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RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

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**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

Thursday, 11 June 2009

Members: Senator Sterle (*Chair*), Senator Nash (*Deputy Chair*), Senators Heffernan, Hutchins, O'Brien and Siewert

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Humphries, Hurley, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Nash, Sterle and O'Brien

Terms of reference for the inquiry:

To inquire into and report on: Nation Building Program Amendment Bill 2009

WITNESSES

FARMER, Mr Richard, General Manager, Policy Planning and Development Branch, Nation Building, Infrastructure Investment Division, Department of Infrastructure, Transport, Regional Development and Local Government..... 2

O’CONNELL, Ms Lyn, Deputy Secretary, Department of Infrastructure, Transport, Regional Development and Local Government..... 2

Committee met at 12.35 pm

CHAIR (Senator Sterle)—I declare open this public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The committee is hearing evidence on the committee's inquiry into the Nation Building Program (National Land Transport) Amendment Bill 2009. The bill makes technical amendments to the AusLink (National Land Transport) Act 2005 so that references to AusLink are replaced with references to the Nation Building Program. Before the committee takes evidence, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The committee prefers all evidence to be given in public, but witnesses may request to be heard in private. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the grounds for objection should be given and the committee will determine whether it will insist on an answer. I also remind people in the hearing room to switch off their mobile phones or switch them to silent.

[12.36 pm]

FARMER, Mr Richard, General Manager, Policy Planning and Development Branch, Nation Building, Infrastructure Investment Division, Department of Infrastructure, Transport, Regional Development and Local Government

O'CONNELL, Ms Lyn, Deputy Secretary, Department of Infrastructure, Transport, Regional Development and Local Government

Evidence was taken via teleconference—

CHAIR—I welcome officers from the Department of Infrastructure, Transport, Regional Development and Local Government. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis of the claim. Before we go to questions, do you, Ms O'Connell, wish to make a brief opening statement?

Ms O'Connell—Yes. I would, thank you, Senator. Senators, firstly, I would like to apologise for not being available for the committee's hearing this Tuesday. The ministerial reshuffle meant that the department was required to brief the new Parliamentary Secretary for Infrastructure, Transport, Regional Development and Local Government at short notice. As a result of the illness of the current executive director in the area, I did not have a deputy available. Their unavailability was conveyed to the committee via letter from the department's acting secretary early on the morning of 9 June.

CHAIR—Thank you, Ms O'Connell. We did get it amongst the confusion, but everything is now roses and we are all in love with each other, I believe.

Ms O'Connell—Thank you.

CHAIR—We clarified a messy situation. We had a conversation with Mr Farmer. There was some misinformation going between the department and the committee. That is now sorted. On that, I will go straight to—

Ms O'Connell—Senator, I would like to add a brief opening statement in relation to the bill.

CHAIR—Please.

Ms O'Connell—I would like to provide in that opening statement a bit of brief background on the introduction of the bill, an explanation of the amendments and correct some of the errors that were in the published digest of the *Bills Digest*, if that is appropriate. I think as the senators are aware, AusLink was a five-year program funded from 2004-05 to 2008-09 and it terminates on 30 June 2009. This government has announced its intention to have a nation building program delivered through a series of economic stimulus packages. In so doing, the government has made policy and funding decisions under the Nation Building Program that differ from the previous AusLink program. This bill will put in place the appropriate provisions to ensure the effective delivery of that suite of land transport initiatives now funded under this program.

The bill explicitly provides for the government's decisions to, firstly, fund black spots on the national network. As the Black Spot Program is synonymous with improving road safety, the government believes that projects should be approved legislatively and administratively under the same process and with the same level of data being required for all black spot projects, regardless of whether they are on the land transport network or off the land transport network. The government made a decision in February 2009, as part of the nation building and jobs plan, to significantly increase funding for black spots and to fund black spots on the national land transport network. This bill, therefore, allows the on-network black spot projects to be funded, brings greater consistency, transparency and accountability to the Black Spot Program and will align with the budget appropriations.

