





Australian Government

A decorative background consisting of a grid of small grey dots that forms a large, abstract shape resembling a stylized 'A' or a mountain range. Two dots in the grid are highlighted in a light blue color.A large, solid teal-colored triangle that points upwards from the bottom left corner of the page, partially overlapping the title text.

Joint Submission to the Inquiry into the Future Drought Fund Bill 2018 and Future Drought Fund (Consequential Amendments) Bill 2018

**Submission to the Senate Finance and Public Administration Legislation
Committee for the Inquiry into the Future Drought Fund Bill 2018 and
Future Drought Fund (Consequential Amendments) Bill 2018**

This submission has been prepared by the Department of Finance and the Department of Agriculture and Water Resources in consultation with the Department of the Prime Minister and Cabinet, the Treasury, the Department of Infrastructure, Regional Development and Cities and the Department of Industry, Innovation and Science.

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Introduction

The Future Drought Fund (Drought Fund) was announced by the Prime Minister on 26 October 2018 at the 2018 National Drought Summit. As a policy decision announced since the Budget, it is reflected in the 2018-19 Mid-Year Economic and Fiscal Outlook (page 177).

The Future Drought Fund Bill 2018 (Bill) and Future Drought Fund (Consequential Amendments) Bill 2018 (Consequential Amendments Bill) were introduced into the Parliament on 28 November 2018 to establish the Drought Fund as a dedicated fund to support initiatives that enhance drought resilience, preparedness and response across Australia.

Once established, the Drought Fund will be credited with approximately \$3.9 billion of uncommitted funds from the Building Australia Fund (BAF) and invested by the Future Fund Board of Guardians (Future Fund Board). Earnings from the Drought Fund will be reinvested until the balance reaches \$5 billion (expected in 2028-29) while at the same time making available \$100 million per year from 2020-21 for grants and arrangements to support drought resilience projects.

Funding from the Drought Fund will complement, rather than replace existing drought resilience programs.

Figure 1 provides a process flow chart for the operation of the Drought Fund.

Purpose

The Drought Fund is a long-term investment that will provide a sustainable source of funding for drought resilience projects such as infrastructure projects and initiatives that promote the adoption of new technology and help improve environmental and natural resource management on farms. The Drought Fund will not provide 'in-drought' support and will not replace existing sources of drought funding. Instead, it will complement other drought assistance measures.

The establishment of the Drought Fund is one of the key responsibilities for the Commonwealth under the National Drought Agreement, which sets out a joint approach between the Commonwealth and state and territory governments to drought preparedness, response and recovery with a focus on accountability and transparency.

Drought can have significant economic, social and environmental impacts. Agriculture is typically the sector most deeply affected by drought, however other sectors of the Australian economy can also suffer significant impacts from drought, which in turn can have flow-on impacts on communities.

Successive reviews of drought policy and programs in agriculture have considered the economic and social factors of drought¹. These reviews have consistently recommended that government drought policy and programs should prioritise measures to encourage and assist farmers to better plan and prepare for drought, rather than waiting until farmers are in crisis before offering assistance. Reviews

¹ Productivity Commission 2009, *Government Drought Support*, Report No. 46, Final Inquiry Report, Melbourne.

CSIRO and Bureau of Meteorology 2015, *Climate Change in Australia Information for Australia's Natural Resource Management Regions: Technical Report*, CSIRO and Bureau of Meteorology, Australia.

'State of the Climate' biennial reports (CSIRO).

have also found that drought conditions in Australia are likely to become more frequent and severe due to climate change; a finding that reinforces the need to ensure farms and communities are well-equipped to manage drought risks.

A drought resilient agriculture sector has flow-on benefits for farm productivity, profitability and self-reliance and should also lead to a reduction in the number of farmers suffering hardship during future droughts. Healthy farming landscapes with innovative farming techniques and strong rural communities contribute to a drought resilient and sustainable Australia.

Legislation

The Bill establishes the Drought Fund, associated special accounts and crediting and debiting arrangements. It also provides for the governance, investment and administration arrangements for the Drought Fund. This includes mechanisms that enable the Commonwealth to make arrangements with, and grants to, persons or bodies in relation to drought resilience.

