



National Land Transport (Roads to Recovery Conditions) Determination 2024

I, Catherine King, Minister for Infrastructure, Transport, Regional Development and Local Government, make the following determination.

Dated 5 June 24.

Catherine King
Minister for Infrastructure, Transport, Regional Development and Local Government

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1 Name

This instrument is the *National Land Transport (Roads to Recovery Conditions) Determination 2024*.

2 Commencement

This instrument commences on 1 July 2024.

3 Authority

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

4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 of the Act, including the following:

- (a) appropriate auditor
- (b) construction
- (c) maintenance
- (d) road
- (e) State.

In this instrument:

Act means the *National Land Transport Act 2014*.

actual expenditure has the meaning given by paragraph 8(2)(a) of this Determination.

auditor's report has the meaning given by paragraph 12(1)(b) of this Determination.

annual report has the meaning given by paragraph 11(1)(b) of this Determination.

CEO means, in relation to a funding recipient, the person appointed to be the Chief Executive Officer or equivalent office holder of the funding recipient.

CEO's financial statement has the meaning given by paragraph 12(1)(a) of this Determination.

CEO's statement of accountability has the meaning given by paragraph 12(1)(c) of this Determination.

final acquittal report has the meaning given by section 15 of this Determination.

final payment report has the meaning given by subsection 8(6) of this Determination.

forecast expenditure has the meaning given by paragraph 8(2)(b) of this Determination.

funding amount means the amount of Commonwealth funding that is specified in Schedules 1 and 2 of the Roads to Recovery List to be provided during the Roads to Recovery funding period to a funding recipient.

funding recipient means:

- (a) a person or body that is specified in Schedule 1 of the Roads to Recovery List, and
- (b) the State specified in Schedule 2 of the Roads to Recovery List, where the persons or bodies that are to receive the funding amount have not been decided.

group project means several small projects of the same or similar nature.

initial payment report has the meaning given by subsection 8(4) of this Determination.

old conditions means the conditions determined under subsection 90(1) of the Act that apply to payments under Part 8 of the Act for the funding period beginning on 1 July 2019 and ending on 30 June 2024.

own source expenditure has the meaning given by subsection 10(1) of this Determination.

own source funds means funds available to a funding recipient other than provided by the Commonwealth, a State or Territory government, or by the private sector.

reference amount has the meaning given by subsection 10(2) of this Determination.

Roads to Recovery funding period means the Roads to Recovery funding period specified in the *National Land Transport (Roads to Recovery List) Determination 2024*.

Note: The Roads to Recovery funding period specified in the *National Land Transport (Roads to Recovery List) Determination 2024* is the period commencing on 1 July 2024 and ending on 30 June 2029.

Roads to Recovery List means the *National Land Transport (Roads to Recovery List) Determination 2024* determined under subsection 87(1) of the Act.

Roads to Recovery project means a project that has been accepted by the Department to receive a Roads to Recovery payment.

Roads to Recovery payment means all or part of a funding amount.

payment report has the meaning given by subsection 8(1) of this Determination.

Quarter 1 means the period beginning on 1 July and ending on 30 September.

Quarter 2 means the period beginning on 1 October and ending on 31 December.

Quarter 3 means the period beginning on 1 January and ending on 31 March.

Quarter 4 means the period beginning on 1 April and ending on 30 June.

small project means a project the total cost of which is, or is expected to be, less than \$10,000 (excl GST).

special project has the meaning given by subsection 6(7).

WHS Accreditation Scheme means the Work Health and Safety Accreditation Scheme referred to in section 43 of the *Federal Safety Commissioner Act 2022* as amended from time to time.

5 Roads to Recovery projects on which funding must be spent

- (1) A funding recipient must only spend their funding amount in respect of a Roads to Recovery project that is:
 - (a) for the construction and/or maintenance of a road;
 - (b) identified in a works schedule that has been submitted to the Department in accordance with section 6 of this Determination;
 - (c) in progress on or after 1 July 2024; and
 - (d) for which expenses have been incurred on or after 1 July 2024.

Note: The terms ‘construction’ ‘maintenance’ and ‘road’ are defined in section 4 of the Act.

6 Conditions relating to works scheduling

- (1) A funding recipient must prepare and submit, as soon as practicable after 1 July 2024, a works schedule to the Department in the manner and form specified by the Department.
- (2) The works schedule must specify each project on which the funding recipient proposes to spend their funding amount and specify for each project:
 - (a) a title by which the project can be identified and referred in publications;
 - (b) the location;
 - (c) a description of the works, the reason for undertaking the works, and the main outcome the project should achieve;
 - (d) the planned or expected start and completion date;
 - (e) the planned or estimated total cost (excluding GST);
 - (f) the planned or estimated total amount of Roads to Recovery payments to be spent on the project (excluding GST);
 - (g) whether it is fully-funded by Roads to Recovery payments; and
 - (h) whether it is completed and whether the outcome was achieved.