Secondly, the bill renames and recognises part 6 of the act as Nation Building Program off-network projects. This bill modifies part 6 of the act to make it clear that this part can be used to approve funding for projects which are off the national land transport network and that are not in regional areas of Australia as well as, of course, off-network projects that are in regional areas. Thirdly, it introduces new general provisions into

the act. The amendments in this bill will enable the minister to ensure through a funding condition the requirement for funding recipients to provide more accurate cost estimates with their projects. This will be achieved through an adoption of a standard that has been developed cooperatively with the states and territories. The bill will also allow for a regulation to be made to set a prescribed threshold amount, providing the minister with an additional criterion by which to grant a funding recipient an exemption from having to call for public tenders on certain projects. At present, all projects funded under part 3 of the act are subject to compulsory tendering no matter the value of the project, and this places an administrative burden on the states and a disincentive for small businesses to respond in the form of a full tender for some small projects.

The bill also permits the minister to increase the amount of moneys payable to a person or body that is specified in the nation building Roads to Recovery list. Currently, the act only allows variations to the list where there is a council amalgamation or updated names or to correct an error. To overcome this deficiency, any additional projects funded or changes to funding allocated have been done under a different program called Supplementary Roads to Recovery. This has imposed an additional administrative and reporting impost on local councils and lacked the necessary transparency and alignment of funding appropriation with programs and legislation. The measures contained in the bill also make amendments to replace references to AusLink with the Nation Building Program.

I will turn to the *Bills Digest* for a moment. I wish to draw to the committee's attention a couple of errors that were contained in the *Bills Digest*, as this might be instructive for the debate we have today. Firstly, in relation to the land transport funding, table 2 in the *Bills Digest* omitted the funding initiatives for both the 2008-09 and 2009-10 financial years. Therefore, it inaccurately represented the funding totals for both of those financial years. For 2008-09, the *Digest* stated that the total was about \$6.4 billion when it should have been about \$6.8 billion. For 2009-10, the *Digest* stated that the total was \$4.4 billion when it should have read around \$6.4 billion. This correction would clearly negate the comment in the *Digest* that land transport infrastructure funding in 2009-10 was about \$2 billion lower than in 2008-09, because it is clearly not the case given the errors in the table.

Secondly, the other error in the *Digest* is in relation to the approval of off-network projects in part 6 of the act. The *Digest* incorrectly states that section 55 of the current act contains a criterion that the minister must consider when deciding to fund a project under part 6 of the act. Section 55, as it currently exists, only lists matters which the minister may have regard to in determining whether a project is to be funded under part 6. So the bill does not substitute the word 'may' with 'must', although the *Digest* suggests that it does. If that were corrected, the comment, also in the *Digest*, that the change from 'may' to 'must' is the most substantial change in the bill clearly would not hold.

The *Bills Digest* author has been contacted and has agreed to issue an erratum in due course addressing both those issues. So, in short, the department supports the bill as proposed and welcomes any questions the committee may have in regard to it.

CHAIR—Very good. Thank you, Ms O'Connell. I will go straight to questions.

Senator NASH—I have some comments on your opening statement, Ms O'Connell. I appreciate that you obviously did have briefings to do. Obviously, this is not an optimum way to receive the information that you have just given us, which is very important. It is incredibly difficult to follow when we are all in far-flung places and on the telephone, so we will have to go back and have a look through it. The letter that went to the secretariat also indicated that the department believed they had nothing further to add to the submissions that had already come forward. I suggest that it is a matter for the Senate committee to decide whether or not the department has something further to add. It went obviously a little further than just the fact that you had a late notice briefing. I just want to place that on record.

Ms O'Connell—I accept that, Senator, and apologise.

Senator NASH—I really do not have very many questions, which is why this would have been probably far easier to do when we were actually in Canberra, so I will not take up a lot of your time. Firstly, why was the decision made to rename AusLink to the Nation Building Program?