The Consequential Amendments Bill amends legislation to enable the effective operation of the Drought Fund. It also closes the BAF and allows its uncommitted balance to be transferred to the Drought Fund. The Consequential Amendments Bill also amends the *Regional Investment Corporation Act 2018* to enable the Regional Investment Corporation Board (RIC Board) to provide advice to the Minister for Agriculture and Water Resources (Agriculture Minister) regarding grants or payments for services from the Drought Fund.

The government has made a commitment to commence payments from the Drought Fund in 2020-21. The date of establishment of the Drought Fund is subject to the legislation passing the Parliament.

Governance

Role of Ministers

The legislation sets out the responsibilities of the Ministers and the governance arrangements for the Drought Fund.

The Agriculture Minister has responsibility for:

- developing the Drought Resilience Funding Plan (Plan), setting out a consistent and coherent approach for making arrangements or grants in relation to drought resilience;
- developing proposals for government agreement for the disbursement of funds consistent with the Plan and informed by advice from the RIC Board;
- terminating a member of the RIC Board if the member fails to abide by the disclosure requirements (for example, failing to notify the Board of a material personal interest that may amount to a conflict of interest); and
- ensuring that spending from the Agriculture Future Drought Resilience Special Account is consistent with the purposes of the Drought Fund as set out in the legislation.

The Minister for Finance and the Public Service (Finance Minister) and the Treasurer are the joint responsible Ministers for the Drought Fund (as defined in the legislation) and have responsibility for:

- the administration of the Drought Fund through the Future Fund Board;
- issuing the investment mandate to the Future Fund Board; and
- the determination of any initial and additional amounts to be credited to the Drought Fund.

The Finance Minister also has responsibility for:

- the debiting of \$100 million per annum (from 2020-21 onwards) from the Future Drought Fund Special Account for the purpose of crediting to the Agriculture Future Drought Resilience Special Account to enable funding of drought resilience projects.

Decision-making processes

The Bill ensures any financial assistance provided under the Drought Fund will be subject to appropriately robust and transparent decision-making processes. This includes the over-arching obligation that Drought Fund spending must enhance the public good by building drought resilience.

The decision-making process includes: the Plan, independent technical expert advice from a legislated board and consideration through the Government's Budget process. These processes, as outlined in the Bill, enhance transparent and merit based decision-making on financial assistance being granted to projects that enhance the public good.

The Bill mandates a process of public consultation on the Plan, allowing at least 28 days for public feedback.

It is not permitted under the Bill for the Plan to require that arrangements or grants be made for the benefit of any particular person or project. The Agriculture Minister is required to publish the Plan on the Department of Agriculture and Water Resources (Agriculture Department's) website, to provide transparency and integrity around the basis on which disbursements will be determined.

Before making arrangements or grants or entering into an agreement to disburse funds, the Agriculture Minister is required by the Bill to request advice from the RIC Board about whether the commitment should be made. In providing such advice the RIC Board is required under the Bill to have regard to the Plan.

Likewise, in making any decisions to provide funding or set terms and conditions, the Agriculture Minister is required to comply with the Plan and have regard to the advice from the RIC Board.

Under subsection 71(2) of the *Public Governance, Performance and Accountability Act 2013*, the terms relating to the proposed expenditure of public money approved by a Minister must be recorded in writing.

Priorities may be delivered by activities supported by, but not exclusive to, a competitive merit based grants program, discretionary grants or a procurement process, consistent with the rules relating to the Commonwealth in the *Public Governance, Performance and Accountability Act 2013*. Guidelines will be developed by the Agriculture Department for grant activities and will include detailed criteria and merit review processes where appropriate. The development and approval process of all guidelines will be consistent with the requirements of the Commonwealth Grants Rules and Guidelines 2017. Grants provided under the Drought Fund will also be subject to the Commonwealth grants policy framework, which is already well established through the Commonwealth Grants Rules and Guidelines 2017. These guidelines provide for best practice and apply to all grants administration conducted on behalf of the Commonwealth.