Note: The description of works for a project that is not fully-funded by Roads to Recovery payments should include the source of the joint funding for that project.

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- (3) Several small projects may be included in the works schedule as a group project if the small projects are of the same or similar nature.
 - (4) In addition to the details to be specified for each project as set out in subsection 6(2), a group project must separately identify the location and the estimated cost of each small project within the group project.

Note: The estimated start date and completion date for a group project is to be set as the scheduled start date of the first of the small projects and the scheduled completion date of the last of the small projects within the group.

The total value of a group project may exceed \$10,000 (excluding GST), as long as each small project within the group costs, or is expected to cost, less than \$10,000 (excluding GST).

- (5) A funding recipient should ensure the details recorded in their works schedule remain accurate and submit an update to the Department at the expected completion date of each Roads to Recovery project if the project is not complete, and at least quarterly by the date on which a payment report is submitted.
- (6) A funding recipient may make changes to their works schedule at any time on or before 30 April 2029.
- (7) If a works schedule specifies a particular project in Western Australia involving the construction and/or maintenance of bridges, or the construction and/or maintenance of Aboriginal access roads (a *special project*) and:
 - (a) the special project does not proceed or the special project costs the funding recipient less than the total amount of Roads to Recovery payments to be spent on the project; and
 - (b) the funding recipient wishes to spend the unspent amount of Roads to Recovery payments on another project,then the funding recipient must obtain the prior approval of the Department for the amount unspent on the special project to be spent on the other project.

7 Conditions that apply to payments

- (1) To be provided a Roads to Recovery payment, a funding recipient must:
 - (a) have a works schedule that has been accepted by the Department as meeting all the conditions set out in section 6;
 - (b) have submitted a payment report that has been accepted by the Department as meeting all the conditions set out in section 8;
 - (c) have submitted the payment report:
 - (i) within one calendar month after the end of the quarterly reporting period to which the report relates in respect of Quarter 1, Quarter 3 and Quarter 4; or

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- (ii) by 15 February in respect of the Quarter 2 quarterly reporting periods; and
 - (d) subject to subsection 7(2), have submitted an annual report that has been accepted by the Department as meeting all the conditions set out in section 12 unless exempted from this condition.

Note: Under section 91 of the Act, the Minister (or delegate) may, by notice in writing, exempt a funding recipient from a condition that applies to payments.

- (2) A funding recipient will not be provided a Roads to Recovery payment where any of the annual reports required under the old conditions have not been submitted to the Department, unless the payment is in respect of the initial payment report made under subsection 8(4).
- (3) A Roads to Recovery payment will not include funding recipient expenditure on meeting any part of a price paid for a supply acquired by the funding recipient where:
 - (a) the supply is a supply within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*; and
 - (b) the part of the price represents the amount of GST payable on the supply by the entity which is making or which made, the supply.

8 Conditions relating to payment reports

- (1) A funding recipient must claim each Roads to Recovery payment by submitting a report in respect of the preceding quarterly reporting period in the manner and form specified by the Department (a **payment report**).

Note: If a funding recipient does not wish to claim a Roads to Recovery payment for a particular quarterly reporting period, the funding recipient is not required to submit a payment report unless subsection 8(3) applies.

Where a funding recipient does not submit a payment report for a particular quarterly reporting period the funding recipient must ensure the details recorded in their works schedule remain accurate and, if required, submit an update to the Department per subsection 6(5) by the date on which a payment report would ordinarily be due.

- (2) The payment report must specify:
 - (a) the total of Roads to Recovery payments that the funding recipient has spent on Roads to Recovery projects in a works schedule during the period starting 1 July 2024 and ending on the last day of the quarterly reporting period to which the payment report relates (the **actual expenditure**); and
 - (b) the total of Roads to Recovery payments that the funding recipient intends to spend on Roads to Recovery projects in their works schedule during the quarterly reporting period immediately following the quarterly reporting period to which the payment report relates (the **forecast expenditure**).

Note: The actual expenditure is to be reported on an accrual basis, that is, it should reflect the amount of expenses incurred by the funding recipient during the relevant

quarterly reporting period, even if the expenses will not be paid for by the funding recipient until a future quarterly reporting period.