Ms O'Connell—Senator, it was a government decision to institute the Nation Building Program as part of the economic stimulus package. There are different measures as part of the Nation Building Program. I highlighted the decision to fund black spots on the network whereas previously the predecessor program did not, for example, fund black spots on the network.

Senator NASH—From memory, during the actual nation building package, was it referred to earlier as the Building Australia Program? It has obviously changed again. Is that correct?

Ms O'Connell—No, Senator. My understanding is that it was Nation Building Program in the February economic stimulus package. I think you mentioned the Building Australia Fund. That Building Australia Fund exists, but this is the Nation Building Program, Senator.

Senator NASH—It is just that the information that came out in December last year in the package I thought actually referred to the Building Australia Program, but I will go back and check that.

Ms O'Connell—Senator, I will certainly take that on notice to check that as well. My references were to the February stimulus package and—

Senator NASH—No. Mine were to the package announced in December. I was just trying to ascertain whether there was an intermediary name, if you like, before it actually became the Nation Building Program.

Ms O'Connell—I can take that on notice, Senator, and get back to you.

Senator NASH—That would be good. Thank you. How much will it cost to change the name from AusLink to Nation Building Program?

Ms O'Connell—Senator, I think we covered that in recent estimates hearings.

Senator NASH—I was not actually in those estimates at that point in time, I do not believe, so if you would not mind just answering it again.

Ms O'Connell—In terms of the cost to change it, we are not, as part of the changes to the Nation Building Program, replacing any existing signage and signs that are out there. So there are no new costs in terms of costs for signs. Any new project under any program will have a sign associated with it. That is not a new cost, given that any program would normally have a sign associated with it.

Senator NASH—So, apart from the signs themselves, no funding that has gone out has anything to do with changing the name over?

Ms O'Connell—Not that I am aware, Senator, specifically in relation to the name change. There are clearly in the package of measures new programs that are funded—boom gates, black spots—to be on the network. There are significant new program measures but not associated solely with the name change, Senator.

Senator NASH—So there was no advice taken or anything that includes some kind of cost?

Ms O'Connell—Not that I am aware, Senator. Richard has drawn my attention to the fact that there was a cost in relation to design. That was \$1,700. I believe that was covered at estimates the other week, Senator.

Mr Farmer—Senator, that was covered in the estimates hearing going back a couple of weeks ago. The executive director of the division stated that approximately \$1,700 had been incurred in design costs by the department.

Senator NASH—You would appreciate that the secretariat and the committee, in writing the report, have to refer to the evidence given, so it is useful to actually have that discussion here again today. In terms of the black spot funding, what prompted the change for it to occur on sites now?

Ms O'Connell—Senator, in terms of the Black Spot Program, in the February stimulus package, the government announced a significant increase to overall funding for black spots. As well as that increase, it also announced that black spots on the network would be eligible for funding. So that was a government decision in relation to the economic stimulus package announced in February.

Senator NASH—So that is distinctly related to the economic stimulus package? I am just trying to clarify what you just said.

Ms O'Connell—Yes, Senator. As I understand it, yes.

Senator NASH—I understand that during the debate on the bill in the House there was a list—I am just trying to ascertain what these are—of black spot projects that the coalition put forward in an amendment. There are a number of projects, I understand, that the government said would be affected if the coalition's amendment went ahead. I think there are about 81 black spot projects that the government was discussing. Is that correct?

Ms O'Connell—Certainly, Senator, in the 2008-09 and 2009-10 years there is funding appropriated for black spots both on the network and off the network. Eighty-one black spots on the network in the 2008-09

and 2009-10 financial years would have been affected by the intent of the amendments, yes, Senator. They are on-network black spots.

Senator NASH—Are they the only projects that will proceed on the network between 2009-10 and 2012-13?

Ms O'Connell—No, Senator. They are the projects for 2008-09 and 2009-10.

