

Replacement Explanatory Statement

Issued by the Authority of the Minister for Infrastructure, Transport, Regional Development and Local Government

National Land Transport Act 2014

National Land Transport (Roads to Recovery Conditions) Determination 2024

Authority

The National Land Transport (Roads to Recovery Conditions) Determination 2024 is made under subsection 90(1) of the *National Land Transport Act 2014*.

Purpose

The purpose of the instrument is to determine the conditions that apply to payments made under the Roads to Recovery Program.

Background

The Roads to Recovery Funding Conditions 2019 instrument determined the conditions that applied to the funding period ending 30 June 2024 as determined by the Roads to Recovery List 2019. The National Land Transport (Roads to Recovery List) Determination 2024 provides for the funding period commencing from 1 July 2024, necessitating a new National Land Transport (Roads to Recovery Conditions) Determination 2024 to set the conditions that will apply to payments made in respect of that funding period and ensure continuity of program operation.

Summary of the National Land Transport (Roads to Recovery Conditions) Determination 2024

The National Land Transport (Roads to Recovery Conditions) Determination 2024 commenced on 1 July 2024. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*, but is exempt from sunseting as per table item 43 in section 12 of the *Legislation (Exemption and Other Matters) Regulation 2015* and is exempt from disallowance by subsection 90(6) of the *National Land Transport Act 2014*.

Conditions determined under s 90 of the *National Land Transport Act 2014* are exempt from sunseting and disallowance given that they are in the nature of contractual conditions between contracting parties.

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

Consultation

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts undertook consultation during January to May 2024 with local governments, local government associations, and State and Territory Local Government Grants Commissions and Government departments. Comment was invited by survey, workshop, and email. The

department received more than 200 responses to the survey. The majority of responses expressed general support for the funding conditions in-principal, however offered some suggestions to amend financial thresholds in light of increasing construction costs; and administrative arrangements to provide more clarity on requirements and reduce red-tape.

Detailed impact analysis is not required (OIA24-06750).

Details of the *National Land Transport (Roads to Recovery Conditions) Determination 2024*

Section 1 – Name

This section provides that the name of the instrument is the *National Land Transport (Roads to Recovery Conditions) Determination 2024*.

Section 2 – Commencement

This section provides for the instrument to commence on 1 July 2024.

Section 3 – Authority

This section provides that the instrument is made under subsection 90(1) of the *National Land Transport Act 2014*.

Section 4 – Definitions

This section provides definitions for terms not otherwise defined in the *National Land Transport Act 2014*.

Section 5 – Roads to Recovery projects on which funding must be spent

This section defines the projects on which Roads to Recovery (RTR) Program funding can be spent. It requires projects to be identified, defines the timeframe for project delivery, and provides the condition, as required by subsection 90(2) of the *National Land Transport Act 2014*, that payments are to be spent on the construction or maintenance of roads.

Section 6 – Conditions relating to works scheduling

This section specifies the mechanism, timeframes and information by which projects are to be identified, varied and reported (a works schedule). The section provides for small projects to be identified and reported within a group to reduce the administration associated with reporting on lower value projects; and details how projects specific to Western Australia involving the construction and/or maintenance of bridges; or the construction and/or maintenance of Aboriginal access roads are to be accounted for.

Section 7 – Conditions that apply to payments

This section defines the circumstances in which a funding recipient may receive a payment from their funding allocation. It requires payments to be claimed with reference to projects planned in the works schedule, and defines the timeframe for payments to be claimed. The section also clarifies when a funding recipient will not receive a payment.

Section 8 - Conditions relating to payment reports

This section specifies the mechanism by which payments may be claimed (a payment report). It defines the reporting periods and information to be reported. The section also provides for specific requirements to ensure funding recipient properly account for payments in respect of forecast expenditure.

Section 9 – Conditions on expenditure of payments

This section defines how RTR Program funding can be spent. It reiterates requirements in section 5 (regarding nature and timing of projects) and section 7 (regarding GST). It requires payments to be spent within six months to ensure progress of works and timely accountability for expenditure, and presents other laws related to road, building and construction works that may apply to indirectly Commonwealth funded activity.

Section 10 - Own source expenditure conditions

This section provides the condition, as required by subsection 90(2) of the *National Land Transport Act 2014*, that a local government authority maintain its level of expenditure on roads, so far as that expenditure comes from sources other than Commonwealth, State or Territory funding; and the factors that are considered to determine whether that condition has been met.

Section 11 - Accountability conditions

This section provides the condition, as required by subsection 90(2) of the *National Land Transport Act 2014*, that expenditure be properly accounted for. It outlines the mechanisms by which payments are to be reported (including an annual report) and the parties responsible.

Section 12 - Conditions relating to annual reports

This section specifies the timeframes and information required and person's responsible to ensure the annual report properly accounts for RTR program expenditure. It explains the information to be provided and clarifies terminology used.

Section 13 - Public information conditions

This section provides the condition, as required by subsection 90(2) of the *National Land Transport Act 2014*, that signs are to be displayed in relation to funded projects, and the factors that are to be considered to determine whether that condition has been met.

This section also specifies how a funding recipient is to provide information to the public, their local Federal Member of Parliament, the Department and the Australian Government in relation to projects and their project related media and promotion activities.

Section 14 - Non-compliance with conditions

This section provides the condition, as enabled by subsection 90(3) of the *National Land Transport Act 2014*, that a funding recipient is required to repay amounts to the Commonwealth in the event of a breach of any of the conditions.

Section 15 – Transitional provisions

This section provides the requirements to ensure proper accountability for payments on transition from one RTR funding period to the next.