- (3) A funding recipient must submit a payment report for a quarterly reporting period where, in the quarterly reporting period preceding the quarterly reporting period to which the payment report relates, the funding recipient specified an amount of forecast expenditure.

Note: Although a funding recipient may not wish to claim a Roads to Recovery payment for a particular quarterly reporting period, a payment report is required from the funding recipient to account for actual expenditure of any Roads to Recovery payments claimed and paid in respect of forecast expenditure in the preceding six months (i.e. two quarterly reporting periods). The payment report, in this case, is required to ensure the funding recipient has met the six-month expenditure condition per subsection 9(2).

- (4) A funding recipient may submit an **initial payment report** within one calendar month after the start of the Roads to Recovery funding period.
- (5) Paragraph 8(2)(a) does not apply to an initial payment report which is only to specify the Roads to Recovery payment for forecast expenditure during Quarter 1 of the 2024-25 financial year.

Note: A funding recipient must have submitted a works schedule to the Department under section 6 of this Determination prior to submitting an initial payment report to be provided a Roads to Recovery payment.

- (6) A funding recipient may submit a **final payment report** within one calendar month after the end of Quarter 3 in the final year of the Roads to Recovery funding period.

Note: Subsection 89(3) of the Act provides that the amount specified in the Roads to Recovery List may only be paid during the Roads to Recovery funding period.

A final payment report may only claim a Roads to Recovery payment that would result in the funding recipient being provided up to or equal to their funding amount.

9 Conditions on expenditure of payments

- (1) A Roads to Recovery payment may only be spent in respect of a Roads to Recovery project.
- (2) A funding recipient must ensure that each Roads to Recovery payment is spent within six months of receipt of the payment and by 31 December 2029.
- (3) If a funding recipient:
- (a) earns an amount of interest on funds deposited in respect of a Roads to Recovery payment in one financial year; and
 - (b) has a funding amount of more than \$1.3 million,

then the funding recipient must spend an amount equal to that amount of interest earned on the construction and/or maintenance of roads in the next financial year.

Note: Interest earned in respect of a Roads to Recovery payment and spent on the construction and/or maintenance of roads is included in own source funds.

- (4) The WHS Accreditation Scheme applies to building work undertaken for a Roads to Recovery project if the building work is carried out under a contract

with a value of \$4,000,000 or more (GST inclusive) and the Roads to Recovery payment for the project that includes the building work is at least:

- (a) \$6,000,000 (GST inclusive) and represents at least 50% of the total funding; or
- (b) \$10,000,000 (GST inclusive).

Note: The WHS Accreditation Scheme is established under *the Federal Safety Commissioner Act 2022* and specified in the *Federal Safety Commissioner (Accreditation Scheme) Amendment Rules 2023*. It applies to building work that is indirectly funded by the Commonwealth or a corporate Commonwealth entity.

Building Work means building work as defined in section 6 of the *Federal Safety Commissioner Act 2022*, but does not include ‘prescribed building work’ (see section 43 of that Act and section 26 of the *Federal Safety Commissioner (Accreditation Scheme) Amendment Rules 2023*).

- (5) Contracts for building work that use Road to Recovery payments and meet the financial thresholds in subsection 9(4) must:
 - (a) be notified to the Office of the Federal Safety Commissioner at the earliest possible opportunity (that is, when approaching the market); and
 - (b) contain a requirement that the builder:
 - (i) is accredited under the WHS Accreditation Scheme; and
 - (ii) maintains their accreditation while carrying out the building work.
- Note: Paragraph 26(g) of the *Federal Safety Commissioner (Accreditation Scheme) Amendment Rules 2023* outlines provisions applying to joint venture arrangements that include accredited and unaccredited builders.
- (6) Funding recipients must comply with all other laws.

10 Own source expenditure conditions

- (1) For each financial year in which a funding recipient receives, spends or retains Roads to Recovery payments, the funding recipient must report the amount of own source funds spent on the construction and/or maintenance of roads (the **own source expenditure**).
- Note: The term ‘own source funds’ is defined in section 4 of this Determination.
- Interest earned on funds deposited in respect of a Roads to Recovery payment as referred in subsection 9(3) is included in own source funds.
- Own source expenditure is to be reported in the annual report referred in paragraph 11(1)(b).
- (2) The amount of own source funds spent must be equal to or greater than an amount communicated by notice in writing from the Department to each funding recipient on or before 1 July 2024 and applicable throughout the Roads to Recovery funding period (the **reference amount**).
 - (3) A funding recipient is taken to have met the own source expenditure conditions in a particular financial year if:

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- (a) the reported own source expenditure for that financial year equals or exceeds the reference amount;
 - (b) the average of own source expenditure reported for that financial year and the financial year immediately prior to that year equals or exceeds the reference amount; or
 - (c) the average of own source expenditure reported for that financial year and the two prior financial years equals or exceeds the reference amount.