Senator NASH—So we do not as yet know. What is the process, then, for other black spot projects to be considered on the network after that period of time?

Ms O'Connell—Senator, in terms of black spots, the usual process, in summary form, is that states have a priority list for black spots. They submit those priority lists. There is a body that looks and advises in relation to the nature of the treatment and the crash site data et cetera. Then a decision, following a submission basis, is made whether to fund particular black spots for a particular financial year.

Senator NASH—Has there been any discussion within the department on whether there should be a particular ratio of black spots approved on the network rather than off?

Ms O'Connell—No, Senator, there has not been.

Senator NASH—So there is no requirement? So, hypothetically, all the funding could go to black spots on the network?

Ms O'Connell—Senator, there is no distinct quarantining between whether they are on network or off network in terms of black spots. The funding decision in the end is a decision for government.

Senator NASH—Is there any particular discussion on black spot funding going to regional Australia, or, again, is it just going to be project by project and it all could end up actually, not hypothetically, in regional Australia?

Ms O'Connell—Senator, the assessment process is based on the nature of the black spots. Certainly the priority is in terms of the need for those treatments. I can give you the break-up of regional and non-regional for black spots that have been funded in the 2008-09 and 2009-10 financial years.

Senator NASH—That would be very useful.

Mr Farmer—Senator, the breakdown for 2008-09 and 2009-10 is that metropolitan is receiving 557 black spots at a value of \$113.92 million and rural is receiving 611 black spot projects worth \$141.98 million.

Ms O'Connell—Senator, in terms of the 81 black spots that you referred to earlier—these are the on-network black spots, the ones where the decision has been made now to enable those to be funded because they are on the national network—23 of them are metropolitan and 58 of them are regional. So in terms of the introduction of the variation or the amendment in the bill that allows funding for on-network black spots, 58 of them are regional and 23 of them are metropolitan.

Senator NASH—Just in terms of the process—they are obviously ones that are going to be on the network—given that we have not yet had the legislative changes that make it possible for black spots to occur on the national network, how is it that we have already got 81 ready to go?

Ms O'Connell—Senator, the legislative change, as you have mentioned, has not passed through. As basically a work-around measure or a measure of expediency, and in recognition of this being part of the stimulus package, to get funding moving quickly, they have been approved. Those on-network black spots that have been approved—and that is not the whole 81, Senator; the whole 81 refers to, if you like, the plan for approvals for 2008-09 and 2009-10—have been approved under part 3 of the act as a work-around measure and consistent with this being part of the economic stimulus package and a priority to commence work as soon as possible. In the amendment bills, the transitional provisions allow those projects to remain funded. That is how they have been dealt with to date. Clearly, part 3 of the act deals with black spots very differently than the part of the act that deals specifically with black spots. It applies different criteria, different measures and different reporting requirements. There is also an appropriations issue because the funding that has been appropriated has been appropriated for the black spots part of the program.

Senator NASH—So if the legislation were not going to go ahead, where would those 81 be funded from?

Ms O'Connell—They would be funded from the national network part of the appropriation.

Senator NASH—I want to ask a couple of questions about strategic regional projects. Obviously the minister is going to be able to approve the AusLink strategic regional projects, which will now be called the

Nation Building network projects, which are not in regional areas. To date, what capacity has there been for strategic regional to occur in non-regional areas?

Mr Farmer—Senator, the existing act, the AusLink act, under section 54 allows for off-network or strategic regional to be in regional or urban areas. The criteria being—

Senator NASH—Just one second. My phone cut out for some reason just as I finished asking the question. Would you mind just starting your answer again?

Mr Farmer—Of course, Senator. Under the current act—the AusLink act—and under section 54, which is what projects are eligible for approval, a project that is not included in the national land transport network can be approved under part 6, which is currently the strategic regional part of the act and which is proposed to be renamed as the Nation Building Program off-network projects.

Senator NASH—I might not have made my question clear. I am trying to ascertain whether, under the current AusLink strategic regional projects, there is capacity for any funding to go into non-regional areas.