Scope also exists to provide funding to state and territory governments to support drought resilience initiatives under arrangements, consistent with both the Intergovernmental Agreement on Federal Financial Relations and the new National Drought Agreement. This framework ensures increased public accountability of Commonwealth and state and territory governments, underpinned by clearer roles and responsibilities in respect of each jurisdiction, noting that any such National Partnership agreement would be publicly available.

The details of funding provided will be announced on the Agriculture Department's website and provided in the department's annual report, providing transparency of the outcomes.

Investment mandate

The Finance Minister and the Treasurer, as the responsible Ministers, will issue an investment mandate to the Future Fund Board. Through the investment mandate, the government provides written directions to the Future Fund Board in relation to the performance of its investment functions, including the setting of a benchmark rate of return and the specification of its risk tolerance taking into account the purpose of the Drought Fund. This is consistent with the investment mandate framework for other Australian Government investment funds including the Medical Research Future Fund (MRFF).

In determining an investment mandate the responsible Ministers will have regard to the government's objective to grow the fund to around \$5 billion over the next ten years while at the same time making annual disbursements of \$100 million from 2020-21.

The investment mandate will be tabled in the Parliament once issued. The investment mandate provides strategic guidance from the government to the Future Fund Board, while maintaining the Future Fund Board's independence in making investment decisions.

This balances the Future Fund Board's independence with the requirement that it has regard to international best practice for institutional investment in undertaking its investment decisions.

Role of the Future Fund Board of Guardians

The Drought Fund will be managed by the Future Fund Board, which has a proven track record of managing investment portfolios on behalf of the government and maximising returns over the long term.

When managing the Drought Fund, the Future Fund Board will be subject to financial accountability arrangements specified in the Bill. Consistent with the administration of other Australian Government investment funds, the Future Fund Board will publish quarterly performance updates on its website and include performance information on the Drought Fund in its annual reports.

Regional Investment Corporation Board

The Bill requires the RIC Board to provide independent expert technical advice to the Agriculture Minister on entering into arrangements or grants under the Drought Fund for the purposes provided for in the legislation. The RIC Board must comply with the Plan when preparing its advice to the Agriculture Minister.

The RIC Board is established by the *Regional Investment Corporation Act 2018*, which sets out the size of the RIC Board, eligibility requirements, and terms and conditions of appointment. When performing its functions, the RIC Board is required to act in a proper, efficient and effective manner. These governance measures are similar to the governance structure in place under the *Medical Research Future Fund Act 2015* (the MRFF Act), which requires the Minister to seek advice from an independent advisory body.

The RIC Board is a skills-based independent Board with the knowledge and experience needed to oversee significant government investments in farm business and water infrastructure. Board members are required to possess a range of qualifications, skills or experience in relevant areas of expertise, including issues concerning rural industries and communities.

The composition of the RIC Board will be reviewed periodically to ensure its members possess the appropriate expertise and skill set to provide advice to the Agriculture Minister.

The Consequential Amendments Bill amends the *Regional Investment Corporation Act 2018* to expand the functions of the RIC Board to include the powers conferred on it by the Drought Fund legislation.

The Agriculture Minister is required to seek advice from the RIC Board prior to entering into an arrangement or making a grant payment from the Agriculture Future Drought Resilience Special Account and must have regard to that advice. The Agriculture Minister is also able to seek advice from other sources when making decisions on drought resilience funding from the Drought Fund.

Drought Resilience Funding Plan

The Plan is a legislative instrument that will ensure a coherent and consistent approach in making arrangements or grants. In developing the Plan, the Agriculture Minister must consider related drought policies and strategies including the National Drought Agreement and any successive agreements. The Agriculture

Minister must also undertake public consultation prior to publishing the final Plan on the Agriculture Department's website.

The use of the Plan as public strategy guidance is consistent with the MRFF Act, which requires both the Minister and the advisory body to have regard to the Medical Research and Innovation Strategy and Medical Research and Innovation Priorities. Similar arrangements also apply under the *Nation-building Funds Act 2008*, in respect of the BAF and the Education Investment Fund.