Note: Under section 91 of the Act, the Minister (or delegate) may, by notice in writing, exempt a funding recipient from a condition that applies to own source expenditure, and, if considered appropriate, impose a replacement condition on the funding recipient.

11 Accountability conditions

- (1) A funding recipient must properly account for a Roads to Recovery payment by:
 - (a) creating and keeping accurate and comprehensive records relating to payments it has received and retain those records for a minimum of seven years;
 - (b) submitting a report in respect of the preceding financial year by 31 October after the end of each financial year in the manner and form specified by the Department (an *annual report*); and
 - (c) providing, on request by the Department or an Australian Government representative:
 - (i) copies of any or all accounts and records referred in paragraph 12(3)(a) to the Department or an Australian Government representative;
 - (ii) access to inspect work on projects being undertaken by the funding recipient which are funded by Roads to Recovery payments; and
 - (iii) photographs of projects completed using Roads to Recovery payments.
- (2) If a funding recipient distributes Roads to Recovery payments which it receives to local government authorities for expenditure by those authorities on the construction and/or maintenance of roads, the funding recipient must ensure that the authorities are subject to the same conditions in respect of those payments as those to which the funding recipient is subject.

12 Conditions relating to annual reports

- (1) An annual report for the purposes of paragraph 11(1)(b) must include:
 - (a) a written financial statement of the CEO (*CEO's financial statement*);
 - (b) a written report from an appropriate auditor (*auditor's report*); and

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- (c) a written statement of accountability by the CEO (*CEO's statement of accountability*).

Note: The term 'appropriate auditor' is defined in section 4 of the Act.

- (2) The CEO's financial statement must specify:

- (a) the total of Roads to Recovery payments that:

- (i) the funding recipient has remaining or is payable from the previous financial year; (the *amount brought forward from previous financial year*)

Note: The amount brought forward from previous financial year may be a negative amount if the funding recipient has accrued expenditure on a Roads to Recovery project in the previous financial year, but did not receive Roads to Recovery payments for those amounts expended during that financial year.

- (ii) the funding recipient has received in the financial year to which the statement relates (the *amount received*);

- (iii) the funding recipient had available in the financial year to which the statement relates (the *amount available for expenditure*);

Note: The amount available for expenditure is to include the amount received plus the amount brought forward from previous financial year, but does not include any interest that may have been earned on Roads to Recovery payments.

- (iv) the funding recipient spent during the financial year to which the statement relates (the *amount expended*);

Note: The amount expended is to be reported on an accrual basis, that is, it should reflect the amount of expenses incurred by the funding recipient on Roads to Recovery projects during the relevant annual reporting period, even if the expenses will not be paid for by the funding recipient or a Roads to Recovery payment received by the funding recipient until a future annual reporting period.

- (v) remains unspent or payable at the end of the financial year to which the statement relates (the *amount carried forward to next financial year*); and

Note: The amount carried forward to next financial year may be a negative amount if the funding recipient has accrued expenditure on a Roads to Recovery project in the financial year, but did not receive Roads to Recovery payments for those amounts expended during the financial year.

- (b) the amount of own source expenditure during the year to which the statement relates.

Note: The term 'own source expenditure' is defined in subsection 10(1) of this Determination.

- (3) The auditor's report must specify whether in the auditor's opinion the CEO's financial statement:

- (a) is based on the funding recipient's proper accounts and records;
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- (b) is in agreement with the funding recipient's accounts and records;
 - (c) properly accounts for actual expenditure on Roads to Recovery projects that are for the construction and/or maintenance of roads; and
 - (d) properly accounts for own source expenditure on the construction and/or maintenance of roads.
- (4) The CEO's statement of accountability must provide a declaration to confirm, during the financial year to which the statement relates, that:
- (a) all reported amounts expended have been in respect of Roads to Recovery projects that are for the construction and/or maintenance of roads;
 - (b) in respect of own source expenditure:
 - (i) the reported own source expenditure meets the reference amount; or
 - (ii) if any exemption has been granted and if a replacement condition was issued in the previous financial year, that the replacement condition has been met;
 - (c) the Roads to Recovery projects have been completed and the outcomes achieved as recorded in the works schedule and provide a description that summarises the outcomes achieved using Roads to Recovery payments; and
 - (d) the funding recipient has otherwise fulfilled the conditions in this Determination during the financial year, including in respect of:
 - (i) work scheduling per section 6 of this Determination;
 - (ii) payments and expenditure of payments per sections 7 and 9 of this Determination; and
 - (iii) public information per section 13 of this Determination; orif any exemption has been granted and, if a replacement condition was issued in the previous financial year, that the replacement condition has been met.
- (5) Despite subsection 12(1), a funding recipient is not required to include an auditor's report or CEO's statement of accountability in an annual report for a financial year where it does not receive, spend or retain any Roads to Recovery payments in the financial year to which the report relates.