Mr Farmer—Yes.

Senator NASH—That is my question. Under what criteria? How does that happen?

Mr Farmer—Well, the project must be off the national land transport network. If it is off the national land transport network, it could be in a regional, rural, urban or metropolitan area.

Senator NASH—And what percentage of those, roughly, would have occurred over, say, the last 12 or 24 months?

Mr Farmer—Of the 41 election commitments by the government, the government has committed roughly \$647 million to 34 off-network projects in regional areas—that is, outside the metropolitan area of capital cities—and seven off-network projects which are within the metropolitan area. That commitment is approximately \$167 million.

Senator NASH—I understand that the government tabled a list of these particular projects. From memory, I think it was 39 projects to the value of \$655 million. Am I mixing apples and oranges here? You are saying 34 for \$647 million.

Mr Farmer—Yes. That is right. It is 34 projects in regional areas for roughly \$647 million. There are seven off-network in metro areas worth \$167 million.

Senator NASH—I get that. So that is actually different to what the government tabled when they were tabling the lists?

Ms O'Connell—Senator, I think we best check that we are not comparing apples with oranges. It might be to do with the financial years. I think we will take that on notice to check.

Senator NASH—If you could, that would be very useful. What was the process for allocating funds to these projects? By what were they decided? What is the vetting process that they went through to ensure that they were worthy projects?

Ms O'Connell—The strategic regional?

Senator NASH—The 34 that Mr Farmer was just talking about.

Ms O'Connell—The 34 were government commitments, Senator. The 34 are what are under the current strategic regional. I think this is where we might find some of the differences. That is the current strategic regional. Clearly, the government, with the introduction of these amendments, made a commitment for an off-network program or subprogram. That is quite different in its nature, in a sense, to the strategic regional.

Senator NASH—Let us just backtrack a bit here because obviously I am not following completely clearly. It might be useful to have a starting point. The government tabled at the end of May a list of nation building strategic regional or off-network projects in parliament, which was 39 projects to the value, I think, of around \$655 million. I am trying to understand the vetting process that those projects went through to determine that they were indeed worthy projects.

Ms O'Connell—Senator, I will take that on notice as well as clarifying the difference between the number you used and the number that Richard read out.

Senator NASH—This is again in terms of process. Are the bids to the off-network program now closed?

Ms O'Connell—Senator, I will have to take that on notice.

Senator NASH—They are all my questions. I appreciate that there are a number of questions you have on notice. Given the very tight time frame that the secretariat and the committee have for turning this around, what is the time you expect to get back to the committee?

Ms O'Connell—The committee reports early next week, so we would need to make sure that that information is available to you well before the committee reports. Would Monday next week be—

Senator NASH—Madam Secretary, can you assist me? I think we are actually tabling on Monday, are we not?

CHAIR—Tuesday. Is it not?

Senator NASH—I believe it is Monday. Obviously we need time to write the report. I would suggest—

Ms O'Connell—Tomorrow.

Senator NASH—tomorrow morning at the very latest—

Ms O'Connell—Yes, Senator.

Senator NASH—for the committee to be able to do what it needs to do.

Ms O'Connell—Yes, Senator. Tomorrow morning.

Senator NASH—Thank you. Thanks, Chair.

CHAIR—Before we go, Ms O'Connell, I will add one thing, unless Senator O'Brien has a question. While you are providing for the committee the number of projects, both rural and metro, off-network and on-network for 2008-09 and 2009-10—this was done at estimates as well—could you go back and provide figures for 2006-07 and 2007-08?

Ms O'Connell—Certainly, Senator.

CHAIR—Thank you.

Senator O'BRIEN—I do not have any questions, Chair.

CHAIR—Thank you, Senator O'Brien. On that, Ms O'Connell and Mr Farmer, thank you for your time. I thank members of the committee and the secretariat. That concludes today's hearing.

Committee adjourned at 1.04 pm