The first Plan will be issued prior to 1 July 2020 and will be renewed every four years (or earlier if there are changes to the policy context) to provide a stable and longer-term focus for drought resilience funding, as well as ensuring drought resilience funding priorities remain current. Activities to be supported under the Plan will be considered through the Budget process, providing a further robust and transparent process to the decision-making about financial arrangements. The legislation requires that there is always a Plan in place.

Operational aspects

Special Accounts and crediting to the Future Drought Fund

The Bill establishes the Future Drought Fund Special Account and the Agriculture Future Drought Resilience Special Account as well as the administrative process for crediting amounts to and debiting amounts from the Drought Fund.

The main purpose of the Future Drought Fund Special Account is to transfer \$100 million per annum (from 2020-21) to the Agriculture Future Drought Resilience Special Account for the purposes of making grants or entering into arrangements for drought resilience projects. The Future Drought Fund Special Account can also be used for expenses directly related to the investment of the Drought Fund as well as indirect expenses that are not exclusively related to the Drought Fund (such as costs associated with the Future Fund Board and the Future Fund Management Agency).

The purpose of the Agriculture Future Drought Resilience Special Account is to enable payments for drought resilience projects to approved recipients. These payments can be made by way of a grant or arrangement such as a contract. Payments can then be made by the appropriate delegates to the recipients.

The existence of two special accounts allows for a clear and transparent separation between:

- the Drought Fund, which is a dedicated investment vehicle to be managed by the Future Fund Board for the purposes of providing a revenue stream for drought resilience; and
- the subsequent disbursements from the Drought Fund, which will be made available to the Agriculture Minister and used for grants and arrangements relating to drought resilience.

This separation is consistent with the arrangements for other Australian Government investment funds such as the MRFF, and allows the special accounts to be independently managed by the responsible entities.

Distribution of funds

The first annual disbursement of \$100 million will be made from the Drought Fund in 2020-21, subject to the passage of legislation. Subsequent disbursements of \$100 million will be made annually, with the disbursement level to be reassessed as part of the proposed review before the tenth anniversary of the establishment of the Drought Fund.

The Bill allows for payments to be made as grants or arrangements (such as contracts), but does not bind the government to make payments to any specific recipients. Recipients can include individuals, incorporated or unincorporated bodies, not-for-profit organisations, educational institutions (such as a university), state and territory governments and government bodies.

Accountability and reporting

Reporting

The government will be accountable for its decisions on disbursements from the Drought Fund each year.

- Grants funded from the Drought Fund will be published online, consistent with the Commonwealth reporting framework for grants.
- Procurements will be undertaken in accordance with the Commonwealth Procurement Rules 2018 and the procurement policy framework.
- Program level disbursement decisions will be made under the Plan, which is subject to the Budget process and will be reported in the Budget papers.

Where appropriate, Drought Fund programs identified in the Plan will have published guidelines to ensure applicants are treated equitably and funding recipients are selected based on merit addressing the program's objectives.

The terms and conditions of grants or arrangements would be set out in a written agreement between the Commonwealth and the relevant funding recipient. This approach is consistent with the Commonwealth Grant Rules and Guidelines 2017.

The Future Fund annual report will include extensive information on the investment performance of the Drought Fund, and the Future Fund Board will publish quarterly performance updates on the Future Fund website. The Department of Finance annual report will include the Drought Fund's audited financial statements, consistent with arrangements in place for other funds invested by the Future Fund Board (excluding the Future Fund).

Statutory review

The government will review the operation of the Bill, if it passes into law, before the tenth anniversary of the establishment of Drought Fund. This will give the government an opportunity to evaluate the performance of the Drought Fund and gauge its success in providing the envisaged outcomes in the most efficient and effective way. It is also expected that the review will consider whether the annual

\$100 million payments remain appropriate or whether the fund could support a higher annual disbursement.

Closure of the Building Australia Fund

The Consequential Amendments Bill closes the BAF and transfers the uncommitted balance to the Drought Fund.

Figure 1: Future Drought Fund (FDF) Process Flow Chart