13 Public information conditions

- (1) Signage must be erected and removed in accordance with the Department's Signage Guidelines for each Roads to Recovery project.

Note: Signage Guidelines are published and updated from time to time on the Department's website.

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- (2) Despite subsection 13(1), a funding recipient is not required to:
 - (a) erect signage in respect of a small project; or
 - (b) remove signage erected if it is a commemorative plaque.
 - (3) The information provided to the Department by a funding recipient in the works schedule may be made available to the public via a website or through a contact point in the Department. The funding recipient must provide the information to be published in the manner and form specified by the Department and ensure its suitability and accuracy for publication.
 - (4) Within 10 business days of submitting a payment report, a funding recipient must provide their work schedule to the current Federal Member of Parliament for the relevant Federal Electorate in which their Roads to Recovery projects are located.
 - (5) If a funding recipient proposes to issue any public announcements, media releases, statements, displays, publications or advertising relating to a Roads to Recovery project, they must:
 - (a) acknowledge and give appropriate recognition to the contribution of the Australian Government to that project;
 - (b) provide a copy of the proposed publication to the Department at least five (5) business days prior to its proposed release; and
 - (c) obtain the Department's agreement prior to its proposed release.
 - (6) If the public announcement proposed for the purposes of subsection 13(5) is a formal media release, the funding recipient must also notify the relevant Australian Government representative and provide them an opportunity to participate in the activity.
 - (7) If a funding recipient proposes to hold a works commencement ceremony, opening ceremony or any other event in relation to a Roads to Recovery project, they must:
 - (a) acknowledge and give appropriate recognition to the contribution of the Australian Government to the project during the event;
 - (b) notify the Department and provide information about the proposed event at least four (4) weeks prior to the proposed date; and
 - (c) notify the relevant Australian Government representative and invite them to participate in the event.
 - (8) If the Department or an Australian Government representative accepts an invitation or proposes to participate in the proposed event for the purposes of subsection 13(7), the funding recipient must arrange a joint event in cooperation with the Department or relevant Australian Government representative.
 - (9) If a funding recipient is requested by the Department or an Australian Government representative to issue a formal media release or hold an event in
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relation to a Roads to Recovery project, the funding recipient must arrange the joint media release or event in cooperation with the Department or relevant Australian Government representative.

14 Non-compliance with conditions

- (1) The Secretary of the Department (or delegate) may, by notice in writing, require a funding recipient to repay amounts to the Commonwealth in the event of a breach of any of the conditions in this Determination or any replacement condition.

Note: Under section 91 of the Act, the Minister (or delegate) may, by notice in writing, exempt a funding recipient from a condition in this Determination, and, if considered appropriate, to impose a replacement condition on the funding recipient. The Minister (or delegate) may also revoke an exemption; or vary or revoke a replacement condition.

- (2) If notified of the requirement to repay a Roads to Recovery payment, the funding recipient must pay to the Commonwealth an amount equal to so much of the payment as specified in the notice.

Note: Section 92 of the Act provides that an amount liable for repayment may instead be deducted from any future payment to the funding recipient.

15 Transitional provisions

- (1) A funding recipient that received a Roads to Recovery payment under the old conditions must:

- (a) submit an annual report for the 2023-24 financial year by 31 October 2024; and
- (b) if that annual report includes an amount carried forward to next financial year; submit a **final acquittal report** by 31 May 2025.

- (2) The final acquittal report referred in subsection 16(2) must specify the total of Roads to Recovery payments that the funding recipient:

- (a) reported as an amount carried forward to next financial year in the 2023-24 annual report; and
- (b) expended and paid for during the period 1 July 2024 to 31 December 2024.

Note: Subsection 89(3) of the Act provides that the funding amount specified in the Roads to Recovery List may only be paid during the Roads to Recovery funding period. If a negative amount is reported for amount carried forward to next financial year in the annual report referred at paragraph 161(a) the funding recipient will not be provided a Roads to Recovery payment for that amount.