragraph 8(1)(g) of the Act provides that it is a function of the Corporation to administer programs prescribed by the Rules. Subsection 8(5) of the Act relevantly provides that the Rules may prescribe one or more programs to be administered by the Corporation.

Section 54 of the Act provides that the responsible Ministers may, by legislative instrument, make Rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient for carrying out or giving effect to the Act.

The purpose of the *Regional Investment Corporation Operating Mandate Amendment (National Water Infrastructure Loan Facility) Directions 2020* (the Amendment Instrument) is to amend the *Regional Investment Corporation Operating Mandate Direction 2018* (Operating Mandate) is to remove all references and matters relating to the National Water Infrastructure Loan Facility (Loan Facility) as the Loan Facility is no longer available. The Loan Facility was available to provide state and territory governments with water infrastructure loans to co-fund the construction of major water infrastructure.

The Operating Mandate sets out the policy objectives and mandatory eligibility requirements and assessment criteria relevant to water infrastructure loan applications. The Operating Mandate also sets out the Corporation's requirements to develop and publish water infrastructure loan guidelines.

## **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, Drought and Emergency Management**

**Senator the Hon. Simon Birmingham**  
**Minister for Finance**