

Submission on *Regional Investment Corporation Bill 2017*

To the Rural and Regional Affairs and Transport Legislation Committee,

The Australia Institute welcomes the opportunity to make this brief submission into *Regional Investment Corporation Bill 2017* (the Bill).

The Australia Institute is a Canberra-based think tank conducting research into a wide range of economic, public policy and political issues. The Australia Institute has recently conducted a range of research into the Northern Australia Infrastructure Facility (NAIF), a similar agency established last year. We are currently conducting research into water infrastructure and public financing.

OUR UNDERSTANDING OF THE BILL

The Bill establishes a new Regional Investment Corporation, with a government appointed Board, and transfers to it the functions of administering two existing programs, namely the farm business loan program and the National Water Infrastructure Loan Facility. It also provides for the government be able to add new functions through regulation.

COMMENTS ON THE BILL

The Australia Institute acknowledges the merit of government financing, including on a concessional basis, to address areas of public good, promote sustainable economic development, to address market gaps, and to help with managing risk.

However, the rationale for this Bill is somewhat unclear. The Explanatory Memorandum says the new Corporation will “streamline administration” of these programs, however it is unclear how these efficiencies are to be achieved relative to the status quo. It also says that the Corporation will provide “independent advice”, however there are many ways to receive independent advice, including from the Department, and it is unclear why the Parliament should favour the approach proposed in the Bill. Moreover, the Bill does not say what this independent advice will

involve, for example whether it will involve cost-benefit analysis, and how the Ministers will be required to consider it. Nor does it provide for this advice, or a suitable version of it, to be publicly disclosed. Similar issues are seen with the NAIF, which has so far disclosed very little information about how it analyses project applications. This raises concerns about the accountability and rigour of the Corporation and the spending the Bill will facilitate.

Role of Ministers

Given that the Bill is establishing a new agency, it is appropriate that the Corporation will have two responsible Ministers. In this respect, the arrangements in the Bill provide more accountability than the NAIF, which has only one responsible Minister.

However, in other respects we are concerned about the explicit power the Bill provides to the responsible Ministers over the recipients and terms of the loans.

While the Bill provides that the Ministers cannot make directives with regard to particular loans under the farm loan program, it does provide that they can make directives with regard to “a class” of such loans (Section 12(1)). However, ‘class’ is not defined. It appears possible for the government to issue directives that concern arbitrarily tightly defined classes of loan.

By contrast, the grants of assistance for water infrastructure may be given on direction of the responsible Minister (Section 12(4)). Given the functions outlined in Section 8(1)(b), the Ministers will be able to determine the terms and conditions of the loans. Moreover, those functions do not allow the Corporation to give such loans without direction.

In other words, very substantial aspects of the Corporation’s lending activities will be at Ministerial discretion. This creates serious risks of politically directed spending without rigorous oversight or analysis.

In this respect, the Corporation is far less independent even than the NAIF. Under the NAIF Mandate, Board members are required to make Investment Decisions independently from government direction. While the NAIF has attracted significant criticism, including from The Australia Institute, regarding its process, governance and independence,¹ the legal requirement for independent assessment is preferable to the powers for Ministerial directive to the Corporation contained in the current Bill.

¹ Cf http://www.tai.org.au/sites/default/files/P318%20Dont%20be%20so%20naif%20FINAL_0.pdf and <http://www.tai.org.au/content/foi-requests-adani-and-northern-australia-infrastructure-facility-naif>

In addition, the government is able to expand the functions of the Corporation through legislative instrument. While such an instrument is to be disallowable, it is unclear why this should not be a matter for legislation. For example, the current functions transferred to the new agency are not established under this mechanism.

Many of the functions of this Corporation will be heavily controlled by the Operating Mandate, which will be set by the Ministers. As this is not included with the legislation, key elements of the Corporation's operation are as yet undetermined. As the Mandate is not disallowable, the Ministers will be able to change the Corporation's direction substantially without Parliamentary agreement.

Financial implications

The "Financial Impact Statement" in the Explanatory Memorandum says "establishment and operating costs of the Corporation to be recovered through the interest charged on loans to farm businesses and state and territory governments." However there does not appear to be any requirement in the Bill that this must happen, nor a requirement that decisions – whether by the Corporation or the Ministers directing it – be informed by appropriate financial due diligence to ensure this happens.

Similarly, it is not clear whether Ministerial directions are limited to loans that will recover all costs, ie whether the Corporation must refuse a direction that prevents it from meeting that goal. (Cf provisions in the CEFC Act regarding directions that contradict performance targets or conditions in the CEFC Act.) This raises concerns about the "Financial Impact Statement".

The Board

We are unsure that three Board members will be sufficient to effectively govern this agency. Farm operations, water infrastructure and public finance are diverse fields; three Board members seems a rather limited basis for governing an independent agency intended to be expert in these matters.

While the Bill requires the Board members to have expertise in at least one of the listed fields, there is no requirement for the Board to exhibit a range of experience. As with the NAIF Board, which is heavily experienced in the mining sector and less so in other sectors the NAIF should be supporting, the Bill risks that the Corporation's Board may end up having a limited range of experience.

Moreover, we are concerned that the list of expertise required does not once mention environmental, biological or climate science, indeed science of any kind. The Board may make recommendations and administer programs with limited knowledge of impacts on the environment, and so on other farmers.

Consultation

It is concerning that the Bill does not mention Infrastructure Australia, the existing government body for expert advice on infrastructure planning and prioritization. Any new Corporation should be required to consult with Infrastructure Australia, including around cost-benefit analyses. It is also highly concerning that the Bill does not require the Corporation to consult with relevant Natural Resource Management organisations in areas where infrastructure may be built.

ABOUT THE AUSTRALIA INSTITUTE

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As we begin the 21st century, new dilemmas confront our society and our planet. Unprecedented levels of consumption co-exist with extreme poverty. Through new technology we are more connected than we have ever been, yet civic engagement is declining. Environmental neglect continues despite heightened ecological awareness. A better balance is urgently needed.

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